

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

CHAPTER 71
HB 382 - FINAL VERSION

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

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CHAPTER 71
HB 382 - FINAL VERSION

19-0313
10/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT ¹ relative to private practice by the Carroll county attorney.

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

1 71:1 County Attorney; Carroll County; Private Practice Prohibited. Amend RSA 7:34-f to read
2 as follows:

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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.***

71:2 Effective Date. This act shall take effect 60 days after its passage.

Enacted in accordance with Article 44, Part II of N.H. Constitution, without signature of the
governor, June 8, 2019

Effective Date: August 7, 2019

Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

Sen Martha Hennessey, Chair
Sen Shannon Chandley, Vice Chair
Sen Melanie Levesque, Member
Sen Sharon Carson, Member
Sen Harold French, Member

Date: April 11, 2019

HEARINGS

	Tuesday	04/16/2019
	(Day)	(Date)
Judiciary		SH 100
(Name of Committee)		(Place)
9:00 a.m.	EXECUTIVE SESSION ON PENDING LEGISLATION	
9:30 a.m.	HB 286-LOCAL	relative to free inspection of records under the right-to-know law.
9:40 a.m.	HB 334-LOCAL	relative to disposition of certain municipal records.
10:00 a.m.	HB 256-FN	establishing reciprocity for notaries in abutting states.
10:20 a.m.	HB 353	establishing a committee to study whether non-attorney legal professionals could be licensed to engage in the limited practice of law in the family division of the circuit court while under the supervision of a licensed attorney.
10:35 a.m.	HB 354	establishing a committee to investigate whether modification should be made to the time frame for determining permanency pursuant to RSA 169-C:24-b.
10:50 a.m.	HB 382	relative to private practice by the Carroll county attorney.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 286-LOCAL

Rep. Sylvia

Rep. McLean

Rep. Spillane

Rep. Wallace

HB 334-LOCAL

Rep. Keans

Rep. Berch

HB 256-FN

Rep. Spillane

Rep. Notter

Rep. Potucek

Sen. Reagan

HB 353

Rep. Gordon

HB 354

Rep. Gordon

HB 382

Rep. DesMarais

Rep. Woodcock

Rep. Marsh

Rep. Knirk

Rep. Butler

Rep. Kanzler

Jennifer Horgan 271-2609

Martha S. Hennessey
Chairman

Senate Judiciary Committee

Jennifer Horgan 271-2609

HB 382, relative to private practice by the Carroll county attorney.

Hearing Date: April 16, 2019

Time Opened: 11:26 a.m.

Time Closed: 11:35 a.m.

Members of the Committee Present: Senators Hennessey, Chandley, Levesque and French

Members of the Committee Absent : Senator Carson

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

Sponsors:

Rep. DesMarais

Rep. Woodcock

Rep. Marsh

Rep. Knirk

Rep. Butler

Rep. Kanzler

Who supports the bill: Representative DesMarais; Kate Horgan, NH Association of Counties

Who opposes the bill: No one

Summary of testimony presented in support:

Representative DesMarais (provided written testimony)

- Is the Chair of the Carroll County Delegation.
- Carroll county's population has increased by over 30% since 1990 and the county is also dealing with the opioid crisis.
- The demands on law enforcement and the county attorney are at an all-time high.
- Rockingham, Cheshire, Sullivan, Strafford, and Coos prohibit side practices for their county attorneys.
- Grafton, Merrimack, and Hillsborough are silent on the issues.
- Only Carroll and Belknap permit a side civil law practice in statute.
- The previous Carroll county attorney maintained a side practice.
- There was high turnover of the assisting attorneys and the attorney general had to step in to provide state attorneys to complete cases.
- The office was in disarray and support staff retention was an issue.
- Carroll's current county attorney was elected in 2016 and she has given the position her full attention. She has made multiple positive efforts to improve staff and the office.

- Some improvements may be the result of the new county attorney's skills, but it would not have been possible without her full, undistracted attention.
- If the workload decreases adjustments can always be made to reduce the number of assisting attorneys.
- Some are concerned we will have difficulty finding candidates if we pass this, but we have already had that issue because Carroll county has the lowest pay in the state.
- Did make some adjustments to the county attorney's pay but they are still the lowest in the state. However, they are gaining.
- A position fully supported by the county will be more appealing to attorneys who want a career in prosecution law.
- This is co-sponsored by the Carroll county representatives.
- Senator French asked if this RSA is only for Carroll County.
 - This is specifically for Carroll. The only other one that has this is Belknap county.
- Senator French asked if any other counties do this.
 - Rockingham, Cheshire, Sullivan, Strafford, and Coos prohibit it in their counties in statute. Grafton, Merrimack, and Hillsborough are silent on this. Only Carroll and Belknap explicitly allow it.
- Senator French asked if this is a county issue.
 - It is already set-out in statute.

Summary of testimony presented in opposition:

None

jch

Date Hearing Report completed: April 19, 2019

Speakers

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

Edith DesMarais

Chairman

Carroll County Delegation

Voting Sheets

Senate Judiciary Committee

EXECUTIVE SESSION

Bill # HB382

Hearing date: _____

Executive session date: _____

Motion of: OTP

VOTE: 5-0

<u>Made by</u> Hennessey <input type="checkbox"/>	<u>Seconded</u> Hennessey <input checked="" type="checkbox"/>	<u>Reported</u> Hennessey <input type="checkbox"/>
<u>Senator:</u> Chandley <input checked="" type="checkbox"/>	<u>by Senator:</u> Chandley <input type="checkbox"/>	<u>by Senator:</u> Chandley <input type="checkbox"/>
Carson <input type="checkbox"/>	Carson <input type="checkbox"/>	Carson <input type="checkbox"/>
Levesque <input type="checkbox"/>	Levesque <input type="checkbox"/>	Levesque <input type="checkbox"/>
French <input type="checkbox"/>	French <input type="checkbox"/>	French <input type="checkbox"/>

Motion of: Carson f

VOTE: 5-0

<u>Made by</u> Hennessey <input type="checkbox"/>	<u>Seconded</u> Hennessey <input checked="" type="checkbox"/>	<u>Reported</u> Hennessey <input type="checkbox"/>
<u>Senator:</u> Chandley <input checked="" type="checkbox"/>	<u>by Senator:</u> Chandley <input type="checkbox"/>	<u>by Senator:</u> Chandley <input type="checkbox"/>
Carson <input type="checkbox"/>	Carson <input type="checkbox"/>	Carson <input type="checkbox"/>
Levesque <input type="checkbox"/>	Levesque <input type="checkbox"/>	Levesque <input type="checkbox"/>
French <input type="checkbox"/>	French <input type="checkbox"/>	French <input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Hennessey, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Chandley, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Carson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Levesque	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator French	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Committee Report

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

Wednesday, April 24, 2019

THE COMMITTEE ON Judiciary

to which was referred **HB 382**

AN ACT

relative to private practice by the Carroll county
attorney.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Shannon Chandley
For the Committee

This bill is a request of the Carroll county delegation and will prohibit the Carroll county attorney from engaging in the private practice of law. The passage of this legislation will put Carroll county in line with Rockingham, Cheshire, Sullivan, Strafford, and Coos counties. The Committee recommends passage of this in support of the Carroll county delegation.

Jennifer Horgan 271-2609

FOR THE CONSENT CALENDAR

JUDICIARY

HB 382, relative to private practice by the Carroll county attorney.

Ought to Pass, Vote 5-0.

Senator Shannon Chandley for the committee.

This bill is a request of the Carroll county delegation and will prohibit the Carroll county attorney from engaging in the private practice of law. The passage of this legislation will put Carroll county in line with Rockingham, Cheshire, Sullivan, Strafford, and Coos counties. The Committee recommends passage of this in support of the Carroll county delegation.

Docket of HB382

Docket Abbreviations

Bill Title: relative to private practice by the Carroll county attorney.**Official Docket of HB382.:**

Date	Body	Description
1/7/2019	H	Introduced 01/03/2019 and referred to Municipal and County Government HJ 3 P. 12
1/16/2019	H	Public Hearing: 01/23/2019 10:30 am LOB 301
1/30/2019	H	Executive Session: 02/06/2019 01:00 pm LOB 301
2/13/2019	H	Majority Committee Report: Ought to Pass for 03/07/2019 (Vote 12-7; RC) HC 14 P. 16
2/13/2019	H	Minority Committee Report: Inexpedient to Legislate
3/7/2019	H	Ought to Pass: MA DV 188-140 03/07/2019 HJ 8 P. 58
3/19/2019	S	Introduced 03/14/2019 and Referred to Judiciary; SJ 9
4/11/2019	S	Hearing: 04/16/2019, Room 100, SH, 10:50 am; SC 18
4/25/2019	S	Committee Report: Ought to Pass, 05/02/2019; Vote 5-0; CC SC 20
5/2/2019	S	Ought to Pass: MA, VV; OT3rdg; 05/02/2019; SJ 15
5/16/2019	S	Enrolled (In recess 05/15/2019); SJ 17
5/16/2019	H	Enrolled 05/08/2019 HJ 15 P. 101
6/11/2019	H	Law Without Signature 06/08/2019; Chapter 71; 08/07/2019

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 382

Senate Committee: Judiciary

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

_____ - amendment # _____ _____ - amendment # _____

_____ - amendment # _____ _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

_____ - amendment # _____ _____ - amendment # _____

_____ - amendment # _____ _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

_____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

_____ Enrolled Bill Amendment(s)

_____ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

_____ as amended by the senate _____ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office JM