

Bill as
Introduced

HB 433 - AS INTRODUCED

2013 SESSION

13-0608
05/01

HOUSE BILL

433

AN ACT

relative to procedures for juvenile delinquency petitions filed by a school district or school official and establishing a committee to study the children in need of services (CHINS) program.

SPONSORS: Rep. Pitre, Straf 2

COMMITTEE: Children and Family Law

ANALYSIS

This bill provides that, unless an incident presents a serious threat to school safety, the school district shall attempt to resolve the issue through available educational interventions before filing a juvenile delinquency petition. The bill also establishes a committee to study the children in need of services (CHINS) program.

Explanation:

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

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

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to procedures for juvenile delinquency petitions filed by a school district or school official and establishing a committee to study the children in need of services (CHINS) program.

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

1 1 New Paragraph; Juvenile Delinquency; Definition of Serious Threats to School Safety. Amend
2 RSA 169-B:2 by inserting after paragraph XIII the following new paragraph:

3 XIV. "Serious threats to school safety" means acts involving weapons; acts involving the
4 possession, sale, or distribution of controlled substances; acts that cause serious bodily injury to
5 other students or school employees; threats to cause bodily injury to students or school employees,
6 where there is a reasonable probability that such threats will be carried out; acts that constitute
7 felonious sexual assault or aggravated felonious sexual assault under RSA 632-A; arson under
8 RSA 634:1; robbery under RSA 636:1; and criminal mischief under RSA 634:2, II and RSA 634:2, II-
9 a.

10 2 New Paragraphs; Juvenile Delinquency Petition. Amend RSA 169-B:6 by inserting after
11 paragraph II the following new paragraphs:

12 III. Absent serious threats to school safety, when a delinquency petition is filed by a school
13 official, including school resource officers assigned to a school district pursuant to a contract
14 agreement with the local police department, or when a petition is filed by a local police department
15 as a result of a report made by a school official or school resource officer, based upon acts committed
16 on school grounds during the school day, information shall be included in the petition which shows
17 that the legally liable school district has sought to resolve the expressed problem through available
18 educational approaches, including the school discipline process, if appropriate, that the school has
19 sought to engage the parents or guardian in solving the problem but they have been unwilling or
20 unable to do so, that the minor has not responded to such approaches and continues to engage in
21 delinquent behavior, and that court intervention is needed.

22 IV. When a school official, including school resource officers assigned to a school district
23 pursuant to a contract agreement with the local police department, or a local police department as a
24 result of a report made by a school official or school resource officer, files a petition involving a minor
25 with a disability pursuant to RSA 186-C, information shall be included which demonstrates that the
26 legally liable school district:

27 (a) Has determined that the minor has a disability;

28 (b) Has determined whether the conduct leading to the juvenile petition is a
29 manifestation of the minor's disability; and

1 (c) Has reviewed for appropriateness the minor's current individualized education
2 program (IEP), behavior intervention plan, and placement, and has made modifications where
3 appropriate.

4 3 Committee Established. There is established a committee to study the child in need of
5 services (CHINS) program.

6 I. The members of the committee shall be as follows:

7 (a) Three members of the house of representatives, appointed by the speaker of the
8 house of representatives.

9 (b) One member of the senate, appointed by the president of the senate.

10 III. Members of the committee shall receive mileage at the legislative rate when attending to
11 the duties of the committee.

12 IV. The committee shall study the CHINS program under RSA 169-D. The study shall
13 include examination of the purpose of the program, consequences of recent changes to the program's
14 scope and funding, how the CHINS process can be used to address truancy, and how costs in
15 individual cases can be controlled. The committee shall solicit information and testimony from
16 individuals and organizations with experience and expertise relevant to the study.

17 V. The members of the study committee shall elect a chairperson from among the members.
18 The first meeting of the committee shall be called by the first-named house member. The first
19 meeting of the committee shall be held within 45 days of the effective date of this section. Three
20 members of the committee shall constitute a quorum.

21 VI. The committee shall report its findings and any recommendations for proposed
22 legislation to the speaker of the house of representatives, the president of the senate, the house
23 clerk, the senate clerk, the governor, and the state library on or before November 1, 2013.

24 4 Effective Date.

25 I. Section 3 of this act shall take effect upon its passage.

26 II. The remainder of the act shall take effect January 1, 2014.

HB 433 - AS AMENDED BY THE HOUSE

13Mar2013... 0566h

2013 SESSION

13-0608
05/01

HOUSE BILL

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AN ACT

relative to procedures for juvenile delinquency petitions filed by a school district or school official.

SPONSORS:

Rep. Pitre, Straf 2

COMMITTEE:

Children and Family Law

AMENDED ANALYSIS

This bill provides that, unless an incident presents a serious threat to school safety, the school district shall attempt to resolve the issue through available educational interventions before filing a juvenile delinquency petition.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

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22 IV. When a school official, including school resource officers assigned to a school district
23 pursuant to a contract agreement with the local police department, or a local police department as a
24 result of a report made by a school official or school resource officer, files a petition involving a minor
25 with a disability pursuant to RSA 186-C, upon submission of a juvenile petition, but prior to the
26 child's initial appearance the legally liable school district shall provide assurance that prior to its
27 filing:

28 (a) It was determined whether or not the child is a child with a disability according to
29 RSA 186-C:2, I.

HB 433 - AS AMENDED BY THE HOUSE

- Page 2 -

1 (b) If the school district has determined that the child is a child with a disability, a
2 manifestation review pursuant to 20 U.S.C. section 1415(k)(1)(E) occurred.

3 (c) If the child's conduct was determined to be a manifestation of the child's disability,
4 the school district followed the process set forth in 20 U.S.C. section 1415(k)(1)(F).

5 (d) It has reviewed for appropriateness the minor's current individualized education
6 program (IEP), behavior intervention plan, and placement, and has made modifications where
7 appropriate.

8 3 Effective Date. This act shall take effect January 1, 2014.

CHAPTER 198
HB 433 - FINAL VERSION

13Mar2013... 0566h
5June2013... 1968EBA

2013 SESSION

13-0608
05/01

HOUSE BILL **433**

AN ACT relative to procedures for juvenile delinquency petitions filed by a school district or school official.

SPONSORS: Rep. Pitre, Straf 2

COMMITTEE: Children and Family Law

AMENDED ANALYSIS

This bill provides that, unless an incident presents a serious threat to school safety, the school district shall attempt to resolve the issue through available educational interventions before filing a juvenile delinquency petition.

Explanation: Matter added to current law appears in *bold italics*.
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CHAPTER 198
HB 433 - FINAL VERSION

13Mar2013... 0566h
5June2013... 1968EBA

13-0608
05/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to procedures for juvenile delinquency petitions filed by a school district or school official.

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

1 198:1 New Paragraph; Juvenile Delinquency; Definition of Serious Threats to School Safety.
2 Amend RSA 169-B:2 by inserting after paragraph XIII the following new paragraph:

3 XIV. "Serious threats to school safety" means acts involving weapons; acts involving the
4 possession, sale, or distribution of controlled substances; acts that cause serious bodily injury to
5 other students or school employees; threats to cause bodily injury to students or school employees,
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8 RSA 634:1; robbery under RSA 636:1; and criminal mischief under RSA 634:2, II and RSA 634:2, II-
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10 198:2 New Paragraphs; Juvenile Delinquency Petition. Amend RSA 169-B:6 by inserting after
11 paragraph II the following new paragraphs:

12 III. Absent serious threats to school safety, when a delinquency petition is filed by a school
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18 educational approaches, including the school discipline process, if appropriate, that the school has
19 sought to engage the parents or guardian in solving the problem but they have been unwilling or
20 unable to do so, that the minor has not responded to such approaches and continues to engage in
21 delinquent behavior, and that court intervention is needed.

22 IV. When a school official, including a school resource officer assigned to a school district
23 pursuant to a contract agreement with the local police department, or a local police department as a
24 result of a report made by a school official or school resource officer, files a petition involving a minor
25 with a disability pursuant to RSA 186-C, upon submission of a juvenile petition, but prior to the
26 child's initial appearance, the legally liable school district shall provide assurance that prior to its
27 filing:

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HB 433 - FINAL VERSION

- Page 2 -

1 (a) It was determined whether or not the child is a child with a disability according to
2 RSA 186-C:2, I.

3 (b) If the school district has determined that the child is a child with a disability, a
4 manifestation review pursuant to 20 U.S.C. section 1415(k)(1)(E) occurred.

5 (c) If the child's conduct was determined to be a manifestation of the child's disability,
6 the school district followed the process set forth in 20 U.S.C. section 1415(k)(1)(F).

7 (d) It has reviewed for appropriateness the minor's current individualized education
8 program (IEP), behavior intervention plan, and placement, and has made modifications where
9 appropriate.

10 198:3 Effective Date. This act shall take effect January 1, 2014.

11

12 Approved: July 9, 2013

13 Effective Date: January 1, 2014

Amendments

Rep. Long, Hills. 42
February 26, 2013
2013-0566h
05/04

Amendment to HB 433

Amend the title of the bill by replacing it with the following:

AN ACT relative to procedures for juvenile delinquency petitions filed by a school district or school official.

Amend RSA 169-B:6, IV as inserted by section 2 of the bill by replacing it with the following:

IV. When a school official, including school resource officers assigned to a school district pursuant to a contract agreement with the local police department, or a local police department as a result of a report made by a school official or school resource officer, files a petition involving a minor with a disability pursuant to RSA 186-C, upon submission of a juvenile petition, but prior to the child's initial appearance the legally liable school district shall provide assurance that prior to its filing:

(a) It was determined whether or not the child is a child with a disability according to RSA 186-C:2, I.

(b) If the school district has determined that the child is a child with a disability, a manifestation review pursuant to 20 U.S.C. section 1415(k)(1)(E) occurred.

(c) If the child's conduct was determined to be a manifestation of the child's disability, the school district followed the process set forth in 20 U.S.C. section 1415(k)(1)(F).

(d) It has reviewed for appropriateness the minor's current individualized education program (IEP), behavior intervention plan, and placement, and has made modifications where appropriate.

Amend the bill by replacing all after section 2 with the following:

3 Effective Date. This act shall take effect January 1, 2014.

2013-0566h

AMENDED ANALYSIS

This bill provides that, unless an incident presents a serious threat to school safety, the school district shall attempt to resolve the issue through available educational interventions before filing a juvenile delinquency petition.

Committee Minutes

**SENATE CALENDAR NOTICE
JUDICIARY**

Senator Sharon Carson Chairman
 Senator Bette Lasky V Chairman
 Senator David Boutin
 Senator Sam Cataldo
 Senator Donna Soucy

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 17, 2013

HEARINGS

Tuesday

4/30/2013

JUDICIARY

SH 100

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM HB224

relative to the authority of the superintendent of a county correctional facility.

9:20 AM HB228

relative to insurance fraud.

9:40 AM HB433

(New Title) relative to procedures for juvenile delinquency petitions filed by a school district or school official.

10:00 AM HB583

relative to proceedings of medical injury claims screening panels.

Sponsors:

HB224

Rep. Laura Pantelakos
 Rep. James Belanger

Rep. Stephen Shurtleff

Rep. Robert Fesh

Rep. Gene Charron

HB228

Rep. Edward Butler

Rep. John Hunt

Rep. Donald Flanders

HB433

Rep. Joseph Pitre

HB583

Rep. Lucy Weber

Sen. Bette Lasky

Rep. Janet Wall

Sen. Donna Soucy

SENATE JUDICIARY COMMITTEE

Susan Duncan, Senior Legislative Aide

HB 433 – (New Title) relative to procedures for juvenile delinquency petitions filed by a school district or school official.

Hearing Date: April 30, 2013

Time Opened: 9:40 a.m.

Time Closed: 10:02 a.m.

Members of the Committee Present: Senators Carson, Lasky, Boutin, Soucy and Cataldo

Members of the Committee Absent: No one

Bill Analysis: This bill provides that, unless an incident presents a serious threat to school safety, the school district shall attempt to resolve the issue through available educational interventions before filing a juvenile delinquency petition.

Sponsors: Representative Pitre

Who supports the bill: Keith Kuenning, Child and Family Services; Attorney Michelle Wangerin, NH Legal Assistance; Attorney Michael Skibbie, the Disabilities Rights Center; Devon Chaffee, NHCLU

Who opposes the bill: No one

Summary of testimony presented in support:

Senator Cataldo introduced the bill in the absence of anyone from the House.

Attorney Wangerin

Explained that she is the Director of the Youth Law Program and represents low income individuals in civil cases. She said that the bill tracks work that has been done on CHINS petitions as well as "best practices."

She explained that as SROs (school resource officers) have increased in our schools in recent years, their presence has decreased violence in the schools, but it has increased the number of youth who are arrested for what would be considered "normal" acts (such as throwing erasers, swearing in the halls). She said that they seek to handle these acts in a more efficient way because youth who are arrested end up with an increased risk of dropping out of school. Also, being labeled does not decrease recidivism. She said that there are better ways to deal with youth in schools than referring the child to juvenile court. She explained that being brought into court can lead the child and families to feel a complete loss of control as well as leading the families into a cycle of repeated court appearances that could result in child placements out of the home. Research has shown that children being placed in alternative schools is disruptive to their educational progress and has a number of unintended consequences. She said that their goal with this legislation is to limit court referrals to more serious offenses and encouraging the schools to

use the court system as a last resort. She said that they are hoping it will encourage schools to use the resources that they have such as evidence-based programs and restorative justice techniques such as letters of apology and community service.

Attorney Skibbie

Testified on behalf of the Disabilities Rights Center in support and said that they want to encourage responses other than referrals to court – and that the bill asks to see whether there are less severe actions which may be in order. He spoke of the increase in referrals to court for what we would consider “normal” juvenile misconduct. He said that once youth are labeled, it changes the level of their connection to their peers, teachers, coaches and others and that these are important resources for youth. He said that the approach here is much more helpful.

Senator Carson asked if there is anything in the bill that prevents her from filing a charge. **Attorney Skibbie** responded “no,” that it affects only the school. **Attorney Lehmann** commented that “it cannot be reported to the police.” **Senator Carson** asked about double jeopardy. **Attorney Skibbie** responded that this clearly would not apply.

Devon Chaffee

Testified in support and put the bill into a more national context and explained that the ACLU is seeing this happening all across the country where an increasing number of students are being reported. She said that there is a dramatic increase in the number of cases in the last 12 years at the same time that data shows that crime in schools has decreased. She told of a 12 year old who was handcuffed for writing on his desk – and issues that should have been dealt with at the school level but are being funneled into the courts. She said that when children are sent into the court system, it makes it four times more likely that this child will drop out of school.

She said that California, Florida, Louisiana, Michigan, Georgia and Colorado have collaborative language and that these are leading to increased school graduations.

Senator Cataldo asked if she has found any root cause for this. **Ms. Chaffee** responded that as we are seeing more police in our schools they do not necessarily have the training to understand what should be handled at the school level. She said that the problems in our schools are no different than we saw 15 years ago – they are just being handled differently.

Summary of testimony presented in opposition: None

Fiscal Note: Not applicable.

Future Action: The Committee took the bill under advisement.

sfd

Date hearing report completed: May 2, 2013
[file: HB 0433 report]

Speakers

Testimony



NEW HAMPSHIRE LEGAL ASSISTANCE

Working for Equal Justice Since 1971

www.nhla.org

April 30, 2013

Senator Sharon Carson, Chairman
Senate Judiciary Committee
New Hampshire Senate
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Concord, NH 03301

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603-224-4107
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TTY: 1-800-735-2964

Via Hand Delivery

RE: HB 433 (Relative to procedures for juvenile delinquency petitions filed by a school district or school official)

Dear Chairman Carson and Honorable Members of the Committee:

I write today to encourage you to recommend Ought to Pass on HB 433, an act relative to procedures for juvenile delinquency petitions filed by a school district or school official. This common sense juvenile justice legislation is an important step in reforming New Hampshire's juvenile system to fall in line with nationwide, research based best practices in managing ordinary youth misbehavior.

New Hampshire Legal Assistance (NHLA) is a non-profit law firm with offices in Berlin, Claremont, Concord, Manchester, and Portsmouth. We represent low-income clients in civil cases impacting basic needs, such as shelter, safety from domestic violence, access to and preservation of subsistence income. I am the director of NHLA's Youth Law Project, which focuses on ensuring New Hampshire youth have access to education and other basic services that enable them to graduate high school and become healthy, productive members of our community.

Currently, the juvenile justice system allows youth as young as eleven to be arrested and adjudicated as a delinquent for any single infraction that would amount to a misdemeanor or felony level offense if the child were an adult. What this means in a practical sense is that children are commonly charged and adjudicated delinquent for minor infractions that in past years may have simply been part of growing up. In my experience at NHLA, and formerly as a New Hampshire Public Defender, I have seen youth enter the court system for offenses including, to name just a few, yelling in school hallways, throwing snowballs, schoolyard fights, horsing around with friends and accidentally breaking property in the process, and most recently, ordering takeout to the school and knocking on a classroom window.

Because school is the place where children are most commonly around figures of authority, including teachers, administrators, and even school police officers, it is also the place where they often receive the harshest punishment for their non-violent but often misguided misbehavior. At the same time, it is a place where we expect them to learn, grow, and with the support of their parents, emerge into productive and hopefully less misguided young adults.

In recent years, a lot of national and state specific research has been conducted to determine best practices to address escalating youth behaviors in schools. By and large the research has focused on the impact of harsh school disciplinary policies and arrests on youth outcomes and their long-term effects. What the research has found is this:

1. Over-reliance on the juvenile justice system for non-violent behavior has not proven effective and does not reduce future delinquency;
2. A single juvenile court appearance increases school dropout rates and the dropout rates only increase as youth move deeper into the system; and
3. The social and financial costs to the state for using the juvenile system to address non-violent misbehavior can be high, particularly taking into account the disappointing outcomes, including decreased school performance, recidivism, and incarceration through both the juvenile and adult justice systems.

A number of studies highlight the fact that as school resource officers (police officers assigned to schools) have become more prevalent, the number of children arrested in school has increased, even though there hasn't been a similar increase in the negative behaviors exhibited by children. While the movement toward school resource officers has, to some extent, decreased violent crime in schools, there has been a striking increase in utilization of the court system to address ordinary school misbehavior. In addition, rather than learning that police officers are sources of protection, many children begin viewing them as the enemy, fostering distrust of our community protectors that may last a lifetime.

This bill seeks to ensure that when ordinary discipline issues arise in the school environment, strategies are used to help children learn from their behavior through collaboration between the parent and the school district before the child's behavior is criminalized through the juvenile justice system.

The current research on best practices makes evident that investing in school based interventions like positive behavior interventions and supports (PBIS), peer to peer conflict resolution, and restorative justice, along with collaboration with families generally leads to the best long term outcomes for children and youth. However, research shows that juvenile court involvement often leads to children's removal from their homes for technical probation violations, long-lasting psychological harm, gravitation toward deviant peer groups, lower school performance, and increased risk of dropping out of school.

Once a child enters the court system, not only does the child often self identify as a delinquent child, but the parents and family begin to lose control over the process. Even if an offense began

with a child throwing an erasure at another child during class (simple assault), unrelated rules violations like missing curfew are no longer simply a family matter, but will likely lead to further court action through a probation violation, which may eventually lead to removal from the home. This often leaves parents feeling out of control, blameworthy, and angry at the system. Even worse, rather than working through family problems, many families eventually come to rely on the juvenile justice system as a second parent to the child.

In addition to parents often losing control over their child's welfare once their child enters the juvenile justice system, schools also lose a large amount of decision making power. This loss in power may lead to extremely costly outcome for both the local school district and the state Department of Education. For instance, working with the parents and instituting a comprehensive behavior plan for that child often results in positive outcomes both for the child's behavioral difficulties, as well as his academics. However, if a child is referred to the juvenile justice system and the juvenile court places the child out of the home until his or her next court date 30-60 days later, or places the child in a long term facility, the child's education will be disrupted; a disruption from which many children are unable to recover. Moreover, during that time, if the child is identified with an educational disability the school system will be responsible for steep education rates while the child is in a residential environment that could have otherwise been preventable through educational remedies and/or collaboration with the parents.

The potential costs outlined above are in addition to court costs, attorney costs, DCYF costs, the costs of outside mediation and counseling if it is not conducted by the school guidance counselor, and many more.

This bill asks schools and police officers to take a step back before reacting to a child's non-violent behavior through the court system. It says that if a child misbehaves in school, the school will first determine whether it can use its own resources and collaborate with the parents to teach the child better conduct. Does the child need a behavior plan? Would mediation be helpful to address an ongoing issue between the child and another student? Is there appropriate community service work that the child can do to benefit the school and foster a better relationship between the child and school personnel? Are the parents even aware of the child's behavior and do they have strategic ideas on how to get through to their child so that this type of behavior is minimized in the future?

This is not to say that no juveniles should be referred to the justice system, nor does HB 433 discourage the use of school resource officers to protect the students within the schools. This bill would allow schools and police officers to continue using the juvenile justice system to address violent offenses, drug offenses, and serious vandalism. It also allows schools to refer juveniles that continue to exhibit minor misbehavior on school grounds when school-based strategies are attempted, but prove ineffective.

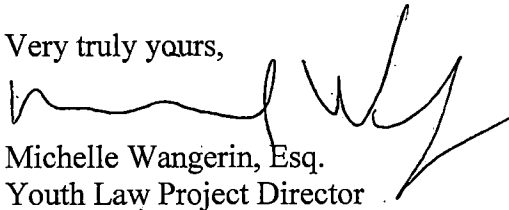
I urge this committee to consider that schools are in a unique position to recognize youth misbehavior, collaborate with parents, and use educational strategies to divert children from the juvenile justice system so the child is able to learn from his or her behavior, rather than potentially suffering the negative long-term effects of court-involvement and delinquency. If we are going to invest resources in New Hampshire's children, I ask that, in the first instance, we

invest in education and strategies that are proven to work, rather than strategies that have are largely ineffective at addressing ordinary youth misbehavior.

While some groups have previously advocated that school based arrests for ordinary youth misbehavior simply don't happen, or happen too rarely to legislate, I urge the committee to recognize that, although there are certain school districts that have undergone some striking and positive reforms in New Hampshire, over-criminalizing our youth continues to occur around the state and this legislation is an important step in moving forward. To illustrate this, I have obtained permission from a family and youth to provide the Committee a redacted copy of a very recent petition that illustrates the criminalization of silly, albeit disruptive, school misbehavior that surely could have been appropriately managed outside of the court system. This redacted petition is attached to my testimony. I am also more than happy to provide the Committee with copies of relevant research upon request.

Thank you for your consideration of HB 433 and of this testimony. I ask for this Committee's support in recommending Ought to Pass. I would be very glad to hear from you if you have any questions during your consideration of this bill. You may reach me directly at (603) 668-2900 ext. 2230.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michelle Wangerin', written over the typed name and title.

Michelle Wangerin, Esq.
Youth Law Project Director

Att. Michelle

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

http://www.courts.state.nh.us

MASHUA DISTRICT

2013 MAR 1 11 52

Court Name: **Circuit - District Division**

Case Name: **In re**

Case Number: **[REDACTED]**
(if known)

JUVENILE PETITION: CHINS (RSA 169-D) or Delinquency (RSA 169-B)

1. Juvenile name **[REDACTED]** (Gender) M F Date of Birth **[REDACTED]**

(Ethnicity for statistical use only): American Indian/Alaskan Native Asian
 Black or African American Native Hawaiian/Other Pacific Islander White
 Hispanic Unable to Determine

Address **[REDACTED]**

2. Father name _____ Date of Birth _____

Address _____

Telephone number (Home) _____ (Work) _____

3. Mother name **[REDACTED]** Date of Birth _____

Address **[REDACTED]**

Telephone number (Home) **[REDACTED]** (Work) _____

4. Physical custodian of the juvenile **[REDACTED]** Relationship to Juvenile **[REDACTED]**

Address **[REDACTED]** Telephone number **[REDACTED]**

5. Petitioner name and organization **[REDACTED]**

Address **[REDACTED]** Telephone number **[REDACTED]**

6. The petitioner represents that the juvenile is
 A CHILD IN NEED OF SERVICES (CHINS)
 DELINQUENT

in that he/she is alleged to have committed the offense of Disorderly Conduct contrary to
RSA 644:2 Check: Felony offense Class A Class A Misdemeanor
 Felony offense Class B Class B Misdemeanor Violation

7. Date(s) and time(s) of alleged offense February 2013 at approximately 12:20 pm.

Location of alleged offense Delinquent Child- Disorderly Conduct

8. Details or facts of alleged offense

did purposely cause a breach of the peace by disrupting the orderly conduct of business in any public or governmental facility by continuing to disobey the rules of the school including having takeout delivered and banging on windows of a class room after being ordered to cease.

9. Petitioner screened this case for Diversion and determined it inappropriate because:

[REDACTED]

SEE BACK FOR IMPORTANT INFORMATION AND FINANCIAL OBLIGATIONS



NEW HAMPSHIRE CIVIL LIBERTIES UNION

18 Low Avenue
Concord, New Hampshire 03301
603-225-3080
www.NHCLU.org

DEVON CHAFFEE
EXECUTIVE DIRECTOR

To: Chairman Sharon Carson and other members of the New Hampshire Senate Judiciary Committee
From: Devon Chaffee, Executive Director, New Hampshire Civil Liberties Union
Date: April 30, 2013
Re: **In Support of House Bill 433**

Dear Madame Chair and other members of the Committee:

I submit this testimony on behalf of the New Hampshire Civil Liberties Union (NHCLU), a non-partisan, nonprofit organization working to protect civil liberties throughout New Hampshire, in support of HB 433. HB 433 addresses a problem that the ACLU has seen plaguing schools nationwide: the growing number of school children referred to courts for school disciplinary issues.ⁱ HB 433 would rightly allow New Hampshire to join a growing number of other states that are adopting measures to ensure that schools favor school based solutions, not court based solutions.

- **Unnecessary reliance on law enforcement to solve regular school problems is happening throughout the country.** In the ACLU's work across the country we have seen the number of children referred to court for school discipline increase dramatically over the past dozen years.ⁱⁱ This is true even though according to the recent data compiled by the United States Department of Justice, school crime has declined significantly over that period of time.
- **There are many troubling examples of unnecessary reliance on law enforcement to solve regular school problems.** In 2010, a 12-year-old student from New York City who wrote "I love my friends Abby and Faith" on her desk was handcuffed, perp-walked out of the school in front of her peers, and charged with vandalism.ⁱⁱⁱ In Springfield Massachusetts a 14-year-old boy was arrested for "disturbing a lawful assembly" when he refused to walk with a teacher to her office, yelled at a teachers and slammed a classroom door shut.^{iv} In Mississippi, a recent U.S. Department of Justice lawsuit argued that Meridian schools repeatedly referred students to law enforcement for such "offenses" as "disrespect," "refusal to follow directions," and "profanity."^v
- **HB 433 will help ensure that schools achieve the best outcomes for students and New Hampshire communities.** Research demonstrates that the collaborative approach encouraged by HB 433 is most likely to lead to positive outcomes for students and communities.^{vi} Court involvement, on the other hand, can cause emotional trauma, result in lower school performance, quadruple the likelihood that the student will drop out of school, and reduces a student's employment prospects.^{vii} It also leads to crowded juvenile court dockets and detention centers and burdens communities with the cost associated with an increase in dropouts and unemployment.
- **States across the country are passing measures like HB 433.** States like California, Colorado, Louisiana, Massachusetts, Florida, Texas, and Michigan have passed bipartisan laws and policies to encourage schools to use evidence based collaborative solutions to disciplinary problems and that keep schools safe and engaging without relying on the courts. This progress is due, in part, to the work of a broad array of stakeholders, including local juvenile court judges, national teachers unions, fiscally conservative think tanks and others that have actively supported the reform of school disciplinary practices to keep students engaged in safe and productive schools throughout the United States.

For the above reasons I respectfully urge you to recommend that the Senate vote **ought to pass on HB 433**. Please feel free to contact me with any questions.



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ⁱ Paul J. Hirschfield, *Preparing for Prison? The Criminalization of School Discipline in the USA*, 12 THEORETICAL CRIMINOLOGY 79, 80 (2008); Daveen Rae Kurutz, *School Arrests, Citations Jump by 46 percent*, PITTSBURGH TRIB.-REV., Aug. 23, 2008; CHILDREN'S DEFENSE FUND, *AMERICA'S CRADLE TO PRISON PIPELINE* 125 (2007); ADVANCEMENT PROJECT, *EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK* 15 (2005).

ⁱⁱ *Id.* at FN i.

ⁱⁱⁱ Stephanie Chen, *"Girl's arrest for doodling raises concerns about zero tolerance."* CNN (February 18, 2010). Sean Gardiner, *"Desk Arrest Stirs Protest."* *The Wall Street Journal* (September 8, 2010).

^{iv} ACLU/ACLU of Massachusetts, *Arrested Futures: The Criminalization of School Discipline in Massachusetts' Three Largest School Districts* (2012).

^v ACLU of Mississippi, NAACP Mississippi State Conference, Mississippi Coalition for the Prevention of Schoolhouse to Jailhouse and Advancement Project, *Handcuffs on Success: The Extreme School Discipline Crisis in Mississippi Public Schools* (2013).

^{vi} Johanna Wald and Lisa Thureau, *First Do No Harm: How Educators and Police Can Work Together More Effectively to Preserve School Safety and Protect Vulnerable Students*, Charles Hamilton Houston Institute for Race & Justice (March 2010), at 11.

^{vii} Gary Sweeten, *"Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement,"* *Justice Quarterly* 23:4 (2006). Stephanie Chen, *"Girl's arrest for doodling raises concerns about zero tolerance."* CNN (February 18, 2010). Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track* (2005).

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Date: May 7, 2013

THE COMMITTEE ON Judiciary

to which was referred House Bill 433

AN ACT (New Title) relative to procedures for juvenile delinquency petitions filed by a school district or school official.

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

OUGHT TO PASS

BY A VOTE OF: 5 - 0

CONSENT CALENDAR VOTE: 5 - 0

Senator Sam Cataldo for the Committee

This bill provides that unless an incident presents a serious threat to school safety, the school district shall attempt to resolve the issue through available educational interventions before filing a juvenile delinquency petition. As the number of school resource officers have increased, school violence is down, but referrals of juveniles to courts has increased. This requires school solutions to normal behavioral issues rather than referral to the courts when appropriate.

Susan Duncan 271-3076

New Hampshire General Court - Bill Status System

Docket of HB433

Docket Abbreviations

Bill Title: (New Title) relative to procedures for juvenile delinquency petitions filed by a school district or school official.

Official Docket of HB433:

Date	Body	Description
1/3/2013	H	Introduced 1/3/2013 and Referred to Children and Family Law; HJ 12 , PG.195
1/24/2013	H	Public Hearing: 1/29/2013 11:30 AM LOB 206
1/29/2013	H	Subcommittee Work Session: 2/5/2013 3:00 PM LOB 206
2/7/2013	H	===CANCELLED=== Work Session: 2/14/2013 9:30 AM LOB 206
2/12/2013	H	Subcommittee Work Session: 2/21/2013 9:30 AM LOB 206
2/26/2013	H	Executive Session: 3/5/2013 10:00 AM LOB 206
3/6/2013	H	Committee Report: Ought to Pass with Amendment #0566h(NT) for Mar 13 (Vote 15-0; CC); HC 22 , PG.499
3/6/2013	H	Proposed Committee Amendment #2013-0566h (New Title); HC 22 , PG.549
3/13/2013	H	Amendment #0566h(NT): AA VV; HJ 26 , PG.738
3/13/2013	H	Ought to Pass with Amendment #0566h(NT): MA VV; HJ 26 , PG.738
3/14/2013	S	Introduced and Referred to Judiciary
4/17/2013	S	Hearing: 4/30/13, Room 100, SH, 9:40 a.m.; SC17
5/10/2013	S	Committee Report: Ought to Pass, 5/23/13; Vote 5-0; CC; SC21
5/23/2013	S	Ought to Pass: MA, VV; OT3rdg;
6/6/2013	S	Enrolled Bill Amendment 1968e Adopted, VV
6/12/2013	H	Enrolled Bill Amendment #2013-1968e Adopted [Recess of 6/5/13]; HJ49 , PG.1648
6/12/2013	S	Enrolled
6/14/2013	H	Enrolled, Recess of 6/5/13; HJ49 , PG.1654
7/10/2013	H	Signed By Governor 07/09/2013; Effective 01/01/2014; Chapter 0198

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

ORIGINAL REFERRAL RE-REFERRAL

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

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 05/66h _____ - AMENDMENT # _____
- _____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

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

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):
House calendar "blurb"

DATE DELIVERED TO SENATE CLERK
7/11/13

By: Susan J. Deane
COMMITTEE AIDE

CHILDREN AND FAMILY LAW

HB 433, relative to procedures for juvenile delinquency petitions filed by a school district or school official and establishing a committee to study the children in need of services (CHINS) program. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Patrick T Long for Children and Family Law: This bill clarifies for school resource officers (SRO's) and school districts their specific responsibilities prior to filing a juvenile delinquency petition. The bill also clarifies that the child has had the opportunity to resolve their issue through normalized approaches. (Programs designed to help the child without court oversight). The amendment removes the study committee and more clearly defines the petitioner's responsibility. **Vote 15-0.**