

LEGISLATIVE COMMITTEE MINUTES

SB177

Bill as Introduced

SB 177 - AS INTRODUCED

2019 SESSION

19-0878
01/05

SENATE BILL **177**

AN ACT relative to the use of physical restraints on persons who are involuntarily committed.

SPONSORS: Sen. Sherman, Dist 24; Sen. Fuller Clark, Dist 21; Sen. Hennessey, Dist 5; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Rep. MacKay, Merr. 14; Rep. Guthrie, Rock. 13; Rep. Knirk, Carr. 3; Rep. Cushing, Rock. 21; Rep. Almy, Graf. 13

COMMITTEE: Health and Human Services

ANALYSIS

This bill clarifies when physical restraints may be used to transport a person being admitted to New Hampshire hospital or a designated receiving facility.

.....

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the use of physical restraints on persons who are involuntarily committed.

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

1 1 New Paragraph; Involuntary Commitments; Physical Restraints. Amend RSA 135-C:29 by
2 inserting after paragraph II the following new paragraph:

3 III. Physical restraints shall be used only to transport a person being admitted to New
4 Hampshire hospital or designated receiving facilities if necessary to protect the safety of the person
5 or the public following the occurrence of, or substantial and imminent threat of, extreme violence,
6 personal injury, or attempted suicide. Such restraints shall only be used following a written
7 determination of necessity executed by a physician or APRN who is authorized to order involuntary
8 emergency admission to the state mental health services system under RSA 135-C:28, I. The
9 written determination shall state the factual basis for the conclusion that restraint is necessary to
10 protect the safety of the person and/or the public. For purposes of this paragraph, "physical
11 restraints" means the use of mechanical devices or other means to restrict the movement of a person
12 or the movement or normal function of a portion of his or her body.

13 2 New Paragraph; Rights of Clients in the Mental Health Services System; Physical Restraints.
14 Amend RSA 135-C:62 by inserting after paragraph II the following new paragraph:

15 III. Physical restraints shall be used only to take custody and transport a person being
16 admitted to New Hampshire hospital or designated receiving facilities if necessary to protect the
17 safety of the person or the public following the occurrence of, or substantial and imminent threat of,
18 extreme violence, personal injury, or attempted suicide. Such physical restraints shall only be used
19 to take custody and transport persons under this section if a physician or ARNP states in writing
20 that such restraints are necessary. Only physicians or APRNs authorized to order involuntary
21 emergency admission to the state mental health services system under RSA 135-C:28, I may
22 authorize the use of restraints pursuant to this section. In a case where a person not subject to
23 involuntary emergency admission is taken into custody and being transported, the authority for
24 stating in writing that such restraints are necessary shall be those named in RSA 135-C:62, I(b), (e),
25 (f) and (g). For purposes of this paragraph, "physical restraints" means the use of mechanical
26 devices or other means to restrict the movement of a person or the movement or normal function of
27 a portion of his or her body.

28 3 Effective Date. This act shall take effect January 1, 2020.

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03/27/2019 1172s

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SENATE BILL

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AN ACT

relative to the use of physical restraints on persons who are involuntarily committed.

SPONSORS:

Sen. Sherman, Dist 24; Sen. Fuller Clark, Dist 21; Sen. Hennessey, Dist 5; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Rep. MacKay, Merr. 14; Rep. Guthrie, Rock. 13; Rep. Knirk, Carr. 3; Rep. Cushing, Rock. 21; Rep. Almy, Graf. 13

COMMITTEE:

Health and Human Services

ANALYSIS

This bill clarifies when physical restraints may be used to transport a person being admitted to New Hampshire hospital or a designated receiving facility.

Explanation:

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

1 1 Mental Health Services System; Delivery to a Receiving Facility. RSA 135-C:29 is repealed
2 and reenacted to read as follows:

3 135-C:29 Delivery to Receiving Facility.

4 I. Upon completion of an involuntary emergency admission certificate under RSA 135-C:28,
5 a law enforcement officer shall, except as provided in paragraph II, take custody of the person to be
6 admitted and shall immediately deliver such person to the receiving facility identified in the
7 certificate. The mode and circumstances of transport to the receiving facility shall be determined in
8 accordance with paragraph II.

9 II. The physician or APRN who is authorized to order involuntary emergency admission
10 under RSA 135-C:28, I shall determine which transport option should be used to transport the
11 person to New Hampshire hospital or the designated receiving facility. The transport options shall
12 be by ambulance or by law enforcement. The transporting agency shall deliver the person to the
13 designated receiving facility or New Hampshire hospital and shall determine whether restraint is
14 necessary to protect the safety of the person, personnel conducting the transport, or the public. In
15 the case of ambulance transport, such determination shall be in writing and shall state the factual
16 basis for the conclusion that physical restraints are necessary. Physical restraints shall be used only
17 to transport a person being admitted to New Hampshire hospital or a designated receiving facility, if
18 necessary, to protect the safety of the person, personnel conducting the transport, property, or the
19 public. For the purpose of this paragraph, "physical restraints" means the use of mechanical devices
20 or other means to restrict the movement of a person or the movement or normal function of a portion
21 of his or her body.

22 III. When the person being admitted to New Hampshire hospital or a designated receiving
23 facility is a child under age 18, the physician or APRN shall consult with the parent, guardian, or
24 legal custodian of the child prior to making the determination required under paragraph II.

25 IV. Each designated receiving facility and the chief executive officer of New Hampshire
26 hospital shall submit an annual report regarding the use of restraint and the use of different modes
27 of transportation to their facility. The report shall be submitted on or before November 1 of each
28 year to the oversight committee on health and human services, established in RSA 126-A:13, and
29 shall document the 12 months ending on September 30 of each year. The first report shall be for the
30 9 months ending on September 30, 2020. The report shall detail the number of admissions of

SB 177 - AS AMENDED BY THE SENATE

- Page 2 -

- 1 children and adults, broken down by mode of transport, how often restraints were used in each mode
- 2 of transport, and if the restraint was applied before or during transport.
- 3 2 Effective Date. This act shall take effect January 1, 2020.

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SENATE BILL **177**

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SPONSORS: Sen. Sherman, Dist 24; Sen. Fuller Clark, Dist 21; Sen. Hennessey, Dist 5; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Rep. MacKay, Merr. 14; Rep. Guthrie, Rock. 13; Rep. Knirk, Carr. 3; Rep. Cushing, Rock. 21; Rep. Almy, Graf. 13

COMMITTEE: Health and Human Services

ANALYSIS

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STATE OF NEW HAMPSHIRE

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

1 1 Mental Health Services System; Delivery to a Receiving Facility. RSA 135-C:29 is repealed
2 and reenacted to read as follows:

3 135-C:29 Delivery to Receiving Facility.

4 I. Upon completion of an involuntary emergency admission certificate under RSA 135-C:28,
5 a law enforcement officer shall, except as provided in paragraph II, take custody of the person to be
6 admitted and shall immediately deliver such person to the receiving facility identified in the
7 certificate. The mode and circumstances of transport to the receiving facility shall be determined in
8 accordance with paragraph II.

9 II. The health care provider who is authorized to order involuntary emergency admission
10 under RSA 135-C:28, I shall determine which transport option should be used to transport the
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12 be by ambulance or by law enforcement. The transporting agency shall deliver the person to the
13 designated receiving facility or New Hampshire hospital and shall determine whether restraint is
14 necessary to protect the safety of the person, personnel conducting the transport, property, or the
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16 the factual basis for the conclusion that physical restraints are necessary. Physical restraints shall
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18 receiving facility, if necessary, to protect the safety of the person, personnel conducting the
19 transport, property, or the public. For the purpose of this paragraph, "physical restraints" means
20 the use of mechanical devices or other means to restrict the movement of a person or the movement
21 or normal function of a portion of his or her body.

22 III. When the person being admitted to New Hampshire hospital or a designated receiving
23 facility is a child under age 18, the health care provider shall consult with the parent, guardian, or
24 legal custodian of the child prior to making the determination required under paragraph II.

25 IV. Each designated receiving facility and the chief executive officer of New Hampshire
26 hospital shall submit an annual report regarding the use of restraint and the use of different modes
27 of transportation to their facility. The report shall be submitted on or before November 1 of each
28 year to the oversight committee on health and human services, established in RSA 126-A:13, and
29 shall document the 12 months ending on September 30 of each year. The first report shall be for the

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1 9 months ending on September 30, 2020. The report shall detail the number of admissions of
2 children and adults, broken down by mode of transport, how often restraints were used in each mode
3 of transport, and if the restraint was applied before or during transport.

4 2 Effective Date. This act shall take effect January 1, 2020.

SB 177- FISCAL NOTE
 AS AMENDED BY THE HOUSE (AMENDMENT #2019-1656h)

AN ACT relative to the use of physical restraints on persons who are involuntarily committed.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill allows health care providers, authorized under RSA 135-C:28 to order involuntary emergency admission, to determine whether the individual will be transported by ambulance or law enforcement and with or without physical restraints to a designated receiving facility or New Hampshire Hospital.

The Department of Health and Human Services states it is unclear from the bill as to which entity would be responsible for payment of transportation by ambulance and notes transport could be paid for by private insurance, Medicaid, the sending hospital, or the state, which may result in an indeterminable fiscal impact to state expenditures. The Department states there may be an indeterminable fiscal impact to county expenditures to the extent transportation by law enforcement would be incurred by the county sheriff department transporting the patient.

AGENCIES CONTACTED:

Department of Health and Human Services and Department of Safety

**SB 177 FISCAL NOTE
 AS AMENDED BY THE HOUSE (AMENDMENT #2019-1656h)**

AN ACT relative to the use of physical restraints on persons who are involuntarily committed.

FISCAL IMPACT: State County Local None

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SENATE BILL **177**

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AGENCIES CONTACTED:

Department of Health and Human Services and Department of Safety

CHAPTER 239
SB 177 - FINAL VERSION

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SENATE BILL **177**

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COMMITTEE: Health and Human Services

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CHAPTER 239
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STATE OF NEW HAMPSHIRE

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1 239:1 Mental Health Services System; Delivery to a Receiving Facility. RSA 135-C:29 is
2 repealed and reenacted to read as follows:

3 135-C:29 Delivery to Receiving Facility.

4 I. Upon completion of an involuntary emergency admission certificate under RSA 135-C:28,
5 a law enforcement officer shall, except as provided in paragraph II, take custody of the person to be
6 admitted and shall immediately deliver such person to the receiving facility identified in the
7 certificate. The mode and circumstances of transport to the receiving facility shall be determined in
8 accordance with paragraph II.

9 II. The health care provider who is authorized to order involuntary emergency admission
10 under RSA 135-C:28, I shall determine which transport option should be used to transport the
11 person to New Hampshire hospital or the designated receiving facility. The transport options shall
12 be by ambulance or by law enforcement. The transporting agency shall deliver the person to the
13 designated receiving facility or New Hampshire hospital and shall determine whether restraint is
14 necessary to protect the safety of the person, personnel conducting the transport, property, or the
15 public. In the case of ambulance transport, such determination shall be in writing and shall state
16 the factual basis for the conclusion that physical restraints are necessary. Physical restraints shall
17 be used only to transport a person being admitted to New Hampshire hospital or a designated
18 receiving facility, if necessary, to protect the safety of the person, personnel conducting the
19 transport, property, or the public. For the purpose of this paragraph, "physical restraints" means
20 the use of mechanical devices or other means to restrict the movement of a person or the movement
21 or normal function of a portion of his or her body.

22 III. When the person being admitted to New Hampshire hospital or a designated receiving
23 facility is a child under age 18, the health care provider shall consult with the parent, guardian, or
24 legal custodian of the child prior to making the determination required under paragraph II.

25 IV. Each designated receiving facility and the chief executive officer of New Hampshire
26 hospital shall submit an annual report regarding the use of restraint and the use of different modes
27 of transportation to their facility. The report shall be submitted on or before November 1 of each
28 year to the oversight committee on health and human services, established in RSA 126-A:13, and
29 shall document the 12 months ending on September 30 of each year. The first report shall be for the

CHAPTER 239
SB 177 - FINAL VERSION

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1 9 months ending on September 30, 2020. The report shall detail the number of admissions of
2 children and adults, broken down by mode of transport, how often restraints were used in each mode
3 of transport, and if the restraint was applied before or during transport.

4 239:2 Effective Date. This act shall take effect January 1, 2020.

Approved: July 12, 2019

Effective Date: January 01, 2020

Amendments

Amendment to SB 177

1 Amend the bill by replacing sections 1 and 2 with the following:

2
3 1 New Paragraph; Involuntary Commitments; Physical Restraints. Amend RSA 135-C:29 by
4 inserting after paragraph II the following new paragraph:

5 III.(a) Physical restraints shall be used only to transport a person being admitted to the
6 New Hampshire hospital or a designated receiving facility, if necessary, to protect the safety of the
7 person or the public following the occurrence of, or substantial and imminent threat of, extreme
8 violence, personal injury, or attempted suicide. The physician or APRN who is authorized to order
9 involuntary emergency admission to the state mental health services system under RSA 135-C:28, I
10 shall determine which transport option should be used to transport the person to the New
11 Hampshire hospital or the designated receiving facility. The transport options shall be by
12 ambulance or by law enforcement. If the determination is made that the person should be
13 transported by law enforcement, the law enforcement personnel shall determine whether restraint is
14 necessary to protect the safety of the person and the public. Such determination shall be in writing
15 and shall state the factual basis for the conclusion that physical restraints are necessary. For the
16 purpose of this paragraph, "physical restraints" means the use of mechanical devices or other means
17 to restrict the movement of a person or the movement or normal function of a portion of his or her
18 body.

19 (b) A designated receiving facility and the chief executive officer of the New Hampshire
20 hospital shall submit an annual report, on or before November 1, 2020, to the commissioner
21 regarding the number of persons transported, mode of transport, and age of the persons transported.

22 2 New Paragraph; Rights of Clients in the Mental Health Services System; Physical Restraints.
23 Amend RSA 135-C:62 by inserting after paragraph II the following new paragraph:

24 III. Physical restraints shall be used only to take custody and transport a person being
25 admitted to the New Hampshire hospital or a designated receiving facility, if necessary, to protect
26 the safety of the person or the public following the occurrence of, or substantial and imminent threat
27 of, extreme violence, personal injury, or attempted suicide. The physician or APRN who is
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29 under RSA 135-C:28, I shall determine whether custody and transport of the person to the New
30 Hampshire hospital or the designated receiving facility should be by law enforcement. If the
31 determination is made that the person should be transported by law enforcement, the law
32 enforcement personnel shall determine whether restraint is necessary to protect the safety of the

1 person and the public. Such determination shall be in writing and shall state the factual basis for
2 the conclusion that physical restraints are necessary. If a person not subject to involuntary
3 emergency admission is taken into custody and transported, the authority for stating in writing that
4 such restraints are necessary shall be those named in RSA 135-C:62, I(b), (e), (f) and (g). For the
5 purpose of this paragraph, "physical restraints" means the use of mechanical devices or other means
6 to restrict the movement of a person or the movement or normal function of a portion of his or her
7 body.

UNAPPROVED

Amendment to SB 177

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

2

3 1 Mental Health Services System; Delivery to a Receiving Facility. RSA 135-C:29 is repealed
4 and reenacted to read as follows:

5 135-C:29 Delivery to Receiving Facility.

6 I. Upon completion of an involuntary emergency admission certificate under RSA 135-C:28,
7 a law enforcement officer shall, except as provided in paragraph II, take custody of the person to be
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19 only to transport a person being admitted to New Hampshire hospital or a designated receiving
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Amendment to SB 177

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- 1 children and adults, broken down by mode of transport, how often restraints were used in each
- 2 mode of transport, and if the restraint was applied before or during transport.
- 3 2 Effective Date. This act shall take effect January 1, 2020.

Committee Minutes

SENATE CALENDAR NOTICE

Health and Human Services

Sen Tom Sherman, Chair
 Sen Martha Fuller Clark, Vice Chair
 Sen Shannon Chandley, Member
 Sen Jeb Bradley, Member
 Sen James Gray, Member

Date: February 21, 2019

HEARINGS

	Tuesday	03/05/2019
	(Day)	(Date)
Health and Human Services		LOB 101
		1:00 p.m.
(Name of Committee)		(Place)
		(Time)
1:00 p.m.	EXECUTIVE SESSION ON PENDING LEGISLATION	
1:30 p.m.	SB 177	relative to the use of physical restraints on persons who are involuntarily committed.
1:45 p.m.	SB 179	relative to pharmacist administration of vaccines.
2:00 p.m.	SB 87	relative to the syringe service programs.
2:15 p.m.	SB 258	relative to telemedicine and telehealth services.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 177

Sen. Sherman
 Sen. Watters
 Rep. Cushing

Sen. Fuller Clark
 Rep. MacKay
 Rep. Almy

Sen. Hennessey
 Rep. Guthrie

Sen. Rosenwald
 Rep. Knirk

SB 179

Sen. Chandley
 Sen. Kahn
 Rep. Griffith

Sen. Hennessey
 Sen. Bradley

Sen. Rosenwald
 Rep. MacKay

Sen. Levesque
 Rep. Knirk

SB 87

Sen. Gray

Sen. Bradley

SB 258

Sen. Kahn
 Sen. Rosenwald
 Sen. Levesque
 Rep. Marsh

Sen. Chandley
 Sen. Dietsch
 Rep. Edwards

Sen. Fuller Clark
 Sen. Hennessey
 Rep. Long

Sen. Sherman
 Sen. Cavanaugh
 Rep. Knirk

Doug Marino 271-8631

Tom Sherman
 Chairman

Senate Health and Human Services Committee

Doug Marino 271-8631

SB 177, relative to the use of physical restraints on persons who are involuntarily committed.

Hearing Date: March 5, 2019

Time Opened: 1:30 p.m.

Time Closed: 3:38 p.m.

Members of the Committee Present: Senators Sherman, Fuller Clark, Chandley, Bradley and Gray

Members of the Committee Absent : None

Bill Analysis: This bill clarifies when physical restraints may be used to transport a person being admitted to New Hampshire hospital or a designated receiving facility.

Sponsors:

Sen. Sherman
Sen. Rosenwald
Rep. Guthrie
Rep. Almy

Sen. Fuller Clark
Sen. Watters
Rep. Knirk

Sen. Hennessey
Rep. MacKay
Rep. Cushing

Who supports the bill: Senator Cindy Rosenwald (District 13), Senator Tom Sherman (District 24), Ken Norton (NAMI NH), Kathy Cahill, Louise Spencer, Patrick Dowling, Sue Ellen Griffin (NH Community Behavioral Health Association), Gale Taylor, Cheri Falk Wilton, Randy Hayes, Dr. Thomas Lydon, MD, Faith Sillar, Deborah Jakubowski, Sally Hatch, Dellie Champagne (Children's Behavioral Health Collaborative), Darlene Gildersleeve, Becky Whitley (Children's Behavioral Health Collaborative), Mike Skibbie (Disability Rights Center), Lori Shibinette (New Hampshire Hospital), Vic Topo (Center for Life Management), Maura Willing, Liz-Anne Platt, Norma MacKinley-Snaith

Who opposes the bill: Sheriff John Simonds (Sullivan County), Sheriff Eli Rivera (Cheshire County), Chief Bradley Osgood (Concord Police Department), Lt. Frank Harris (NH Hospital Campus Police), David Goldstein (NH Association of Chiefs of Police), Chief James McIntire (Bristol Police Department)

Who is neutral on the bill: Paula Minnehan (NH Hospital Association), Jim Potter (NH Medical Society), Nick Marcuri

Summary of testimony presented:

Senator Tom Sherman, District 24

- As a member of the House, Senator Sherman served on a study committee to examine the use of physical restraints on people who are involuntarily committed.
- Not all patients who receive mental health services are the same, and treatment should not be the same for every patient.
- Currently, police officers and sheriff deputies are responsible for transferring patients to a designated receiving facility. Patients are restrained with hand cuffs and shackles, they are transported in a patrol car.
- Putting a patient in hand cuffs is not the appropriate way to treat them, particularly if they are in the midst of a mental health crisis.
- SB 177 would enable patients to be transported without hand cuffs, unless doing so would pose a threat to themselves or others.
- Senator Chandley asked Senator Sherman if this legislation was a recommendation of the study committee that he served on. Senator Sherman stated that the study committee agreed that the current practice should be changed. However, the committee was focused on establishing an appropriate method of transportation for these patients.
- Senator Gray asked why current statute did not accomplish the goals of this legislation. Senator Sherman indicated that current practice does not allow for much discretion in how patients are transported. This bill seeks to allow more discretion for hospital personnel.
- Senator Fuller Clark asked what the process would be for deciding if a patient requires physical restraints while they are being transferred. Senator Sherman stated that SB 177 would require law enforcement to explain, in writing, why a patient had to be restrained.

Ken Norton, NAMI (Provided written testimony)

- NAMI strongly supports SB 177.
- Mr. Norton has had personal experience witnessing patients with mental health challenges who were handcuffed when being transported.
- This bill should not reflect negatively on law enforcement, this is a policy issue that needs to be addressed.
- This bill represents a step in the right direction but going forward the state must pursue transportation methods that do not include law enforcement.
- Senator Bradley asked Mr. Norton about previous legislative efforts on this issue. Mr. Norton indicated that there was legislation which would have shifted the responsibility for transporting patients to New Hampshire Hospital. The bill was killed by the Finance Committee.
- Senator Bradley indicated that having New Hampshire Hospital take this responsibility could be beneficial.

Patrick Dowling, Plymouth NH

- Health care professionals should practice health care, and law enforcement officials should focus on law enforcement.
- Mr. Dowling has been transported with the use of physical restraints.
- Senator Sherman asked Mr. Dowling how he felt when he was restrained. Mr. Dowling said that he felt like a "monster." It was an extremely difficult experience for him, as well as his family.

Sheriff John Simonds, Sullivan County and Sheriff Eli Rivera, Cheshire County

- The Sheriff Association opposes SB 177.

- The association is concerned that this bill could remove the discretion that officers currently have when transporting patients.
- Sheriff Simonds has said that restraints are not always used when transporting patients, but they do use them if it is necessary.
- Senator Fuller Clark asked if officers receive specialized training on dealing with mental health patients. Sheriff Simonds stated that the police academy does have a training in this area.
- Senator Sherman asked if every officer has mental health training. Sheriff Simonds stated that everybody in his department is trained, but he cannot speak for the rest of the state.
- Sheriff Rivera said that if a person is not a threat to themselves or others, hospitals have other transportation options. When a hospital calls law enforcement, it is often an indication that the patients needs to be transported in a secure manner.
- The goal of law enforcement is to ensure that patients are transported safely, sometimes this may require restraints if the patient is attempting to hurt themselves or others.
- Sheriff Rivera stated that it would be beneficial for the committee to examine alternative forms of transportation in cases where the patient is not a threat to themselves or others.
- Senator Sherman said that Sheriff Rivera's statement underscores the need for alternative transportation methods, such as using an ambulance.

Sue Ellen Griffin, West Central Behavioral Health

- Mrs. Griffin supports SB 177.
- This has been an ongoing issue for many years. Individuals who are transported to New Hampshire Hospital often are in the midst of a mental health crisis.
- The vast majority of people with a mental illness are not violent. They should not be treated as violent offenders.
- Mental health issues should be treated in the same manner that society treats any other illness.
- There is a significant need to explore other forms of transportation that do not include restraints and the use of law enforcement vehicles.
- The law in New York allows for individuals to be transported in restraints if it is deemed to be necessary. Otherwise, they are not restrained when they are transferred.
- Senator Sherman asked to clarify if the law in New York allows clinicians to seek a secure transfer if it is necessary. Mrs. Griffin confirmed that that is the case.
- Senator Sherman asked if Mrs. Griffin believes that clinicians are equipped to make these determinations. Mrs. Griffin stated that she believes they are.

Dr. Thomas Lydon, Wentworth Douglass Hospital (Provided written testimony)

- Dr. Lydon supports SB 177.
- Very few mental health patients at Wentworth-Douglass have displayed signs of aggression when being transferred.
- Some patients require secure transfers, but clinicians can identify those patients when necessary.
- Senator Sherman asked Dr. Lydon if clinicians are equipped to make those determinations. Dr. Lydon stated that they are, and he noted that these decisions are typically made in conjunction with law enforcement.

Paula Minnehan, NH Hospital Association (Provided written testimony)

- The Hospital Association has some concerns about the provisions in SB 177.
- The bill puts the entire decision-making process onto clinicians. Mrs. Minnehan suggests that the committee should consider a more collaborative approach where law enforcement officials are involved in the decision.
- There is an outstanding question concerning the liability protections for clinicians who make these decisions.
- It is unclear whether law enforcement officials would have the ability to override a clinician's determination.
- The study committee which was tasked with looking into this issue issued recommendations. Giving clinicians the ability to decide who needs a secure transfer was not among the recommendations.
- Senator Fuller Clark asked how other states address this issue. Mrs. Minnehan indicated that Washington state uses an alternative mode of transportation for patients. She will get back to the committee with more specifics.
- Senator Sherman asked Mrs. Minnehan if she believes that law enforcement officials should make the final decision with clinicians taking a consultative role. Mrs. Minnehan stated that the issue is very complex, but she does not believe that law enforcement should be removed from the process.
- Senator Sherman stated that the legislation does not entirely take law enforcement out of the decision-making process.

Chief Bradley Osgood, Concord Police Department

- Chief Osgood opposes SB 177.
- In many cases, patients are transported if they are a danger to themselves or others.
- Even if a patient is cooperative in a given moment, they can later become combative.
- This bill removes discretion from police officers.
- Law enforcement officials are best equipped to decide if somebody poses a potential danger and requires a secure transfer.
- Senator Bradley asked if Chief Osgood would be open to having New Hampshire Hospital take responsibility for transporting patients. Chief Osgood indicated that he would be open to the idea, however the cost would be high given the fact that the hospital may have to hire additional staff.

Lt. Frank Harris, NH Hospital Campus Police

- Lt. Harris opposes SB 177.
- Lt. Harris has been the Unit Commander for the State Office Complex Police for roughly 20 years.
- Based on his experience, Lt. Harris has observed that his staff is exceptional at working with mentally ill patients.
- This bill would compromise both officer and patient safety.
- If a patient is being involuntarily committed, they have displayed that they are either suicidal, homicidal, or unable to take care of themselves.
- If a patient becomes combative during transfer, that can cause numerous safety hazards for the patient, the officer, and other motorists on the road.
- Senator Fuller Clark asked who makes the decision that a person needs to be transferred. Lt. Harris indicated that clinicians determine if a patient meets to criteria for involuntary

commitment. When a bed becomes available at New Hampshire Hospital, the Sheriff's department is notified, and they are responsible for facilitating a secure transfer.

- Senator Fuller Clark asked if officers have faced issues when securely transporting patients. Lt. Harris indicated that most transports are successful, but sometimes patients may be combative.
- Senator Sherman clarified that this bill will still allow for patients to be transported in a secure manner if they are determined to be a threat to themselves or others.
- Senator Sherman asked Lt. Harris if this clarification changes his position on the bill. Lt. Harris stated that somebody may display no signs of destructive tendencies at the hospital, but that doesn't mean that they won't become combative when they are being transferred or after they are transferred.
- Senator Sherman asked Lt. Harris if he would be open to supporting the legislation if the bill was amended to specify that law enforcement officials have discretion over the manner of transporting patients once it is determined that they need a secure transfer. Lt. Harris stated that such an amendment would help to address some of his concerns, although he cannot speak for all law enforcement officers.

Nick Marcuri

- Mr. Marcuri is concerned that an ambulance is not the best method to transport patients who require a secure transfer.
- Ambulance doors are generally not locked from the inside and a patient could easily exit the vehicle during transport.

Darlene Gildersleeve

- Mrs. Gildersleeve's daughter was forced to be transported in hand cuffs and shackles when she experienced a mental health crisis.
- Her son was able to be transferred in an ambulance when he had a non-mental health related medical condition that required him to be transferred.
- Hand cuffing and shackling patients causes unnecessary suffering to people who are already sick.

Dellie Champagne, Children's Behavioral Health Collaborative

- Mrs. Champagne's son has a mental health condition and has struggled with that condition since he was young.
- He was hospitalized following a suicide attempt that took place at school.
- When the police arrived to take him to the hospital, he was placed in hand cuffs and shackles even though he was willing to go to the hospital voluntarily.
- Mrs. Champagne's son is not a criminal and should not be treated as one.
- Many of his classmates were able to see him being led out of the school in hand cuffs.
- Medical professionals should be able to decide if a patient poses a threat to themselves or others.

Jim Potter, NH Medical Society

- The medical society has not taken an official position on this bill.
- The state must fundamentally change its approach to mental health treatment.
- Involving law enforcement should be the exception rather than the rule.
- Current practice contributes to the stigma surrounding mental illness.

Mike Skibbie, Disability Rights Center

- Mr. Skibbie supports SB 177.
- It is important to reach a balance on this issue. Patients should not always be transferred using restraints, however there are some circumstances when it may be needed.
- When people who have a history of trauma are placed in restraints, it can be significantly harmful to their mental health.
- The central question behind this bill concerns who is best equipped to determine if a patient poses a danger to themselves or others.
- Medical professionals who have treated a patient are in the best position to make this determination.
- It may be necessary to include an amendment which allows law enforcement officials to exercise discretion if a patient becomes combative during the transfer.

DLM

Date Hearing Report completed: March 6, 2019

Speakers

SENATE HEALTH AND HUMAN SERVICES COMMITTEE

Date: March 5, 2019

Time: 1:30pm

Public Hearing on SB 177

SB 177 -

Please check box(es) that apply:

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
*	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Sen Cindy Rosenwald	SD #13
✓	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sen. Tom Sherman / SD 24	
✓	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	KEVIN NORJON	NAMI NH
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KATHY CAHILL	self
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Louise Spencer	self Self
✓	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Patrick Dowling	
✓	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Duella Griffin	NH Community Behavioral Health Ass'n.
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Gabe Taylor	self
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cheri Falk	Wilton Self
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Randy Hayes (Francis)	self
✓	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Paula Minahan	NH Hospital Assoc
✓	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Thomas Joseph Lydon	MD
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Faith Sillar	Pittsfield
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Deborah Jakubowski	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sally Hatch	self
✓	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SHERIFF JOHN SIMONS	
✓	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SHERIFF Eli Rivera	
✓	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRADLEY OSGOOD	
✓	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Frank Harris	

Testimony

NH Sheriffs

Policy on Restraints When Transporting a Person Subject to Involuntary Admission Proceedings

1. Belknap County – Sheriff Mike Moyer – Restraints required –
There is no specific policy re: IEA transports.
2. Carroll County – Sheriff Domenic Richardi – Restraints required –
There is no specific policy re: IEA transports. However, there is a discretionary factor for handicap and other obvious circumstances. That could include very young children or other medical issue types.
3. Cheshire County – Sheriff Eli Rivera –
The use of restraints will be determined by the deputy in charge of transport.
4. Coos County - Sheriff Brian Valerino - No written policy
The Sheriff leaves it to the deputy to make that decision with medical staff.
5. Grafton County – Sheriff Jeff Stiegler –
Restraints required, however, the Sheriff leaves it to the deputy to make a judgement call.
6. Hillsborough County – Sheriff Jim Hardy – Restraints required -
The deputy has limited discretion; almost all IEA's are transported with restraints.
7. Merrimack County – Sheriff Scott Hilliard – Restraints are encouraged for adults –
However, deputies do have discretion in exigent circumstances. With Juveniles, we ask deputies to refrain from restraints unless the deputy feels the need for them.
8. Rockingham County - Sheriff Charles Massahos - Restraints required –
There is no specific policy re: IEA transports.
9. Strafford County - Sheriff David Dubois – Restraints required, but the deputy has discretion for good cause. There is no specific policy re: IEA transports.
10. Sullivan County – Sheriff John Simonds - Makes the decision with medical staff.

March 5, 2019

In Support of SB 177

Dear Chairman Sherman and Committee:

I am the Mother of 3 children. My 13 year old daughter and my 19 year old son were hospitalized after suffering from depression, suicidal ideation and severe anxiety. At 11 years old my daughter was placed in the back of a police car at school in front of her peers. That was embarrassing for her and made her feel like a criminal for being sick. Imagine if she was handcuffed or shackled? Her trauma and humiliation would be a lot worse than it already was. She should have been treated medically and taken by ambulance like any other sick patient.

My son, as a young adult was treated professionally and compassionately by not being handcuffed or shackled while being transported out of state because no beds were available in NH. He was taken in an ambulance and not a police car. His was treated as a medically ill patient by caring paramedics on the way to the hospital.

Why can't all patients in a mental health crisis be treated as well as my son? Why must trauma and shame be inflicted upon those already suffering so much? It isn't fair and it isn't right. Please don't allow further suffering by handcuffing and restraining patients that are ill.

Pictures of my children are below. They don't deserve to be treated like a criminal and neither does anyone else.

Sincerely,

Darlene Gildersleeve

Hopkinton, NH

Dmcote88@gmail.com

603-732-8442



March 5, 2019

The Honorable Tom Sherman, Chair
Senate Health and Human Services
Legislative Office Building Room 101
Concord, NH 03301

Re: SB 177 Relative to the use of physical restraints on persons who are involuntarily committed

My name is Dellie Champagne and I am the Community Engagement Coordinator for the NH Children's Behavioral Health Collaborative. I am not here wearing that hat but rather am here to testify on my own time on behalf of my family.

I am the mother of two beautiful children. I want to share heartfelt information about my older son who is sick. He has born with a chronic illness, schizoaffective disorder, that has consumed our family for the past 24 years. We have been able to keep him alive, but it has been no small undertaking.

Our son was in middle school when the illness took over our lives with a vengeance. He would suffer greatly over the next 9 years. I experienced heartbreak no mother should endure. I so desperately wanted to take away his pain and suffering and did everything I could within my power to do that. But most times, I could not give him what he needed.

Because NH is a state with very little community-based services for children, oftentimes families are forced to hospitalize their children to get care even though that high level of care is unnecessary. My son was hospitalized numerous times for his illness. Most of those hospitalizations were welcomed by him as he was desperate to alleviate his suffering. The first hospitalization occurred as a result of a suicide attempt at school. He was in 8th grade. I had so badly wanted to homeschool him but he never wanted to give up hope that his classmates would one day accept him and eventually befriend him. To my dismay, we kept him in the public school.

On that day he wrote a suicide note and then went into the boys' bathroom to take his life. Luckily his aide grew concerned and found him. The school immediately made two phone calls – one to me and one to the Concord Police Department. When I arrived, the police were already there. We began making a plan to bring him to the hospital. He was eager for the help and was a willing soon-to-be patient. To my surprise, they began discussing how they were going to take him out of the building in handcuffs. They told me it was standard procedure. I was quite confused as I thought handcuffs were for criminals. Surely there must be another way to take a willing sick person to the hospital?? To my horror, they handcuffed my sick son with the same shackles they used on criminals. In a school of 1100 students, I wondered how many saw him being escorted out. This event would surely set him back. All the efforts he had been making to prove to his classmates that he was worthy of their friendship, were erased in that one moment.

My son was close to his only sibling, a brother who is three years younger. That brother attended the school next door. Unbeknownst to me, that younger brother and his fellow classmates had a perfect view of my son being escorted out of the school in handcuffs. What a traumatizing event for both of my children.

Subsequent hospitalizations always began at the Concord Hospital ED. We would wait in the yellow pod for a bed to open up at the NH Psychiatric Hospital and my son would have to be transported from hospital to hospital in the back of the police cruiser in handcuffs. Even though my son was eager to receive help, he was regularly made to feel like a criminal when shackles were used to transport him. I often wondered why he wasn't transported to the state hospital in an ambulance. Why did his illness have to be criminalized? We are an educated society, surely we can come up with a better solution. I certainly understand the need to keep the individual, the officers, and the general public safe, but with proper training an officer should be able to discern a safe situation from an unsafe one. Or better yet, shouldn't the medical team at the emergency department be able to make that decision? They would certainly have the most accurate assessment of the situation. To assume all mentally ill people in crisis are dangerous is ignorant and only further strengthens that negative stereotype. The use of shackles on a child, or anyone for that matter, is a traumatizing event with lasting effects. This option should only be used when the police or medical staff deem it absolutely necessary. Therefore, I urge you to support SB 177.

My son is turning 25 soon and is excelling at a full-time job. He keeps his hallucinations and delusions at bay with the help of a great med-provider. And he finally has friends. His goal is to someday live on his own and he is currently working on getting his driver's license. Life is good at the moment. Thank you.

Sincerely,
Dellie Champagne

Voting Sheets

Senate Health and Human Services Committee
EXECUTIVE SESSION RECORD
2018-2019 Session

Bill # **SB177**

Hearing date: March 19, 2019

Executive Session date: _____

Motion of: Amendment 1108s ^{insert} with Changes Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTP/A Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sherman
Consent

line 17, "in the case of amb. transfer
 16: , property

Notes:

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Tuesday, March 19, 2019

THE COMMITTEE ON Health and Human Services

to which was referred **SB 177**

AN ACT

relative to the use of physical restraints on persons
who are involuntarily committed.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 2019-1172s

Senator Tom Sherman
For the Committee

SB 177 adjusts the statute concerning the use of physical restraints on patients who are involuntary committed. Not everybody who is in the midst of a mental health crisis should be restrained. In many cases, the use of restraints can be traumatizing for these patients and ultimately hinder their treatment. SB 177 ensures that the use of restraints will only be used in cases where it is deemed that the patient poses a potential threat to themselves or others. The committee amendment clarifies that law enforcement officials have the right to use restraints during a secure transfer if they determine that the use of restraints is necessary for the safety of the patient and others.

Doug Marino 271-8631

FOR THE CONSENT CALENDAR

HEALTH AND HUMAN SERVICES

SB 177, relative to the use of physical restraints on persons who are involuntarily committed.

Ought to Pass with Amendment, Vote 5-0.

Senator Tom Sherman for the committee.

SB 177 adjusts the statute concerning the use of physical restraints on patients who are involuntary committed. Not everybody who is in the midst of a mental health crisis should be restrained. In many cases, the use of restraints can be traumatizing for these patients and ultimately hinder their treatment. SB 177 ensures that the use of restraints will only be used in cases where it is deemed that the patient poses a potential threat to themselves or others. The committee amendment clarifies that law enforcement officials have the right to use restraints during a secure transfer if they determine that the use of restraints is necessary for the safety of the patient and others.

General Court of New Hampshire - Bill Status System

Docket of SB177

Docket Abbreviations

Bill Title: relative to the use of physical restraints on persons who are involuntarily committed.**Official Docket of SB177.:**

Date	Body	Description
1/22/2019	S	Introduced 01/03/2019 and Referred to Health and Human Services; SJ 4
2/21/2019	S	Hearing: 03/05/2019, Room 101, LOB, 01:30 pm; SC 12
3/20/2019	S	Committee Report: Ought to Pass with Amendment #2019-1172s , 03/27/2019; Vote 5-0; CC; SC 15
3/27/2019	S	Committee Amendment #2019-1172s , AA, VV; 03/27/2019; SJ 10
3/27/2019	S	Ought to Pass with Amendment 2019-1172s, MA, VV; OT3rdg; 03/27/2019; SJ 10
4/1/2019	H	Introduced 03/20/2019 and referred to Health, Human Services and Elderly Affairs HJ 11 P. 73
4/17/2019	H	Public Hearing: 04/24/2019 02:00 pm LOB 205
4/17/2019	H	Division I Subcommittee Work Session: 04/25/2019 10:00 am LOB 104
4/30/2019	H	Executive Session: 05/07/2019 10:00 am LOB 205
5/9/2019	H	Committee Report: Ought to Pass with Amendment #2019-1656h for 05/23/2019 (Vote 21-0; CC) HC 25 P. 5
5/23/2019	H	Amendment #2019-1656h : AA VV 05/23/2019 HJ 16 P. 15
5/23/2019	H	Ought to Pass with Amendment 2019-1656h: MA VV 05/23/2019 HJ 16 P. 15
6/13/2019	S	Sen. Sherman Moved to Concur with the House Amendment, MA, VV; 06/13/2019; SJ 20
6/28/2019	H	Enrolled 06/27/2019 HJ 20 P. 53
6/28/2019	S	Enrolled (In recess 06/27/2019); SJ 21
7/16/2019	S	Signed by the Governor on 07/12/2019; Chapter 239; Effective 01/01/2020

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB177

Senate Committee: HHS

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 # 09495 - amendment # 11720
 ___ - 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 AK