

Bill as Introduced

SB 385 - AS INTRODUCED

2012 SESSION

12-2941

09/10

SENATE BILL

385

AN ACT

relative to police investigations of motor vehicle accidents involving police officers.

SPONSORS:

Sen. White, Dist 9; Sen. Groen, Dist 6; Rep. Manuse, Rock 5; Rep. Hawkins, Hills 18

COMMITTEE:

Judiciary

ANALYSIS

This bill requires motor vehicle accidents involving a police officer employed by any police department in any jurisdiction in the state to be investigated by a different police department than the department employing the police officer involved in the accident.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struck through]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to police investigations of motor vehicle accidents involving police officers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Statement of Purpose. This act requires motor vehicle accidents involving a police officer
2 employed by any police department in any jurisdiction in the state to be investigated by a different
3 police department than the police department employing the police officer involved in the accident in
4 order to ensure the independence and objectivity of the investigation as well as the public perception
5 of independence and objectivity of the investigation.

6 2 New Section; Police Investigations of Accidents Involving Police Officers. Amend RSA 264 by
7 inserting after section 25-a the following new section:

8 264:25-b Police Investigations of Accidents Involving Police Officers.

9 I. In this section:

10 (a) "Police officer" means any law enforcement officer with the power of arrest, including
11 auxiliary, intermittent, special, full-time, part-time, or reserve police officers, or sheriffs and their
12 deputies who are employed by a city, town, village district, county, or precinct within the state of
13 New Hampshire; police officers employed by the university system of New Hampshire; and any state
14 law enforcement officer employed by the state of New Hampshire who has power of arrest as
15 determined by state law.

16 (b) "Police department" means the employer of a police officer whether or not the
17 employer is officially known as a police department, an agency, or some other term.

18 II. In any reportable motor vehicle accident as defined in RSA 264:26, II, when a police
19 officer is involved as a party in the accident, it shall be unlawful for a police officer employed by the
20 same police department as the police officer involved in the accident to conduct an investigation and
21 file a report of accident as required by RSA 264:26, and a police officer employed by a different police
22 department than the police department employing the police officer involved in the accident shall file
23 a report of accident as required by RSA 264:26, and:

24 (a) A police officer involved in an accident shall immediately be considered off-duty for
25 the purposes of the accident investigation and shall follow the same procedures required by any
26 driver of a vehicle in RSA 264:25;

27 (b) If the police officer involved in the accident is reasonably able, he or she shall within
28 a reasonable time cause a uniformed police officer from a different police department with
29 jurisdiction to arrive on the scene and conduct an investigation of the accident and file a report of
30 accident as required by RSA 264:26; and

1 (c) If a uniformed police officer arriving on the scene is employed by the same police
2 department as the police officer involved in the accident, the uniformed police officer employed by
3 the same police department shall within a reasonable time cause a uniformed police officer from a
4 different police department with jurisdiction to arrive on the scene and conduct an investigation of
5 the accident and file a report of accident as required by RSA 264:26, if such police officer is not
6 already on the scene.

7 3 Jurisdiction of Police Employees. Amend RSA 106-B:15 to read as follows:

8 106-B:15 Jurisdiction of Police Employees. Police employees have jurisdiction on all turnpikes,
9 toll roads and interstate highways and nothing in this section shall be construed to limit the
10 authority of local police officers. A police employee shall not act within the limits of a town having a
11 population of more than 3,000 or of any city, except when he *or she* witnesses a crime, or is in
12 pursuit of a law violator or suspected violator, or when in search of a person wanted for a crime
13 committed outside its limits, or when in search of a witness of such crime, or when traveling through
14 such town or city, or when acting as an agent of the director of motor vehicles enforcing rules
15 pertaining to driver licenses, registrations and the inspection of motor vehicles, or when requested to
16 act by an official of another law enforcement agency, *or as provided in RSA 264:25-b*, or when
17 ordered by the governor. No criminal case shall be abated, quashed, or dismissed and no evidence in
18 a criminal case shall be suppressed or excluded because a police employee has failed to comply with
19 the jurisdictional limits of this section, provided, that the police employee had a good faith belief that
20 he *or she* had authority to act when he *or she* acted.

21 4 Effective Date. This act shall take effect upon its passage.

Amendments



~~Senate Judiciary~~

February 23, 2012

2012-1024s

03/01

Amendment to SB 385

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Section; Police Investigations of Accidents Involving Police Officers. Amend RSA 264 by
4 inserting after section 25-a, the following new section:

5 264:25-b Police Investigations of Accidents Involving Police Officers. When a police officer or
6 other law enforcement officer is involved in any motor vehicle accident that is reportable under this
7 subdivision, the report of accident required by RSA 264:26 shall not be completed by the police officer
8 involved in the accident or by another officer from the police officer's department, unless the officer is
9 unable, after making reasonable efforts, to locate an available officer from another department. If
10 the accident report is completed by an officer from the same department, the report shall identify the
11 reasonable efforts that were made in the attempt to locate an officer from another department.

12 2 Effective Date. This act shall take effect upon its passage.

*drafted by Rice —
not adapted by the
Committee as of
2/17/2012
AJK*

Committee Minutes

**SENATE CALENDAR NOTICE
JUDICIARY**

Senator Matthew Houde Chairman
 Senator Sharon Carson V Chairman
 Senator Fenton Groen
 Senator Jim Luther
 Senator James Forsythe

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: January 31, 2012

HEARINGS

Thursday

2/9/2012

JUDICIARY

LOB 101

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: SB 279-FN at 1:00 is the continuation of the recessed hearing of Jan. 12, 2012.

1:00 PM	SB279-FN	establishing registers of probate as clerks of the probate division of the circuit court.
1:15 PM	SB385 ✓	relative to police investigations of motor vehicle accidents involving police officers.
1:30 PM	SB379	relative to insurance fraud.

Sponsors:

SB279-FN

Sen. Nancy Stiles
 Rep. Laura Pantelakos

Rep. Joanne Ward

Rep. Chris Nevins

Rep. Donna Schlachman

SB385

Sen. Raymond White

Rep. Andrew Manuse

Rep. Kenneth Hawkins

Sen. Fenton Groen

SB379

Sen. Raymond White
 Rep. William Infantine

Rep. John Hunt

Sen. Matthew Houde

Rep. Donald Flanders

Rep. James Headd

Judiciary Committee

Hearing Report

TO: Members of the Senate

FROM: Susan Duncan, Senior Legislative Aide

RE: Hearing report on SB 385 – relative to police investigations of motor vehicle accidents involving police officers.

HEARING DATE: February 9, 2012

MEMBERS OF THE COMMITTEE PRESENT: Senators Houde, Carson, Groen, Luther and Forsythe

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Senators White and Groen; Representatives Manuse and Hawkins

What the bill does: This bill requires motor vehicle accidents involving a police officer employed by any police department in any jurisdiction in the state to be investigated by a different police department than the department employing the police officer involved in the accident.

Who supports the bill: Senator White; Representative Hawkins, Representative Manuse

Who opposes the bill: No one

Others testifying: Robert Quinn, NH State Police

Summary of testimony received:

- **Senator Houde** opened the hearing at 1:42 p.m.
- **Senator White** testified that this relates to motor vehicle accident investigations when a police officer was involved in the accident and that the impetus for the legislation was an accident in the seacoast area where the State Police investigated an accident involving a State Police officer. He said that the Rochester Police arrived at the scene and a heated discussion ensued with the end being that the Rochester Police were chased from the scene.
- He said that there needs to be a checks and balances – and that there needs to be impartiality and fairness in these investigations.

- He noted, to their credit, that the State Police did find that the fault for the accident lay with the State Police officer involved.
- **Senator Carson** asked if this would include any type of motor vehicle accident. **Senator White** responded “any.” **Senator Carson** asked what if the officer was off duty versus on duty. **Senator White** said that it’s an interesting question but that he was thinking “on duty” and in a police vehicle.
- **Representative Manuse** testified in support and said that colleagues in the officer’s own department should not be investigating an accident. He said that it is important for appearances and to ensure that an accident is fully and independently investigated.
- **Senator Houde** asked again about the officer being on duty versus off duty. **Representative Manuse** responded that this deals with an officer who is on duty and in a police vehicle. He said that the important factor is to ensure that fault is appropriately attributed.
- **Senator Luther** commented that he does not see any language in the bill as written that indicates that the officer is on duty and in a departmental vehicle. **Representative Manuse** said that line 24 shows intent. **Senator Groen** said that this should be clarified.
- **Senator Houde** asked if even if off duty, should the officer be investigated by the department he works for? **Senator Carson** commented that State Troopers take their vehicles home.
- **Robert Quinn**, Director, testified that the Department of Safety agrees with and supports without question the concept that no police officer should investigate a traffic accident that he or she is personally involved in. He went on to comment how we have parts of the state that are sometimes uncovered – and do not even have local police and that in the rural parts of the state, this wouldn’t work. He noted that the Rochester incident was worked through and that it’s important to have impartial and fair accident investigations. He said that he has a team that does accident investigations and noted that only a few individuals are trained to be able to handle the information available in black boxes and air bag control modules. He noted that there are some towns where the State Police have no jurisdiction.
- He acknowledged that accidents vary in the technical amount of research that is needed and that as written, he doesn’t think this gets us where we want to be.
- He provided language for a proposed amendment.
- He noted that whenever a State Police officer is in the State vehicle, he or she is considered to be on duty. He acknowledged that they are being called in more and more to assist with accident reconstructions and investigations.
- He talked about the technical aspects of accident investigations and that many of our local departments do not have training or equipment to conduct a complete and thorough investigation.

- **Senator Houde** asked about if a trooper is involved in the accident. **Director Quinn** responded that they would like to handle their own accident investigations – even if it's only to conduct a parallel investigations. He noted that since he has been the Director, this has not been an issue.
- **Senator Houde** closed the hearing at 2:07 p.m.

Funding: There is no fiscal note.

Future Action: The Committee took the bill under advisement.

sfd

[file: SB 385 report]

Date: February 13, 2012

Speakers

Testimony

LEGISLATIVE POSITION

NH DEPARTMENT OF SAFETY

SB 385 Investigations of Police Officers' Motor Vehicle Crashes

POSITION: Proposing Amendment

This bill requires reportable motor vehicle collisions involving a police officer to be investigated by a different police department than the one employing the officer involved in the collision. The officer involved in the collision shall not investigate his or her own accident and an officer from another department shall file the report. The involved officer shall immediately be considered off-duty for purposes of the accident and shall follow the same procedures as any other driver who is involved in an accident. He or she if able shall timely cause a uniformed officer from another department to respond, investigate the accident and file the report. Any officer from the involved officer's department arriving at the accident scene shall call for an officer from another department to respond, investigate, and file the report. RSA 106-B: 15 which establishes State Police jurisdiction is amended to allow State Police to investigate police vehicle accidents in towns where the State Police do not have jurisdiction if called by the involved officer or an officer from the involved department to do so.

The Department of Safety agrees with and supports without question the concept that no police officer should investigate a traffic accident that he or she is personally involved in.

The rest of the bill would make sense in a less rural state where every police department is equally well trained and equipped and has resources such as a technical accident reconstruction team available 24 hours a day, 7 days a week. That is with the assumption that every one of those departments had equal skills and capabilities. However, we live in a rural state and in the current economy even some of our larger communities have faced budget cuts that have curtailed their overnight shifts.

In some parts of our state, particularly in the North Country and along the western border with Vermont, there are a number of small towns and unincorporated areas that have no police department and others where every officer is part-time. Only a few of the county sheriffs have road patrols or do traffic enforcement. Those localities rely on the State Police to handle most if not all of their calls for service. It is very possible that a State Trooper could be involved in an accident in one of those localities and there would be no other police agency available within a reasonable response time to assist, or that the nearest department was part-time and their officers would not have the skill level to investigate a serious or complex accident. Even when an officer has had specialized training, technical accident investigation is a perishable skill and if the department is not regularly using these skills they become rusty. Even many of the larger police departments lack a technical accident reconstruction team and call on the State Police for those services.

When a Trooper is involved in an accident a ranking State Police officer is always sent to oversee the investigation and the accident report is reviewed at the command staff level. If the Trooper's actions were careless, reckless, or violated our policies, we can and do take disciplinary action up to and including, in some cases, dismissal from the force.

Under a law that the Legislature passed last year, all accident reports involving a police vehicle are considered public records and are available to the public and the news media, so there is complete transparency.

If the accident occurs in a town or city of greater than 3,000 population and the Chief of that community asserts jurisdiction they handle the accident, however in those cases we like to do our own investigation alongside of them, for several reasons:

For one thing, local officers may feel uncomfortable in finding a Trooper at fault, out of concern that it might adversely affect the relationship between the departments.

In other cases the local agency may not have the equipment and training they need, if it is a complex accident scene.

The bill as drafted says an officer involved in an accident "shall be immediately considered off-duty." This choice of language poses several problems. It might create a situation for example where under a labor contract, worker's compensation laws and other even the ability of that officer to render first aid to others that were injured in the accident, directing traffic until help arrives, etc., that are too difficult to foresee at this time. If the officer is considered off-duty it might be more difficult for a supervisor to request a statement from the officer. That language needs to be changed. Finally, if the accident occurs in a locality that is not staffed or equipped to handle it and they ask another department to handle it, unless they have a mutual aid agreement with that department, that department will lack the legal authority to act in the requesting community.

The majority of accidents with State Police cruisers occur at low speeds such as sliding off a slippery road during a snow or ice storm, or while backing up, and when someone hits the cruiser while it is stopped at the roadside. Every time there is a cruiser accident we draw an Internal Affairs case number and the report is reviewed at the command staff level to determine if the Trooper was at fault and whether additional training or some form of discipline, up to and including dismissal from the force, is in order.

We would propose amending SB 385 as follows:

1. Leave intact the section that prohibits a police officer from investigating his or her own accident and requires that the investigation be directed by an officer from another law enforcement agency or a ranking officer from their agency.
2. Strike the language about the officer being immediately rendered off-duty.

3. Require that the County Attorney or if the County Attorney is not available, the Attorney General's representative on call be notified in all cases where an accident involving a vehicle driven by an on-duty police officer is involved in an accident resulting in death or in serious injury where one or more persons was removed to a hospital by ambulance, and that a copy of the report of any such accident, when completed, be forwarded to the County Attorney in the county in which the accident occurred. That way, the County Attorney may wish to go to the scene and assume control of the incident, or if not, will be able to review it afterward to ensure that the investigation was fair and impartial.

This way, no matter where in the state such an accident occurs, fairness and objectivity will be preserved, but we will also ensure that there is not a long delay in getting police officers on the scene that have the legal authority, training, equipment and skills to handle the incident.

Department of Safety

Proposed Amendment to SB 385

Amend the bill to read as follows:

1. **Statement of Purpose.** This act requires motor vehicle accidents involving a police officer employed by any police department in any jurisdiction in the state to be investigated by a different police officer than the police officer involved in the accident, and that all serious accidents involving a police officer be reported to the county attorney or the attorney general in order to ensure the independence and objectivity of the investigation as well as the public perception of the fairness of the investigation.
2. **New Section; Police Investigations of Accidents Involving Police Officers.** Amend RSA 264 by inserting after section 25-a the following new section:
264:25-b Police Investigations of Accidents Involving Police Officers.
 - I. In this section:
 - (a) "Police officer" means any law enforcement officer with the power of arrest, including auxiliary, intermittent, special, full-time, part-time, or reserve police officers, or sheriffs and their deputies who are employed by a city, town, village district, county, or precinct within the state of New Hampshire; police officers employed by the university system of New Hampshire; and any state law enforcement officer employed by the state of New Hampshire who has power of arrest as determined by state law.
 - (b) "Police department" means the employer of a police officer whether or not the employer is officially known as a police department, an agency, or some other term.
 - II. In any reportable motor vehicle accident as defined in RSA 264:26, II, when a police officer is involved as a party in the accident, it shall be unlawful for a police officer involved in the accident to conduct the investigation and file the police accident report as required by RSA 264:26, and another police officer with jurisdiction who is either an officer employed by a different police department than the police department employing the officer involved in the accident, or if an officer of the same department is of a higher rank or grade than the officer involved in the accident, shall oversee the investigation and file a report of the accident as required in RSA 264:26.
 - (a) If the police officer involved in the accident is reasonably able to do so, he or she shall within a reasonable time summon another uniformed police officer to assume control of the scene. The officer

involved in the accident shall not participate in the investigation of the accident and shall follow the same procedures required of any driver of a vehicle in RSA 264:25. Nothing in this paragraph shall be construed as to prevent the officer involved in the accident if able to do so from rendering emergency first aid, directing and controlling traffic, identifying and detaining drivers and witnesses and securing the accident scene until such time as another officer with jurisdiction arrives on the scene.

- (b) If one or more persons involved in the accident is deceased or if one or more persons involved in the accident is seriously injured and removed from the scene to a medical facility by ambulance, the independent officer conducting the investigation shall cause the county attorney in the county where the accident occurred, or if the county attorney or designee is not available, shall cause to be notified the on-call assistant attorney general who will have the authority to proceed to the scene and assume control of the investigative activities. Whether or not the county attorney or attorney general chooses to assume control, a copy of the investigation report as soon as possible shall be forwarded to the county attorney or attorney general, as applicable, for their review.
- (c) If the accident is being investigated by a department other than the department employing the officer involved in the accident, nothing in this section shall prohibit representatives from the department employing the officer involved in the accident from proceeding to the scene and conducting a parallel investigation for their own internal disciplinary purposes and the officers of the department conducting the investigation shall cooperate and share information regarding the accident with the representatives of the other department.

3. Effective date: This act shall take effect on January 1, 2013.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: March 22, 2012

THE COMMITTEE ON Judiciary

to which was referred Senate Bill 385

AN ACT relative to police investigations of motor vehicle accidents
 involving police officers.

Having considered the same, the committee recommends that the Bill:

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 3 - 0

Senator Jim Luther
For the Committee

Susan Duncan 271-8631

New Hampshire General Court - Bill Status System

Docket of SB385

Docket Abbreviations

Bill Title: relative to police investigations of motor vehicle accidents involving police officers.*Official Docket of SB385:*

Date	Body	Description
1/18/2012	S	Introduced and Referred to Judiciary; SJ 3 , Pg.73
2/1/2012	S	Hearing: 2/9/12, Room 101, LOB, 1:15 p.m.; SC6
3/22/2012	S	Committee Report: Inexpedient to Legislate, 3/28/12; SC12
3/28/2012	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===

NH HouseNH Senate

Other Referrals

SB 385-- RELATIVE TO POLICE INVESTIGATIONS OF MOTOR VEHICLE
ACCIDENTS INVOLVING POLICE OFFICERS.

COMMITTEE REPORT FILE INVENTORY

_____ ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE

HEARING REPORT

_____ HANDOUTS FROM THE PUBLIC HEARING

PREPARED TESTIMONY AND OTHER SUBMISSIONS

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY
COMMITTEE:

- AMENDMENT # 10245 _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
_____ FINAL VERSION _____ AS AMENDED BY THE SENATE

_____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): _____

DATE DELIVERED TO SENATE CLERK

6/14/12

Susan Deacon
BY COMMITTEE AIDE