

Committee Report

REGULAR CALENDAR

February 12, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Municipal and County Government to which was referred HB 382,

AN ACT relative to private practice by the Carroll county attorney. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. Paul Dargie

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Municipal and County Government
Bill Number:	HB 382
Title:	relative to private practice by the Carroll county attorney.
Date:	February 12, 2019
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill requires the Carroll County Attorney to not directly or indirectly engage in the private practice of law. The case load in the county has grown to the point where it is a full time occupation.

Vote 12-7.

Rep. Paul Dargie
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Municipal and County Government

HB 382, relative to private practice by the Carroll county attorney. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Paul Dargie for the **Majority** of Municipal and County Government. This bill requires the Carroll County Attorney to not directly or indirectly engage in the private practice of law. The case load in the county has grown to the point where it is a full time occupation. **Vote 12-7.**

COMMITTEE REPORT

COMMITTEE: Muni + County Govt

BILL NUMBER: HB 382

TITLE: relative to private practice
by the Carroll County Attorney

DATE: 2/6/19 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

This bill requires the Carroll County attorney to not
directly or indirectly engage in the private practice of
law. The case load in the county has grown to the
point where it is a full time occupation.

COMMITTEE VOTE: 12 - 7

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Paul Dargie
For the Committee

REGULAR CALENDAR

February 12, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Municipal and County Government to which was referred HB 382,

AN ACT relative to private practice by the Carroll county attorney. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. James Belanger

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Municipal and County Government
Bill Number:	HB 382
Title:	relative to private practice by the Carroll county attorney.
Date:	February 12, 2019
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This proposed bill has been before the Municipal and County Government Committee before. It was HB 1302 last year (2018), and was recommended Inexpedient to Legislate 16-0. It prohibits an attorney who owns a private practice from serving as a county attorney. In some counties, a county attorney is not busy 100% of the time and there should be no restriction on his private practice when there is nothing pending at the county level. Let the voters decide at election time if the person in that position is neglecting his/her job because of private practice.

Rep. James Belanger
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

MINORITY REPORT

COMMITTEE: Muni + County Govt

BILL NUMBER: 382

TITLE: private practice

DATE: 2/6/19 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

HB 382 ITL
 This proposed bill has been before the M&CG Committee before. It was HB1302 last year (2018) and was ITL'd 16-0. It prohibits an attorney who owns a private practice from serving as a county attorney. In some counties, a county attorney is not busy 100% of the time and there should be no restriction on his private practice when there is nothing pending at the county level. Let the voters decide at election time if the person in that position is neglecting his/her job because of private practice.

COMMITTEE VOTE: 12-7

• Copy to Committee Bill File

RESPECTFULLY SUBMITTED,
 Rep. Jim Belanger
 For the Minority

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 382

BILL TITLE: relative to private practice by the Carroll county attorney.

DATE: February 7, 2019

LOB ROOM: 301

MOTIONS: OUGHT TO PASS

Moved by Rep. Dargie

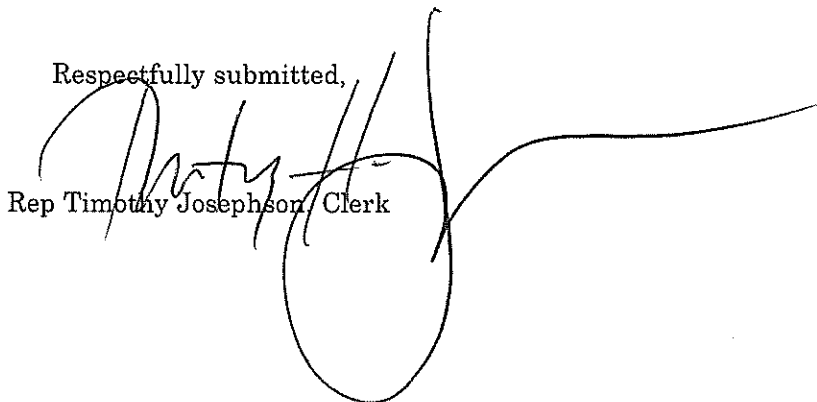
Seconded by Rep. Stavis

Vote: 12-7

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,


Rep Timothy Josephson, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 382

BILL TITLE: relative to private practice by the Carroll county attorney.

DATE: February 6, 2019

LOB ROOM: 301

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. Dargie Blawie Secounded by Rep. Stavis Vote: 12-7

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Secounded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Secounded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Secounded by Rep. _____ Vote: _____

CONSENT CALENDAR: ___ YES ___ X NO

Minority Report? X Yes ___ No If yes, author, Rep. Belanger Motion ITL

Respectfully submitted: [Signature]
Rep Timothy Josephson, Clerk



2019 SESSION

Municipal and County Government

 Bill #: 382 Motion: OTP AM #: _____ Exec Session Date: 2/6/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Carson, Clyde J. Chairman	12		
Tatro, Bruce L. Vice Chairman	1		
Porter, Marjorie A.	2		
Treleaven, Susan GS	3		
Gilman, Julie D.	4		
Josephson, Timothy Clerk	5		
Meader, David R.	6		
Dargie, Paul P.	7		
Maggiore, Jim V.	8		
Mombourquette, Donna M.	9		
Stavis, Laurel	10		
Belanger, James P.		1	
Migliore, Vincent Paul		2	
Abramson, Max		3	
Dolan, Tom			
Kittredge, Derek MacMillen		4	
MacDonald, John T.	11		
Perreault, Mona		5	
Piemonte, Tony		6	
Pratt, Kevin M.		7	
TOTAL VOTE:	12 - 7		

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 382

BILL TITLE: relative to private practice by the Carroll county attorney.

DATE: January 23, 2019

LOB ROOM: 301

Time Public Hearing Called to Order: 10:55 a.m.

Time Adjourned: 11:09 a.m.

Committee Members: Reps. Carson, Tatro, Josephson, Porter, Treleaven, Gilman, Meader, Dargie, Maggiore, Mombourquette, Stavis, Belanger, Migliore, Abramson, Kittredge, MacDonald, Perreault, Piemonte and Pratt

Bill Sponsors:

Rep. DesMarais

Rep. Woodcock

Rep. Marsh

Rep. Knirk

Rep. Butler

Rep. Kanzler

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

1. * **Rep. Edith DesMarais** (Carr 6) -- Prime Sponsor

a. *** see written testimony ***

b. Prior to 1991, there were maybe 200 cases a year. Currently over 400

c. Q - Belanger: What's the difference between last year's bill and this bill? (essentially the same bill. The demands of our cases and courts are so high that if we were to elect someone who had a side practice, it could hurt the county) Shouldn't voters decide that? (Not sure)

2. **Rep. Susan Ticehurst** (Carr 3) -- in favor of the bill

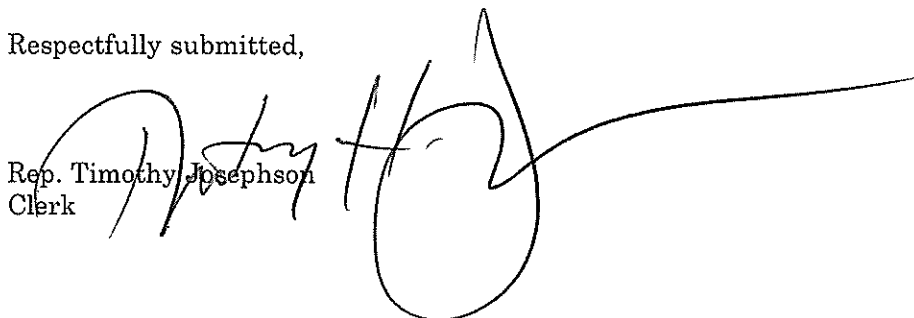
a. But I'm concerned that an attorney who had their own practice that was self-running with others would be barred from owning a private practice depending on how much they were involved

b. Q - Carson: How many people are in Carroll County delegation? (15)

c. Q - Abramson: The effect of this bill, so if you have an attorney that has an operating civil practice, if they get elected they would have to leave their practice? (That is my concern)

Respectfully submitted,

Rep. Timothy Josephson
Clerk



HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 382

BILL TITLE: relative to private practice by the Carroll county attorney.

DATE: January 23, 2019

ROOM: 301

Time Public Hearing Called to Order: ~~10:55~~

10:55

Time Adjourned: 11:09

(please circle if present)

Committee Members: Reps. Carson, Tatro, Josephson, Porter, Treleaven, Gilman, Meader, Dargie, Maggiore, Mombourquette, Stavis, Belanger, Migliore, Abramson, Dolan, Kittredge, MacDonald, Perreault, Piemonte and Pratt

Bill Sponsors:

Rep. DesMarais

Rep. Woodcock

Rep. Marsh

Rep. Knirk

Rep. Butler

Rep. Kanzler

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Su electric

HB382 - relative to private practice by the Carroll County attorney

1. *** Rep DesMarais (Carr 6) -- Prime Sponsor
 - a. *** see written testimony ***
 - b. Prior to 1991, there were maybe 200 cases a year. Currently over 400
 - c. Q - Belanger: What's the difference between last year's bill and this bill?
(essentially the same bill. The demands of our cases and courts are so high that if we were to elect someone who had a side practice, it could hurt the county)
Shouldn't voters decide that? (Not sure)
2. Rep Ticehurst (Carr 3) -- in favor of the bill
 - a. But I'm concerned that an attorney who had their own practice that was self-running with others would be barred from owning a private practice depending on how much they were involved
 - b. Q - Carson: How many people are in Carroll County delegation? (15)
 - c. Q - Abramson: The effect of this bill, so if you have an attorney that has an operating civil practice, if they get elected they would have to leave their practice? (That is my concern)

Hearing closed at 11:09

Testimony

Rep DesMarais' written testimony

HB 382 Relative to Private Practice of Civil Law by the CC Attorney 1/22/19. 10:30 a.m.,

RSA 7:34-f permitting a side civil law practice for county attorneys in Carroll County was passed in 1991. At that time, the population of Carroll County according to the 1990 Census was 35,592. It is currently just under 48,000 over a 30% increase. We are also struggling with drug epidemics and the Opioid crisis. The demands on our law enforcement and the county attorney office are at an all-time high.

The standing in other counties

Rockingham, Cheshire, Sullivan, Strafford, and Coos prohibit side practices.

Grafton, Merrimack, and Hillsborough are silent on the issue.

Only Carroll & Belknap permit a side Civil Law Practice

The previous Carroll County Attorney maintained a side private civil practice. There was high turnover in assisting attorneys and the Attorney General had to step in to provide state attorneys to complete cases. We were down to a part time judge, and the physical office was in disarray with a large backlog of un-filed documents in boxes around the floor and support staff retention was an issue. Not knowing how long this issue was building, I am making no judgement as to blame and will just say these were recent circumstances.

Our current CA was elected in 2016. She dedicated her full attention to the position. She was able to hire and retain a stable well qualified support staff and a group of talented assisting attorneys. She brought in interns over the summer and properly organized and filed all back records. They digitized most of the records and on-going files modernizing the process with lap tops that could give full access to all files in court. She renovated the offices (on a shoe string using her own, staff and family volunteer labor and county staff only when absolutely needed) to provide privacy for clients and attorneys, providing individual work spaces and secured the premises for the safety of all.

The team adjudicated 400 cases in the first year, initiated programs to work with the County Jail and drug rehabilitation groups to work with addicted inmates to reduce recidivism and worked closely with regional law enforcement. Carroll County now has a full time judge. The case load has continued in that range. She was re-elected in 2018.

While some improvements may be the result of her administrative skills, this level of accomplishment and work for our county would not have been possible without full time, undistracted dedication to the position.

Some are concerned with the cost if paid full time and what if the work load decreases. If that happens, adjustment can be made through reducing the number of assisting attorneys to protect the county budget.

Some are concerned we will have difficulty finding candidates. We have had difficulty with having qualified prosecuting attorneys and assisting attorneys because the Carroll County pay rate is the lowest in the state. That is another issue that the county must take responsibility for as we recognize the critical need of attracting qualified prosecutors to serve our county. A position fully supported by the county will be more appealing to attorneys who want a career in prosecution law and working as a team member of community efforts for crime prevention.

This bi-partisan bill is supported by a majority of the delegation.

Co-sponsored by Carroll County Representatives:

DesMarais, Woodcock, Marsh, Knirk, Butler, and Kanzler.

Additional supporters who have agreed to be listed include Representatives:

Buco, MacDonald and Burroughs

Bill as
Introduced

HB 382 - AS INTRODUCED

2019 SESSION

19-0313

10/08

HOUSE BILL **382**

AN ACT relative to private practice by the Carroll county attorney.

SPONSORS: Rep. DesMarais, Carr. 6; Rep. Woodcock, Carr. 2; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Rep. Butler, Carr. 7; Rep. Kanzler, Carr. 2

COMMITTEE: Municipal and County Government

ANALYSIS

This bill prohibits the Carroll county attorney from engaging in the private practice of law.

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 Nineteen

AN ACT relative to private practice by the Carroll county attorney.

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

1 1 County Attorney; Carroll County; Private Practice Prohibited. Amend RSA 7:34-f to read as
2 follows:

3 7:34-f Private Practice [~~Restricted~~] ***Prohibited***; Carroll County. The Carroll county attorney
4 shall not directly or indirectly engage in the private practice of [~~criminal~~] law or accept any fees or
5 compensation other than ***her or*** his official salary for any legal services [~~in the field of criminal law.~~
6 ~~He may engage in the private practice of civil law.~~] ***Private practice of law does not include the***
7 ***provision of legal services without charge to the members of the county attorney's family,***
8 ***when the provision of these services does not conflict with her or his official duties.***

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