

Bill as
Introduced

HB 260-FN - AS INTRODUCED

2013 SESSION

13-0728
05/09

HOUSE BILL

260-FN

AN ACT

relative to voluntary services provided by the department of health and human services to children in need.

SPONSORS:

Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19

COMMITTEE:

Children and Family Law

ANALYSIS

This bill authorizes the department of health and human services to provide voluntary services to a child who would otherwise be found to be a child in need of services under RSA 169-D. Such services are subject to available funding.

Explanation:

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

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to voluntary services provided by the department of health and human
services to children in need.

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

1 1 New Section; Children In Need of Services; Voluntary Service Plan. Amend 169-D by inserting
2 after section 5-b the following new section:

3 169-D:5-c Voluntary Services Plan. Notwithstanding any other provision of law, and subject to
4 available appropriations, the department may, pursuant to a voluntary service plan that is developed
5 and provided for a minor and the minor's family by the department, offer voluntary services to
6 families without making a determination that the child is a child in need of services pursuant to RSA
7 169-D:2, II. The department shall adopt rules, under RSA 541-A, relative to the provision of
8 voluntary services under this section.

9 2 Effective Date. This act shall take effect 60 days after its passage.

LBAO
13-0728
01/14/13

HB 260-FN - FISCAL NOTE

AN ACT relative to voluntary services provided by the department of health and human services to children in need.

FISCAL IMPACT:

The Department of Health and Human Services and the New Hampshire Municipal Association state this bill, **as introduced**, will increase state expenditures and revenue, and decrease local expenditures by an indeterminable amount in FY 2014 and in each year thereafter. There will be no fiscal impact on county or local revenue, or county expenditures.

METHODOLOGY:

The Department of Health and Human Services states the bill would authorize the Department to provide voluntary services to children and families under the CHINS statute. It would also require the Department to adopt rules relative to these services. The Department states it is not clear who would qualify for the services or what services would be provided, but assumes the adoption of administrative rules would clarify these issues. The Department assumes the bill will result in an indeterminable increase in state expenditures and state revenue if federal funds are available to cover a portion of the increased costs. The Department assumes an effective date of July 1, 2013.

The New Hampshire Municipal Association states this bill allows the Department of Health and Human Services to offer voluntary services to the family of a minor child without making a determination that the child is a child in need of services as defined in statute. The Association assumes the services would have the potential to reduce the burden on municipal services such as police and welfare, but the Association is not able to estimate the reduction in local expenditures as the services are voluntary and subject to available appropriations.

HB 260-FN - AS AMENDED BY THE HOUSE

6Mar2013... 0447h
27Mar2013... 0968h

2013 SESSION

13-0728
05/09

HOUSE BILL

260-FN

AN ACT relative to the children in need of services (CHINS) program.

SPONSORS: Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19

COMMITTEE: Children and Family Law

AMENDED ANALYSIS

This bill:

I. Expands the definition of a child in need of services under RSA 169-D and revises the circumstances under which the court may order various services or placements. The bill also directs the department of health and human services to collect certain data regarding the CHINS program and provides for the suspension of voluntary services if appropriated funds will be insufficient to support voluntary services for the remainder of the biennium.

II. Requires school board truancy policies to include certain information relative to student attendance.

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.

HB 260-FN - AS AMENDED BY THE HOUSE

6Mar2013... 0447h
27Mar2013... 0968h

13-0728
05/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the children in need of services (CHINS) program.

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

1 1 Children in Need of Services; Applicability of Chapter. RSA 169-D:1, IV and V are repealed
2 and reenacted to read as follows:

3 IV. To protect the integrity of the family by authorizing adjudication and the imposition of
4 dispositional judgment requiring participation in a plan of services only after appropriate voluntary
5 alternatives have been unsuccessful; and

6 V. When appropriate voluntary service options have been unsuccessful, to provide effective
7 judicial procedures through which family service plans are executed and enforced, and which assure
8 the parties fair hearings at which their constitutional and other rights as citizens are recognized and
9 protected.

10 2 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as
11 follows:

12 II. "Child in need of services" means a child under the age of 18:

13 (a) Who is subject to compulsory school attendance, and who is habitually, willfully, and
14 without good and sufficient cause truant from school;

15 (b) Who habitually runs away from home, or who repeatedly disregards the reasonable
16 and lawful commands of his or her parents, guardian, or custodian and places himself or herself or
17 others in unsafe circumstances;

18 (c) Who has exhibited willful repeated or habitual conduct constituting offenses which
19 would be violations under the criminal code of this state if committed by an adult or, if committed by
20 a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

21 (d) With a diagnosis of severe emotional, cognitive, or other mental health issues who
22 engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others
23 and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C; and

24 (e) Is expressly found to be in need of care, guidance, counseling, discipline, supervision,
25 treatment, or rehabilitation.

26 3 New Paragraph; Children in Need of Services; Definition of Truant Added. Amend
27 RSA 169 D:2 by inserting after paragraph XIII the following new paragraph:

28 XIV. "Truant" means a child between the ages of 6 and 18 years who is either not attending
29 school as required by law or who is not participating in an alternative learning plan under

1 RSA 193:1. "Truancy" shall have the same meaning as in RSA 189:35-a.

2 4 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

3 **I.(a) A petition alleging that a child is in need of services under RSA 169-D:2, II(a)**
4 **may be filed by a truant officer or school official from the school district where the child is**
5 **attending school with a judge or clerk of the court in the judicial district where the child is**
6 **found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall**
7 **not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until**
8 **all steps in the school district's intervention process under RSA 189:34, II have been**
9 **followed.**

10 **(b) A petition alleging that a child is in need of services under RSA 169-D:2,**
11 **II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school**
12 **official, or law enforcement officer with a judge or clerk of the court in the judicial district**
13 **in which the child is found or resides.**

14 **(c) A petition alleging that a child is in need of services under RSA 169-D:2, II(d)**
15 **may, with the consent of the department, be filed by a parent, legal guardian or custodian, school**
16 **official, or law enforcement officer with a judge or clerk of the court in the judicial district in which**
17 **the child is found or resides.**

18 **I-a.** The petition shall be in writing and verified under oath. The following notice shall be
19 printed on the front of the petition in bold in no smaller than 14 point font size: "See back for
20 important information and financial obligations." The back of the petition shall include a notice of
21 liability for parents and other individuals chargeable by law for the child's support and necessities.

22 5 New Paragraph; Petition. Amend RSA 169-D:5 by inserting after paragraph II the following
23 new paragraph:

24 **II-a.** Any petition filed shall include language demonstrating that appropriate voluntary
25 services have been attempted, the nature of voluntary services attempted, and the reason court
26 compulsion is necessary. If, upon review of the petition, the court is not satisfied that the petition
27 includes sufficient information to find that appropriate voluntary services were attempted and
28 unsuccessful, the court shall, prior to scheduling the child's initial appearance, refer the petition to
29 the department, which shall proceed pursuant to RSA 169-D:9.

30 6 New Section; Voluntary Services. Amend RSA 169-D by inserting after section 5-b the
31 following new section:

32 **169-D:5-c Voluntary Services.** The department may offer the child and family, on a voluntary
33 basis, any services permitted under RSA 169-D:17. The department may decline to offer services to
34 a child or family if it concludes that the child does not meet the definition of child in need of services
35 in RSA 169-D:2, II. Notwithstanding RSA 541-A, denials of voluntary services shall not be subject to
36 appeal, however the department's decision to decline services shall not preclude any person from
37 bringing a petition pursuant to RSA 169-D:5, I. If the department declines services in a case
38 referred to it by the court, the department shall notify the court that it has declined voluntary

1 services and the bases therefor. Voluntary services shall not include the out-of-home placement of
2 the child. Voluntary services provided pursuant to this section shall be time limited, not to exceed 9
3 months.

4 7 Issuance of Summons and Notice. RSA 169-D:6, I is repealed and reenacted to read as follows:

5 I.(a) After a legally sufficient petition has been filed, unless the case is referred to the
6 department pursuant to RSA 169-D:5 or a consent order is entered and approved, the court shall
7 schedule an initial appearance and issue a summons, including a copy of the petition, to be served
8 personally upon the person having custody or control of the child or with whom the child may be,
9 requiring that person to appear with the child on the specified date and time. Refusal of the child to
10 participate in the development of a voluntary service plan may constitute sufficient information that
11 voluntary service and support options have been unsuccessful.

12 (b) If personal service is not possible, service shall occur at the usual place of abode of
13 the person having custody or control of the child or with whom the child may be, requiring that
14 person to appear with the child at a specified place and time which time shall not be less than 24
15 hours after service. If the person so notified is not the parent or guardian of the child, then a parent
16 or guardian shall be notified, provided they and their residence are known.

17 8 Diversion and Pre-adjudicatory Procedure. RSA 169-D:9 is repealed and reenacted to read as
18 follows:

19 169-D:9 Pre-adjudicatory Procedure.

20 I. Except in emergencies, the department, its agent, or any person or agency it designates
21 shall determine what voluntary service options are available to the child and family. A referral for
22 this determination may be made by any person permitted to bring a petition under RSA 169-D:5, I.
23 To achieve this purpose, the department may designate a multi-disciplinary team to consider the
24 facts and circumstances of the case, the needs of the child and family, and available diversion
25 programs, services, and resources. This conference shall be attended by the child, if appropriate, his
26 or her parents, legal guardians or custodians, and representatives of any public institution or agency
27 having legal responsibility over the child, and may be attended by parties invited by the family and
28 representatives of any public or private institutions or agencies having discretionary ability to
29 coordinate and/or supply services to the child or family. If the child does not attend a multi-
30 disciplinary conference, an appropriate individual shall be designated to solicit the child's input and
31 help the child understand available service options and supports.

32 II. If available, a multi-disciplinary conference may be held at any time before or after a
33 petition is filed but shall be held before the child's initial appearance pursuant to RSA 169-D:11.

34 III. At any time before or after a petition is filed, the child, his or her caretakers, and the
35 department may effect an individualized voluntary family services plan, which shall include:

36 (a) Identification of the circumstances which contributed to the need for services.

37 (b) A description of the services that are needed for the child, the child's caretakers, or
38 other family members, the availability of such services within the community, and a plan for

1 ensuring that any such services that are available will be secured and provided.

2 (c) The name of the person within the each affected public service agency who is directly
3 responsible for assuring that specific services indentified in the plan are provided.

4 (d) An estimate of the time anticipated to be necessary to accomplish the goals set out in
5 the plan.

6 (e) Any other provisions deemed appropriate by the parties.

7 (f) Designation of a responsible person or agency for oversight of the plan.

8 IV. A voluntary family services plan shall set forth in writing the terms and conditions
9 agreed to by the child, the child's caretaker, and all parties responsible for implementation of the
10 voluntary services plan. A written copy of the plan shall be submitted to each party or person
11 responsible for implementation of the plan.

12 V. A voluntary services plan may be amended by agreement of the parties at any time. If a
13 petition has been filed, the amended plan shall be submitted to the court.

14 VI. If a petition has been filed, the voluntary family services plan shall be submitted to the
15 court. A voluntary services plan shall stay the proceedings for a period not to exceed 90 days from
16 the date of implementation, unless the parties agree, in writing, to an extension for additional
17 periods not to exceed 90 days. If the parties determine services are necessary for longer than 180
18 days, the department shall submit a report to the court which outlines the progress that has been
19 achieved during the duration of services and explains why continued services are necessary. Such
20 reports shall be filed every 180 days until voluntary services are discontinued. If, upon reviewing
21 the report, the court questions the need for continued services, it shall schedule a show cause
22 hearing, at which the child, if appropriate, the child's parent or caretaker, and the department shall
23 appear.

24 VII. When the petitioning person or agency, the court, the department, or a member of the
25 multi-disciplinary team suspects that a child has a disability, an administrator at the responsible
26 school district shall be notified. If appropriate, the school district shall refer the child for evaluation
27 to determine if the child is in need of special education and related services.

28 VIII. A voluntary family services plan shall not be considered in an adjudicatory hearing
29 pursuant to RSA 169-B or 169-D, or a criminal trial. Evidence of the existence of such agreement
30 shall not be used against the child over objection in any juvenile adjudicatory hearing or criminal
31 trial.

32 IX. Any incriminating statement made by the child during discussions or conferences
33 incident to the voluntary family services plan shall not be used against the child, over objection, in
34 adjudicatory hearing pursuant to RSA 169-B or 169-D, or a criminal trial. Any such statement may
35 be reported as the basis for a referral to the department pursuant to RSA 169-C, if there is
36 reasonable basis to believe that a child's physical or mental health or welfare is endangered by abuse
37 or neglect.

38 X. A voluntary family services plan suspends the proceedings on the petition. If the child

1 satisfies the terms of the voluntary family services plan, he or she shall be discharged from further
2 services or supervision, and the pending complaint or petition shall be dismissed with prejudice.

3 9 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10, II
4 and III to read as follows:

5 II. Pending the initial appearance, the court shall release the child to one of the following,
6 which in the court's opinion is the least restrictive and most appropriate:

7 (a) A parent or guardian;

8 (b) A relative or suitable adult;

9 (c) *Where there are reasonable grounds to believe that the child is a runaway*
10 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
11 *II(d),* the custody of department of health and human services for placement in a foster home, as
12 defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses
13 chargeable as provided in RSA 169-D:29; or

14 (d) [Repealed.]

15 (e) An alcohol crisis center certified to accept juveniles.

16 III. *Where there are reasonable grounds to believe that the child is a runaway*
17 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
18 *II(d) and* [Should] there [be] *is* no shelter care/detention bed available, nor an appropriate parent,
19 guardian, or custodian as defined in paragraph II of this section available, the court or the officer
20 taking the child into temporary custody shall notify the department. If the child cannot be referred
21 to an alternative to secure detention, the court shall make an order authorizing the department to
22 place the child. The department shall then promptly arrange for placement of the child.

23 10 Initial Appearance. Amend RSA 169-D:11, II(c) and (d) to read as follows:

24 (c) Establish any conditions for release; [and]

25 (d) Set a hearing date[-]; *and*

26 (e) *Inquire of the child and a parent or guardian of the child if the child has*
27 *been:*

28 (1) *Determined to have an intellectual disability; or*

29 (2) *Determined to have a mental illness, emotional or behavioral disorder,*
30 *or another disorder that may impede the child's decision-making abilities; or*

31 11 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-D:13,
32 I to read as follows:

33 I. Following the initial appearance, a child alleged to be in need of services may be ordered
34 by the court subject to such conditions as the court may order, to be:

35 (a) Retained in the custody of a parent, guardian, or custodian; or

36 (b) Released in the supervision and care of a relative; or

37 (c) *Where the petition alleges that the child is a habitual runaway under*
38 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*

1 released to the custody of the department of health and human services for placement in a foster
2 home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with
3 expenses chargeable as provided in RSA 169-D:29.

4 (d) [Repealed.]

5 *I-a. Where the petition alleges that the child is a habitual truant under*
6 *RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful*
7 *commands of his or her parents, guardian, or custodian under RSA 169-D:2, II(b), or that*
8 *the child repeatedly or habitually engages in conduct that constitutes violation level*
9 *offenses under RSA 169-D:2, II(c), the court shall not order the out-of-home placement of*
10 *the child.*

11 12 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as
12 follows:

13 I. If the court finds the child is in need of services, it shall order the least restrictive and
14 most appropriate disposition considering the facts in the case, the investigation report, and the
15 dispositional recommendations of the parties and counsel. The dispositional recommendation of the
16 department of health and human services shall include the costs of the recommended services,
17 placements, and programs. Such disposition may include:

18 (a) Permitting the child to remain with a parent, guardian, relative, or custodian,
19 subject to such limitations and conditions as the court may prescribe, including:

20 (1) Ordering the child or parent, guardian, relative, or custodian, or both, to accept
21 individual or family counseling;

22 (2) Placing the child on conditional release for a term of 2 years or less.

23 (b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

24 (2)(A) *Where the petition alleges that the child is a habitual runaway under*
25 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
26 *releasing the child to the custody of the department of health and human services for placement in a*
27 *foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility*
28 *with expenses charged in accordance with RSA 169-D:29.*

29 (B) *Notwithstanding subparagraph (A), where the petition alleges that*
30 *the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly*
31 *disregards the reasonable and lawful commands of his or her parents, guardian, or*
32 *custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in*
33 *conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall*
34 *not order the out-of-home placement of the child.*

35 (c) Imposing a fine or restitution, or both, on a child who has committed an offense
36 which, if committed by an adult, would be a violation under the criminal code of this state; or has
37 committed an offense which, if committed by a person 16 years of age or older, would be a violation
38 under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town.

1 Such fine shall not exceed the fine which may be imposed against an adult for the same offense.

2 (d) Ordering the minor to perform up to 50 hours of uncompensated public service
3 subject to the approval of the elected or appointed official authorized to give approval of the city or
4 town in which the offense occurred. The court's order for uncompensated public service shall include
5 the name of the official who will provide supervision to the minor. However, no person who performs
6 such public service under this subparagraph shall receive any benefits that such employer gives to
7 its other employees, including, but not limited to, workers' compensation and unemployment benefits
8 and no such employer shall be liable for any damages sustained by a person while performing such
9 public service or any damages caused by that person unless the employer is guilty of gross
10 negligence.

11 (e) Requiring any child to attend structured after-school or evening programs which
12 address some of the child's compliance issues, as well as supervise the child during the time of the
13 day in which the child most values his or her freedom and the time which is most often used to
14 perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or
15 otherwise by the child, parent, guardian, or person having custody of the child, or may be available
16 to the child free of charge based on the limited means of the family or based on the program's receipt
17 of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that
18 have been certified pursuant to RSA 170-G:4, XVIII.

19 13 New Section; Data Collection. Amend RSA 169-D by inserting after section 30 the following
20 new section:

21 169-D:31 Data Collection.

22 I. The department shall establish a system to collect data related to:

23 (a) The person or entity who referred the child for services and/or filed the petition.

24 (b) The racial and ethnic identity of the child.

25 (c) The insurance status and coverage of child served.

26 (d) The length of time a child receives services under this chapter, including the time
27 prior and subsequent to the filing of a petition.

28 (e) The identity of any public or private organization to whom the department has
29 referred a child or family.

30 (f) Any other information, including outcome data, that may assist the department and
31 the court in evaluating the availability and effectiveness of services for children who receive
32 assistance under this chapter.

33 (g) The number of cases in which the department received a referral of a child for
34 services but declined to provide services pursuant to RSA 169-D:5-c, along with the basis for those
35 decisions.

36 II. The department shall, upon request, make available to members of the public,
37 compilations of the data which do not contain identifying information.

38 14 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

1 (b) A process for intervention designed to address individual cases of truancy as quickly
2 as possible and to reduce the number of habitual truants in the school district. *The process shall*
3 *consider and document the effect, if any, on the child's attendance of the following:*
4 *inconsistent and ineffective school attendance policies; poor record keeping; notification*
5 *provided to parents or guardians of the child's absences; unsafe school environment; poor*
6 *school climate; poor relations with teachers; and the adequacy of the identification of the*
7 *child's special education needs.* The board shall provide for the participation of parents in the
8 development of the policy. The policy shall include early parental involvement in the intervention
9 process. The policy shall also designate an employee in each school as the person responsible for
10 truancy issues.

11 15 Children in Need of Services; Suspension of Voluntary Services. The fiscal committee of the
12 general court may authorize the suspension of voluntary services under RSA 169-D upon
13 certification by the commissioner of the department of health and human services that appropriated
14 funds will be insufficient to support voluntary services for the remainder of the biennium ending
15 June 30, 2015.

16 16 Effective Date. This act shall take effect September 1, 2013.

LBAO
13-0728
Amended 03/18/13

HB 260 FISCAL NOTE

AN ACT relative to voluntary services provided to children in need under RSA 169-D.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, **as amended by the House (Amendment #2013-0447h)**, as it is awaiting information from the Department of Health and Human Services. When completed, the fiscal note will be forwarded to the House Clerk's Office.

HB 260 FISCAL NOTE

AN ACT relative to the children in need of services (CHINS) program.

FISCAL IMPACT:

The Department of Health and Human Services states this bill, as amended by the House (Amendment #2013-0968h), will increase state general fund expenditures by \$4,411,287 in FY 2014, and \$5,293,544 in FY 2015 and each year thereafter; increase state restricted expenditures (federal funds) by \$2,272,481 in FY 2014, and \$2,726,977 in FY 2015 and each year thereafter; and have an indeterminable impact on local expenditures in FY 2014 and each year thereafter. This bill will have no impact on state, county and local revenue, or county expenditures.

METHODOLOGY:

The Department of Health and Human Services states this bill restores previous categories of children in need of services (CHINS), including habitual truants, habitual runaways, failure to obey lawful commands of parents, and violation-level offenses. In addition, the Department states the bill imposes restrictions on who may file a CHINS petition, limits the availability of out-of-home placements to runaways and children who meet the current definition of CHINS, and enhances the requirements of school boards' truancy policies. Finally, the Department states the bill creates a voluntary services option for those seeking CHINS services from the Department without being mandated to receive said services by court order, and requires that all court-involved CHINS petitions be assessed and referred to the Department for voluntary services before the petition can proceed. The bill allows the joint legislative Fiscal Committee to authorize the suspension of voluntary services, upon certification by the Department's commissioner that appropriated funds will be insufficient to support voluntary services for the remainder of the biennium ending June 30, 2015.

The Department states that, while the bill authorizes the Fiscal Committee to suspend voluntary services if appropriated funds are insufficient to support them, the fiscal impact of this provision is indeterminable. The Department notes that the bill does not authorize a separate appropriation for voluntary services; accordingly, the Department assumes the cost to provide these services will come from funds otherwise appropriated to provide services in court-involved cases. The ability to suspend voluntary services notwithstanding, the Department assumes that the payment for voluntary services in the manner contemplated by the bill will substantially impact the availability of funds needed to administer the CHINS program. The

Department of Health and Human Services states this bill will increase state general fund expenditures by \$4,411,287 in FY 2014, and \$5,293,544 in FY 2015 and each year thereafter; increase state restricted expenditures (federal funds) by \$2,272,481 in FY 2014, and \$2,726,977 in FY 2015 and each year thereafter; and have an indeterminable impact on local expenditures in FY 2014 and each year thereafter. This bill will have no impact on state, county and local revenue, or county expenditures.

The New Hampshire Municipal Association states that while state-level CHINS services have the potential to reduce the burden on municipal services, it is unable to determine the amount of any such effect. For this reason, the Association states the bill's fiscal impact is indeterminable.

HB 260-FN - FINAL VERSION

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2013 SESSION

13-0728
05/09

HOUSE BILL **260-FN**

AN ACT relative to the children in need of services (CHINS) program, relative to court-ordered placements in shelter care facilities and at the youth development center and requiring a report on the uses of the Sununu Youth Services Center.

SPONSORS: Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19

COMMITTEE: Children and Family Law

AMENDED ANALYSIS

This bill:

I. Expands the definition of a child in need of services under RSA 169-D, revises circumstances under which the court may order various services or placements, and gives the department discretion to offer voluntary services.

II. Directs the department of health and human services to collect certain data regarding the CHINS program.

III. Provides for the suspension of voluntary services if appropriated funds will be insufficient to support voluntary services.

IV. Requires school board truancy policies to include certain information relative to student attendance.

V. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

VI. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

VII. Requires that the department make treatment available in both non-secure and secure settings.

VIII. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

IX. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

X. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

HB 260-FN - FINAL VERSION

XI. Requires the department of health and human services to report to the legislature on the uses of the Sununu Youth Services Center.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 260-FN – FINAL VERSION

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27Mar2013... 0968h
05/23/13 1568s
05/23/13 1642s
05/23/13 1875s
06/06/13 1971s
26June2013... 2135CofC
26June2013... 2193EBA

13-0728
05/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the children in need of services (CHINS) program, relative to court-ordered placements in shelter care facilities and at the youth development center and requiring a report on the uses of the Sununu Youth Services Center.

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

1 1 Children in Need of Services; Applicability of Chapter. RSA 169-D:1, IV and V are repealed
2 and reenacted to read as follows:

3 IV. To protect the integrity of the family by authorizing adjudication and the imposition of
4 dispositional judgment requiring participation in a plan of services or by offering appropriate
5 voluntary alternatives; and

6 V. To provide effective judicial procedures through which family service plans are executed
7 and enforced, and which assure the parties fair hearings at which their constitutional and other
8 rights as citizens are recognized and protected.

9 2 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as
10 follows:

11 II. "Child in need of services" means a child under the age of 18:

12 (a) Who is subject to compulsory school attendance, and who is habitually, willfully, and
13 without good and sufficient cause truant from school;

14 (b) Who habitually runs away from home, or who repeatedly disregards the reasonable
15 and lawful commands of his or her parents, guardian, or custodian and places himself or herself or
16 others in unsafe circumstances;

17 (c) Who has exhibited willful repeated or habitual conduct constituting offenses which
18 would be violations under the criminal code of this state if committed by an adult or, if committed by
19 a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

20 (d) With a diagnosis of severe emotional, cognitive, or other mental health issues who
21 engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others
22 and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C; and

23 (e) Is expressly found to be in need of care, guidance, counseling, discipline, supervision,

1 treatment, or rehabilitation.

2 3 New Paragraph; Children in Need of Services; Definition of Truant Added. Amend
3 RSA 169 D:2 by inserting after paragraph XIII the following new paragraph:

4 XIV. "Truant" means a child between the ages of 6 and 18 years who is either not attending
5 school as required by law or who is not participating in an alternative learning plan under
6 RSA 193:1. "Truancy" shall have the same meaning as in RSA 189:35-a.

7 4 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

8 I.(a) *A petition alleging that a child is in need of services under RSA 169-D:2, II(a)*
9 *may be filed by a truant officer or school official from the school district where the child is*
10 *attending school with a judge or clerk of the court in the judicial district where the child is*
11 *found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall*
12 *not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until*
13 *all steps in the school district's intervention process under RSA 189:34, II have been*
14 *followed.*

15 (b) *A petition alleging that a child is in need of services under RSA 169-D:2,*
16 *II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school*
17 *official, or law enforcement officer with a judge or clerk of the court in the judicial district*
18 *in which the child is found or resides.*

19 (c) A petition alleging *that* a child is in need of services *under RSA 169-D:2, II(d)*
20 may, with the consent of the department, be filed by a parent, legal guardian or custodian, school
21 official, or law enforcement officer with a judge or clerk of the court in the judicial district in which
22 the child is found or resides.

23 *I-a.* The petition shall be in writing and verified under oath. The following notice shall be
24 printed on the front of the petition in bold in no smaller than 14 point font size: "See back for
25 important information and financial obligations." The back of the petition shall include a notice of
26 liability for parents and other individuals chargeable by law for the child's support and necessities.

27 5 New Paragraph; Petition. Amend RSA 169-D:5 by inserting after paragraph II the following
28 new paragraph:

29 II-a. Any petition filed shall include language demonstrating whether appropriate voluntary
30 services have been attempted, the nature of voluntary services attempted, and the reason court
31 compulsion is necessary. The petition also shall include information regarding the department's
32 determination as to whether voluntary services are appropriate for the child or family under
33 RSA 169-D:5-c. Refusal of the child to participate in the development of a voluntary services plan
34 may constitute sufficient information that voluntary service and support options have been
35 unsuccessful.

36 6 New Section; Voluntary Services. Amend RSA 169-D by inserting after section 5-b the
37 following new section:

1 169-D:5-c Voluntary Services. The department shall assess whether to offer the child and
 2 family, on a voluntary basis, any services permitted under RSA 169-D:17 except out-of-home
 3 placement of the child. The department may decline to offer services to a child or family if it
 4 concludes that the child does not meet the definition of child in need of services in RSA 169-D:2, II,
 5 or if the department otherwise determines that voluntary services are not appropriate for the child
 6 or family. The department shall document the basis for its decision. Notwithstanding RSA 541-A,
 7 the department's decision shall not be subject to appeal, nor shall the fact that the department
 8 declined to offer voluntary services preclude a person from filing a petition under RSA 169-D:5, I.
 9 Voluntary services provided under this section shall not exceed 9 months, unless the department
 10 determines that an extension for an additional, specified period of time is appropriate.

11 7 Issuance of Summons and Notice. RSA 169-D:6, I is repealed and reenacted to read as follows:

12 I.(a) After a legally sufficient petition has been filed, unless the case is referred to the
 13 department pursuant to RSA 169-D:5 or a consent order is entered and approved, the court shall
 14 schedule an initial appearance and issue a summons, including a copy of the petition, to be served
 15 personally upon the person having custody or control of the child or with whom the child may be,
 16 requiring that person to appear with the child on the specified date and time.

17 (b) If personal service is not possible, service shall occur at the usual place of abode of
 18 the person having custody or control of the child or with whom the child may be, requiring that
 19 person to appear with the child at a specified place and time which time shall not be less than 24
 20 hours after service. If the person so notified is not the parent or guardian of the child, then a parent
 21 or guardian shall be notified, provided they and their residence are known.

22 8 Diversion and Pre-adjudicatory Procedure. RSA 169-D:9 is repealed and reenacted to read as
 23 follows:

24 169-D:9 Pre-adjudicatory Procedure.

25 I. Except in emergencies, the department, its agent, or any person or agency it designates
 26 shall determine whether voluntary service options are appropriate for the child and family. A
 27 referral for this determination may be made by any person permitted to bring a petition under
 28 RSA 169-D:5, I. To achieve this purpose, the department may designate a multi-disciplinary team to
 29 consider the facts and circumstances of the case, the needs of the child and family, and available
 30 diversion programs, services, and resources. This conference shall be attended by the child, if
 31 appropriate, his or her parents, legal guardians or custodians, and representatives of any public
 32 institution or agency having legal responsibility over the child, and may be attended by parties
 33 invited by the family and representatives of any public or private institutions or agencies having
 34 discretionary ability to coordinate and/or supply services to the child or family. If the child does not
 35 attend a multi-disciplinary conference, an appropriate individual shall be designated to solicit the
 36 child's input and help the child understand available service options and supports.

37 II. If available, a multi-disciplinary conference may be held at any time before or after a

1 petition is filed but shall be held before the child's initial appearance pursuant to RSA 169-D:11.

2 III. At any time before or after a petition is filed, the child, his or her caretakers, and the
3 department may effect an individualized voluntary family services plan, which shall include:

4 (a) Identification of the circumstances which contributed to the need for services.

5 (b) A description of the services that are needed for the child, the child's caretakers, or
6 other family members, the availability of such services within the community, and a plan for
7 ensuring that any such services that are available will be secured and provided.

8 (c) The name of the person within the each affected public service agency who is directly
9 responsible for assuring that specific services identified in the plan are provided.

10 (d) An estimate of the time anticipated to be necessary to accomplish the goals set out in
11 the plan.

12 (e) Any other provisions deemed appropriate by the parties.

13 (f) Designation of a responsible person or agency for oversight of the plan.

14 IV. A voluntary family services plan shall set forth in writing the terms and conditions
15 agreed to by the child, the child's caretaker, and all parties responsible for implementation of the
16 voluntary services plan. A written copy of the plan shall be submitted to each party or person
17 responsible for implementation of the plan.

18 V. A voluntary services plan may be amended by agreement of the parties at any time. If a
19 petition has been filed, the amended plan shall be submitted to the court.

20 VI. If a petition has been filed and the department determines voluntary services are
21 appropriate, a voluntary family services plan shall be submitted to the court. The voluntary services
22 plan shall stay the proceedings for a period not to exceed 90 days from the date of implementation,
23 unless the parties agree, in writing, to an extension for additional periods not to exceed 90 days.

24 VII. When the petitioning person or agency, the court, the department, or a member of the
25 multi-disciplinary team suspects that a child has a disability, an administrator at the responsible
26 school district shall be notified. If appropriate, the school district shall refer the child for evaluation
27 to determine if the child is in need of special education and related services.

28 VIII. A voluntary family services plan shall not be considered in an adjudicatory hearing
29 pursuant to RSA 169-B or 169-D, or a criminal trial. Evidence of the existence of such agreement
30 shall not be used against the child over objection in any juvenile adjudicatory hearing or criminal
31 trial.

32 IX. Any incriminating statement made by the child during discussions or conferences
33 incident to the voluntary family services plan shall not be used against the child, over objection, in
34 adjudicatory hearing pursuant to RSA 169-B or 169-D, or a criminal trial. Any such statement may
35 be reported as the basis for a referral to the department pursuant to RSA 169-C, if there is
36 reasonable basis to believe that a child's physical or mental health or welfare is endangered by abuse
37 or neglect.

1 X. A voluntary family services plan suspends the proceedings on the petition. If the child
 2 satisfies the terms of the voluntary family services plan, he or she shall be discharged from further
 3 services or supervision, and the pending complaint or petition shall be dismissed with prejudice.

4 9 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10, II
 5 and III to read as follows:

6 II. Pending the initial appearance, the court shall release the child to one of the following,
 7 which in the court's opinion is the least restrictive and most appropriate:

8 (a) A parent or guardian;

9 (b) A relative or suitable adult;

10 (c) *Where there are reasonable grounds to believe that the child is a runaway*
 11 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
 12 *II(d), the custody of department of health and human services for placement in a foster home, as*
 13 *defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses*
 14 *chargeable as provided in RSA 169-D:29; or*

15 (d) [Repealed.]

16 (e) An alcohol crisis center certified to accept juveniles.

17 III. *Where there are reasonable grounds to believe that the child is a runaway*
 18 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
 19 *II(d) and [Should] there [be] is no shelter care/detention bed available, nor an appropriate parent,*
 20 *guardian, or custodian as defined in paragraph II of this section available, the court or the officer*
 21 *taking the child into temporary custody shall notify the department. If the child cannot be referred*
 22 *to an alternative to secure detention, the court shall make an order authorizing the department to*
 23 *place the child. The department shall then promptly arrange for placement of the child.*

24 10 Initial Appearance. Amend RSA 169-D:11, II(c) and (d) to read as follows:

25 (c) Establish any conditions for release; ~~and~~

26 (d) Set a hearing date[-]; *and*

27 (e) *Inquire of the child and a parent or guardian of the child if the child has*
 28 *been:*

29 (1) *Determined to have an intellectual disability; or*

30 (2) *Determined to have a mental illness, emotional or behavioral disorder,*
 31 *or another disorder that may impede the child's decision-making abilities.*

32 11 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-D:13,
 33 I to read as follows:

34 I. Following the initial appearance, a child alleged to be in need of services may be ordered
 35 by the court subject to such conditions as the court may order, to be:

36 (a) Retained in the custody of a parent, guardian, or custodian; or

37 (b) Released in the supervision and care of a relative; or

1 (c) *Where the petition alleges that the child is a habitual runaway under*
 2 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
 3 released to the custody of the department of health and human services for placement in a foster
 4 home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with
 5 expenses chargeable as provided in RSA 169-D:29.

6 (d) [Repealed.]

7 *I-a. Where the petition alleges that the child is a habitual truant under*
 8 *RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful*
 9 *commands of his or her parents, guardian, or custodian under RSA 169-D:2, II(b), or that*
 10 *the child repeatedly or habitually engages in conduct that constitutes violation level*
 11 *offenses under RSA 169-D:2, II(c), the court shall not order the out-of-home placement of*
 12 *the child.*

13 12 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as
 14 follows:

15 I. If the court finds the child is in need of services, it shall order the least restrictive and
 16 most appropriate disposition considering the facts in the case, the investigation report, and the
 17 dispositional recommendations of the parties and counsel. The dispositional recommendation of the
 18 department of health and human services shall include the costs of the recommended services,
 19 placements, and programs. Such disposition may include:

20 (a) Permitting the child to remain with a parent, guardian, relative, or custodian,
 21 subject to such limitations and conditions as the court may prescribe, including:

22 (1) Ordering the child or parent, guardian, relative, or custodian, or both, to accept
 23 individual or family counseling;

24 (2) Placing the child on conditional release for a term of 2 years or less.

25 (b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

26 (2)(A) *Where the petition alleges that the child is a habitual runaway under*
 27 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
 28 releasing the child to the custody of the department of health and human services for placement in a
 29 foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility
 30 with expenses charged in accordance with RSA 169-D:29.

31 (B) *Notwithstanding subparagraph (A), where the petition alleges that*
 32 *the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly*
 33 *disregards the reasonable and lawful commands of his or her parents, guardian, or*
 34 *custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in*
 35 *conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall*
 36 *not order the out-of-home placement of the child.*

37 (c) Imposing a fine or restitution, or both, on a child who has committed an offense

1 which, if committed by an adult, would be a violation under the criminal code of this state; or has
 2 committed an offense which, if committed by a person 16 years of age or older, would be a violation
 3 under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town.
 4 Such fine shall not exceed the fine which may be imposed against an adult for the same offense.

5 (d) Ordering the minor to perform up to 50 hours of uncompensated public service
 6 subject to the approval of the elected or appointed official authorized to give approval of the city or
 7 town in which the offense occurred. The court's order for uncompensated public service shall include
 8 the name of the official who will provide supervision to the minor. However, no person who performs
 9 such public service under this subparagraph shall receive any benefits that such employer gives to
 10 its other employees, including, but not limited to, workers' compensation and unemployment benefits
 11 and no such employer shall be liable for any damages sustained by a person while performing such
 12 public service or any damages caused by that person unless the employer is guilty of gross
 13 negligence.

14 (e) Requiring any child to attend structured after-school or evening programs which
 15 address some of the child's compliance issues, as well as supervise the child during the time of the
 16 day in which the child most values his or her freedom and the time which is most often used to
 17 perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or
 18 otherwise by the child, parent, guardian, or person having custody of the child, or may be available
 19 to the child free of charge based on the limited means of the family or based on the program's receipt
 20 of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that
 21 have been certified pursuant to RSA 170-G:4, XVIII.

22 13 New Section; Data Collection; Reporting Requirement. Amend RSA 169-D by inserting after
 23 section 30 the following new section:

24 169-D:31 Data Collection; Reporting Requirement.

25 I. The department shall establish a system to collect data related to:

26 (a) The person or entity who referred the child for services and/or filed the petition.

27 (b) The racial and ethnic identity of the child.

28 (c) The insurance status and coverage of child served.

29 (d) The length of time a child receives services under this chapter, including the time
 30 prior and subsequent to the filing of a petition.

31 (e) The identity of any public or private organization to whom the department has
 32 referred a child or family.

33 (f) Any other information, including outcome data, that may assist the department and
 34 the court in evaluating the availability and effectiveness of services for children who receive
 35 assistance under this chapter.

36 (g) The number of cases in which the department determined that voluntary services
 37 under RSA 169-D:5-c were not appropriate, and the basis for those decisions.

1 (h) The type of services offered and/or provided to a child on a voluntary basis and the
2 type of services ordered by the court after adjudication and disposition.

3 II. The department shall, upon request, make available to members of the public,
4 compilations of the data which do not contain identifying information.

5 III. Beginning on or before December 30, 2013, the department shall provide quarterly
6 reports regarding cases handled pursuant to this chapter to the chair of the house children and
7 family law committee, the chair of the senate health, education and human services committee, or to
8 the chairs of their successor committees, as well as the chair of the joint fiscal committee. The
9 reports shall include:

10 (a) The number of cases assessed pursuant to RSA 169-D:5-c.

11 (b) The number of cases declined for voluntary services and the bases for the
12 declinations.

13 (c) The number of cases accepted for voluntary services and their ultimate disposition.

14 (d) The number of petitions filed pursuant to RSA 169-D:5, I, and their dispositions.

15 (e) The number of voluntary and court-based cases pending in each definition category of
16 RSA 169-D:2, II at the beginning and end of the quarter.

17 (f) The type and cost of services provided in cases accepted for voluntary services and
18 cases handled through the court, in each definition category of RSA 169-D:2, II.

19 14 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

20 (b) A process for intervention designed to address individual cases of truancy as quickly
21 as possible and to reduce the number of habitual truants in the school district. ***The process shall***
22 ***consider whether school record keeping practices and notification provided to parents or***
23 ***guardians of the child's absences have an effect on the child's attendance.*** The board shall
24 provide for the participation of parents in the development of the policy. The policy shall include
25 early parental involvement in the intervention process. The policy shall also designate an employee
26 in each school as the person responsible for truancy issues.

27 15 Children in Need of Services; Suspension of Voluntary Services. The commissioner of the
28 department of health and human services may suspend referrals for voluntary services under
29 RSA 169-D upon the commissioner's determination that appropriated funds will be insufficient to
30 support additional voluntary services cases. The commissioner shall report the decision to suspend
31 referrals for voluntary services, and the basis for the decision, to the fiscal committee of the general
32 court. Nothing in this section shall be construed to require fiscal committee approval to implement
33 the suspension.

34 16 Delinquent Children; Dispositional Hearing; Commitment. Amend RSA 169-B:19, I(j) to read
35 as follows:

36 (j) Commit the minor to the custody of the department of health and human services for
37 the remainder of minority. ***Commitment under this subparagraph may only be made***

1 *following written findings of fact by the court, supported by clear and convincing evidence,*
2 *that commitment is necessary to protect the safety of the minor or of the community.*

3 Commitment may include, but is not limited to, placement by the department of health and human
4 services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI,
5 administrative release to parole pursuant to RSA 621:19, or administrative release consistent with
6 the cap on youth development center population under RSA 621:10, provided that the appropriate
7 juvenile probation and parole officer is notified.

8 17 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-
9 B:2 by inserting after paragraph XIII the following new paragraph:

10 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care
11 of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for
12 children prior to or following adjudication or disposition. A shelter care facility may not be operated
13 in the same building as a facility for architecturally secure confinement of children or adults.

14 18 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend
15 RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

16 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of
17 children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children
18 prior to or following adjudication or disposition. A shelter care facility may not be operated in the same
19 building as a facility for architecturally secure confinement of children or adults.

20 19 New Paragraph; New Hampshire Youth Development Center; Treatment Services in Least
21 Restrictive Environment. Amend RSA 621:1 by inserting after paragraph II the following new
22 paragraph:

23 III. To ensure that juveniles are placed in the least restrictive environment consistent with
24 their treatment needs, their safety, and the safety of the community, the department shall not
25 establish treatment services at the youth development center or other architecturally secure facility
26 which are not also available to children living in the community or in settings other than
27 architecturally secure settings.

28 20 New Paragraph; Release and Discharge from Youth Development Center. Amend
29 RSA 621:19 by inserting after paragraph I the following new paragraph:

30 I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a
31 delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-
32 a no later than 6 months following the child's commitment pursuant to RSA 169-B:19, I(j). Release
33 is not required under this paragraph during the period that a child is the subject of a delinquency
34 petition which is awaiting adjudication or disposition. The department may seek a waiver of this
35 provision from the court which ordered the commitment of the child, which may be granted by the
36 court following written findings of fact supported by clear and convincing evidence that continued
37 commitment is necessary to protect the safety of the minor or of the community. Such a waiver may

1 be granted for up to 90 days. The number of waivers which may be granted in a particular case is
2 not limited.

3 21 New Section; Parole of Delinquents; Right to Counsel of Children Subject to Parole
4 Revocation. Amend RSA 170-H by inserting after section 10 the following new section:

5 170-H:10-a Right to Counsel of Children Subject to Parole Revocation.

6 I. Every child subject to revocation of parole has the right to the assistance of counsel, which
7 may not be waived except following consultation between the child and a parent or counsel.
8 Consultation between a child and parent is not sufficient to support waiver under this section if the
9 parent was a victim or complainant in the underlying proceeding or is a witness or provided
10 information in support of the basis for revocation in the parole revocation proceeding. Children
11 known to the department or the board to have an emotional disorder, intellectual disability, or any
12 other condition which may be expected to interfere with a child's ability to understand the
13 proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel
14 may not waive their right to counsel.

15 II. For purposes of this section, a child shall be considered a child who is subject to a parole
16 revocation proceeding if the child has been released pursuant to RSA 170-H:5 or RSA 621:19, I for
17 longer than a total of 30 days during one or more periods of release and is subject to return under
18 RSA 621:25.

19 22 Delinquent Children; Case Closure and Review of Disposition. Amend RSA 169-B:31 to read
20 as follows:

21 169-B:31 Case Closure and Review of Disposition. Upon making a finding that the purposes of
22 this chapter have been met with regard to the minor named in the petition, or for such other reason
23 the court may deem appropriate and consistent with the purposes of this chapter, the court may
24 order a case closed. Any case remaining open for 12 months after the date of the disposition shall be
25 reviewed by the court annually and closed, unless the court finds by a preponderance of the evidence
26 that the continued provision of services and court involvement are necessary and shall be fruitful to
27 rehabilitate the minor or protect the public interest. All such findings shall be in writing and shall
28 include the basis upon which those findings were made. *Upon request by the child, the court*
29 *shall also review any case in which the child remains at the youth development center*
30 *more than 6 months after the order of commitment without having been released on parole*
31 *or having been returned to the youth development center following revocation of parole.*
32 *Successive requests for review shall be granted upon request by the child but the court may*
33 *deny such requests without a hearing if a review was held less than 90 days prior to receipt*
34 *of a request for review.*

35 23 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read as
36 follows:

37 (d) Procedures for revocation of parole[; and]

1 (e) Conditions under which the department may return a parolee to a secure facility
2 pending action by the board[-]; *and*

3 (f) *Procedures for providing effective notice to children subject to parole*
4 *revocation proceedings of the right to counsel, for determining if a waiver of the right to*
5 *counsel by a child is knowing, voluntary, and intelligent, and for the accurate*
6 *determination of the existence of a disability which would interfere with a child's ability to*
7 *understand the proceedings, make decisions, or otherwise handle the proceedings without*
8 *the assistance of counsel.*

9 24 Sununu Youth Services Center Report.

10 I. On or before January 1, 2014, the department of health and human services shall report
11 its recommendations to the fiscal committee of the general court as to the most appropriate, cost
12 effective, long and short-term uses of the Sununu Youth Services Center. The department's
13 assessment shall include an analysis of:

14 (a) The advantages and disadvantages of the current use of the facility;

15 (b) Potential alternative uses for the facility;

16 (c) The viability of using another facility to provide secure detention/committed services
17 given the declining census at the center; and

18 (d) Ways that the current costs to run the facility could be reduced.

19 II. In conducting its assessment, the department shall consult with the community, child
20 welfare, court, and juvenile justice stakeholders to solicit their input as to the most appropriate and
21 fiscally responsible options for addressing the needs of committed and detained youth.

22 25 Contingency. If HB 433 of the 2013 regular legislative session becomes law, then RSA 169-
23 B:2, XIV as inserted by section 17 of this act shall be renumbered as RSA 169-B:19, XV.

24 26 Effective Date.

25 I. Sections 1-15 of this act shall take effect September 1, 2013.

26 II. The remainder of this act shall take effect 60 days after it passage

HB 260-FN - FINAL VERSION

LBAO
13-0728
Amended 06/12/13

HB 260-FN - FISCAL NOTE

AN ACT relative to the children in need of services (CHINS) program, relative to court-ordered placements in shelter care facilities and at the youth development center and requiring a report on the uses of the Sununu Youth Services Center.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, as amended by the Senate (Amendment #2013-1971s), as it is awaiting information from the Department of Health and Human Services. When completed, the fiscal note will be forwarded to the House Clerk's Office.

Amendments

Sen. Stiles, Dist. 24
April 19, 2013
2013-1321s
05/04

Draft Amendment to HB 260-FN

1 14 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

2 (b) A process for intervention designed to address individual cases of truancy as quickly
3 as possible and to reduce the number of habitual truants in the school district. *The process shall*
4 *consider whether school record keeping practices and notification provided to parents or*
5 *guardians of the child's absences have an effect on the child's attendance.* The board shall
6 provide for the participation of parents in the development of the policy. The policy shall include
7 early parental involvement in the intervention process. The policy shall also designate an employee
8 in each school as the person responsible for truancy issues..

Sen. Kelly, Dist. 10
Sen. Gilmour, Dist. 12
May 6, 2013
2013-1550s
05/09



Amendment to HB 260-FN

1 Amend the bill by replacing section 1 with the following:

2

3 1 Children in Need of Services; Applicability of Chapter. RSA 169-D:1, IV and V are repealed
4 and reenacted to read as follows:

5 IV. To protect the integrity of the family by authorizing adjudication and the imposition of
6 dispositional judgment requiring participation in a plan of services or by offering appropriate
7 voluntary alternatives; and

8 V. To provide effective judicial procedures through which family service plans are executed
9 and enforced, and which assure the parties fair hearings at which their constitutional and other
10 rights as citizens are recognized and protected.

11

12 Amend the bill by replacing sections 5-7 with the following:

13

14 5 New Paragraph; Petition. Amend RSA 169-D:5 by inserting after paragraph II the following
15 new paragraph:

16 II-a. Any petition filed shall include language demonstrating whether appropriate voluntary
17 services have been attempted, the nature of voluntary services attempted, and the reason court
18 compulsion is necessary. The petition also shall include information regarding the department's
19 determination as to whether voluntary services are appropriate for the child or family under
20 RSA 169-D:5-c. Refusal of the child to participate in the development of a voluntary services plan
21 may constitute sufficient information that voluntary service and support options have been
22 unsuccessful.

23 6 New Section; Voluntary Services. Amend RSA 169-D by inserting after section 5-b the
24 following new section:

25 169-D:5-c Voluntary Services. The department shall assess whether to offer the child and
26 family, on a voluntary basis, any services permitted under RSA 169-D:17 except out-of-home
27 placement of the child. The department may decline to offer services to a child or family if it
28 concludes that the child does not meet the definition of child in need of services in RSA 169-D:2, II,
29 or if the department otherwise determines that voluntary services are not appropriate for the child
30 or family. The department shall document the basis for its decision. Notwithstanding RSA 541-A,
31 the department's decision shall not be subject to appeal, nor shall the fact that the department



1 declined to offer voluntary services preclude a person from filing a petition under RSA 169-D:5, I.
2 Voluntary services provided under this section shall not exceed 9 months, unless the department
3 determines that an extension for an additional, specified period of time is appropriate.

4 7 Issuance of Summons and Notice. RSA 169-D:6, I is repealed and reenacted to read as follows:

5 I.(a) After a legally sufficient petition has been filed, unless the case is referred to the
6 department pursuant to RSA 169-D:5 or a consent order is entered and approved, the court shall
7 schedule an initial appearance and issue a summons, including a copy of the petition, to be served
8 personally upon the person having custody or control of the child or with whom the child may be,
9 requiring that person to appear with the child on the specified date and time.

10 (b) If personal service is not possible, service shall occur at the usual place of abode of
11 the person having custody or control of the child or with whom the child may be, requiring that
12 person to appear with the child at a specified place and time which time shall not be less than 24
13 hours after service. If the person so notified is not the parent or guardian of the child, then a parent
14 or guardian shall be notified, provided they and their residence are known.

15
16 Amend RSA 169-D:9, I as inserted by section 8 of the bill by replacing it with the following:

17
18 I. Except in emergencies, the department, its agent, or any person or agency it designates
19 shall determine whether voluntary service options are appropriate for the child and family. A
20 referral for this determination may be made by any person permitted to bring a petition under RSA
21 169-D:5, I. To achieve this purpose, the department may designate a multi-disciplinary team to
22 consider the facts and circumstances of the case, the needs of the child and family, and available
23 diversion programs, services, and resources. This conference shall be attended by the child, if
24 appropriate, his or her parents, legal guardians or custodians, and representatives of any public
25 institution or agency having legal responsibility over the child, and may be attended by parties
26 invited by the family and representatives of any public or private institutions or agencies having
27 discretionary ability to coordinate and/or supply services to the child or family. If the child does not
28 attend a multi-disciplinary conference, an appropriate individual shall be designated to solicit the
29 child's input and help the child understand available service options and supports.

30
31 Amend RSA 169-D:9, VI as inserted by section 8 of the bill by replacing it with the following:

32
33 VI. If a petition has been filed and the department determines voluntary services are
34 appropriate, a voluntary family services plan shall be submitted to the court. The voluntary services
35 plan shall stay the proceedings for a period not to exceed 90 days from the date of implementation,
36 unless the parties agree, in writing, to an extension for additional periods not to exceed 90 days.



1 Amend RSA 169-D:31, I(g) as inserted by section 13 of the bill by replacing it with the following:

2

3 (g) The number of cases in which the department determined that voluntary services
4 under RSA 169-D:5-c were not appropriate, and the basis for those decisions.

5 (h) The type of services offered and/or provided to a child on a voluntary basis and the
6 type of services ordered by the court after adjudication and disposition.

7

8 Amend the bill by replacing section 15 with the following:

9

10 15 Children in Need of Services; Suspension of Voluntary Services. The commissioner of the
11 department of health and human services may suspend referrals for voluntary services under RSA
12 169-D upon the commissioner's determination that appropriated funds will be insufficient to support
13 additional voluntary services cases. The commissioner shall report the decision to suspend referrals
14 for voluntary services, and the basis for the decision, to the fiscal committee of the general court.
15 Nothing in this section shall be construed to require fiscal committee approval to implement the
16 suspension.



2013-1550s

AMENDED ANALYSIS

This bill:

I. Expands the definition of a child in need of services under RSA 169-D, revises circumstances under which the court may order various services or placements, and gives the department discretion to offer voluntary services.

II. Directs the department of health and human services to collect certain data regarding the CHINS program.

III. Provides for the suspension of voluntary services if appropriated funds will be insufficient to support voluntary services.

IV. Requires school board truancy policies to include certain information relative to student attendance.

Amendment to HB 260-FN

1 Amend the bill by replacing section 1 with the following:

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3 1 Children in Need of Services; Applicability of Chapter. RSA 169-D:1, IV and V are repealed
4 and reenacted to read as follows:

5 IV. To protect the integrity of the family by authorizing adjudication and the imposition of
6 dispositional judgment requiring participation in a plan of services or by offering appropriate
7 voluntary alternatives; and

8 V. To provide effective judicial procedures through which family service plans are executed
9 and enforced, and which assure the parties fair hearings at which their constitutional and other
10 rights as citizens are recognized and protected.

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12 Amend the bill by replacing sections 5-7 with the following:

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14 5 New Paragraph; Petition. Amend RSA 169-D:5 by inserting after paragraph II the following
15 new paragraph:

16 II-a. Any petition filed shall include language demonstrating whether appropriate voluntary
17 services have been attempted, the nature of voluntary services attempted, and the reason court
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19 determination as to whether voluntary services are appropriate for the child or family under
20 RSA 169-D:5-c. Refusal of the child to participate in the development of a voluntary services plan
21 may constitute sufficient information that voluntary service and support options have been
22 unsuccessful.

23 6 New Section; Voluntary Services. Amend RSA 169-D by inserting after section 5-b the
24 following new section:

25 169-D:5-c Voluntary Services. The department shall assess whether to offer the child and
26 family, on a voluntary basis, any services permitted under RSA 169-D:17 except out-of-home
27 placement of the child. The department may decline to offer services to a child or family if it
28 concludes that the child does not meet the definition of child in need of services in RSA 169-D:2, II,
29 or if the department otherwise determines that voluntary services are not appropriate for the child
30 or family. The department shall document the basis for its decision. Notwithstanding RSA 541-A,
31 the department's decision shall not be subject to appeal, nor shall the fact that the department
32 declined to offer voluntary services preclude a person from filing a petition under RSA 169-D:5, I.

Amendment to HB 260-FN

- Page 2 -



1 Voluntary services provided under this section shall not exceed 9 months, unless the department
2 determines that an extension for an additional, specified period of time is appropriate.

3 7 Issuance of Summons and Notice. RSA 169-D:6, I is repealed and reenacted to read as follows:

4 I.(a) After a legally sufficient petition has been filed, unless the case is referred to the
5 department pursuant to RSA 169-D:5 or a consent order is entered and approved, the court shall
6 schedule an initial appearance and issue a summons, including a copy of the petition, to be served
7 personally upon the person having custody or control of the child or with whom the child may be,
8 requiring that person to appear with the child on the specified date and time.

9 (b) If personal service is not possible, service shall occur at the usual place of abode of
10 the person having custody or control of the child or with whom the child may be, requiring that
11 person to appear with the child at a specified place and time which time shall not be less than 24
12 hours after service. If the person so notified is not the parent or guardian of the child, then a parent
13 or guardian shall be notified, provided they and their residence are known.

14

15 Amend RSA 169-D:9, I as inserted by section 8 of the bill by replacing it with the following:

16

17 I. Except in emergencies, the department, its agent, or any person or agency it designates
18 shall determine whether voluntary service options are appropriate for the child and family. A
19 referral for this determination may be made by any person permitted to bring a petition under RSA
20 169-D:5, I. To achieve this purpose, the department may designate a multi-disciplinary team to
21 consider the facts and circumstances of the case, the needs of the child and family, and available
22 diversion programs, services, and resources. This conference shall be attended by the child, if
23 appropriate, his or her parents, legal guardians or custodians, and representatives of any public
24 institution or agency having legal responsibility over the child, and may be attended by parties
25 invited by the family and representatives of any public or private institutions or agencies having
26 discretionary ability to coordinate and/or supply services to the child or family. If the child does not
27 attend a multi-disciplinary conference, an appropriate individual shall be designated to solicit the
28 child's input and help the child understand available service options and supports.

29

30 Amend RSA 169-D:9, VI as inserted by section 8 of the bill by replacing it with the following:

31

32 VI. If a petition has been filed and the department determines voluntary services are
33 appropriate, a voluntary family services plan shall be submitted to the court. The voluntary services
34 plan shall stay the proceedings for a period not to exceed 90 days from the date of implementation,
35 unless the parties agree, in writing, to an extension for additional periods not to exceed 90 days.

36

37 Amend RSA 169-D:31, I(g) as inserted by section 13 of the bill by replacing it with the following:



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(g) The number of cases in which the department determined that voluntary services under RSA 169-D:5-c were not appropriate, and the basis for those decisions.

(h) The type of services offered and/or provided to a child on a voluntary basis and the type of services ordered by the court after adjudication and disposition.

Amend the bill by replacing section 15 with the following:

15 Children in Need of Services; Suspension of Voluntary Services. The commissioner of the department of health and human services may suspend referrals for voluntary services under RSA 169-D upon the commissioner's determination that appropriated funds will be insufficient to support additional voluntary services cases. The commissioner shall report the decision to suspend referrals for voluntary services, and the basis for the decision, to the fiscal committee of the general court. Nothing in this section shall be construed to require fiscal committee approval to implement the suspension.



2013-1568s

AMENDED ANALYSIS

This bill:

I. Expands the definition of a child in need of services under RSA 169-D, revises circumstances under which the court may order various services or placements, and gives the department discretion to offer voluntary services.

II. Directs the department of health and human services to collect certain data regarding the CHINS program.

III. Provides for the suspension of voluntary services if appropriated funds will be insufficient to support voluntary services.

IV. Requires school board truancy policies to include certain information relative to student attendance.

Floor Amendment to HB 260-FN

1 Amend the bill by replacing section 13 with the following:
2

3 13 New Section; Data Collection; Reporting Requirement. Amend RSA 169-D by inserting after
4 section 30 the following new section:

5 169-D:31 Data Collection; Reporting Requirement.

6 I. The department shall establish a system to collect data related to:

7 (a) The person or entity who referred the child for services and/or filed the petition.

8 (b) The racial and ethnic identity of the child.

9 (c) The insurance status and coverage of child served.

10 (d) The length of time a child receives services under this chapter, including the time
11 prior and subsequent to the filing of a petition.

12 (e) The identity of any public or private organization to whom the department has
13 referred a child or family.

14 (f) Any other information, including outcome data, that may assist the department and
15 the court in evaluating the availability and effectiveness of services for children who receive
16 assistance under this chapter.

17 (g) The number of cases in which the department determined that voluntary services
18 under RSA 169-D:5-c were not appropriate, and the basis for those decisions.

19 (h) The type of services offered and/or provided to a child on a voluntary basis and the
20 type of services ordered by the court after adjudication and disposition.

21 II. The department shall, upon request, make available to members of the public,
22 compilations of the data which do not contain identifying information.

23 III. Beginning on or before December 30, 2013, the department shall provide quarterly
24 reports regarding cases handled pursuant to this chapter to the chair of the house children and
25 family law committee, the chair of the senate health, education and human services committee, or to
26 the chairs of their successor committees, as well as the chair of the joint fiscal committee. The
27 reports shall include:

28 (a) The number of cases assessed pursuant to RSA 169-D:5-c.

29 (b) The number of cases declined for voluntary services and the bases for the
30 declinations.

31 (c) The number of cases accepted for voluntary services and their ultimate disposition.

32 (d) The number of petitions filed pursuant to RSA 169-D:5, I, and their dispositions.

Floor Amendment to HB 260-FN

- Page 2 -

1 (e) The number of voluntary and court-based cases pending in each definition category of
2 RSA 169-D:2, II at the beginning and end of the quarter.

3 (f) The type and cost of services provided in cases accepted for voluntary services and
4 cases handled through the court, in each definition category of RSA 169-D:2, II.

Committee Minutes

SENATE CALENDAR NOTICE
HEALTH, EDUCATION & HUMAN SERVICES

Senator Nancy Stiles Chairman
 Senator John Reagan V Chairman
 Senator Peggy Gilmour
 Senator Molly Kelly
 Senator Andy Sanborn

| | | |
|--|-------------|--------------------------------------|
| 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: April 10, 2013

HEARINGS

Tuesday

4/16/2013

HEALTH, EDUCATION & HUMAN SERVICES

LOB 103

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: Proposed non-germane amendment to HB 636, Amendment #2013-1233s.

| | | |
|----------|----------|--|
| 9:00 AM | HB481-FN | limiting the state's authority to seek reimbursement for public assistance. |
| 9:30 AM | HB260-FN | (2nd New Title) relative to the children in need of services (CHINS) program. |
| 10:00 AM | HB636 | relative to the waitlist for community mental health services. |
| 10:30 AM | HB375 | requiring certain health care organizations to report to the department of health and human services regarding implementation of New Hampshire's 10-year mental health plan. |

Sponsors:

HB481-FN

Rep. Paul Hackel

HB260-FN

Rep. Patricia Lovejoy

Rep. Timothy Copeland

HB636

Rep. Laurie Harding

Rep. Stephen Schmidt

Sen. Bob Odell

Sen. Sharon Carson

Sen. David Pierce

HB375

Rep. James MacKay

HEALTH, EDUCATION, AND HUMAN SERVICES COMMITTEE

Hearing Report

Michael Ciccio, Legislative Aide

HB 260-FN -- relative to the children in need of services (CHINS) program.

Hearing Date: 04.16.13

Time Opened: 9:30

Time Closed: 10:28

Members of the Committee Present: Senators Reagan, Gilmour, and Kelly

Members of the Committee Absent: Senators Stiles and Sanborn

Bill Analysis: This bill:

I. Expands the definition of a child in need of services under RSA 169-D and revises the circumstances under which the court may order various services or placements. The bill also directs the department of health and human services to collect certain data regarding the CHINS program and provides for the suspension of voluntary services if appropriated funds will be insufficient to support voluntary services for the remainder of the biennium.

II. Requires school board truancy policies to include certain information relative to student attendance.

Sponsors: Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19

Who supports the bill: Rep. Lovejoy, Rep. Rogers, Rep. Walz, Rep. Sylvia Gale, Michael Skibbie (Disabilities Rights Center), John DeJoie (Children's Alliance of NH), Mark Joyce (NH School Administrators Association), Dean Michener (NH School Boards Association), Chief Michael Sielicki (NH Police Chiefs), Michelle Lundgren (NH Legal Assistance), Keith Kuenning (Child and Family Services), Ellen Fineberg (Children's Alliance of NH).

Who opposes the bill: None

Who is neutral: Maggie Bishop and Byry Kennedy (DHHS and DCYF)

Summary of testimony presented in support:

Rep. Lovejoy:

- HB 260 expands the definition of CHINS. It brings in the concept of voluntary services.
- Last year we reduced the number of children who qualified for CHINS. We took away one of the most important tools for schools in dealing with truant students.

Rep. Rogers:

- They merged language from HB 260-FN with language from HB 2. They heard from people about downshifting costs with regard to juveniles. Cutting this program hurt the local communities.

- This bill can work well and save costs for the state.
- The department can decline to offer voluntary services if an individual does not meet the definition of a child in need of services. The department will not have to offer residential placement for voluntary services.
- Voluntary services are limited to nine months. However, if a CHINS petition goes to court a child can be there until they are 18.
- With the voluntary system you would be taking away judge time, clerk time, prosecutor's time and defense time. Ultimately, saving money in the court system.
- If the department realizes during the program that the voluntary services cost too much then they can invoke a "circuit breaker" and ask the fiscal committee to suspend the voluntary services.
- This will allow you to reach the children before they enter the court and before the cost's gets worse. It allows you to solve a minor problem before it becomes a big problem.
- This bill is adequately funded in HB 1.

Rep. Walz.

- This would create two doors for children to receive CHINS services:
 - The traditional door, the court system.
 - The voluntary services door
- This will get the kids the services faster.
- They worked closely with the DHHS to meet their needs and concerns.
- They will not exceed the budget on any circumstances.

Mike Skibbie: Disabilities Rights Center

- The starting point for the legislation was the recommendation of the governor, which was to define CHINS closely with what it was before the cutbacks in the last biennium.
- The governor put in some cost controls as well measures on the most expensive services.
- Those definitions were for the appropriation in HB 1.
- HB 260 allows children to get services without the direction of the court system.
- Under the traditional system you have to wait line in the juvenile court system. The court has never been as slow as it is now.
- He mentioned a story from a local prosecutor in a juvenile delinquency case where they filed charges in January and the arraignment was not until April.
- The same services are provided and the same children are served in the voluntary model.
- You would be able to address problems when the family is most receptive to get help.
- The department has to agree with the voluntary services plan.
- In response to questions from the committee Mr. Skibbie stated:
 - He said some of the push back has been in regards to it being a new system that is uncharted territory and we should move more slowly.

- He also has heard there might be a woodwork effect but he does not believe that is the case; because parents are not going to ponder going to court (and not call the police) if their child needs help.
- Habitual truancy can be caused from problems in the school (stemmed from an educational disability) or problems in the home.
- The cost would be the same cap as the Governor's budget and the criteria for CHINS is the same.
- You are much more likely to have receptiveness and cooperation from the whole family in a voluntary services plan verses an adversarial system which can put the child and the parent at odds with eachother.

Dean Michener: NHSBA

- They support they bill, but they see a concern an overly prescriptive provision to local school board policy in regards to truancy. Local school board policies already address the issues in section 14 of the bill.
- NHSBA model policy calls on building administrators to investigate the reason for truancy behavior, consider modification of an educational program to meet the students needs and notify the parents.
- The drop out rates shows that these measures are working.
- The Education Commissioner stated "there is clear evidence that our drop out prevention programs put in place to complement the increase in the State's compulsory attendance age are working"

Keith Kuening: Child Family Services

- Child and family services support the bill and the voluntary services are best course of action for the State.
- If you have voluntary services then you would not be straining the court system.

Michelle Lundgren: NH Legal assistance

- On page 2 lines 30-35 it is clear the department can deny services if they do not meet the definitions of CHINS.
- If the department were to decline services the filing person could services could say why denied voluntary services to the child.
- There is a strong data collection provision in the bill. The department needs to explain why services were denied, what was attempted, what services were delivered.
- It allows families to participate in the process. Insurance may not cover services when enters the court system.

Mark Joyce: NHSAA

- They are in support of the bill but would like to offer a suggestion for a friendly amendment. They suggested striking the words "and document" on the last page of the bill, lines 2-7. Using the words "and document" causes problems because habitually truant students will not come to school programs therefore it this bill may preclude the most habitual truant children from receiving services.

Chief Sielicki:

- The more court system is going to cause more tension than voluntary services.

Alisha Piazza: Prosecutor

- A CHINS case can take up to 60 days or longer.
- She has to prove her case beyond a reasonable doubt and she had parents tell her that they can't testify against their child. She then has to decide to either make a parent testify or to back off and possible not get the child the services they need.

Summary of testimony presented in opposition:

- None

Summary of testimony presented neutral towards the bill:

Maggie Bishop and Byry Kennedy: DCYF and DHHS

- There was a companion bill SB 129 to HB 260-FN, however the difference between the two bills is the voluntary services.
- There have been efforts and attempts to put cost control measures in the bill, but they may be illusory. The bill says the department has discretion to provide services, but anyone denied services can still petition the courts for those services.
- The bill says any services can be provided through voluntary services, but then it says it excludes residential placement (contradictory).
- It does not say what would happen if you do not reach an agreement on voluntary services.
- When they have offered voluntary services in abuse and neglect cases it cost 2.2 million dollars in FY 2011. They are anticipating the voluntary services in CHINS would exceed abuse and neglect cases.
- There is no appropriation for voluntary services
- If the program runs out money then you have to fiscal committee for more. That is not good public policy.
- SB 129 is more sound than HB 260. SB 129 has a provision for a study committee and that could include a study on volunteer services.
- Truancy is a symptom of family challenges, school challenges, or pre-delinquent youth. These are people who say they will do voluntary services but they won't do voluntary. There are numerous activities which happen between the school and parent which are voluntary and they do not work.
- The truancy is a smaller symptom of a larger issue.
- There are going to be expenses that they are not prepared to cover.

Action: The committee took the bill under advisement

Fiscal: See Fiscal Note

MJC

Date hearing report completed: 04/19/13

Speakers

SENATE HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE

Date: 04/16/13

Time: 9:30am Public Hearing on HB 260-FN

HB 260-FN – (2nd New Title) relative to the children in need of services (CHINS) program.

Please check box(es) that apply:

| | SPEAKING | FAVOR | OPPOSED | NAME (PLEASE PRINT) | REPRESENTING |
|--------------|-------------------------------------|-------------------------------------|-------------------------------------|---|---|
| 2 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Rep Katherine Rogers | Finance Comm |
| 3 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Rep. MargBeth Walz | Child & Fam. Law |
| 4 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Michael Skibbie, Disabilities Rights Center | |
| 4 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | John DeJure, Children's Alliance of NH | |
| 5 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | MAGGIE BISHOP / BYRY KENNEDY | DWHS / DCYF |
| 9 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Mark Jovan | NH SAA |
| 6 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Dean Michener | NH School Boards Assn. |
| 10 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Chief Michael Szelicki | ^{Kennington} NH chiefs of Police |
| 8 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Michelle Wangerm, NH Legal Assistance | |
| 7 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | KEITH KENNEDY | CHILD + FAMILY SERVICES |
| 1 | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Rep. Patty Lovejoy | |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ellen Fineberg, Children's Alliance of NH | |
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Testimony

**Remarks of Rep. Katherine D. Rogers on HB 260 as Amended
before Senate Health, Education & Human Services Committee
April 16, 2013 at 9:30 am L.O.B. Room 103**

For the record I am Rep Katherine D. Rogers from Merrimack County District #28 - Concord and I am here today on behalf of the House Finance Committee.

The Finance Committee heard from communities during a series of hearings throughout the state about the "downshifting" of costs when services for Children in Need of Services was nearly eliminated in the current budget.

This bill as amended by the Finance Committee expands the definition of a Child in Need of Services under RSA 169-D which were severely restricted in the current biennium. It creates a voluntary CHINS program and requires that the appropriate voluntary services have been attempted and proven unsuccessful prior to a petition being filed with the court.

This bill gives people who would otherwise go to court access to services under the voluntary option and will result, we believe, in lower cost services.

You might be asking **HOW CAN THE SERVICES COST LESS?**

FIRST-voluntary services are limited in their scope - no access is given to residential services, which are only available through the court system

SECOND -voluntary services are limited in length, to 9 (nine) months, while court-ordered services have no such limitation

THIRD - service plans developed under the voluntary services procedures will include the Department in the planning process, so their resources are much less likely to be at the mercy of a judge ordering something that the Department doesn't consider necessary

AND FINALLY- reduced time in court and reduced work for Judges, Court staff, Prosecutors and Defense attorneys.

ADDITIONALLY- This bill invokes a "circuit breaker" that allows the Department to suspend voluntary services and just provide services under the court process for the remainder of the biennium should costs be more substantial than expected.

The Finance Committee believes that HB 260 would give children the help they need before they have to enter a court and allow them to receive a service they may need before the problem gets worse and potentially force the state to incur the costs of placement outside the family home?

The Finance Committee believes that HB 260 would offer a child the opportunity to deal with a minor issue before they enter a court where a judge can order probation that could last until that child becomes 18 years of age or even older.

The Finance Committee believes that HB 260 is an option for the community to work together to resolve a minor problem today with voluntary services a instead of the alternative of letting that child grow up and take a place in our county jails or state prison.

The Finance Committee believes that HB 260 is adequately funded in HB 1 as sent to the Senate and will serve to codify much of what is already taking place in our circuit courts today.

Dear Honorable Committee:

I have been a prosecutor for the past seven years, the last three of which I have spent with the Allentown Police Department. It was not until I began prosecuting for Allentown that I was exposed to the Juvenile Justice system. It was there that I began to understand and truly appreciate the need for services for the juveniles within that system.

My testimony today is comprised of two parts – first, HB 260 avoids, at least initially, the need for families to become court involved in an adversarial system in order to obtain services; second, HB 260 provides for the expeditious service of a CHINS child by avoiding the lengthy delays inherent in our court system.

By definition, a child who falls within the purview of the CHINS statute is one “in need of services.” Oftentimes we find a child is exhibiting manifestations of an already-troubled home. Compounding these problems by pitting a parent against his/her child in the adversarial court process can cause an already taxed family to become even further strained. Yet, in most CHINS cases, this is what must be done in order for the State to even attempt to obtain services for the child.

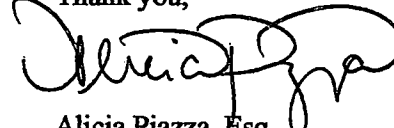
In a CHINS case, like any of my other court cases, the burden of proof is the same; the presentation of evidence is the same. So, as many prosecutors do, I find myself in that difficult spot where I must decide whether to compel a parent to testify against his/her child in order to sufficiently prove the case in hopes of getting some services to the family. I must then balance that decision with the concern that I am doing more damage to the family in the process. I have had parents look me directly in the eye and tell me they cannot testify “against” their child, yet this is the situation most parents of CHINS children face in our system.

Our system is often viewed as pitting parents against children and, by its very nature, is designed to be adversarial. With HB 260, the option is there for families to get access to much-needed services without the immediate need for court involvement in this adversarial system.

Given the avoidance of mandatory court involvement as a prerequisite to accessing services as a CHINS child, HB 260 allows for the expeditious access to services without the delay of the court process. It goes without saying that our judicial system is already stretched so thin it is nearly translucent.

By statute, once an investigation is complete and a petition is filed, the timelines allow for an initial appearance to occur up to seven days from the filing of the petition. An adjudicatory hearing can take nearly a month to be heard, assuming the case can be fully heard in one hearing. Assuming the child is found true of the allegation in the petition, a dispositional hearing can take up to another month to be scheduled. In total, a CHINS case can take nearly 60 days, if not longer, before services are ever even offered to a child.

Our goal should be to provide services quickly and efficiently while doing the least amount of harm in the process. HB 260 is the mechanism by which we can accomplish this goal together. Thus, I am in favor of its passage and urge the Committee to support it as well.

Thank you,

Alicia Piazza, Esq.

House Bill 260: relative to the children in need of services (CHINS) program

Testimony of Michael Skibbie, Policy Director, Disabilities Rights Center

The Disabilities Rights Center, New Hampshire's designated protection and advocacy agency, supports House Bill 260's approach to re-establishment of CHINS services. HB 260 would begin to move New Hampshire away from the often unproductive court-based system of the past and toward a system that is more responsive to the needs of children, schools, and law enforcement. It utilizes the Governor's preferred definitions of eligible children while bypassing the lengthy and expensive court process for children who meet the new definition and whose families are willing to cooperate with the service system. It also will work better for schools, police, and others charged with responding to the behaviors of children in need of services.

Under the voluntary service option, schools, police and others who are authorized to bring a CHINS petition can avoid the court system by making a direct referral to the Division for Children, Youth, and Families (DCYF). Once the referral is received DCYF can decline services if it concludes that the child would not be found eligible by a court sitting on a traditional CHINS case.

If the child would be eligible in a court proceeding, the department, family, and other interested parties would engage in a cooperative process to develop a service plan for the child. To avoid any possibility of voluntary services creating uncontrolled expenses for the department, HB 260 has several mechanisms to limit the availability of particularly expensive services and a "circuit-breaker" to allow the cut-off of new voluntary service cases if necessary.

There are several advantages to HB 260 as compared to a return to the old way of doing things:

1. Reducing Delays

Resorting to the court process can mean many months of delay in responding to a child's truancy or other problem behavior, which can dramatically reduce the effectiveness of services and increase the likelihood that the situation will worsen. For example, first hearings on juvenile delinquency petitions filed recently in one jurisdiction did not occur until 3 months after filing. Once a first hearing occurs, the juvenile proceedings themselves can take more than two months. If such delays occurred in the CHINS context, it would mean that a child's behavior would not be addressed for 5 months after it came to the attention of schools or police. During such delays, children's behavior (and underlying treatment needs) can worsen and become more expensive to address. In addition, a family may be most receptive to intervention close to the time of the problem behavior, and with the passage of time that receptiveness may diminish, reducing the effectiveness of services.

2. Avoiding the damage done by putting a family through the adversarial court process

Many families who would otherwise end up in court are willing to access available services without the need for court orders. They'll go to court if they have to, but in many of those cases it's a needless, sometimes upsetting, and often expensive exercise which delays getting families the help they need. There is no point to pushing cooperative families through an adversarial court system before they can access services.

3. Concerns about the cost of a voluntary service option:

The argument against allowing schools, police and families to respond directly to problem behaviors without going through the courts focuses on costs. Opponents claim that more services will be demanded by families, and that the demand on the service systems will exceed the appropriation proposed in HB 1. These concerns have been addressed in HB 260 in the following ways:

- Voluntary services are not available to a different population than would be subject to formal CHINS petitions in court. The bill explicitly limits services to children meeting the CHINS definition, and if DCYF concludes that a child does not meet the definition, services will be denied.
- The department will not have to devote administrative resources to disputes over service denials. No appeal within the department lies for such decisions. The referring party can only respond by turning to the traditional court-based CHINS system.
- The availability of directly-provided voluntary services is significantly more limited than when ordered by a court:
 - Voluntary services are limited in their scope – no access is given to residential services, which are only available through the court system.
 - Voluntary services are also limited in length, while court-ordered services have no such limitation.
 - Service plans developed under the voluntary services procedures must be approved by the Department, so Department resources are much less likely to be at the mercy of a judge ordering something that the Department don't consider necessary.

Finally, if opponents are correct that the population seeking services under the voluntary option is larger and more expensive than under a purely court-driven system, they can invoke a provision in the bill allowing the fiscal committee to authorize the termination of the voluntary service option. There is really no risk that adding the voluntary avenue to services will risk overspending the appropriation.

None of the above even accounts for the savings to the justice system of having a portion of cases proceed directly to service delivery. Each case that bypasses the traditional process saves costs associated with police and school attendance at hearings, attorneys on both sides of the proceedings, as well as judicial branch resources for the multiple hearings which typically are triggered by the filing of a petition.

House Bill 260 is a sensible approach to restoring services for troubled children while also supporting the schools, families, and public safety agencies that are affected by their behaviors.

Thank you for considering the views of the Disabilities Rights Center.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: 05.07.13

THE COMMITTEE ON Health, Education and Human Services
to which was referred House Bill 260-FN

AN ACT (2nd New Title) relative to the children in need of services
(CHINS) program.

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

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1568s

Senator Molly Kelly
For the Committee

Michael Ciccio 271-3093

New Hampshire General Court - Bill Status System

Docket of HB260

Docket Abbreviations

Bill Title: (4th New Title) relative to the children in need of services (CHINS) program, relative to court-ordered placements in shelter care facilities and at the youth development center and requiring a report on the uses of the Sununu Youth Services Center.

Official Docket of HB260:

| Date | Body | Description |
|-------------|-------------|---|
| 1/3/2013 | H | Introduced 1/3/2013 and Referred to Children and Family Law; HJ 12 , PG.189 |
| 1/30/2013 | H | Public Hearing: 2/5/2013 1:30 PM LOB 206 ==TIME CHANGE (Orig 1:00 PM)== |
| 2/12/2013 | H | Subcommittee Work Session: 2/14/2013 11:00 AM LOB 206 |
| 2/13/2013 | H | Executive Session: 2/19/2013 11:15 AM LOB 206 |
| 2/20/2013 | H | Committee Report: Ought to Pass with Amendment #0447h(NT) for Mar 6 (Vote 19-0; Part I RC); HC 20 , PG.415 |
| 2/20/2013 | H | Proposed Committee Amendment #2013-0447h (New Title); HC 20 , PG.444-446 |
| 3/6/2013 | H | Amendment #0447h(NT): AA VV; HJ 24 , PG.665-667 |
| 3/6/2013 | H | Ought to Pass with Amendment #0447h(NT): MA VV; HJ 24 , PG.665-667 |
| 3/6/2013 | H | Referred to Finance; HJ 24 , PG.665-667 |
| 3/11/2013 | H | Division III Work Session: 3/14/2013 10:30 AM LOB 210-211 |
| 3/12/2013 | H | Division III Work Session: 3/18/2013 9:30 AM LOB 210-211 |
| 3/12/2013 | H | Executive Session: 3/19/2013 10:00 AM LOB 210-211 |
| 3/20/2013 | H | Committee Report: Ought to Pass with Amendment #0968h(NT) for Mar 27 (Vote 16-7; RC); HC 25 , PG.709 |
| 3/20/2013 | H | Proposed Committee Amendment #2013-0968h (New Title); HC 25 , PG.724-728 |
| 3/27/2013 | H | Amendment #0968h(NT): AA RC 215-138 ; HJ31 , PG.1051-1057 |
| 3/27/2013 | H | Ought to Pass with Amendment #0968h(NT): MA DIV 211-140; HJ31 ; PG.1051-1057 |
| 3/28/2013 | S | Introduced and Referred to Health, Education & Human Services |
| 4/10/2013 | S | Hearing: 4/16/13, Room 103, LOB, 9:30 a.m.; SC16 |
| 5/10/2013 | S | Committee Report: Ought to Pass with Amendment #2013-1568s , 5/23/13; SC21 |
| 5/23/2013 | S | Committee Amendment 1568s, AA, VV; |
| 5/23/2013 | S | Sen. Stiles Floor Amendment #2013-1642s , AA, VV; |
| 5/23/2013 | S | Sen. Odell Floor Amendment #2013-1875s , AA, VV; |
| 5/23/2013 | S | Ought to Pass with Amendments 1568s, 1642s, 1875s, MA, VV; Refer to Finance Rule 4-5; |
| 5/30/2013 | S | Committee Report: Ought to Pass with Amendment #2013-1971s NT, 6/6/13; SC23 |
| 6/6/2013 | S | Committee Amendment 1971s NT, AA, VV |

| | | |
|-----------|---|---|
| 6/6/2013 | S | Ought to Pass with Amendment 1971s NT, MA, VV; OT3rdg |
| 6/12/2013 | H | House Non-Concurs with Senate AM #1568s, #1642s, #1875s, and #1971s(NT) and Requests C of C. (Rep Shurtleff): MA VV [Recess of 6/5/13]; HJ49 , PG.1650 |
| 6/12/2013 | H | Speaker Appoints: Reps Walz, Long, Gargas, and K.Rogers [Recess of 6/5/13]; HJ49 , PG.1650 |
| 6/12/2013 | S | Sen. Stiles Moved Accede to House Request for Committee of Conference, MA, VV |
| 6/12/2013 | S | President Appoints: Senators Stiles, Odell, Kelly |
| 6/12/2013 | H | Committee of Conference Meeting: 6/19/2013 10:00 AM LOB 206 |
| 6/19/2013 | S | Conference Committee Report #2013-2135c ; Senate Amendment + New Amendment, Filed |
| 6/26/2013 | S | Conference Committee Report 2135c; RC 24Y-0N, Adopted |
| 6/26/2013 | H | Conference Committee Report #2135c Adopted, VV |
| 6/26/2013 | S | Enrolled Bill Amendment #2193e Adopted, VV |
| 6/26/2013 | H | Enrolled Bill Amendment #2013-2193e (NT) Adopted, VV |
| 6/26/2013 | S | Enrolled |
| 6/26/2013 | H | Enrolled |
| 7/25/2013 | H | Signed By Governor 07/24/2013; Chapter 0249 |
| 7/25/2013 | H | I. Section 1-15 Effective 09/01/2013 |
| 7/25/2013 | H | II. Remainder Effective 09/22/2013 |

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 260-FR 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 # ^{DRAFT} 12215 - AMENDMENT # 1568s
 - AMENDMENT # 1550s - AMENDMENT # 18755 floor

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): 0728s

DATE DELIVERED TO SENATE CLERK 7/26/13

Melissa Ellis
BY COMMITTEE AIDE