

Committee Report

REGULAR CALENDAR

May 4, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on Judiciary to which
was referred SB 134-FN,**

**AN ACT adopting omnibus legislation relative to civil
actions and criminal liability. Having considered the
same, report the same with the following amendment,
and the recommendation that the bill OUGHT TO PASS
WITH AMENDMENT.**

Rep. Mark McLean

FOR THE MAJORITY OF THE COMMITTEE

MAJORITY COMMITTEE REPORT

Committee:	Judiciary
Bill Number:	SB 134-FN
Title:	adopting omnibus legislation relative to civil actions and criminal liability.
Date:	May 4, 2021
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2021-1341h

STATEMENT OF INTENT

This bill, as amended, is omnibus legislation addressing civil actions and criminal liability. The first part of the bill revisits 2016 legislation which made it illegal to point laser pointers at airplanes, people, and structures. The unintended consequence of the law was that many legitimate uses of lasers, such as medical lasers, research, emergency signaling, land surveying, and construction were all made illegal. Part one of the omnibus bill recognizes this, and grants exemptions for laser use in these areas. The second part of the bill allows for the electronic notarization of documents and recording of property interests. This part of the bill was amended to ensure that electronic signatures consisted of a two-part encryption key as required by the FDIC (Federal Deposit Insurance Corporation), and to exclude the allowance of electronic documents for the recording of plats, maps, surveys, and plats of land. The third part of the bill allows an incarcerated person to apply for parole 12 months prior to the date of eligibility. This will allow resources to be assigned to the applicant so that they can complete training and meet the other pre-requisites to allow the application to go forward. The fourth part of the bill codifies structured settlement protections in law and requires that no transfer of payment rights be effective until the transfer has been approved by a court order based on findings that the transfer is in the best interests of the payee, while also taking into account the welfare of the payee's dependents. The fifth part of the bill establishes the NH Collaborative Law Act, which codifies and standardizes an alternate path where disputes related to divorce, annulment, property distribution, parental rights, and other matters may be resolved outside of the courts. The practice has seen increased usage in recent decades, and this part of the bill provides a guideline to help navigate through the process. The sixth part of the bill deals with probate administration. It establishes guidelines for a waiver of administration where an estate inventory, bond, and accounting of assets may be waived. The bill allows a waiver to be granted when a decedent dies testate and an administrator is appointed with the assent of all the beneficiaries, or if the beneficiary is a trust and an administrator is appointed with the assent of all the trustees. It also allows for a waiver to be granted in certain cases of intestacy, such as when a surviving spouse is appointed to serve as an administrator with the assent of all the other heirs. The bill also clarifies guidelines for distribution on intestacy, provides the Statutory Form Power of Attorney, and updates the Uniform Disclaimer of Property Interests Act to allow for the disclaiming of interest in, or power over, property. The amended version also adds a provision for supported decision-making in the consideration of guardianships. The seventh part of the bill modifies the process for performing criminal background checks in public and charter schools. The bill directs the superintendent or school CEO to perform criminal background checks on all applicants and instructs that all records gathered must be destroyed within 60 days. The bill shifts the responsibility for performing background checks on substitute teachers and individuals and entities that contract with a school administrative unit from the division of state police to the superintendent. This part of the

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bill also creates a study committee to examine Department of Education oversight of criminal history background checks by private schools. The eighth part of the bill makes an appropriation of \$210,000 for the biennium ending June 30, 2023 for the purpose of funding mental health intervention training programs through the police standards and training council. The sponsors believed that further training in de-escalation techniques will help reduce unnecessary injury or death in situations where individuals with mental health issues may become belligerent during an encounter with police. It authorizes the Governor to draw a warrant for the sums out of any money in the treasury not otherwise appropriated. The ninth part of the bill authorizes entities that employ drivers in the course of their business to gather driving records on their employees electronically. This would allow for easier flagging of problem drivers as the employers would have access to a continuum of data and not just a snapshot at the time of hiring. This part of the bill explicitly forbids the selling or transferring of any of this data to any other persons or entities. The final part of the bill allows institutions of higher learning to grow, and contract with a private entity to grow, industrial hemp as part of a pilot program or research. The bill was further amended by the committee to recognize hemp as an agricultural product which may be grown as a crop and commercially traded in New Hampshire.

Vote 16-4.

Rep. Mark McLean
FOR THE MAJORITY

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REGULAR CALENDAR

Judiciary

SB 134-FN, adopting omnibus legislation relative to civil actions and criminal liability. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Mark McLean for the **Majority** of Judiciary. This bill, as amended, is omnibus legislation addressing civil actions and criminal liability. The first part of the bill revisits 2016 legislation which made it illegal to point laser pointers at airplanes, people, and structures. The unintended consequence of the law was that many legitimate uses of lasers, such as medical lasers, research, emergency signaling, land surveying, and construction were all made illegal. Part one of the omnibus bill recognizes this, and grants exemptions for laser use in these areas. The second part of the bill allows for the electronic notarization of documents and recording of property interests. This part of the bill was amended to ensure that electronic signatures consisted of a two-part encryption key as required by the FDIC (Federal Deposit Insurance Corporation), and to exclude the allowance of electronic documents for the recording of plats, maps, surveys, and plats of land. The third part of the bill allows an incarcerated person to apply for parole 12 months prior to the date of eligibility. This will allow resources to be assigned to the applicant so that they can complete training and meet the other pre-requisites to allow the application to go forward. The fourth part of the bill codifies structured settlement protections in law and requires that no transfer of payment rights be effective until the transfer has been approved by a court order based on findings that the transfer is in the best interests of the payee, while also taking into account the welfare of the payee's dependents. The fifth part of the bill establishes the NH Collaborative Law Act, which codifies and standardizes an alternate path where disputes related to divorce, annulment, property distribution, parental rights, and other matters may be resolved outside of the courts. The practice has seen increased usage in recent decades, and this part of the bill provides a guideline to help navigate through the process. The sixth part of the bill deals with probate administration. It establishes guidelines for a waiver of administration where an estate inventory, bond, and accounting of assets may be waived. The bill allows a waiver to be granted when a decedent dies testate and an administrator is appointed with the assent of all the beneficiaries, or if the beneficiary is a trust and an administrator is appointed with the assent of all the trustees. It also allows for a waiver to be granted in certain cases of intestacy, such as when a surviving spouse is appointed to serve as an administrator with the assent of all the other heirs. The bill also clarifies guidelines for distribution on intestacy, provides the Statutory Form Power of Attorney, and updates the Uniform Disclaimer of Property Interests Act to allow for the disclaiming of interest in, or power over, property. The amended version also adds a provision for supported decision-making in the consideration of guardianships. The seventh part of the bill modifies the process for performing criminal background checks in public and charter schools. The bill directs the superintendent or school CEO to perform criminal background checks on all applicants and instructs that all records gathered must be destroyed within 60 days. The bill shifts the responsibility for performing background checks on substitute teachers and individuals and entities that contract with a school administrative unit from the division of state police to the superintendent. This part of the bill also creates a study committee to examine Department of Education oversight of criminal history background checks by private schools. The eighth part of the bill makes an appropriation of \$210,000 for the biennium ending June 30, 2023 for the purpose of funding mental health intervention training programs through the police standards and training council. The sponsors believed that further training in de-escalation techniques will help reduce unnecessary injury or death in situations where individuals with mental health issues may become belligerent during an encounter with police. It authorizes the Governor to draw a warrant for the sums out of any money in the treasury not otherwise appropriated. The ninth part of the bill authorizes entities that employ drivers in the course of their business to gather driving records on their employees electronically. This would allow for easier flagging of problem drivers as the employers would have access to a continuum of data and not just a snapshot at the time of hiring. This part of the bill explicitly forbids the selling or transferring of any of this data to any other persons or entities. The final part of the bill allows institutions of higher learning to grow, and contract with a private entity to grow, industrial hemp as part of a pilot program or research. The

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bill was further amended by the committee to recognize hemp as an agricultural product which may be grown as a crop and commercially traded in New Hampshire. **Vote 16-4.**

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REGULAR CALENDAR

May 4, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Minority of the Committee on Judiciary to which
was referred SB 134-FN,**

**AN ACT adopting omnibus legislation relative to civil
actions and criminal liability. 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. Michael Sylvia

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

Committee:	Judiciary
Bill Number:	SB 134-FN
Title:	adopting omnibus legislation relative to civil actions and criminal liability.
Date:	May 4, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The minority of the committee feel that there are too many glaring problems contained in this eleven-part omnibus bill. The most significant are: Part I – which builds upon an unstable foundation referring to a laser pointing device which in 1999 had a common understanding as a hand held laser used to torment cats or distract drivers and pilots; industries have come to use lasers in an extraordinary number of applications and they fear misapplication of the law. This amendment to the statutes is but a poor patch. Part II -among the problems of this part is a fee of \$25 for remote notarization which is 2.5 times the fee for customary in person notarization allowed. Part VI adds a new chapter; unnecessarily instituting the New Hampshire Collaborative Law Act. The process of collaborative law is currently being used and is successful. Supporters seem to think that putting it in statute will bring awareness to the process. If true, are our laws anything more than a marketing campaign? Part IX makes an appropriation of \$210,000 for a program that may not be properly integrated into training programs at police standards and training council. Part X puts drivers' license information at risk of being abused by data harvesting corporations. While data are restricted, a loophole is built into the statute. Part XI allows an institution of higher education to contract out the growing of industrial hemp under the guise of research. Every farmer is a researcher seeking to find the best genetics and methods of producing the best yields from their crops, limiting those allowed to grow limits the degree of learning to those selected by an institution of higher education.

Rep. Michael Sylvia
FOR THE MINORITY

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REGULAR CALENDAR

Judiciary

SB 134-FN, adopting omnibus legislation relative to civil actions and criminal liability.
INEXPEDIENT TO LEGISLATE.

Rep. Michael Sylvia for the **Minority** of Judiciary. The minority of the committee feel that there are too many glaring problems contained in this eleven-part omnibus bill. The most significant are: Part I – which builds upon an unstable foundation referring to a laser pointing device which in 1999 had a common understanding as a hand held laser used to torment cats or distract drivers and pilots; industries have come to use lasers in an extraordinary number of applications and they fear misapplication of the law. This amendment to the statutes is but a poor patch. Part II -among the problems of this part is a fee of \$25 for remote notarization which is 2.5 times the fee for customary in person notarization allowed. Part VI adds a new chapter; unnecessarily instituting the New Hampshire Collaborative Law Act. The process of collaborative law is currently being used and is successful. Supporters seem to think that putting it in statute will bring awareness to the process. If true, are our laws anything more than a marketing campaign? Part IX makes an appropriation of \$210,000 for a program that may not be properly integrated into training programs at police standards and training council. Part X puts drivers' license information at risk of being abused by data harvesting corporations. While data are restricted, a loophole is built into the statute. Part XI allows an institution of higher education to contract out the growing of industrial hemp under the guise of research. Every farmer is a researcher seeking to find the best genetics and methods of producing the best yields from their crops, limiting those allowed to grow limits the degree of learning to those selected by an institution of higher education.

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Amendment to SB 134-FN

1 Amend Part I of the bill by inserting after section 1 the following and renumbering the original
2 section 2 to read as section 3:

3

4 2 New Hampshire Aeronautics Act; Prohibitions. Amend RSA 422:28, XIV to read as follows:

5 XIV. [~~For any person to purposely or knowingly shine the beam of a laser pointing device at~~
6 ~~an aircraft that is in flight or in the process of takeoff, landing, or taxiing]~~ ***For any person in direct***
7 ***or remote control of a laser pointing device to knowingly shine the beam of a laser pointing***
8 ***device at an aircraft that is in flight or in the process of takeoff, landing, or taxiing, except***
9 ***as permitted under RSA 631:3-a, IV.***

10

11 Amend RSA 456-B:1, VII as inserted by Part II, section 3 of the bill by replacing it with the
12 following:

13

14 ***VII. “Electronic signature” means a unique sequence of data that is split into 2***
15 ***parts that together form a complete encryption key. One part is publicly shared and the***
16 ***other part is kept private and known only by the owner.***

17

18 Amend RSA 478-A:2, IV as inserted by Part II, section 10 of the bill by replacing it with the
19 following:

20

21 IV. “Electronic signature” means a unique sequence of data that is split into 2 parts that
22 together form a complete encryption key. One part is publicly shared and the other part is kept
23 private and known only by the owner.

24

25 Amend RSA 478-A:3, IV, as inserted by Part II, section 10 of the bill by replacing it with the
26 following:

27

28 IV. A register of deeds shall accept for recording a tangible copy of an electronic document,
29 other than a plat, map, survey, or plat of land as provided in RSA 478:1-a, containing a notarial
30 certificate as satisfying any requirement that a document accepted for recording be an original, if the
31 notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of

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1 the electronic document. A notarial certificate in the form provided in RSA 456-B:8, VI, satisfies the
2 requirement of this paragraph.

3
4 Amend RSA 408-G:2, as inserted by section 1 of Part V of the bill, by inserting after paragraph X
5 the following new paragraph:

6
7 XI. That the payee has the right to negotiate the purchase price offered by the transferee,
8 and the payee is advised to obtain competing offers from other potential transferees.

9
10 Amend RSA 408-G:5, as inserted by section 1 of Part V of the bill, by inserting after paragraph III
11 the following new paragraph:

12
13 IV. In determining whether a transfer is in the payee's best interest under RSA 408-G:3, I,
14 the court shall consider, among other matters, whether the payee has compared competing offers for
15 the structured settlement payment rights that the payee proposes to transfer.

16
17 Amend Part VII of the bill by replacing all after section 10 with the following:

18
19 11 Statement of Findings. The general court hereby finds that:

20 I. Whenever possible, New Hampshire adults should make their own decisions about how to
21 live their lives.

22 II. The imposition of guardianship necessarily involves the loss of authority over one's own
23 life. Adults with disabilities have a range of strengths and capacities, and guardianship is
24 unnecessarily restrictive in many of those circumstances.

25 III. Guardianship may be necessary in some cases, but when it is imposed upon a person
26 with a disability that could utilize less restrictive alternatives, it can cause negative impacts to
27 mental and physical health and the ability to function independently.

28 IV. Supported decision-making is a process which preserves the self-determination of adults
29 with disabilities by providing them with accommodations and supports to enable them to make life
30 decisions.

31 V. Supported decision-making has in recent years gained recognition and acceptance. It has
32 been promoted as an alternative to guardianship by the National Guardianship Association and the
33 American Bar Association. Nine states have recently adopted statutes which formally establish
34 supported decision-making agreements.

35 VI. The legal recognition of supported decision-making will promote understanding and
36 acceptance of the decisions of people with disabilities. This will assist in effective relationships
37 between people with disabilities and their caregivers, health care providers, and other third parties.

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1 12 Guardians and Conservators; Available Alternative Resource. RSA 464-A:2, II is repealed
2 and reenacted to read as follows:

3 II. "Available alternative resource" means alternatives to guardianship including, but not
4 limited to, services such as visiting nurses, homemakers, home health aides, adult day care and
5 multipurpose senior citizen centers; powers of attorney, supported decision-making agreements such
6 as those authorized by RSA 464-D, representative and protective payees; and board and care
7 residential care facilities.

8 13 Guardians and Conservators; Termination of Guardianship. RSA 464-A:40, I is repealed and
9 reenacted to read as follows:

10 I. A guardianship of the person or of the estate shall terminate upon order of the court, the
11 death of the ward, or upon a finding by the court either that the ward is no longer incapacitated or
12 that the ward's needs are met by available alternative resources.

13 14 New Sections; Special Education; Supported Decision-Making. Amend RSA 186-C by
14 inserting after section 3-b the following new sections:

15 186-C:3-c Supported Decision-Making. If adult guardianship is being discussed by the IEP team
16 with a student or the student's family, the team shall inform the student and family of the
17 availability of supported decision-making pursuant to RSA 464-D as an alternative to guardianship.
18 This shall be done promptly when guardianship is first discussed. The IEP team shall make
19 available resources to assist in establishing a supported decision-making agreement. If a supported
20 decision-making agreement is executed, the IEP team shall abide by decisions made by the student
21 pursuant to the supported decision-making agreement.

22 186-C:3-d Alternatives to Guardianship; Information Resources. The commissioner of the
23 department of education shall develop information resources regarding alternatives to guardianship,
24 including supported decision-making agreements pursuant to RSA 464-D, for children with
25 disabilities who are approaching the age of 18. These resources shall be developed in consultation
26 with New Hampshire disability advocacy organizations and other stakeholders and made available
27 to local education agencies to facilitate their responsibility to provide information to students and
28 families regarding alternatives to guardianship under RSA 186-C:3-c.

29 15 New Chapter; Supported Decision-Making. Amend RSA by inserting after chapter 464-C the
30 following new chapter:

31 **CHAPTER 464-D**

32 **SUPPORTED DECISION-MAKING**

33 464-D:1 Purpose. It is the purpose of this chapter to establish and recognize a less restrictive
34 alternative to guardianship for adults with disabilities. It fulfills this purpose by authorizing a legal
35 option for adults with disabilities who seek assistance in making life decisions but choose to retain
36 all of their legal rights. The chapter gives legal status to supporters of such adults and to decisions
37 made pursuant to supported decision-making.

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1 464-D:2 Construction and Administration. This chapter is to be administered and interpreted in
2 accordance with the following principles:

3 I. All adults should be able to choose to live in the manner they wish and to accept or refuse
4 support, assistance, or protection;

5 II. All adults should be able to be informed about and participate in the management of
6 their affairs; and

7 III. The values, beliefs, wishes, cultural norms, and traditions that adults hold should be
8 respected in supporting adults in the management of their affairs.

9 464-D:3 Presumption of Capacity.

10 I. All adults are presumed to be capable of managing their affairs and to have legal capacity.

11 II. The manner in which an adult communicates with others is not grounds for a
12 determination that the adult is incapable of managing the adult's affairs.

13 III. Execution of a supported decision-making agreement may not be used as evidence of
14 incapacity in any proceeding.

15 IV. The execution of a supported decision-making agreement does not preclude the adult
16 who has entered into such an agreement from acting independently of the agreement.

17 464-D:4 Definitions.

18 I. "Adult" means an individual who is 18 years of age or older.

19 II. "Disability" means a physical or mental impairment that substantially limits one or more
20 major life activities of a person.

21 III. "Immediate family member" means a spouse, child, sibling, parent, grandparent,
22 grandchild, stepparent, stepchild, or stepsibling.

23 IV. "Person" means an adult; health-care institution; health-care provider; corporation;
24 partnership; limited liability company; association; joint venture; government; governmental
25 subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity

26 V. "Principal" means an adult who enters into a supported decision-making agreement
27 under this chapter to receive decision-making assistance.

28 VI. "Supported decision-making" means a process of supporting and accommodating an
29 adult with a disability to enable the adult to make life decisions, including, without limitation,
30 decisions related to where the adult wants to live, the services, supports, and medical care the adult
31 wants to receive, whom the adult wants to live with, education, and where the adult wants to work,
32 without impeding the self-determination of the adult.

33 VII. "Supporter" means an adult who enters into an agreement with an adult with a
34 disability to provide supported decision-making.

35 VIII. "Support services" means a system of social and other services supplied by private,
36 state, institutional, or community providers designed to help maintain the independence of an adult,
37 including any of the following:

Amendment to SB 134-FN
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1 (a) Homemaker-type services, including house repair, home cleaning, laundry, shopping,
2 and the provision of meals.

3 (b) Companion-type services, including transportation, escort, and facilitation of written,
4 oral, and electronic communication.

5 (c) Visiting nurse and attendant care.

6 (d) The provision of health care.

7 (e) Physical and psychosocial assessments.

8 (f) Legal assessments and advice.

9 (g) Education and educational assessment and advice.

10 (h) Personal treatment or care, including assistance with activities of daily living such
11 as bathing, dressing, eating, range of motion, toileting, transferring, and ambulation.

12 (i) Care planning.

13 (j) Other services needed to maintain the independence of an adult.

14 464-D:5 Subject Matter of Agreement. A principal may identify any type of decision to be the
15 subject of an agreement under this chapter. Such matters may include, but are not limited to:

16 I. Physical and mental health care.

17 II. Managing and using income and assets.

18 III. Support services.

19 IV. Employment.

20 V. Food and shelter.

21 VI. Assistance with public benefits.

22 VII. Education.

23 464-D:6 Limitations of Agreement.

24 I. An agreement under this chapter may coexist with, but not conflict with, a guardianship
25 or other court order.

26 II. An agreement under this chapter may be for a definite term. In the absence of a
27 provision setting a definite term of the agreement, the agreement shall remain in effect until
28 terminated pursuant to RSA 464-D:16.

29 464-D:7 Form and Content of Valid Agreement.

30 I. In order to be valid under this chapter, a supported decision-making agreement shall
31 include all of the following:

32 (a) Designation of at least one supporter.

33 (b) A description of the types of decisions for which the supporter is authorized to assist.

34 (c) A description of the types of decisions, if any, for which the supporter may not assist.

35 II. A supported decision-making agreement may include any of the following:

36 (a) Designation of more than one supporter.

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1 (b) Provision for an alternate supporter to act in place of a supporter in circumstances
2 specified in the agreement.

3 (c) Authorization for a supporter to share information with any other person, including
4 another supporter.

5 III. A supported decision-making agreement is only valid if all of the following occur:

6 (a) The agreement is in a writing that contains the elements of the form contained in
7 RSA 464-D:16.

8 (c) The agreement is dated.

9 (d) The agreement is signed in the presence of 2 adult witnesses, or before a notary
10 public, justice of the peace, or commissioner of deeds.

11 (e) Each party to the agreement has signed the agreement voluntarily and with an
12 understanding of the nature and effect of the agreement.

13 IV. The 2 adult witnesses required by subparagraph III(d) may not be any of the following:

14 (a) A supporter named in the agreement.

15 (b) An employee or agent of a supporter named in the agreement.

16 (c) A paid provider of services to the principal, unless the person is an immediate family
17 member.

18 (d) Any person who does not understand the type of communication the principal uses,
19 unless an individual who understands the principal's means of communication is present to assist
20 during the execution of the supported decision-making agreement.

21 V. A supported decision-making agreement shall contain a separate declaration signed by
22 each supporter named in the agreement indicating all of the following:

23 (a) The supporter's relationship to the principal.

24 (b) The supporter's willingness to act as a supporter.

25 (c) The supporter's acknowledgment of the role of a supporter under this chapter.

26 464-D:8 Termination of Agreement.

27 I. A principal may terminate a supported decision-making agreement at any time. Such
28 termination may be accomplished by any of the following actions by the principal:

29 (a) Providing written notice to all of the supporters named in the agreement.

30 (b) Verbally expressing the intent to terminate the agreement in the presence of 2 adult
31 witnesses.

32 II. A supporter may withdraw from a supported decision-making agreement by providing
33 written notice to the principal. If the principal does not use a written form of communication, actual
34 notice of the supporter's withdrawal shall be provided using the type of communication used by the
35 principal. When a supporter withdraws from a supported decision-making agreement and there is
36 no remaining supporter, the agreement is automatically terminated.

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1 III. A supported decision-making agreement is automatically terminated upon the death of
2 the principal.

3 IV. Subject to paragraph V, a supported decision-making agreement is automatically
4 terminated if any of the following events occur:

5 (a) There is a finding by a court or a state or federal agency that the principal has been
6 abused, neglected, or exploited by a supporter named in the agreement.

7 (b) There is a criminal conviction of a supporter for any of the following offenses under
8 New Hampshire law or their equivalent in another jurisdiction:

9 (1) Any offense or attempted offense under RSA 630 (homicide).

10 (2) Any felony offense or attempted felony offense under RSA 631 (assault and
11 related offenses).

12 (3) Any offense or attempted offense under RSA 632-A (sexual assault and related
13 offenses).

14 (4) Any offense or attempted offense under RSA 636 (robbery).

15 (5) Any offense or attempted offense under RSA 637 (theft).

16 (6) Any offense or attempted offense under RSA 638 (fraud).

17 (7) Any offense or attempted offense under RSA 641 (falsification in official matters).

18 V. When a supporter is the subject of a criminal conviction or a finding of misconduct under
19 paragraph IV, and there is one or more other supporters named in the agreement who are not the
20 subjects of convictions or findings of misconduct under that paragraph, the agreement does not
21 automatically terminate; however, any supporter who is the subject of a criminal conviction or a
22 finding of misconduct under paragraph IV is disqualified from further actions as a supporter under
23 the agreement.

24 464-D:9 Duties of Supporters. A supporter is in a fiduciary relationship with the principal and
25 is subject to the following requirements:

26 I. To act loyally, without self-interest, and in good faith.

27 II. To act within the authority granted in the agreement and by this chapter.

28 III. To avoid conflicts of interest.

29 IV. To disclose to the principal all facts known to the supporter relevant to making a
30 decision.

31 V. To act with the care, competence, and diligence ordinarily exercised by individuals in
32 similar circumstances, with due regard either to the possession of, or lack of, special skills or
33 expertise.

34 VI. To provide sufficient information to a monitor for financial matters designated pursuant
35 to RSA 464-D:13 to allow the monitor to fulfill his or her responsibilities pursuant to this chapter.

36 464-D:10 Authority of Supporters.

37 I. A supporter may only exercise the authority granted to the supporter in the agreement.

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1 II. A supporter is not a surrogate decision maker for the principal and is not authorized to
2 sign legal or other documents on behalf of the principal or to bind the principal to a legal agreement.

3 III. A supporter may only access protected information if expressly authorized to do so by
4 the principal in the agreement or other written document.

5 IV. A supporter may not do any of the following:

6 (a) Exert undue influence upon or make decisions on behalf of the principal.

7 (b) Obtain, without consent of the principal, information that is not reasonably related
8 to matters with which the supporter is authorized to assist under the supported decision-making
9 agreement.

10 (c) Use or disclose information, without the principal's consent, for a purpose other than
11 assisting the principal to make decisions under the supported decision-making agreement.

12 464-D:11 Recognition of Supporters. A decision or request made or communicated with the
13 assistance of a supporter in conformity with this chapter shall be recognized for the purposes of any
14 provision of law as the decision or request of the principal and may be enforced in law or equity on
15 the same basis as a decision or request of the principal.

16 464-D:12 Persons Ineligible to be Supporters. Any of the following are prohibited from acting as
17 supporters.

18 I. A person who is an employer or employee of the principal, unless the person is an
19 immediate family member of the principal.

20 II. A person providing paid support services, unless the person is an immediate family
21 member of the principal.

22 III. A person against whom the principal has obtained an order of protection from abuse or a
23 person who is the subject of a civil or criminal order prohibiting contact with the principal.

24 IV. A person who has been convicted of any of the following New Hampshire offenses or
25 their equivalent in another jurisdiction, if the offense has not been annulled:

26 (a) Any offense or attempted offense under RSA 630 (homicide).

27 (b) Any felony offense or attempted felony offense under RSA 631 (assault and related
28 offenses).

29 (c) Any offense or attempted offense under RSA 632-A (sexual assault and related
30 offenses).

31 (d) Any offense or attempted offense under RSA 636 (robbery).

32 (e) Any felony offense or attempted felony offense under RSA 637 (theft).

33 (f) Any offense or attempted offense under RSA 638 (fraud).

34 (g) Any offense or attempted offense under RSA 641 (falsification in official matters).

35 464-D:13 Monitors for Financial Matters.

36 I. If a supporter is authorized in a supported decision-making agreement to assist a
37 principal with his or her financial affairs, a principal may designate a monitor.

Amendment to SB 134-FN
- Page 9 -

1 II. A monitor designated under this section shall ensure that the supporter is complying
2 with RSA 464-D:9 and 464-D:10.

3 464-D:14 Reporting of Abuse and Neglect.

4 I. If a person who receives a copy of a supported decision-making agreement or is aware of
5 the existence of a supported decision-making agreement has cause to believe that the principal has
6 been abused, neglected, or financially exploited by the supporter, the person shall promptly report
7 the alleged abuse, neglect, or exploitation to the commissioner of health and human services or the
8 commissioner's authorized representative in accordance with RSA 161-F.

9 II. Nothing in this section shall be construed as eliminating or limiting a person's
10 requirement to report under any other statute or regulation.

11 464-D:15 Access to Information.

12 I. A supporter may assist the principal with obtaining any information to which the
13 principal is entitled, including, with a dated specific consent executed by the principal, protected
14 health information under the Health Insurance Portability and Accountability Act of 1996, Public
15 Law 104-191, educational records under the Family Educational Rights and Privacy Act of 1974, 20
16 U.S.C. section 1232g, or information related to a substance use disorder protected by 42 U.S.C.
17 section 290dd-2 and 42 C.F.R. Part 2.

18 II. The supporter shall ensure all information collected on behalf of the principal under this
19 section is kept privileged and confidential, as applicable; is not subject to unauthorized access, use,
20 or disclosure; and is properly disposed of when appropriate.

21 464-D:16 Form of Supported decision-making Agreement. A supported decision-making
22 agreement may be in any form not inconsistent with the following form and the other requirements
23 of this chapter. Use of the following form is presumed to meet statutory provisions.

24 **SUPPORTED DECISION-MAKING AGREEMENT**

25 This agreement must be communicated to all parties to the agreement in the presence of either a
26 notary or 2 witnesses. The form of communication must be appropriate to the needs and preferences
27 of the person with a disability. Reading the agreement out loud or using a sign language interpreter
28 may be necessary.

29
30 My name is _____.

31
32 I want to have people I trust help me make decisions. The people who will help me are called
33 supporters. My supporters are not allowed to make the decisions for me. I will make my own
34 choices, with their support. I am called the principal.

35
36 This agreement can be changed at any time. I can change it by crossing out words and writing my
37 initials next to the change. I can also end this agreement at any time by _____.

Amendment to SB 134-FN
- Page 10 -

Signature of Principal

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I am making this supportive decision-making agreement because I want people to help me make choices. I know that I do not have to make this agreement. I know that I can change this agreement at any time.

My printed name: _____
My address: _____
My phone number: _____
My email address: _____
Today's date: _____

Supporters

Supporter #1

I agree that _____ (name) will be my supporter. Their contact information is:

Address: _____
Phone Number: _____
E-mail Address: _____

My supporter may help me with making everyday life decisions relating to the following:

- Obtaining food, clothing, and shelter: Yes ___ No ___
- Taking care of my physical health: Yes ___ No ___
- Taking care of my mental health: Yes ___ No ___
- Managing my financial affairs: Yes ___ No ___
- Applying for and managing public benefits: Yes ___ No ___
- My education: Yes ___ No ___
- Applying for and managing employment: Yes ___ No ___

The following are other decisions that I have specifically identified that I would like assistance with:

_____.

Supporter #2.

Amendment to SB 134-FN
- Page 11 -

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I do not have to have more than one supporter. I choose to have _____
(name) also be my supporter. Their contact information is:

Address: _____.

Phone Number: _____.

E-mail Address: _____

is my supporter. My supporter may help me with making everyday life decisions relating to the following:

Obtaining food, clothing, and shelter: Yes ___ No ___

Taking care of my physical health: Yes ___ No ___

Taking care of my mental health: Yes ___ No ___

Managing my financial affairs: Yes ___ No ___

Applying for and managing public benefits: Yes ___ No ___

My education: Yes ___ No ___

Applying for and managing employment: Yes ___ No ___

The following are other decisions that I have specifically identified that I would like assistance with:

_____.

To help me with my decisions, my supporter(s) may do the following things (check all that apply):

Help me access, collect, or obtain information that is relevant to a decision, including medical, psychological, educational, or treatment records;

Help me gather and complete appropriate authorizations and releases;

Help me understand my options so I can make an informed decision; and.

Help me communicate my decision to appropriate persons.

Monitor for Financial Matters

If I want someone to help me make choices about money, I may also choose someone to make sure my supporters are being honest and using good judgment in helping me with my money. This person is called a monitor. A monitor cannot also be a supporter.

Amendment to SB 134-FN
- Page 12 -

1 I agree that _____ (name) will be my monitor. Their contact information
2 is:

3 Address: _____.

4 Phone Number: _____.

5 E-mail Address: _____.

6

7 Effective Date of Supported decision-making Agreement.

8

9 This supported decision-making agreement is effective immediately and will continue
10 until _____ (insert date) or until the agreement is terminated by my supporter or me or
11 by operation of law.

12

13 The date of this agreement is _____.

14

15 Consent of Supporter(s)

16

17 Supporter #1: I, _____ (name of supporter), consent to act as a supporter under this
18 agreement, and acknowledge my responsibilities under RSA 464-D.

19

20 _____.

21 (Signature of supporter) (Printed name of supporter).

22

23 My relationship to the principal is: _____.

24

25 Supporter #2: I, _____ (name of supporter), consent to act as a supporter under this
26 agreement, and acknowledge my responsibilities under RSA 464-D.

27

28 _____.

29 (Signature of supporter) (Printed name of supporter).

30

31 My relationship to the principal is: _____.

32

33 Additional supporters may be added below as necessary.

34

35 Consent of Monitor

36

Amendment to SB 134-FN
- Page 13 -

1 I, _____ (name of monitor), consent to act as a monitor under this agreement, and
2 acknowledge my responsibilities under RSA 464-D.

3

4 _____.

5 (Signature of monitor) (Printed name of monitor).

6

7 My relationship to the principal is: _____.

8

9 Consent of the Principal

10

11 Wait until a notary or 2 witnesses are there to watch you sign.

12

13 _____.

14 (My signature) (My printed name).

15

16 Witnesses or Notary.

17

18 _____.

19 (Witness signature) (Printed name of witness).

20

21 _____.

22 (Witness signature) (Printed name of witness)

23

24 16 Effective Date.

25 I. Sections 1-8 of Part VII of this act shall take effect July 1, 2021.

26 II. Sections 11-13 and section 15 of Part VII of this act shall take effect 60 days after its
27 passage.

28 III. Section 14 of Part VII of this act shall take effect January 1, 2022.

29 IV. The remainder of Part VII of this act shall take effect upon its passage.

30

31 Amend the bill by replacing the Part XI heading with the following:

32

33

PART XI

34

Relative to hemp.

35

Amend Part XI of the bill by inserting after section 1 the following and renumbering the original
36 section 2 to read as 3:

Amendment to SB 134-FN

- Page 14 -

1 439-A:3 Hemp Permitted. Hemp is an agricultural product which may be grown as a crop,
2 processed, possessed, and commercially traded in New Hampshire. Any grower[~~-, processor, or~~
3 ~~commercial trader~~] of hemp shall be licensed by the United States Department of Agriculture.

4

5 Amend section 1 of the bill (Sponsorship) by deleting Part IV and renumbering the original Parts V-
6 XI to read as Parts IV-X, respectively.

7

8 Amend the bill by deleting Part IV and renumbering the original Parts V-XI, including references
9 contained in the effective dates therein, to read as Parts IV-X, respectively.

2021-1341h

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Prohibiting certain uses of laser pointing devices.
- II. The revised uniform law on notarial acts and the uniform real property electronic recording act.
- III. Incarceration under a suspended sentence.
- IV. Procedures for structured settlements.
- V. Establishing the New Hampshire collaborative law act.
- VI. Probate administration, distribution upon intestacy, and powers of attorney and adopting the uniform disclaimer of property interests act.
- VII. School employee and school volunteer criminal history background checks and establishing a committee to study department of education oversight of criminal history background checks for private schools.
- VIII. Making an appropriation funding mental health intervention training programs.
- IX. Employer access to motor vehicle records.
- X. Authorization to grow industrial hemp.

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on SB134

Sheet 3 of 3

BILL TITLE:

DATE: 5/4/20

LOB ROOM: 301 Remote

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # 12131
(if offered)
- Interim Study (2nd year)

Moved by Rep. SIMPSON Secoded by Rep. SMITH BERCH Vote: 20-0 ✓

MOTION: (Please check one box)

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

Moved by Rep. McLEAN Secoded by Rep. WUELPER Vote: 16-4

MOTION: (Please check one box)

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

Moved by Rep. _____ Secoded by Rep. _____ Vote: _____

MOTION: (Please check one box)

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

Moved by Rep. _____ Secoded by Rep. _____ Vote: _____

CONSENT CALENDAR: _____ YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: SYLVIA Motion ITL

Respectfully submitted: Kurt Wuelper
Rep Kurt Wuelper, Clerk



2021 SESSION

Judiciary

 Bill #: SB134 Motion: OTPA AM #: VARIOUS Exec Session Date: 5/4/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	16		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.		1	
Wuelper, Kurt F. Clerk	2		
Alexander, Joe H.		2	
Rice, Kimberly A. NOTTER, JEANINE	3		
Silber, Norman J. MERNER, TROY	4		
Greene, Bob J.		3	
Kelley, Diane E.		4	
Tausch, Lindsay			
Trotter, Douglas R. MELVIN, CHARLES	5		
Smith, Marjorie K.	6		
Berch, Paul S.	7		
Horrigan, Timothy O.	8		
DiLorenzo, Charlotte I.	9		
Chase, Wendy	10		
Kenney, Cam E.	11		
Langley, Diane M.	12		
McBeath, Rebecca Susan	13		
Paige, Mark	14		
Simpson, Alexis	15		

PASS

16

4



2021 SESSION

Judiciary

 Bill #: SB134 Motion: _____ AM #: 1305h Exec Session Date: 2/5/20

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	20		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. NOTER, JEANINE	5		
Silber, Norman J. MERNER, TROY	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trottier, Douglas R. MELVIN, CHARLES	9		
Smith, Marjorie K.	10		
Berch, Paul S.	11		
Horrigan, Timothy O.	12		
DiLorenzo, Charlotte I.	13		
Chase, Wendy	14		
Kenney, Cam E.	15		
Langley, Diane M.	16		
McBeath, Rebecca Susan	17		
Paige, Mark	18		
Simpson, Alexis	19		

20-0



2021 SESSION

Judiciary

Bill #: SB134 Motion: _____ AM #: 1276h Exec Session Date: 5/4/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	10		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. <i>NOTTER, JEANINE</i>	5		
Silber, Norman J. <i>MERNER, TROY</i>	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trottier, Douglas R. <i>MELVIN, CHARLES</i>	9		
Smith, Marjorie K.		1	
Berch, Paul S.		2	
Horrigan, Timothy O.		3	
DiLorenzo, Charlotte I.		4	
Chase, Wendy		5	
Kenney, Cam E.		6	
Langley, Diane M.		7	
McBeath, Rebecca Susan		8	
Paige, Mark		9	
Simpson, Alexis		10	

FAILS 10-10



2021 SESSION

Judiciary

 Bill #: SB134 Motion: _____ AM #: 1201h Exec Session Date: 5/4/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	20		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. NOTER, JEANINE	5		
Silber, Norman J. MERNER, TROY	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trottier, Douglas R. McLVIN, CHARLES	9		
Smith, Marjorie K.	10		
Berch, Paul S.	11		
Horrigan, Timothy O.	12		
DiLorenzo, Charlotte I.	13		
Chase, Wendy	14		
Kenney, Cam E.	15		
Langley, Diane M.	16		
McBeath, Rebecca Susan	17		
Paige, Mark	18		
Simpson, Alexis	19		

PASS

20-0



2021 SESSION

Judiciary

 Bill #: SB134 Motion: _____ AM #: 1232h Exec Session Date: 5/4/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	20		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. NOTER, JEANINE	5		
Silber, Norman J. MERNER, TROY	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trottier, Douglas R. MELVIN, CHARLES	9		
Smith, Marjorie K.	10		
Berch, Paul S.	11		
Horrigan, Timothy O.	12		
DiLorenzo, Charlotte I.	13		
Chase, Wendy	14		
Kenney, Cam E.	15		
Langley, Diane M.	16		
McBeath, Rebecca Susan	17		
Paige, Mark	18		
Simpson, Alexis	19		



2021 SESSION

Judiciary

 Bill #: SB134 Motion: _____ AM #: 1277h Exec Session Date: 5/21/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	10		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. <i>NOTTER, JEANINE</i>	5		
Silber, Norman J. <i>MERNER, TROY</i>	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trottier, Douglas R. <i>MELVIN, CHARLES</i>	9		
Smith, Marjorie K.		1	
Berch, Paul S.		2	
Horrigan, Timothy O.		3	
DiLorenzo, Charlotte I.		4	
Chase, Wendy		5	
Kenney, Cam E.		6	
Langley, Diane M.		7	
McBeath, Rebecca Susan		8	
Paige, Mark		9	
Simpson, Alexis		10	

FAILS

10-10



2021 SESSION

Judiciary

 Bill #: SB, 134 Motion: _____ AM #: 1300h Exec Session Date: 5/4

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	20		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. <i>NOTTER, JEANINE</i>	5		
Silber, Norman J. <i>MERNER, TROY</i>	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trottier, Douglas R. <i>MELVIN, CHARLES</i>	9		
Smith, Marjorie K.	10		
Berch, Paul S.	11		
Horrigan, Timothy O.	12		
DiLorenzo, Charlotte I.	13		
Chase, Wendy	14		
Kenney, Cam E.	15		
Langley, Diane M.	16		
McBeath, Rebecca Susan	17		
Paige, Mark	18		
Simpson, Alexis	19		



2021 SESSION

Judiciary

 Bill #: SB134 Motion: _____ AM #: 1240h Exec Session Date: 3/4/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	14		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. NOTTER, JEANINE	5		
Silber, Norman J. MERNER, TROY	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trotter, Douglas R. MELVIN, CHARLES	9		
Smith, Marjorie K.	10		
Berch, Paul S.		1	
Horrigan, Timothy O.		2	
DiLorenzo, Charlotte I.	11		
Chase, Wendy		3	
Kenney, Cam E.		4	
Langley, Diane M.		5	
McBeath, Rebecca Susan		6	
Paige, Mark	12		
Simpson, Alexis	13		

24-6



2021 SESSION

Judiciary

 Bill #: SB134 Motion: _____ AM #: 1189h Exec Session Date: 5/4/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	20		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. NOTER, JEANINE	5		
Silber, Norman J. MERNER, TROY	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trottier, Douglas R. MELVIN, CHARLES	9		
Smith, Marjorie K.	10		
Berch, Paul S.	11		
Horrigan, Timothy O.	12		
DiLorenzo, Charlotte I.	13		
Chase, Wendy	14		
Kenney, Cam E.	15		
Langley, Diane M.	16		
McBeath, Rebecca Susan	17		
Paige, Mark	19		
Simpson, Alexis	19		

20-0

Rep. Berch, Ches. 1
Rep. Gordon, Graf. 9
April 26, 2021
2021-1189h
04/08

Amendment to SB 134-FN

1 Amend RSA 408-G:2, as inserted by section 1 of Part V of the bill, by inserting after paragraph X the
2 following new paragraph:

3

4 XI. That the payee has the right to negotiate the purchase price offered by the transferee,
5 and the payee is advised to obtain competing offers from other potential transferees.

6

7 Amend RSA 408-G:5, as inserted by section 1 of Part V of the bill, by inserting after paragraph III
8 the following new paragraph:

9

10 IV. In determining whether a transfer is in the payee's best interest under RSA 408-G:3, I,
11 the court shall consider, among other matters, whether the payee has compared competing offers for
12 the structured settlement payment rights that the payee proposes to transfer.

UNAPPROVED
Adopted 20-0



2021 SESSION

Judiciary

 Bill #: SB134 Motion: _____ AM #: 12/3h Exec Session Date: 5/4/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	20		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A. NOTTER, JEANINE	5		
Silber, Norman J. MERNER, TROY	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay			
Trottier, Douglas R. McLVIN, CHARLES	9		
Smith, Marjorie K.	10		
Berch, Paul S.	11		
Horrigan, Timothy O.	12		
DiLorenzo, Charlotte I.	13		
Chase, Wendy	14		
Kenney, Cam E.	15		
Langley, Diane M.	16		
McBeath, Rebecca Susan	17		
Paige, Mark	18		
Simpson, Alexis	19		

PASS

20-0

Public Hearing

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON SB134

BILL TITLE: adopting omnibus legislation relative to civil actions and criminal liability.

DATE: 4/27/2021

LOB ROOM: /Remote **Time Public Hearing Called to Order:** 9:00 AM
Time Adjourned:

Committee Members: Reps. Gordon, McLean, Wuelper, Sylvia, Alexander Jr., Rice, Silber, Greene, D. Kelley, Tausch, Trottier, M. Smith, Berch, Horrigan, DiLorenzo, Chase, Kenney, Langley, McBeath, Paige and Simpson

Bill Sponsors: Rep Carson

TESTIMONY

Blue Sheet Support 45 Oppose 53

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

***Rep. Carson Dist. 14** The bill is really about civil actions and liability. The 11 parts were combined to save time.

Part 1 Would prohibit some uses of laser pointing devices and I have an amendment to that part which I will send. The current law has too narrow exceptions and this act clarifies what should be lawful. Malicious use of lasers remains prohibited.

Part 2 is about remote notarization which about 28 states have already. A group of stakeholders worked on this across the 'summer; Many notaries have moved to this under Emergency executive order 11. Uniform Real Property Electronic Recording Act.

Part 3 Incarceration under a suspended sentence will allow people to apply for a suspended sentence earlier.

Part 4 Relative to civil liability for damage to highways. The Dept of Transportation has requested an amendment for clarity. The bill will allow the Department to collect more money from people who have damaged highway structures.

Part 5, Procedures for structured settlements, was developed by stakeholders and their proposed amendment was adopted in the Senate; This will bring NH settlements law into line with all other states.

Part 6 establishes the NH Collaborative Law Act was part of an omnibus bill vetoed last year. The idea is to have a process where people, primarily in Family court, agree to finding a solution outside the court utilizing various professionals for guidance. This bill will standardize the process and participants. It allows people to negotiate without fear that those negotiations will hurt them if they must go to court by limiting the information gleaned from the process that can be admitted into court. 19 states have passed similar legislation and 5 where it is pending. It is based on a uniform collaborative law act customized for NH.

Part 7 deals with Pro-ranked administration, Distribution upon intestacy, powers of the attorney, and adopting the Uniform Disclaimer of Property Interest Act.

Part 8 Establishes a committee to study the Dept of Education oversight of school employee and school volunteer criminal history background checks for private schools.

Part 9 Funds a program for mental health intervention training and intervention

Part 10 deals with employer access to DMV records. No new information will be transferred but the data will transmitted in bulk. Consumer privacy will not be impacted. This will simply let employers get their date quicker and more frequently, protecting them from using problematic drivers and ultimately improving public safety. I have an amendment which I will forwards to you. This bill will streamline the process, and again, put NH in line with what is practiced across the country.

The last section deals with commercial hemp and will allow people to grow it under certain circumstances. Our current law has inhibited some companies from moving to NH. 21:51

Sen

Sen Whitley Dist. 15 Section 3 relative to incarceration under suspended sentence passed the House last year. The language is a compromise position that allows the prisoner to apply for a suspended sentence within 12 months of serving two-thirds of the minimum sentence. The house passed position was 18 months. Part 7 relative to probate administration combines two bills from last session. It expands the 'Waiver of administration' process in probate proceedings; makes a non-substantive clarification to the intestacy statute; makes clarifying changes to the NH Uniform Power of Attorney act and adopts the Uniform Disclaimer of Property act. That was created from a legislative working group, and I will defer testimony on the details.

Rep. Bixby Straf 17 Section 11 on hemp. Our 2015 legislation gave research universities permission to investigate hemp. Universities were hesitant but showed interest in contracted growing off university land. The Federal law allows anyone to grow hemp if people are licensed by USDA. Current law requires all involved with hemp be licensed by the Federal Government, but it only licenses people who grow hemp so I would appreciate an amendment to fix that.

Rep Shapiro Section 3 As a sponsor of HB205 which is identical to this section. This bill doesn't change the statute in place. It simply moves the time to 12 months prior to serving two-thirds of a sentence from the actual two-thirds date. This will allow people to get access to needed programs for sentence suspension before they are technically eligible for suspension. The bill was created by men who work to make the time served useful to those who will be returning to society. Q

McLean: Is Dept of Corrections fully on board with this? A Yes.

Sen Giuda Dist. 2 Part 9 makes an appropriation for mental health training for State Police. During recent police caused death, the deceased had mental problems and the death could have been avoided if the officer had been better trained. The training will be under the PSTC but conducted by the National Alliance for Mental Illness. Q **Gordon:** Why as separate bill vice including in a budget bill? A Ken Norton of NAMI asked for it.

Diana Fenton: Atty at Dept of Education Part 8 would clean up RSA189:13a. It will provide clarity and cleanup language by setting a specific time for destruction of criminal history record at 60 days. It creates a new section 189:13c that will allow the Dept of Education to conduct a criminal background check on teacher applicants and allows the Dept of Safety to give appropriate information to the Dept of Education. It also allows similar checks on teacher prep candidates to help them get placement in our schools. This is to help higher education get people placed so students can fulfill requirements. Federal background checks can't be disseminated to private entities so this will allow the Dept to help those schools. We have a study committee to see how the department can play to help private schools get background checks done. Q **Gordon:** Where did the study committee come from? A Not sure. Senator Kahn has more information. Q Are there any [arts of this bill heard by the House previously and not looked favorably upon? A I think it went through Judiciary but neither House nor Senate education looked at them. Q **Sylvia:** What drives the destruction of records section? A The law allows for immediate destruction of records if there is no criminal history and 60 days if there is some criminal history. We just want the timeframe the same based on discussions with the Dept of Safety.

Sen Kahn Dist. The Department of Education has been involved in drafting of this. As to the private school study committee, we are all aware of a few high-profile cases in private schools and this is just a way to explore how the 'department can help them. Q **Chase:** Why destroy records in one has a criminal record? A While the data is destroyed by the local district, that district is required to share any criminal records with the Department of education where the information is retained for future inquiries about the person.

David Goldstein Police chief Franklin/NH Assoc of chiefs of Police Please pass section 9 with funding for mental health training.

Virginia Sheehan Supports Part 2 and 7. As to part 2, the purpose is to allow easier real estate closings. It also includes provisions for remote notarization of estate planning documents and remote witnessing of documents. The statute passed last year has helped us a lot and is expiring. This would make those provisions permanent. Part 7 estate planning attorneys and other practitioners

wants this amendment to improve the current law. They were passed last year and vetoed as part of an omnibus bill. They simplify Waiver of administration and updates the Durable Power of attorney statutes. It also enacts an updated Uniform Disclaimer of Property Interest Act, these changes will save time and money for both the courts and the citizens.

Robert Wells Trust/Estate lawyer We have been working with Judge King for several years to improve the process as we spell out in Section 7. We have found great acceptance of remote notarization under the Executive order. I have a case where two heirs are co-executors and we have to go through full probate because they can't get a waiver of admin. **Q McLean:** Please clarify the waiver of Administration with two heirs. A Currently you can only get a waiver if there is one heir. Under the proposed language, whether the deceased is intestate or not, two heirs could apply for a waiver. If there were 5 or 6 heirs and they all agree on one or two administrators, they could also apply and avoid the full probate process.

Donald Sienkiewicz (?) Estate planner I've been doing remote signings for the past 13 months and urge you to enact them permanently.

Anna Goulet Zimmerman Collaborative law is a process where the participants commit to an outside the court settlement. The court retains final authority. The collaborative process allows for the introduction of alternatives that wouldn't come into a courtroom. The process must remain confidential, and without this law there is no way to ensure that. In any event, the court must ratify any agreement reached and is still an option if the collaborative process fails. **Q McBeath:** Do the participants in a collaborative process still have to file the documents required by Court rules? A Yes, but they can request a waiver just as they can now. **Q** What about the anti-hypothecation clause and the date-if it's outside the court what is the date when something like division of marital property-are these negotiated between the parties? A That is one reason we need this law. There are other parties who may not want to wait for the collaborative agreement to be reached, which could take months. Things like pension division or child support can be built into the beginning agreement to start the collaborative process.

Brian Deer Exec Dir Natl Assoc of Film(?) and Purchasers (?) Support Part 5 about structured Settlements. This bill would align Nh with all the other states and DC. That would create a framework where a judge would review the structure of the settlement of an Insurance or liability claim or something and decide if the structure is in the best interest of the recipient and their dependents. It is based on the same model all the other states use and will ensure that all parties of interest are properly notified timely and have their interests protected. Currently, without such a law, if a person wanted to pursue one of these transactions, they would have to import and follow the law of a different state. State laws vary widely. Having this law will ensure all NH citizens are treated similarly and have the full range of protections it provides. It could stand an amendment to clarify that people have the right to shop around for other offers/deals if they want to,

John Diana Chief Compliance Officer Samba Safety Supports section 10 We serve over 100K employers in US and Canada. Our mission is to help employers improve driver safety and road safety. Motor vehicle records are the most important part of any employer's safety program. Motor vehicle record provide two critical pieces of information: 1) Whether they have a valid license, and 2) Their record of violations. There is no alternative for an employer to get this info to ensure they have qualified, safe drivers behind the wheel. NH DMV currently requires an employer to have a notarized individualized form filed with DMV to get a driver's record. NH is the only state with this which is impractical, time consuming and costly to employers. It makes it much more likely an employer will not get the record and put an unsafe driver on the road. We have worked with DMV for over a year, and they encouraged us to look for a legislative solution. Section 10 allows electronic access for employer and their agents; will benefit both employers and public safety; and will maintain all Federal and State protections for individuals. Most importantly, no employer may access a person's record without a written consent from that person. **Q Horrigan:** Are commercial licenses more frequently checked than other drivers? Should we require more drivers be commercially licensed? A There are a lot of drivers driving for the Gig economy who put on lots of miles and maybe they should be looked at, but the commercial license is a federal requirement and set specific requirements for each job. I think getting all these others into that system would be very difficult. This bill is a good way to get employers to properly qualify their drivers. **Q Chase:** Could these records be pulled from across the country or just NH? A Just Nh. Each state has its own records, but some are shared. **Q Sylvia:** Do your accident stats apply to all drivers of only

commercial? A All-drivers Q Will there be a number of companies holding this data or will it be centralized in one place? A We assist employers in other states. Each state creates a contract which covers things like retention of records and restrictions on use. Also, the Federal Drivers Privacy Protection Act and the Fair Credit Reporting Act limit use of a record like a driving record to the singular use of screening for employment purposes. All other uses are prohibited. **Q McLean:** Is the change to electronic delivery the only change? **A** Yes, but there is a portion that permits the state to provide ongoing updates to an employer. **Q Chase:** How long does it take to get the records now? **A** Electronic will get the records same time same day whereas it could take days or weeks now.

Recess Roughly 1:40 on YouTube Back 1:50

Zachary Towle: NH AG debt recovery I do a lot of collection work with the debt Recovery Unit. The purpose of the amendment is to align the statute with how courts have applied it and make sure it is a strict liability statute and the damages included are not just those to the highway itself, but also to guard rails, signage, and any other material the state or municipality would own that are involved with the highway itself. The proposed amendment would ensure the new language applies not only to future accidents but also to ones that have happened within the past few years, subject to the statute of limitations. It will also allow us to proceed based on reasonable estimates provided by Dept of Transportation instead of waiting for the actual cost which may take a long time to get as many repairs are divided among multiple accidents. DOT has a rigorous process for getting these estimates. **Q McLean:** Do other states use the strict liability standard? **A** I can't speak to other states. In NH, the statute just says, "shall be liable" and the courts have determined that to be strict liability. The amendment adds the word "strictly" to make it clear that is the case.

Gordon: The current law applies to damages making a highway "unsuitable for public travel". Does damaging a guardrail make a highway unsuitable for public travel? **A** I believe so. Any damage increases the risk to the public and/or other highway components. **Q** You are trying to apply this retroactively to existing claims? **A** Yes **Q** Is that appropriate to change the law to make people liable when they wouldn't have been before? **A** We have discussed this with DOT and believe it to be remedial as opposed to a new standard. We don't think any new liability will be created and the courts use that standard to determine how to apply changes to the law to older cases. It is remedial because the only change is how to calculate the amount of damages, not to create new ones. **Q** Isn't this language included in Budget bills? **A** I don't know. **Q McBeath:** How many cases would this affect if we change it to retroactive. **A** I can only speak to the cases I have. DOT may have others not yet referred to me. We have about 7 cases in litigation and another 20ish now on hold waiting to see where the collection language will land. In those cases, it is just a matter of figuring out the damages. **Q** I imagine the cost of a guardrail could be hundreds of thousands of dollars. Are we talking about an individual being liable for the entire amount? **A** Well, first not all claims are against individuals. Many are against commercial vehicles who do more extensive damage and companies pay. Second, damages are calculated on sections of a guardrail, not the whole thing. An individual might be charged as little as a couple of hundred dollars. **Q** How many people's insurance covers this type of damage? **A** DOT can give better numbers. Most of claims that come to me are those who have no insurance, but I think most cases are. **Q Chase:** Does DOT fix the damage before they get the money? **A** To my understanding DOT will get the fix done as soon as possible. DOT will examine the precise damage caused by the event, estimate the cost to repair, and try to collect. If they fail, the case will come to me. **Q** So, DOT has a budget to do the repairs? **A** that is my understanding, but DOT can provide better detail. **Q Horrigan:** Do you use depreciated value of the component or the replacement value? **A** You have to ask DOT, but from my experience, the use the depreciated value.

Q Gordon: You are changing the standard from having to prove liability to a "Strict liability" standard. Do you consider that remedial? **A** Yes, the courts already apply that standard, and we are just clarifying for the general public.

Benjamin Siracusa Hilman The waiver of administration process has been in use for parties in the collaborative process still required to file the typically required documents? time. It's really a short-cut process and only used in cases where there is a single beneficiary who is administrator or where multiple beneficiaries are co-administrators. The idea is to reduce court time

and make life easier for people administering uncontested estates in NH. Any interested person can petition for full administration at any time. Creditors retain all current protections. Sections 4-7 update the law to clarify things from our experience. Section 7 revises the Power of Attorney form that will allow people to be more specific. Based, on experience, the changes are focused on people making more detailed provisions and also to reduce abuse. **Q Gordon:** It says a 'collaborative lawyer' is one who engages in the collaborative process: are there any restrictions or qualifications who can do that? **A** There is training on it but it's not a requirement with oversight, but it is required to be part of the 'Collaborative Law Alliance of NH. Another benefit of this law would be that even untrained lawyers would have the framework in statute to guide them. **Q** Could any attorney hold themselves out as a "collaborative lawyer" as long as they follow the process in this new chapter? **A** I believe so. I would be leery of working with one not trained, however. **Q** Collaborative law has been around for a long time. Is this the first time a proposal like this has been put? **A** It was part of a vetoed omnibus last year and we've had no negative reactions in the hearings last year or this. It's the same as mediators. Anyone can claim to be a mediator and the clients choose with whom to work.

Erin Poitras BAE systems Part 1 Supports Part 1 with amendment proposed by Mr. Cuzzi. Bill deals with laser pointer use. The current law prohibits some research actions used by BAE. We need appropriate exemptions. We've talked with Departments of Safety, Fish and Game, and

***David Cuzzi** PROSPECT HILL STRATEGIES for BAE See written submitted documents. The amendment is just a technical adjustment and DOT is ok with it. The current law RSA 631 deals with things on the ground RSA 422 deals with things in the Air. The amendment extends the bill to cover RSA 422. It also covers some exemptions that go into RSA 631 to make both statutes compatible.

Tom Bishop BAE Will answer questions.

Ken Norton Exec Dir NAMI NH Supports Section 9 Review of Officer involved shootings showed Many of them with mental health issues. For the past three years NAMI has provided de-escalation training to first responders and others in NH. 2016 task force report has acted as blueprint for police reform. I recommend training for all police officers including extensive role playing with mental health. The training also focuses on the officer's mental health. Police have substantially higher suicide rates than the general public. Section 9 will replace lapsing funds for this purpose. **Q Chase:** Funding now is through Federal program. Please describe how it works. **A** Current grant is 3-year expiring on Sept 30. Training is 30 hours with recertification every 3 years. There is high demand for the training. **Q** Will this become mandatory for all officers? **A** No. It was recommended to be mandatory, but we are not going there. This bill would make it more available. The bigger challenge is changing the culture so officers recognize their need for support. **Q Sylvia:** Is this separate from std police training? **A** Typical training is 500 hours with about 16 hours dealing with mental health, up from about 4 hours a decade or two ago. This would be an opportunity to add to that for all officers. **Q** Is this part of the academy? The Academy could provide training themselves or contract it out. **Q** Any problem with conflicting training b between provided by the Academy and what you might give? **A** Academy is supportive of this section. **Q Horrigan:** Why do we have this in addition to what is in the budget? **A** Conversations with Governor's office is this be a separate bill, but I think it is in the budget. **Q Simpson:** Would this open up matching funds grants from Feds? **A** Maybe

***Marie Mullen** Supports Part 4 Without this authorization the State Department uses estimated costs often when repairs can't be made so actual costs can't be known. Waiting until we know real costs allows deadlines to prevent us getting the money. This bill will allow us to pursue several hundred thousand dollars of damages we can't get now. It creates no new liability. Insurance does cover these claims. Roughly 70 percent of claims are covered by insurance. These are no huge claims, most are under a couple of thousand dollars. We only seek costs for repair of damaged parts, not the whole guard rail. **Q Horrigan:** Why does someone pay full cost of replacement when many guard rails are old? **A** Current law allows replacement at cost. Generally, depreciation isn't large. It is important to get this money back to ensure safety of the travelling public. **Q McBeath:** How does NH define who is liable? **A** I defer to the Attorney General's office. We have police reports we use to figure out who is liable. **Q Gordon:** Is this in the budget? **A** Partly. We need the retrospective aspect so we can use estimated costs. **Q** So it is there with the exception of making it retroactive? **A** Yes

Peter Early Self Structured Settlement Trade Association Part 5 Supports Structured Settlement Act in this bill. We think it is the best way to give people the protections they need. NH is the only state without such an act.

Kernard Jones Supports Part 2 The revised notarization part We help people get documents notarized online. We work to ensure remote notarization works for all concerned.

***Jay Mackay** Dept of Correction Support Allows residents to apply for parole earlier than they can now, most of these people won't be able to complete required education and the court will have to decide if they are eligible when they apply early. Q Langley: Can a potential parolee apply for this waiver but not be able to access the program? A If they can apply 12 months before they meet full requirements, we can start making arrangements sooner. Q Will this create a capacity issue? A No

Steve Bauer Exec Dir Mortgage Lenders Supports Remote online notarization which will not replace in-person notarization.

***Marissa Chase** Exec Dir N HAJ Supports sections 5 and 6 Section 5 Berch/Gordon amendment is supported by everyone.

Ryan Hale NH Bankers Assoc We were part of task force that worked on Part 2 and support remote online notarization.

Over 30

***Carol Willoughby** First American Title Section 2 is a more robust and permanent solution for, online notarization than we have under the governor's Emergency order. We use enhance identification protocols, tamper proof technology, etc. Over 30 states already use remote notarizations.

Jack Kelley Nat'l Association of Structured Settlement Purchasers We urge adoption of Section 5. Judicial review is required by Federal law. NH is the only one without it.

Joseph Lascaves ACLU NH Support Section 3 I have utilized this process. The 12-month timeframe intends to reduce people falling back after training.

Steve Zemanek Part 1 My concern is Part 1 may be overly vague. There are hundreds of legal uses of lasers not covered by the exemptions. One is the use of lasers for protests. As written, it says, "occupied Structures" and in any time protesters use laser projectors on occupied building. I think the bill should have an intent.

***Susan Cragin** Merrimack Register of Deeds Opposed Requirement to accept electronic signature is too broad. Electronic Signatures can be used in bank fraud This was very evident in the mortgage crisis when a single person verified thousands of mortgages without having actually reviewed them. This bill would allow any type of electronic signatures. The signers are often not parties to the mortgage. We need to ensure signers can be held personally accountable.



Rep Kurt Wuelper

House Remote Testify

Judiciary Committee Testify List for Bill SB134 on 2021-04-27

Support: 53 Oppose: 109 Neutral: 4 Total to Testify: 27

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<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Carson, Sharon	Londonderry, NH deborah.chroniak@leg.state.nh.us	An Elected Official	Senate District 14 - PRIME SPONSOR, PART I, IV, V, VI, X, XI	Support	Yes (5m)	No	4/14/2021 11:48 AM
Fenton, Diana	Concord, NH diana.fenton@doe.nh.gov	State Agency Staff	Department of Education	Neutral	Yes (5m)	No	4/19/2021 10:09 AM
Dear, Brian	Dallas, TX jbdear@vmdslaw.com	A Member of the Public	National Association of Settlement Purchasers	Support	Yes (5m)	No	4/19/2021 3:12 PM
Diana, John	Concord, NH jdiana@sambasafety.com	A Member of the Public	SambaSafety	Support	Yes (5m)	No	4/23/2021 9:21 AM
Siracusa Hillman, Benjamin	Exeter, NH bsiracusahillman@shaheengordon.com	A Member of the Public	Myself and NH Trusts and Estates Attorneys - part VII	Support	Yes (5m)	No	4/26/2021 10:50 AM
Sienkiewicz, Donald	Wilton, NH DHS@EstatePlanNH.com	A Member of the Public	Myself	Support	Yes (5m)	No	4/27/2021 7:56 AM
Wells, Robert	Hopkinton, NH bob.wells@mclane.com	A Member of the Public	Myself	Support	Yes (5m)	No	4/26/2021 12:09 PM
Towle, Zachary	Concord, NH Zachary.N.Towle@doj.nh.gov	State Agency Staff	Myself	Support	Yes (5m)	No	4/26/2021 1:31 PM
Goldstein, David	Auburn, NH dgoldstein@franklinnh.org	A Member of the Public	Myself	Neutral	Yes (5m)	No	4/26/2021 4:28 PM
Sheehan, Virginia	Concord, NH vss@fstlaw.com	A Member of the Public	Myself	Support	Yes (5m)	No	4/26/2021 6:28 PM
Goulet Zimmerman, Anna	Manchester, NH anna@mzlawnh.com	A Member of the Public	Myself - I'm a local attorney that handles collaborative law cases	Support	Yes (4m)	No	4/21/2021 1:53 PM
Poitras, Erin	Nashua, NH erin.poitras@baesystems.com	A Member of the Public	BAE Systems	Support	Yes (3m)	No	4/13/2021 6:14 PM
Bixby, Peter	Dover, NH peter.bixby@leg.state.nh.us	An Elected Official	Myself	Support	Yes (3m)	No	4/26/2021 11:14 AM

Norton, Ken	Concord, NH knorton@naminh.org	A Lobbyist	NAMI NH the National Alliance On Mental Illness	Support	Yes (3m)	No	4/23/2021 2:52 PM
Mullen, Marie	Concord, NH marie.a.mullen@dot.nh.gov	State Agency Staff	Dept of Transportation	Support	Yes (3m)	No	4/26/2021 3:10 PM
Early, Peter	Windham, NH pearly@ringlerassociates.com	A Member of the Public	Myself	Support	Yes (2m)	No	4/26/2021 11:07 AM
Jones, Kernard	Houston, TX Kernard.jones@notarize.com	A Member of the Public	Notarize	Support	Yes (2m)	No	4/22/2021 12:05 AM
Mackey, Jay	Concord, NH jay.mackey@doc.nh.gov	State Agency Staff	NH Department of Corrections	Support	Yes (2m)	No	4/23/2021 9:46 AM
Bauer, Steven	GILFORD, NH info@mbba-nh.org	A Member of the Public	Mortgage Bankers and Brokers Association of NH	Support	Yes (2m)	No	4/14/2021 2:44 PM
Chase, Marissa	Manchester, NH mchase@nhaj.org	A Lobbyist	NH Association for Justice	Support	Yes (2m)	No	4/20/2021 2:18 PM
Bishop, Tom	Nashua, NH thomas.bishop@baesystems.com	A Member of the Public	BAE Systems	Support	Yes (1m)	No	4/13/2021 6:15 PM
Veilleux, Henry	Bedford, NH hveilleux@sheehan.com	A Lobbyist	American Council of Life Insurers	Support	Yes (1m)	No	4/26/2021 9:21 PM
Cuzzi, David	Concord, NH David.cuzzi@prospecthillstrategies.com	A Lobbyist	BAE Systems	Support	Yes (1m)	No	4/13/2021 6:12 PM
Hale, Ryan	Concord, NH rhale@nhbankers.com	A Lobbyist	NH Bankers	Support	Yes (1m)	No	4/26/2021 9:14 AM
Willoughby, Carol	Manchester, NH cwilloughby@firstam.com	A Member of the Public	First American Title Insurance Company	Support	Yes (15m)	No	4/21/2021 5:51 PM
Whitley, Becky	Hopkinton, NH jessica.bourque@leg.state.nh.us	An Elected Official	Senate District 15	Support	Yes (10m)	No	4/23/2021 1:59 PM
Kahn, Jay	Keene, NH jessica.bourque@leg.state.nh.us	An Elected Official	Senate District 10	Support	Yes (10m)	No	4/23/2021 2:00 PM
Weston, Cynthia	Londonderry, NH westlau2@aol.com	A Member of the Public	Myself	Support	No	No	4/23/2021 2:09 PM
Diaz, Amber	Manchester, NH amber.lynn.brown3@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 12:46 PM
Scippa, John	Concord, NH john.v.scippa@pst.nh.gov	State Agency Staff	Myself	Support	No	No	4/23/2021 3:53 PM
Perfetto, Vince	Manchester, NH vinceperfetto@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 3:55 PM

Wied, Alex	Manchester, NH gencourt.nh@centromere.net	A Member of the Public	Myself	Oppose	No	No	4/25/2021 4:35 PM
Domenico, William	Manchester, NH bill@resunltd4u.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 12:00 PM
Bennett, Dan	Bow, NH dbennett@nhada.com	A Lobbyist	NH Automobile Dealers Association	Support	No	No	4/23/2021 12:52 PM
Cavanaugh, Senator Kevin	Manchester, NH kevin.cavanaugh@leg.state.nh.us	An Elected Official	Myself, Prime Sponsor of Part II	Support	No	No	4/23/2021 9:44 AM
Horgan, Kate	Concord, NH khorgan@dupontgroup.com	A Lobbyist	NH Association of Counties	Support	No	No	4/26/2021 9:05 AM
Sowers, Chloe	Manchester, NH starrychloe@oliveyou.net	A Member of the Public	Myself	Oppose	No	No	4/25/2021 12:30 PM
Diaz, Louis	Manchester, NH louis.diazdev@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 12:33 PM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 1:12 PM
GUGGISBERG, Karen	WALPOLE, NH optimist246@gmail.com	A Member of the Public	Myself	Support	No	No	4/23/2021 10:26 PM
Chase, Joshua	Manchester, NH joshua.chase@live.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 1:00 PM
Axelman, Elliot	Hooksett, NH alu.axelman@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 4:45 PM
Bogardus, Tabitha	Nashua, NH tabogardus11@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 4:46 PM
Thomas, Nicholas	Manchester, NH nicholas.w.thomas@uconn.edu	A Member of the Public	Myself	Oppose	No	No	4/26/2021 1:03 AM
Mennella, Alexandra	Hooksett, NH am88@fastmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 10:12 PM
Bettle, Theresa	Goffstown, NH Mtbettle@comcast.net	A Member of the Public	Myself	Support	No	No	4/26/2021 10:16 PM
West, Jessica	New Durham, NH Jgonzaleslmt@yahoo.com	A Member of the Public	Myself	Support	No	Yes	4/26/2021 10:32 PM
Zemanek, Steve	Manchester, NH Steve@Zemanek.us	A Member of the Public	Myself	Oppose	No	No	4/26/2021 10:46 PM
Neighbours, Melanie	Manchester, NH MelanieNeighbours@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:06 PM

Casey, Seamus	Barrington, NH Seamus4NH@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:30 PM
Becker, Brian	Portsmouth, NH bjbin603@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:34 PM
Zuech, Sarah	Salisbury, NH Loeb_Sarah@yahoo.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:34 PM
Alleman, Bill	Weare, NH gencourt@allemanse.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:44 PM
Danicic, Danijel	Manchester, NH Danijel.danicic@dnaproperty.org	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:45 PM
Johnson, David	Manchester, NH DaveJohnson@binkmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:47 PM
Horton, Derrick	Portsmouth, NH derrickhorton@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:52 PM
Zeiler, Steven	Portsmouth, NH me@stevenzeiler.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:54 PM
Craig, Kevin	Lancaster, NH kevin.craig@leg.state.nh.us	An Elected Official	Coös-4	Oppose	No	No	4/27/2021 12:01 AM
Kruse, Bonnie	Keene, NH Kruse.bonnie66@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:08 AM
Vallee, Lisa	Manchester, NH Lisa.n.vallee@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:02 AM
Hammer, Karol	Enfield, NH Keh777@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:36 AM
Edwards-Appell, Caitlin	Manchester, NH cclappell@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:20 AM
Anderson, Christine	Manchester, NH canderson@ansellpa.com	A Member of the Public	Myself	Support	No	No	4/27/2021 8:40 AM
Nelson, Conrad	Manchester, NH cnelson984@yahoo.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:41 AM
Pelletier, Jessica	Plaistow, NH jesspelletier@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:45 AM
Gericke, Carla	Manchester, NH carlagericke@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:49 AM
McCabe, Marisa	Littleton, NH wickedcraftcreations@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:50 AM

Lambert, Tricia	NHDOT, NH Tricia.Lambert@dot.nh.gov	State Agency Staff	Myself	Support	No	No	4/27/2021 8:57 AM
M, Alexander	Littleton nh, NH sketchrummy@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:02 AM
Waid, Christopher	Keene, NH chris@thinkpenguin.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:55 AM
Berger, Stacey	Warren, NH Stacey@flywm.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:08 AM
Rifkin, Caren	Windham, NH caren@collaborativelawcoach.com	A Member of the Public	Myself	Support	No	No	4/27/2021 5:57 AM
Rossman, Jacob	Rochester, NH Jmrossman@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:58 AM
Mohney, Kyle	Seabrook, NH Ktmohney@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:00 AM
Saucier, Victoria	Warren, NH Politics@wrero.org	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:06 AM
Flood, Ann	Hopkinton, NH amf@fstlaw.com	A Member of the Public	Myself	Support	No	No	4/27/2021 6:10 AM
Holmes, Joshua	Manchester, NH joshua.holmes5@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:24 AM
St.Pierre, John	Manchester, NH Burgerunh@yahoo.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:32 AM
Atlas, Justin	West Brookfield, MA jscottatlas@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:41 AM
Binder, Patrick	Manchester, NH pdbinder@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:48 AM
Hayden, Angela	Chester, NH Angela@sagelegalcounsel.com	A Member of the Public	Myself	Support	No	No	4/27/2021 6:52 AM
Calitz, Louis	Manchester, NH louis@free603.org	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:53 AM
Wood, Zephan	Concorf, NH zephanw@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 1:17 AM
Gardner, James	Keene, NH yourgardner@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 1:26 AM
Stein, James	Nashua, NH jamesstein@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:43 AM

Towers, Peter	Manchester, NH peter.towers@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:06 AM
Nass, Stephen	Madbury, NH Stephenjnass@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:07 AM
romanowski, matt	Bedford, NH matt@trailbrake.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:12 AM
Figueroa, Viviana	Manchester, NH vcfigueroa@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:20 AM
monro, allison	Holderness, NH amonro@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:21 AM
John, George	Loudon, NH Jbronson100@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:24 AM
Arruda, Michelle	Contoocook, NH marruda@devinemillimet.com	A Member of the Public	Myself	Support	No	No	4/27/2021 7:26 AM
Moura, Rosa	Manchester, NH rosammoura29@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:27 AM
Bomster, Judith	manchester, NH judith@butenhofbomster.c	A Member of the Public	Myself	Support	No	No	4/27/2021 7:31 AM
m, c	Nashua, NH a@a.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:36 AM
Brennan, Sean	Manchester, NH seanbrennan150@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 3:43 AM
Pelletier, Nolan	Plaistow, NH Nolan@ohmelectric.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:41 AM
Rossmann, Whitney	Rochester, NH waewalman@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:43 AM
Creem, Jeffrey	Nashua, NH jeff@thecreems.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:51 AM
Riddell, Joy	Nottingham, NH jriddell@riddellawnh.com	A Member of the Public	Myself	Support	No	No	4/27/2021 7:54 AM
Dewey, Karen	NEWPORT, NH pkdewey@comcast.net	A Member of the Public	Myself	Support	No	No	4/27/2021 7:55 AM
Schapiro, Joe	Keene, NH joe.schapiro@leg.state.nh.us	An Elected Official	Cheshire 16, Keene	Support	No	No	4/26/2021 1:19 PM
Kenny, Karen	Amherst, NH Kelakenny@gmail.com	A Member of the Public	Myself	Support	No	No	4/26/2021 3:33 PM

Giuffre, Mark	Nashua, NH mgiuffre@ups.com	A Member of the Public	UPS	Support	No	No	4/26/2021 4:17 PM
Abert, Susan	Stoddard, NH sra@nortonabertlaw.com	A Member of the Public	Myself	Support	No	No	4/26/2021 8:32 PM
COLLINS, DAVID	BOW, NH DGC@rypgranite.com	A Lobbyist	NH Credit Unions	Support	No	No	4/26/2021 8:34 PM
Bernitt, Joseph	Newfields, NH joebernitt00@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:01 AM
Underwood, Jody	Croydon, NH jodysun@gmail.com	An Elected Official	Myself	Oppose	No	No	4/27/2021 8:02 AM
Olitzky, Joshua	Hampstead, NH Joshua.Olitzky@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:02 AM
Grissom, Cassandra	Newport, NH cgrissom1776@gmail.com	A Member of the Public	Myself	Oppose	No	Yes	4/27/2021 8:05 AM
Lussier, Lindsey	MANCHESTER, NH lindseylussier@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:06 AM
Lekas, Tony	Hudson, NH Rep.Tony.Lekas@gmail.com	An Elected Official	Hillsborough 37	Oppose	No	No	4/27/2021 8:08 AM
Swett, Joshua	Manchester, NH jswettbills@gmail.com	A Member of the Public	Myself	Oppose	No	Yes	4/27/2021 8:12 AM
Aguiar, Pedro	GOFFSTOWN, NH vorlons@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:14 AM
McCoy, Charles	Canterbury, NH nhagorist@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:24 AM
Richards, Benjamin	Hudson, NH bc_richards@yahoo.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:29 AM
Monahan, Kelley	Orford, NH Kmonahan@co.grafton.nh.us	An Elected Official	Myself	Oppose	No	Yes	4/27/2021 8:30 AM
Hillis, Joyce	Hollis, NH jhillis@devinemillimet.com	A Member of the Public	Myself	Support	No	No	4/27/2021 10:00 AM
Goss, Chuck	Merrimack, NH charles.gossiv@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:06 AM
Kelly, William	Hillsborough, NH srosorcxisto@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:08 AM
Sawyer, Erik	Hudson, NH ets138@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:12 AM

Mullin, Mickey	Manchester, NH wolf@mickeymullin.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:23 AM
Barger, William	Londonderry, NH Bargerwb@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:07 AM
DEAN, LAURENCE	Essex Junction, VT laurencedean@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:09 AM
Cragin, Susan	Concord, NH susancragin@earthlink.net	An Elected Official	Myself	Oppose	No	No	4/27/2021 9:10 AM
Groves, Daniel	Merrimack, NH deg121@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:12 AM
Tobin, Laura	Hopkinton, NH let@fstlaw.com	A Member of the Public	Myself	Support	No	No	4/27/2021 9:13 AM
Myskowski, Jan	Warner, NH jan@mmlawnh.com	A Member of the Public	Myself	Support	No	No	4/27/2021 9:18 AM
Lascaze, Joseph	Concord, NH joseph@aclu-nh.org	A Lobbyist	American Civil Liberties Union	Support	No	Yes	4/27/2021 9:41 AM
Andre, Michael	Pelham, NH Mrscon12@yahoo.com	A Member of the Public	Myself	Support	No	Yes	4/27/2021 9:44 AM
Honer, Franz	Londonderry, NH nh@franzhoner.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:50 AM
Hart, Joseph	Campton, NH Organjic@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:53 AM
Cioffi, Christopher	Nashua, NH chriscioffi222@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:33 AM
Tetreault, Michelle	Hampton, NH mmtmsw@comcast.net	A Member of the Public	Myself	Support	No	Yes	4/27/2021 10:34 AM
Levell, Christopher	Auburn, NH clevell@hotmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:56 AM
Grote, Sikt	Nashua, NH Sikt@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:09 PM
Farinelli, Robert	Nashua, NH rob.j.farinel@gmail.com	A Member of the Public	Myself	Oppose	No	Yes	4/27/2021 12:12 PM
Fader, Tia	Goffstown, NH tiafader@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 2:35 PM
Warden, Mark	Manchester, NH liberty.warden@gmail.com	An Elected Official	Myself	Oppose	No	No	4/27/2021 10:58 AM

Guare, Shannon	Portsmouth, NH sguare@rivier.edu	A Member of the Public	Myself	Neutral	No	No	4/27/2021 11:03 AM
Bird, Mark	Milford, NH mbird@birdworksdesign.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:04 AM
Gibson, Melanie	Wilton, NH melanie.gibson81@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:12 AM
Carlsen, Keith	Manchester, NH keithcarlsen@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:13 AM
Wyatt, Jaysen	Manchester, NH offgridder47@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:19 AM
Nedeau, Kelly	Nashua, NH kelly.nedeau@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:24 AM
Smith, Robert	Newmarket, NH robvsmith@ymail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:31 PM
Graunke, Stephen	Kensington, NH stephen.graunke@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 1:07 PM
Hernandez, Carlos	Manchester, NH Carlos.Hernandez57@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 3:43 PM
Kling, Adam	Litchfield, NH adam603nh@gmail.com	A Member of the Public	Myself	Oppose	No	Yes	4/27/2021 4:14 PM
Cates, Tammy	Nashua, NH tjcates@eagleswind.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:32 PM
Cates, William	Nashua, NH wcatesjr@eagleswind.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:32 PM
Cates, Bethany	Nashua, NH brcates99@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:32 PM
Cates, Tyler	Nashua, NH xtylercatesx@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:33 PM
Cates, Sahriah	Nashua, NH sahriah@sahriah.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:33 PM
Adams, Brian	Exeter, NH Badams1@kent.edu	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:27 PM
Gardner, Carol	Dover, NH carolgar7@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:29 PM
Butland, Robert	boscawen, NH rmb9669@hotmail.com	A Member of the Public	Myself	Neutral	No	Yes	4/27/2021 5:32 PM

Stinson, Benjamin	Concord, NH benrkstinson@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:38 PM
Garland, jesse	Northfield, NH jessegarland410@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:52 PM
Ozman, Tim	Langdon, NH Blueskiessailin@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:01 PM
Landry, Beau	Mason, NH Stammeringbeau@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:40 PM
Turcotte, Kevin	Brookline, NH Kevinturcotte@pm.me	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:53 PM
Chauvin, Paul	Manchester, NH pchauvin@keepandbeararms.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:32 PM
Donaldson, Karen	Troy, NH Kdonaldson67@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:36 PM
Brennen, Victor	Derry, NH alexbrennen@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:46 PM
Scott, Bonnie	Plainfield, NH Bonnie-testimony@bfccomputing.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:03 PM

Testimony

Ray Brousseau
Vice President & Deputy General Manager
BAE Systems Electronic Systems
65 Spit Brook Road
Nashua, NH 03061

BAE SYSTEMS

April 22, 2021

The Honorable Edward Gordon, Chair
House Judiciary Committee
Legislative Office Building, Rom 208
33 North State Street
Concord, NH 03301

Dear Chairman Gordon:

BAE Systems supports SB 134 Part I, relative to prohibiting certain uses of laser pointing devices. We are requesting the Committee adopt an amendment to make a technical correction to the bill. The company has no position on any of the other parts of this omnibus legislation. On behalf of the thousands of men and women who work for BAE Systems in Southern New Hampshire, thank you for your consideration of our support of Part 1 of SB 134 and an amendment making a technical correction thereto.

As you know, current New Hampshire law prohibits the pointing of lasers, visible and invisible, with limited exceptions. The very broad prohibition unintentionally makes illegal the everyday use of lasers, from vehicle sensors to certain consumer electronics, and, most important to us at BAE Systems, some national security-related research and development projects involving lasers. The current law regarding laser pointers was unanimously passed and signed into law in 2016 in response to a growing number of incidents of people shining laser pointers at aircraft and law enforcement personnel. Though well intentioned, the bill did not provide adequate exemptions for the lawful pointing of lasers, nor did it anticipate advances in various technologies.

SB 134, Part I is needed to ensure the malicious use of laser pointers remains prohibited as intended in the 2016 law. Equally important, it provides appropriate exemptions for the lawful pointing of lasers. These exemptions in the language would apply to companies like BAE Systems engaged in government funded research and development, as well as other common, lawful, commercial, civilian and government uses of laser pointing devices, including those by law enforcement officials. A one-page overview of Part 1 of SB 134 is attached.

BAE Systems respectfully requests the Judiciary Committee recommend SB 134 Part I, relative to prohibiting certain uses of laser pointing devices, Ought to Pass with an amendment to the full House. Should you have any questions or require additional information, please feel free to contact me, or our Concord representative, David Cuzzi of Prospect Hill Strategies (603-716-0569).

Sincerely,



Ray Brousseau
Vice President & Deputy General Manager
BAE Systems Electronics Systems

INFORMATION PAPER

SB 134 Part I – Prohibiting certain uses of laser pointing devices

ISSUE: Current New Hampshire law prohibits the pointing of lasers, visible and invisible, with limited exceptions. The very broad prohibition in state law of a laser pointer unintentionally makes illegal the everyday use of lasers, from vehicle sensors to national security-related research and development, to golf and hunting rangefinders.

BACKGROUND: In 2016, the legislature passed, and then-Governor Hassan into law HB 1599, relative to shining a laser at an aircraft or vessel, or another person. This was in response to a growing number of incidents of people shining green laser pointers into the cockpits of aircraft, and also shining laser pointers on law enforcement personnel to give the appearance of a weapon targeting them. Unfortunately, the bill, which became law after passing both chambers by voice vote, did not account for technological advances. As a result, the law unintentionally makes the common, everyday use of visible and invisible lasers illegal. Vehicle safety sensors, golf and hunting rangefinders, and research, development, and testing of laser-based military technologies are examples of visible and invisible lasers that are often pointed at vehicles and people. And as such, are technically illegal under current state law. Moreover, HB 1599, as amended and signed into law, did not account for broader misuse of laser pointers, such as using them on drones or pointing them at OHRVs and snowmobiles.

SOLUTION: Legislation is needed to amend RSA 631: 3-a to make sure the malicious use of visible lasers remains prohibited as intended by HB1599 in 2016, but extends the prohibition to include pointing a laser beam at OHRVs and snowmobiles, and mounting a laser pointer on drones for malicious purposes. Equally important, RSA 631: 3-a should be amended to broaden the exceptions to the prohibitions on laser pointers so that state law no longer unwittingly make illegal what are common, everyday use of lasers in civilian, commercial, and government settings, including law enforcement uses.

Also, an amendment to SB 134 Part 1 is needed to provide a technical correction to the Senate-passed bill to make sure the same changes made to RSA 631:3-a are also made to RSA 422:28, XIV. In doing so, the revised prohibitions and exemptions proposed by the bill will also apply to aircraft in flight, taking off, landing and taxiing. This would ensure consistency with the 2016 law, which dealt with both RSA 631 and RSA 422.

OTHER CONSIDERATIONS: This proposed solution has been put forth with input from the Departments of Safety, Transportation, and Fish and Game and other stakeholders to identify any possible concerns with these suggested improvements to RSA 631: 3-a. solution.

RECOMMENDATION: Recommend SB 134 Part I, relative to prohibiting certain uses of laser pointing devices, Ought to Pass with an amendment (OTPA) to the full House to change NH law regarding lasers pointers to align with the original intent on HB1599 in 2016 and ensure it accounts for technological advances going forward.

Request for Technical Amendment to SB134 Part 1- Prohibiting certain uses of laser pointing devices

Background: HB1599 in 2016, which became law in 2017, updated RSA 631:3-a and RSA 422:28 to prohibit shining a laser pointer at an aircraft or vessel, a window, or another person, including law enforcement personnel. In simple terms, RSA 631:3-a deals with people and things on the ground. RSA 422:28, paragraph XIV, which is part of the state Aeronautics Act, deals with aircraft in flight, landing, taking off, and taxiing. HB1599 in 2016 rightly amended both RSAs to ensure the prohibition would cover aircraft on the ground and in flight consistently in state law.

Due to an oversight, SB134, as passed by the Senate, inadvertently did not update RSA 422:28, paragraph XIV, as it did RSA 631:3-a. An amendment is needed to ensure the same prohibitions and exceptions made in the bill for RSA 631:3-a apply consistently to RSA 422:28, paragraph XIV, as supporters of SB 134 Part 1 intend.

Proposed Amendment Language for SB 134 Part 1: We respectfully suggest the following language for the Committee to present to OLS for their perfecting modifications as needed to be placed into accurate and appropriate amendment form:

“Amend Part I of the bill by inserting after Sec. 1 the following:

Amend RSA 422:28, XIV by repealing and replacing it with the following:

‘Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at an aircraft that is in flight or in the process of takeoff, landing, or taxiing, except as allowed in Part 1, Sec. 1, IV of the bill.’”

Other Resources

- Link to SB 134 as [passed by the Senate](#).
- Link to HB1599 [that passed in 2016](#).
- Link to [RSA 631](#).
- Link to [RSA 422](#).

BAE Systems POC: David Cuzzi, Prospect Hill Strategies,
david.cuzzi@prospecthillstrategies.com; 603-716-0569

April 21, 2021

**Testimony of Erin Poitras, Laser Safety Officer, BAE Systems
Regarding SB 134 Part I
NH House Judiciary Committee, 04/27/2021, 9:00 am (via Zoom)**

- Good afternoon, Chairman Gordon and members of the committee.
- For the record, my name is Erin Poitras, and I am the Laser Safety Officer for BAE Systems' Electronic Systems sector in Nashua, New Hampshire testifying on behalf of the company.
- BAE Systems supports Part One of Senate Bill 134, regarding the prohibition of certain uses of laser pointing devices.
- We are seeking an amendment to the bill to make a technical correction, which Mr. Cuzzi will discuss.
- We do not have any position on any of the other parts of this omnibus legislation.
- By way of background, in 2016, a bill was signed into law prohibiting the shining of a laser pointer at an airplane, law enforcement officer, law enforcement vehicle, or a person or structure.
- The bill was in response to such laser pointer incidents in the state and nationwide.
- The 2016 law included very limited exceptions, which had the unintentional effect of making today's everyday uses of lasers potentially illegal, from vehicle sensors to the latest consumer electronics.
- Our company became aware of an issue with the New Hampshire state law about a year ago.

- At the time, it was too late to seek legislative remedy.
- The reason we approached Senator Carson with this issue, is that the law also prohibits some of the research, development, and testing work that aerospace and defense technology companies like BAE Systems conducts with lasers.
- To be clear, BAE Systems takes every precaution to legally work around the unintended prohibitions set forth in the 2016 law until the legislature can provide a remedy.
- In addition, we are not aware of any law enforcement entity interpreting and enforcing the statute beyond the intent of the law.
- However, we do believe appropriate exemptions should be placed in statute to clarify lawful uses, while ensuring the malicious use of lasers and laser pointers is prohibited.
- I'd like to thank the Departments of Safety, Transportation, and Fish and Game for their willingness to provide feedback to us as we worked to provide a solution for legislators to consider.
- I respectfully request the committee recommends "Ought to Pass" with the amendment we're seeking on Part One of Senate Bill 134
- Thank you for your consideration.
- I'm happy to take any questions.

Respectfully Submitted by David Cuzzi of Prospect Hill Strategies for BAE Systems
David.Cuzzi@prospecthillstrategies.com, 603-716-0569

April 27, 2021



Board of Directors

April 23, 2021

Ann Conway, MSW, LICSW
Co-Chair

NH House of Representatives

Cynthia Weston, Esq
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Judiciary Committee

Caren Rifkin, LICW, BCB
Secretary

Concord, NH 03301

Kristina George, CPA,
CFA®, CFP®
Treasurer

Dear Chairman Gordon and Members of the Committee:

We write today as Co-Chairs of the New Hampshire Collaborative Alliance board of Directors in support of Omnibus bill SB 134-FN, Part VI, which is our proposed New Hampshire Collaborative Law Act. Each of us is also a NH constituent, Ann being from Hollis and Cynthia from Londonderry. We urge you, on behalf of our Board of Directors of the NH Collaborative Law Alliance to support the passage of SB 134-FN, Part VI, the New Hampshire Collaborative Law Act.

Collaborative law is an alternative dispute resolution that divorcing families or those who have family-law related issues can choose instead of traditional litigation or the option of mediation. It is entirely voluntary on the part of the participants. You may have heard of this alternative dispute process as it is gaining popularity in New Hampshire, the U.S. and internationally. The process is one in which the couple commits to resolving their case outside of court, with each person being represented by an attorney (who also commits to the out-of-court process), and with the additional help of "neutral" professionals- a mental health professional and a financial planner/professional.

The benefits to collaborative law as an alternative for the citizens of New Hampshire to use are many, which include:

*Spouses are each respected and supported by their own attorneys, the neutral mental health professional and financial expert, forming a team to work toward resolution and the drafting of agreements.

Joanne M LaGree,
Administrator

*Information is shared transparently and ideas, concerns and goals are freely shared and respected.

*The resolution for the couple is at a pace designed by the couple, not dictated by a court calendar.

*Resolution is handled privately by the couple, their lawyers, and the neutral professionals in a series of meetings.

* The collaborative resolution(s) incorporate the concerns and goals of each party while helping the couple to learn tools of effective communication assisting them as they transition to a post-divorce relationship.

* The collaborative divorce process is normally less expensive than litigation.

*Final agreements/resolutions, upon review and approval of the court, become court orders.

The passage of a NH Collaborative Law Act assures that, as we grow as a group and more members of your constituency use the process, all are assured that certain protocols and rules are followed. Much like the legislation concerning mediation, we want to codify the process to protect its integrity by setting out procedures to be followed and parameters for all professionals and those who want to use the process. There is no cost to the State of New Hampshire and having another alternate dispute resolution allows citizens another choice, while potentially un-burdening our court system by reducing the number of litigated cases. Here is a link to more information about collaborative divorce in New Hampshire: <https://collaborativelawnh.org/why-collaborative-divorce/>. Many of our members are also members of the International Academy of Collaborative Professionals, and that website is: <https://collaborativepractice.com>.

Thank you for your consideration. Please reach out to either of us should you have further questions. Ann may be reached at aknconway@gmail.com and Cynthia at westlau2@aol.com.



Cynthia Weston

Best,



Ann Conway

House Remote Testify

Judiciary Committee Testify List for Bill SB134 on 2021-04-27

Support: 53 Oppose: 109 Neutral: 4 Total to Testify: 27

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<u>Name</u>	City, State <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Carson, Sharon	Londonderry, NH deborah.chroniak@leg.state.nh.us	An Elected Official	Senate District 14 - PRIME SPONSOR, PART I, IV, V, VI, X, XI	Support	Yes (5m)	No	4/14/2021 11:48 AM
Fenton, Diana	Concord, NH diana.fenton@doe.nh.gov	State Agency Staff	Department of Education	Neutral	Yes (5m)	No	4/19/2021 10:09 AM
Dear, Brian	Dallas, TX jbdear@vmdslaw.com	A Member of the Public	National Association of Settlement Purchasers	Support	Yes (5m)	No	4/19/2021 3:12 PM
Diana, John	Concord, NH jdiana@sambasafety.com	A Member of the Public	SambaSafety	Support	Yes (5m)	No	4/23/2021 9:21 AM
Siracusa Hillman, Benjamin	Exeter, NH bsiracusahillman@shaheengordon.com	A Member of the Public	Myself and NH Trusts and Estates Attorneys - part VII	Support	Yes (5m)	No	4/26/2021 10:50 AM
Sienkiewicz, Donald	Wilton, NH DHS@EstatePlanNH.com	A Member of the Public	Myself	Support	Yes (5m)	No	4/27/2021 7:56 AM
Wells, Robert	Hopkinton, NH bob.wells@mclane.com	A Member of the Public	Myself	Support	Yes (5m)	No	4/26/2021 12:09 PM
Towle, Zachary	Concord, NH Zachary.N.Towle@doj.nh.gov	State Agency Staff	Myself	Support	Yes (5m)	No	4/26/2021 1:31 PM

Goldstein, David	Auburn, NH dgoldstein@franklinnh.org	A Member of the Public	Myself	Neutral	Yes (5m)	No	4/26/2021 4:28 PM
Sheehan, Virginia	Concord, NH vss@fstlaw.com	A Member of the Public	Myself	Support	Yes (5m)	No	4/26/2021 6:28 PM
Goulet Zimmerman, Anna	Manchester, NH anna@mzlawnh.com	A Member of the Public	Myself - I'm a local attorney that handles collaborative law cases	Support	Yes (4m)	No	4/21/2021 1:53 PM
Poitras, Erin	Nashua, NH erin.poitras@baesystems.com	A Member of the Public	BAE Systems	Support	Yes (3m)	No	4/13/2021 6:14 PM
Bixby, Peter	Dover, NH peter.bixby@leg.state.nh.us	An Elected Official	Myself	Support	Yes (3m)	No	4/26/2021 11:14 AM
Norton, Ken	Concord, NH knorton@naminh.org	A Lobbyist	NAMI NH the National Alliance On Mental Illness	Support	Yes (3m)	No	4/23/2021 2:52 PM
Mullen, Marie	Concord, NH marie.a.mullen@dot.nh.gov	State Agency Staff	Dept of Transportation	Support	Yes (3m)	No	4/26/2021 3:10 PM
Early, Peter	Windham, NH pearly@ringlerassociates.com	A Member of the Public	Myself	Support	Yes (2m)	No	4/26/2021 11:07 AM
Jones, Kernard	Houston, TX Kernard.jones@notarize.com	A Member of the Public	Notarize	Support	Yes (2m)	No	4/22/2021 12:05 AM
Mackey, Jay	Concord, NH jay.mackey@doc.nh.gov	State Agency Staff	NH Department of Corrections	Support	Yes (2m)	No	4/23/2021 9:46 AM
Bauer, Steven	GILFORD, NH info@mbba-nh.org	A Member of the Public	Mortgage Bankers and Brokers Association of NH	Support	Yes (2m)	No	4/14/2021 2:44 PM
Chase, Marissa	Manchester, NH mchase@nhaj.org	A Lobbyist	NH Association for Justice	Support	Yes (2m)	No	4/20/2021 2:18 PM

Bishop, Tom	Nashua, NH thomas.bishop@baesystems.com	A Member of the Public	BAE Systems	Support	Yes (1m)	No	4/13/2021 6:15 PM
Veilleux, Henry	Bedford, NH hveilleux@sheehan.com	A Lobbyist	American Council of Life Insurers	Support	Yes (1m)	No	4/26/2021 9:21 PM
Cuzzi, David	Concord, NH David.cuzzi@prospecthillstrategies.com	A Lobbyist	BAE Systems	Support	Yes (1m)	No	4/13/2021 6:12 PM
Hale, Ryan	Concord, NH rhale@nhbankers.com	A Lobbyist	NH Bankers	Support	Yes (1m)	No	4/26/2021 9:14 AM
Willoughby, Carol	Manchester, NH cwilloughby@firstam.com	A Member of the Public	First American Title Insurance Company	Support	Yes (15m)	No	4/21/2021 5:51 PM
Whitley, Becky	Hopkinton, NH jessica.bourque@leg.state.nh.us	An Elected Official	Senate District 15	Support	Yes (10m)	No	4/23/2021 1:59 PM
Kahn, Jay	Keene, NH jessica.bourque@leg.state.nh.us	An Elected Official	Senate District 10	Support	Yes (10m)	No	4/23/2021 2:00 PM
Weston, Cynthia	Londonderry, NH westlau2@aol.com	A Member of the Public	Myself	Support	No	No	4/23/2021 2:09 PM
Diaz, Amber	Manchester, NH amber.lynn.brown3@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 12:46 PM
Scippa, John	Concord, NH john.v.scippa@pst.nh.gov	State Agency Staff	Myself	Support	No	No	4/23/2021 3:53 PM
Perfetto, Vince	Manchester, NH vinceperfetto@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 3:55 PM
Wied, Alex	Manchester, NH gencourt.nh@centromere.net	A Member of the Public	Myself	Oppose	No	No	4/25/2021 4:35 PM
Domenico,	Manchester, NH	A	Myself	Oppose	No	No	4/25/2021 12:00

William	bill@resunltd4u.com	Member of the Public					PM
Bennett, Dan	Bow, NH dbennett@nhada.com	A Lobbyist	NH Automobile Dealers Association	Support	No	No	4/23/2021 12:52 PM
Cavanaugh, Senator Kevin	Manchester, NH kevin.cavanaugh@leg.state.nh.us	An Elected Official	Myself, Prime Sponsor of Part II	Support	No	No	4/23/2021 9:44 AM
Horgan, Kate	Concord, NH khorgan@dupontgroup.com	A Lobbyist	NH Association of Counties	Support	No	No	4/26/2021 9:05 AM
Sowers, Chloe	Manchester, NH starrychloe@oliveyou.net	A Member of the Public	Myself	Oppose	No	No	4/25/2021 12:30 PM
Diaz, Louis	Manchester, NH louis.diazdev@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 12:33 PM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 1:12 PM
GUGGISBERG, Karen	WALPOLE, NH optimist246@gmail.com	A Member of the Public	Myself	Support	No	No	4/23/2021 10:26 PM
Chase, Joshua	Manchester, NH joshua.chase@live.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 1:00 PM
Axelman, Elliot	Hooksett, NH alu.axelman@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 4:45 PM
Bogardus, Tabitha	Nashua, NH tabogardus11@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/25/2021 4:46 PM
Thomas, Nicholas	Manchester, NH nicholas.w.thomas@uconn.edu	A Member	Myself	Oppose	No	No	4/26/2021 1:03 AM

Mennella, Alexandra	Hooksett, NH am88@fastmail.com	of the Public A Member of the Public	Myself	Oppose	No	No	4/26/2021 10:12 PM
Bettle, Theresa	Goffstown, NH Mtbettle@comcast.net	A Member of the Public	Myself	Support	No	No	4/26/2021 10:16 PM
West, Jessica	New Durham, NH Jgonzaleslmt@yahoo.com	A Member of the Public	Myself	Support	No	Yes	4/26/2021 10:32 PM
Zemanek, Steve	Manchester, NH Steve@Zemanek.us	A Member of the Public	Myself	Oppose	No	No	4/26/2021 10:46 PM
Neighbours, Melanie	Manchester, NH MelanieNeighbours@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:06 PM
Casey, Seamus	Barrington, NH Seamus4NH@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:30 PM
Becker, Brian	Portsmouth, NH bjbin603@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:34 PM
Zuech, Sarah	Salisbury, NH Loeb_Sarah@yahoo.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:34 PM
Alleman, Bill	Weare, NH gencourt@allemanse.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:44 PM
Danicic, Danijel	Manchester, NH Danijel.danicic@dnaproperty.org	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:45 PM

Johnson, David	Manchester, NH DaveJohnson@binkmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:47 PM
Horton, Derrick	Portsmouth, NH derrickjhorton@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:52 PM
Zeiler, Steven	Portsmouth, NH me@stevenzeiler.com	A Member of the Public	Myself	Oppose	No	No	4/26/2021 11:54 PM
Craig, Kevin	Lancaster, NH kevin.craig@leg.state.nh.us	An Elected Official	Coös-4	Oppose	No	No	4/27/2021 12:01 AM
Kruse, Bonnie	Keene, NH Kruse.bonnie66@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:08 AM
Vallee, Lisa	Manchester, NH Lisa.n.vallee@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:02 AM
Hammer, Karol	Enfield, NH Keh777@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:36 AM
Edwards-Appell, Caitlin	Manchester, NH cllappell@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:20 AM
Anderson, Christine	Manchester, NH canderson@ansellpa.com	A Member of the Public	Myself	Support	No	No	4/27/2021 8:40 AM
Nelson, Conrad	Manchester, NH cnelson984@yahoo.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:41 AM
Pelletier, Jessica	Plaistow, NH jesspelletier@comcast.net	A Member	Myself	Oppose	No	No	4/27/2021 8:45 AM

Gericke, Carla	Manchester, NH carlagericke@gmail.com	of the Public A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:49 AM
McCabe, Marisa	Littleton, NH wickedcraftereations@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:50 AM
Lambert, Tricia	NHDOT, NH Tricia.Lambert@dot.nh.gov	State Agency Staff	Myself	Support	No	No	4/27/2021 8:57 AM
M, Alexander	Littleton nh, NH sketchrummy@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:02 AM
Waid, Christopher	Keene, NH chris@thinkpenguin.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:55 AM
Berger, Stacey	Warren, NH Stacey@flywm.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:08 AM
Rifkin, Caren	Windham, NH caren@collaborativelawcoach.com	A Member of the Public	Myself	Support	No	No	4/27/2021 5:57 AM
Rossman, Jacob	Rochester, NH Jmrossman@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:58 AM
Mohney, Kyle	Seabrook, NH Ktmohney@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:00 AM
Saucier, Victoria	Warren, NH Politics@wrero.org	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:06 AM
Flood, Ann	Hopkinton, NH	A	Myself	Support	No	No	4/27/2021 6:10

	amf@fstlaw.com	Member of the Public					AM
Holmes, Joshua	Manchester, NH joshua.holmes5@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:24 AM
St.Pierre, John	Manchester, NH Burgerunh@yahoo.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:32 AM
Atlas, Justin	West Brookfield, MA jscottatlas@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:41 AM
Binder, Patrick	Manchester, NH pdbinder@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:48 AM
Hayden, Angela	Chester, NH Angela@sagelegalcounsel.com	A Member of the Public	Myself	Support	No	No	4/27/2021 6:52 AM
Calitz, Louis	Manchester, NH louis@free603.org	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:53 AM
Wood, Zephan	Concorf, NH zephanw@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 1:17 AM
Gardner, James	Keene, NH yourgardner@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 1:26 AM
Stein, James	Nashua, NH jamesstein@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:43 AM
Towers, Peter	Manchester, NH peter.towers@gmail.com	A Member	Myself	Oppose	No	No	4/27/2021 7:06 AM

Nass, Stephen	Madbury, NH Stephenjnass@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:07 AM
romanowski, matt	Bedford, NH matt@trailbrake.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:12 AM
Figueroa, Viviana	Manchester, NH vcfigueroa@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:20 AM
monro, allison	Holderness, NH amonro@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:21 AM
John, George	Loudon, NH Jbronson100@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:24 AM
Arruda, Michelle	Contoocook, NH marruda@devinemillimet.com	A Member of the Public	Myself	Support	No	No	4/27/2021 7:26 AM
Moura, Rosa	Manchester, NH rosammoura29@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:27 AM
Bomster, Judith	manchester, NH judith@butenhofbomster.c	A Member of the Public	Myself	Support	No	No	4/27/2021 7:31 AM
m, c	Nashua, NH a@a.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:36 AM
Brennan, Sean	Manchester, NH seanbrennan150@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 3:43 AM

Pelletier, Nolan	Plaistow, NH Nolan@ohmelectric.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:41 AM
Rossman, Whitney	Rochester, NH waewalman@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:43 AM
Creem, Jeffrey	Nashua, NH jeff@thecreems.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 7:51 AM
Riddell, Joy	Nottingham, NH jridell@riddelllawnh.com	A Member of the Public	Myself	Support	No	No	4/27/2021 7:54 AM
Dewey, Karen	NEWPORT, NH pkdewey@comcast.net	A Member of the Public	Myself	Support	No	No	4/27/2021 7:55 AM
Schapiro, Joe	Keene, NH joe.schapiro@leg.state.nh.us	An Elected Official	Cheshire 16, Keene	Support	No	No	4/26/2021 1:19 PM
Kenny, Karen	Amherst, NH Kelakenny@gmail.com	A Member of the Public	Myself	Support	No	No	4/26/2021 3:33 PM
Giuffre, Mark	Nashua, NH mgiuffre@ups.com	A Member of the Public	UPS	Support	No	No	4/26/2021 4:17 PM
Abert, Susan	Stoddard, NH sra@nortonabertlaw.com	A Member of the Public	Myself	Support	No	No	4/26/2021 8:32 PM
COLLINS, DAVID	BOW, NH DGC@rypgranite.com	A Lobbyist	NH Credit Unions	Support	No	No	4/26/2021 8:34 PM
Bernitt, Joseph	Newfields, NH joebernitt00@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:01 AM

Underwood, Jody	Croydon, NH jodysun@gmail.com	An Elected Official	Myself	Oppose	No	No	4/27/2021 8:02 AM
Olitzky, Joshua	Hampstead, NH Joshua.Olitzky@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:02 AM
Grisson, Cassandra	Newport, NH cgrisson1776@gmail.com	A Member of the Public	Myself	Oppose	No	Yes	4/27/2021 8:05 AM
Lussier, Lindsey	MANCHESTER, NH lindseylussier@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:06 AM
Lekas, Tony	Hudson, NH Rep.Tony.Lekas@gmail.com	An Elected Official	Hillsborough 37	Oppose	No	No	4/27/2021 8:08 AM
Swett, Joshua	Manchester, NH jswettbills@gmail.com	A Member of the Public	Myself	Oppose	No	Yes	4/27/2021 8:12 AM
Aguiar, Pedro	GOFFSTOWN, NH vorlons@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:14 AM
McCoy, Charles	Canterbury, NH nhagorist@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:24 AM
Richards, Benjamin	Hudson, NH bc_richards@yahoo.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:29 AM
Monahan, Kelley	Orford, NH Kmonahan@co.grafton.nh.us	An Elected Official	Myself	Oppose	No	Yes	4/27/2021 8:30 AM
Hillis, Joyce	Hollis, NH jhillis@devinemillimet.com	A Member of the Public	Myself	Support	No	No	4/27/2021 10:00 AM
Goss, Chuck	Merrimack, NH	A	Myself	Oppose	No	No	4/27/2021 10:06

	charles.gossiv@gmail.com	Member of the Public					AM
Kelly, William	Hillsborough, NH srosorexisto@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:08 AM
Sawyer, Erik	Hudson, NH ets138@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:12 AM
Mullin, Mickey	Manchester, NH wolf@mickeymullin.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:23 AM
Barger, William	Londonderry, NH Bargerwb@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:07 AM
DEAN, LAURENCE	Essex Junction, VT laurencedean@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:09 AM
Cragin, Susan	Concord, NH susancragin@earthlink.net	An Elected Official	Myself	Oppose	No	No	4/27/2021 9:10 AM
Groves, Daniel	Merrimack, NH deg121@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:12 AM
Tobin, Laura	Hopkinton, NH let@fstlaw.com	A Member of the Public	Myself	Support	No	No	4/27/2021 9:13 AM
Myskowski, Jan	Warner, NH jan@mmlawnh.com	A Member of the Public	Myself	Support	No	No	4/27/2021 9:18 AM
Lascaze, Joseph	Concord, NH joseph@aclu-nh.org	A Lobbyist	American Civil Liberties Union	Support	No	Yes	4/27/2021 9:41 AM
Andre, Michael	Pelham, NH	A	Myself	Support	No	Yes	4/27/2021 9:44

	Mrscon12@yahoo.com	Member of the Public					AM
Honer, Franz	Londonderry, NH nh@franzhoner.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:50 AM
Hart, Joseph	Campton, NH Organjic@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:53 AM
Cioffi, Christopher	Nashua, NH chriscioffi222@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:33 AM
Tetreault, Michelle	Hampton, NH mmtmsw@comcast.net	A Member of the Public	Myself	Support	No	Yes	4/27/2021 10:34 AM
Levell, Christopher	Auburn, NH clevell@hotmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:56 AM
Grote, Sikt	Nashua, NH Sikt@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:09 PM
Farinelli, Robert	Nashua, NH rob.j.farinel@gmail.com	A Member of the Public	Myself	Oppose	No	Yes	4/27/2021 12:12 PM
Fader, Tia	Goffstown, NH tiafader@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 2:35 PM
Warden, Mark	Manchester, NH liberty.warden@gmail.com	An Elected Official	Myself	Oppose	No	No	4/27/2021 10:58 AM
Guare, Shannon	Portsmouth, NH square@rivier.edu	A Member of the Public	Myself	Neutral	No	No	4/27/2021 11:03 AM

Bird, Mark	Milford, NH mbird@birdworksdesign.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:04 AM
Gibson, Melanie	Wilton, NH melanie.gibson81@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:12 AM
Carlsen, Keith	Manchester, NH keithcarlsen@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:13 AM
Wyatt, Jaysen	Manchester, NH offgridder47@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:19 AM
Nedeau, Kelly	Nashua, NH kelly.nedeau@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:24 AM
Smith, Robert	Newmarket, NH robvsmith@ymail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 12:31 PM
Graunke, Stephen	Kensington, NH stephen.graunke@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 1:07 PM
Hernandez, Carlos	Manchester, NH Carlos.Hernandez57@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 3:43 PM
Kling, Adam	Litchfield, NH adam603nh@gmail.com	A Member of the Public	Myself	Oppose	No	Yes	4/27/2021 4:14 PM
Cates, Tammy	Nashua, NH tjcates@eagleswind.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:32 PM
Cates, William	Nashua, NH wcatesjr@eagleswind.com	A Member	Myself	Oppose	No	No	4/27/2021 4:32 PM

Cates, Bethany	Nashua, NH bricates99@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:32 PM
Cates, Tyler	Nashua, NH xtylercatesx@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:33 PM
Cates, Sahriah	Nashua, NH sahriah@sahriah.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 4:33 PM
Adams, Brian	Exeter, NH Badams1@kent.edu	A Member of the Public	Myself	Oppose	No	No	4/27/2021 11:27 PM
Gardner, Carol	Dover, NH carolgar7@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:29 PM
Butland, Robert	boscawen, NH rmb9669@hotmail.com	A Member of the Public	Myself	Neutral	No	Yes	4/27/2021 5:32 PM
Stinson, Benjamin	Concord, NH benrkstinson@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 5:38 PM
Garland, jesse	Northfield, NH jessegarland410@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 6:52 PM
Ozman, Tim	Langdon, NH Blueskiessailin@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:01 PM
Landry, Beau	Mason, NH Stammeringbeau@protonmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:40 PM

Turcotte, Kevin	Brookline, NH Kevinturcotte@pm.me	A Member of the Public	Myself	Oppose	No	No	4/27/2021 8:53 PM
Chauvin, Paul	Manchester, NH pchauvin@keepandbeararms.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:32 PM
Donaldson, Karen	Troy, NH Kdonaldson67@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:36 PM
Brennen, Victor	Derry, NH alexbrennen@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 9:46 PM
Scott, Bonnie	Plainfield, NH Bonnie-testimony@bfccomputing.com	A Member of the Public	Myself	Oppose	No	No	4/27/2021 10:03 PM



April 22, 2021

sambasafety.com

House Judiciary Committee
Legislative Office Building, Room 208
33 N. State Street
Concord, NH 03301

RE: Support for Section X of SB 134, relative to employer access to motor vehicle records

Dear Chairman Gordon and Members of the House Judiciary Committee:

On behalf of SambaSafety, I wish to offer this testimony in strong support of Section X of Senate Bill 134-FN, relative to employer access to motor vehicle records (formerly LSR 2021-1013).

SambaSafety is a company that provides pre-hire motor vehicle record checks and continuous driver monitoring to protect all highway users from risky drivers and allow companies to better manage and assess employee driver risk. Our mission is to help employers transform data into action, protecting businesses and communities from driver and mobility risk. SambaSafety assists over 100,000 employers nationwide to access and interpret motor vehicle records for driver safety. Motor vehicle records are critical for employers to ensure that drivers are qualified to drive for employment and do not present unnecessary risk to the public.

SambaSafety supports amending New Hampshire's motor vehicle records law, RSA 260:14, to allow companies and their agents to efficiently access the driver records and driver license status of employees and prospective employees electronically.

This change is necessary because the New Hampshire Division of Motor Vehicles interprets the current law to prevent it from allowing such employers from obtaining electronic access if this information is to be used for employment purposes. The DMV interprets the current law to only allow the checking of driver records and license status in bulk by insurance companies; other than for that purpose, records must be obtained on an individual basis with a notarized authorization from the employee or prospective employee on file with the DMV. It is impractical, costly and time consuming for employers to conduct periodic checks of driver records individually. SambaSafety has been trying for over a year to obtain this information in bulk from the DMV, but the DMV has felt constrained by the current law. In fact the DMV encouraged SambaSafety to seek legislation to address this issue.

It is important to emphasize that employees and prospective employees are protected under federal law, the Driver Privacy Protection Act of 1994 (DPPA), which prohibits states from releasing personal information of motor vehicle records to sales and marketing organizations and the general public unless an individual specifically consents to the release. The DPPA and the federal Fair Credit Reporting Act, also provides a number of layers of due process protections for employees. Individuals are thus already protected under federal law from random and unauthorized

driver record checks. Because Samba Safety and other similarly situated companies are bound by and strictly follow these federal requirements, current New Hampshire law provides an unnecessary barrier for employees that in fact works to impede highway safety and prevent employers from making sure that their employees are initially, and continue to be, safe drivers.

As a result of the pandemic many commercial transactions now take place over the Internet with packages of goods being delivered to homes and businesses by company drivers who do not have commercial driver licenses (CDL) because the vehicles they are driving are smaller than a vehicle that requires possession of a CDL. There are many more of these basically unregulated drivers on the road logging many more miles than they did prior to the pandemic. Allowing the employers of these drivers, or agents of the employers, to conduct regular electronic driver record checks and license status checks on their employees or prospective employees ensures greater driver safety. Without this legislation, there is a much greater chance that a driver with a suspended license or new motor vehicle violations will be operating a vehicle for commercial purposes on the roads of New Hampshire in a manner that could threaten public safety.

Other states allow these kinds of electronic employer driving record and license status checks and find ways to facilitate them in order to protect public safety. By passing this legislation you would be facilitating employers being able to conduct record checks in New Hampshire that are consistent with those being done in virtually all other states, thus preventing unsafe drivers from jeopardizing public safety on our highways and on an interstate basis.

The law currently authorizes the Division of Motor Vehicles to charge fees to the applicants for such record and license status checks to recover their costs. Therefore, since it is likely that this legislation will result in more employers requesting such documents because this legislation will break down barriers to accessing records, it is very likely that the state will see more revenues.

Ten percent of drivers are responsible for 40 percent of car crashes. When data on driver records and license status is made available it allows employers to identify high-risk drivers, enforce company policies and make well-informed hiring decisions.

Please vote OUGHT TO PASS on Section X of SB 134 regarding employer access to motor vehicle records.

Sincerely,

DocuSigned by:

6F202567B6054A4...

John Diana

General Counsel and Chief Compliance Officer

3 Whipple Street
Nashua, NH 03060
(603) 860-3066



April 22, 2021
House Judiciary Committee
Legislative Office Building, Room 208
33 N. State Street
Concord, NH 03301

RE: Support for employer access to motor vehicle records (section X of SB 134, adopting omnibus legislation relative to civil actions and criminal liability)

Dear Chairman Gordon and Members of the House Judiciary Committee:

I am writing to offer support for Section X of SB 134, relative to employer access to motor vehicle records (initially known as LSR 2021-1013).

UPS is a global company with multiple locations throughout New Hampshire. We employ approximately 2,000 people, including 1,015 drivers in the Granite State. With so many drivers on New Hampshire roadways, especially during times like these when there are many more home deliveries being made, safety is a top concern for UPS. That is why we support amending the motor vehicle law to allow employers, such as UPS (and their authorized agents) to access the driver records and driver license status of current employees and job applicants in bulk electronic form as needed.

New Hampshire law currently allows for the disclosure of this information, however it is burdensome and time consuming to access because the records must be requested individually and there is no convenient and up-to-date way to access driver license status on an ongoing basis. Under the bill before you, employers and their agents would be able to obtain the same information in a much more efficient way by authorizing the Division of Motor Vehicles to provide the records in electronic bulk form when the employer needs to access them. When data on driver records is made readily available, it allows employers to efficiently identify high-risk drivers, take appropriate action and enforce company policies as necessary, and make well-informed hiring decisions – all of which lead to increased safety.

It is important to remember that this bill maintains current employee and prospective employee privacy, and due process protections already in place under state and federal law. It merely allows for the disclosure of the same information in a streamlined manner.

New Hampshire is the only state we are aware of that does not already allow the release of such electronic records from the DMV. By passing this legislation, you would be facilitating employers and their agents being able to conduct motor vehicle record checks in New Hampshire that are consistent with those being done in other states, thus preventing unsafe drivers from jeopardizing public safety on our highways and on an interstate basis.

For these reasons, we urge you to vote OUGHT TO PASS on Section X of SB 134.

Mark Giuffre
UPS
Vice President, State Government Affairs

New Hampshire Credit Unions



Creating Cooperative Power

**HOUSE JUDICIARY COMMITTEE
PUBLIC HEARING
APRIL 27, 2021**

**A STATEMENT BY DAVID COLLINS ON BEHALF OF
NEW HAMPSHIRE CREDIT UNIONS
IN SUPPORT
SB 134**

**AN ACT ADOPTING OMNIBUS LEGISLATION RELATIVE TO CIVIL ACTIONS AND
CRIMINAL LIABILITY**

The Cooperative Credit Union Association, Inc. (“Association”) is the state credit union trade association, serving 14 New Hampshire federally and state-chartered credit unions that are cooperatively owned by 761,000 consumers as members. On behalf of the New Hampshire credit union movement, the Association supports SB 134, *An Act Adopting Omnibus Legislation Relative to Civil Actions and Criminal Liability*. Testimony in support is limited to Part II of the bill relative to the revised uniform law on notarial acts and the uniform real property electronic recording act.

Overview of Notarial Acts

Notarial acts are a necessary component of the residential loan closing process. Credit unions are continually striving to meet member demand and convenience at every opportunity. New Hampshire credit unions support this legislation which would serve to increase their online capacity to efficiently and safely serve members’ needs in real estate transactions. This is a benefit that is currently enjoyed in most other states across the country.

The Association notes that the Uniform Electronic Transaction Act (“UETA”), and/or E-SIGN currently have the authorization to utilize electronic notarization. Yet even though both UETA and E-SIGN authorize electronic notarization, they do not provide a framework for performing notarial acts electronically. With the rapid advances that have come with online communication and electronic signing technology, which have only been magnified by the current Coronavirus pandemic, there is a need and a desire to have notarial acts be performed electronically. The Association submits that the authority to electronically notarize documents will lead to higher efficiency and less paper in the workplace, allowing credit unions to more efficiently service their members’ notarial needs.

Electronic Notarization vs. Remote Online Notarization:

Electronic notarization requires an individual to physically appear before a notary public for positive identification. The signatures of both the individual and the notary public can be done electronically. The notary public can electronically seal the document using this method of e-notarization. During this process, the document is electronic, the signatures and seal are electronic, but the individual still must physically appear before the notary public for identification purposes.

Remote online notarization provides a platform in which the individual requiring a notarial act can log into and share a document with a notary public online. The individual wishing to have their document notarized would provide positive identification by holding up their government-issued identification to a webcam. The platform uses positive identification technology to then confirm the individual's identity before allowing the notary to perform any notarial acts. The individual would then electronically sign their portions of the document and the notary would electronically sign and seal the document. The entire transaction would be completed online, further increasing the ease and efficiency of having documents notarized.

Overview of Senate Bill 134:

The Association supports consumer choice for remote online notarization. SB 134 is a legislative proposal that works to promote a modern, paperless mortgage closing process. It ensures that safety and soundness is preserved with a rigorous proposed statutory framework so that New Hampshire consumers, as prospective homeowners, and others receive the benefits of a system that protects document integrity and is secure, efficient and cost effective.

New Hampshire credit unions utilized without incident with the temporary authority granted by Executive Order granted at the beginning of the pandemic¹ which set guidelines for remote authorization. In addition, last session the Legislature passed Chapter 17, which authorized remote notarization of paper estate planning documents during the COVID-19 state of emergency. Finally, HB 287 relative to remote notarization remains pending before the House Judiciary Committee. Accordingly, the Association believes that both the volume and cumulative impact of all of these efforts underscores the need for favorable consideration today of SB 134 as a reasonable solution to permanently carry remote online notarization efforts forward.

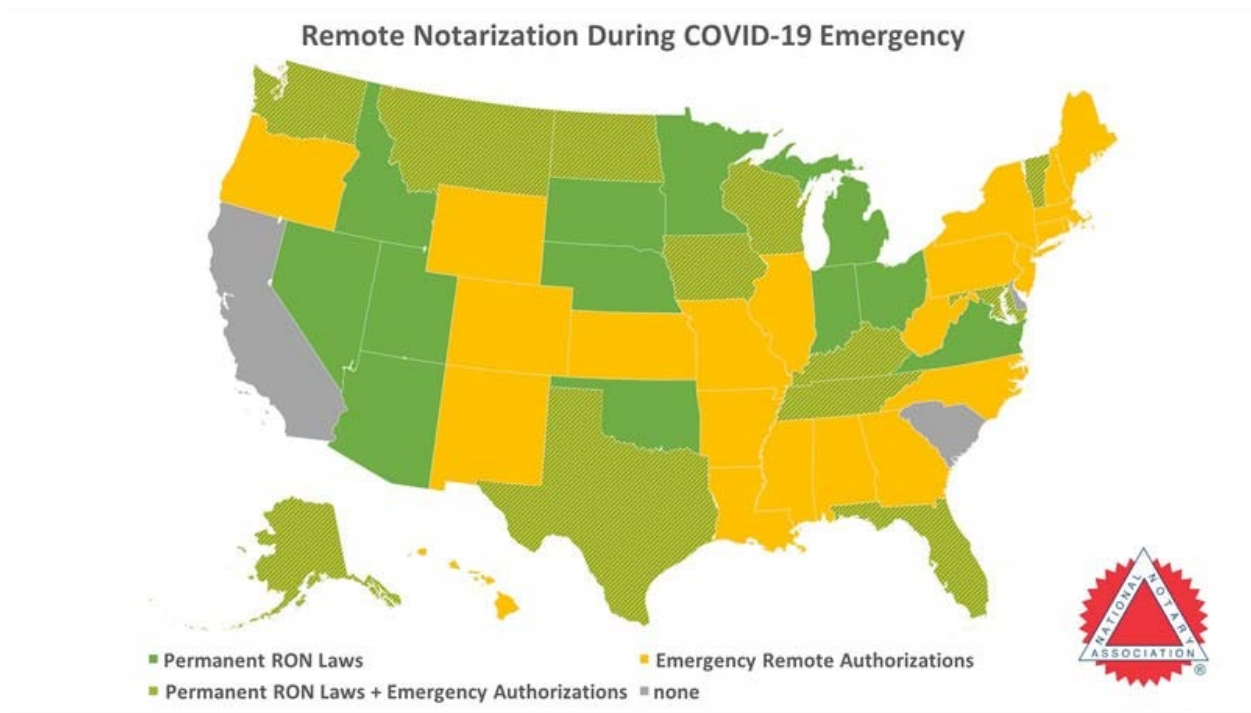
Credit Unions Seek to Improve Member Service by Senate Bill 134:

Service to members is the hallmark of the mission of credit unions as not-for-profit financial cooperatives. Furthermore, striving to improve service levels is a core component of the fabric of every credit union's strategic plans. The need for the authorities in SB 134 is the result of the goal of credit unions to enhance and to expedite current closing features which were brought to light and accelerated by the Know Before You Owe mortgage rule, promulgated by the federal Bureau of Financial Consumer Protection, effective October 3, 2015. One of the important requirements of the rule mandates that consumers receive a new, easier-to-use closing document, the Closing Disclosure, three business days before closing. This allocates more time for borrowers to understand mortgage terms and costs, and provides protection from surprises at the closing table. It also provides time for borrowers to consult with lawyers or housing counselors and ask

¹ Executive Order #11 issued March 23, 2020.

questions about the terms of their mortgage. The result is that greater informed consumers are at the closing table ready to move forward in the most expeditious manner as possible with an elevated expectation that New Hampshire lenders can accommodate their needs. In addition, consumers with experience in real estate closings in states that already permit e-notary closings are also familiar with and value the convenience. They seek the same convenience from their preferred local lender on property located in the Granite State.

Action by Other States:



Without favorable consideration of SB 134, the Association believes that the Granite State is falling significantly behind, with its reputation to help its residents safely, securely and expediently navigate the American dream of homeownership, as well as advance its business-friendly goals.

The Association appreciates the opportunity to provide input to the Committee, and respectfully requests favorable consideration of SB 134.

Rep. Berch, Ches. 1
Rep. Gordon, Graf. 9
April 26, 2021
2021-1189h
04/08

Amendment to SB 134-FN

1 Amend RSA 408-G:2, as inserted by section 1 of Part V of the bill, by inserting after paragraph X the
2 following new paragraph:

3

4 XI. That the payee has the right to negotiate the purchase price offered by the transferee,
5 and the payee is advised to obtain competing offers from other potential transferees.

6

7 Amend RSA 408-G:5, as inserted by section 1 of Part V of the bill, by inserting after paragraph III
8 the following new paragraph:

9

10 IV. In determining whether a transfer is in the payee's best interest under RSA 408-G:3, I,
11 the court shall consider, among other matters, whether the payee has compared competing offers for
12 the structured settlement payment rights that the payee proposes to transfer.

Sen. Carson, Dist 14
April 26, 2021
2021-1196s
04/06

Amendment to SB 134-FN

1 Amend Part I of the bill by inserting after section 1 the following and renumbering the original
2 section 2 to read as section 3:

3

4 2 New Hampshire Aeronautics Act; Prohibitions. Amend RSA 422:28, XIV to read as follows:

5 XIV. [~~For any person to purposely or knowingly shine the beam of a laser pointing device at~~
6 ~~an aircraft that is in flight or in the process of takeoff, landing, or taxiing]~~ ***For any person in direct***
7 ***or remote control of a laser pointing device to knowingly shine the beam of a laser pointing***
8 ***device at an aircraft that is in flight or in the process of takeoff, landing, or taxiing, except***
9 ***as permitted under RSA 631:3-a, IV.***

UNAPPROVED

Sen. Carson, Dist 14
April 27, 2021
2021-1206s
04/06

Amendment to SB 134-FN

1 Amend RSA 236:39, as inserted by Part IV of the bill, by inserting after paragraph II the following
2 new paragraph:

3

4 ***III. This section shall apply to all pending claims, including but not limited to***
5 ***claims incurred before or after the effective date of this section, and any future cause of***
6 ***action for liability and damages under this section.***

UNAPPROVED

Amendment to SB 134-FN

1 Amend the bill by replacing the Part XI heading with the following:

2

3

PART XI

4

Relative to hemp.

5 Amend Part XI of the bill by inserting after section 1 the following and renumbering the original
6 section 2 to read as 3:

7

8 439-A:3 Hemp Permitted. Hemp is an agricultural product which may be grown as a crop,
9 processed, possessed, and commercially traded in New Hampshire. Any grower[~~processor, or~~
10 ~~commercial trader~~] of hemp shall be licensed by the United States Department of Agriculture.

UNAPPROVED

Amendment to SB 134-FN

1 Amend the bill by replacing the Part XI heading with the following:

2

3

PART XI

4


Relative to hemp.

5 Amend Part XI of the bill by inserting after section 1 the following and renumbering the original
6 section 2 to read as 3:

7

8 439-A:3 Hemp Permitted. Hemp is an agricultural product which may be grown as a crop,
9 processed, possessed, and commercially traded in New Hampshire. Any grower[~~processor, or~~
10 ~~commercial trader~~] of hemp shall be licensed by the United States Department of Agriculture.

UNAPPROVED


Archived: Tuesday, May 4, 2021 10:47:27 AM
From: Cathy McKay
Sent: Thursday, April 22, 2021 1:19:22 PM
To: ~House Children and Family Law Committee
Subject: Testimony in support of SB 134-FN part VI
Importance: Normal
Attachments:
[4.22.2021 Ltr in support of SB 134.pdf](#) 

Please see the attached letter in support of SB 134-FN part VI.

Thank you.

Catherine P. McKay, Esquire
Parnell, Michels & McKay, PLLC
25 Nashua Road, Suite C-5
Londonderry, NH 03053
(603) 434-6331, ext. 12
(603) 437-6039 Fax
www.PMMLawyers.com

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Archived: Tuesday, May 4, 2021 10:47:27 AM
From: [Cynthia Weston](#)
Sent: Friday, April 23, 2021 1:57:29 PM
To: ~House Children and Family Law Committee
Cc: board@nhcla.simplelists.com
Subject: Testimony is support of SD 134-FN part VI- NH Collaborative Law Act
Importance: Normal
Attachments:
[House Judiciary Committee letter from NHCLA BOARD 4-23-2021.pdf](#) 

Dear Committee Chairman Gordon and Members of the Committee-

On behalf of the New Hampshire Collaborative Alliance Board of Directors, we submit this testimony in support of SD 134-FN, Section VI.

Ann Conway and myself are Co-Chairs this year, and many members of the board, as well as each of us are well-versed in the collaborative process and are happy to answer any questions going forward. We hope you consider our proposed legislation to further our efforts at standardizing such an excellent process for use in alternative dispute resolution.

Cynthia

Cynthia M. Weston
Law Office of Cynthia M. Weston
17 McAllister Drive
Londonderry, NH 03053
603.432.1931
603.494.3112
email: westlau2@aol.com

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Archived: Wednesday, July 7, 2021 10:14:52 AM

From: [Alexis Simpson](#)


Sent: Tuesday, April 27, 2021 12:35:43 PM

To: ~House Judiciary Committee; Jennifer Foor

Subject: Amendment to SB 134 (Part XI)

Importance: Normal

Attachments:

[SB 134 - 2021-1213h.pdf](#) 

Dear Colleagues,

Please find an amendment attached here to add language to Part XI of SB 134. It would bring our statute in line with the federal regulations for growing industrial hemp. The USDA currently licenses growers, not processors and commercial traders. Please be in touch if you have any questions.

Thank you,
Alexis

Alexis Simpson

NH State Representative

~Exeter, Newfields, Newmarket, Stratham~

(603) 303-4722

Archived: Wednesday, July 7, 2021 10:14:52 AM

From: [Deborah Chroniak](#)

Sent: Tuesday, April 27, 2021 12:31:41 PM

To: ~House Judiciary Committee

Cc: [Sharon Carson](#); [Jennifer Horgan](#); [MulcaheyHampson, Kathleen](#); [David Cuzzi](#)

Subject: Hearing on SB 134-FN, Amendments from Senator Carson on Part I, Prohibiting Certain Uses of Laser Pointing Devices (2021-1196s), and PART IV, Civil Liability to damage to highways (2021-1206s)

Importance: High

Attachments:

[SB 134 - 2021-1196s - PART I - laser pointing devices.pdf](#) [SB 134 - 2021-1206s PART IV request of DOT 4-27-21.pdf](#)

Chairman Gordan and Judiciary Committee members,

Please find attached to this email, amendments which Senator Carson stated this morning during her testimony that she would be sending to the House Judiciary Committee members. These amendments are for Part I and Part IV of SB 134-FN, adopting omnibus legislation relative to civil actions and criminal liability.

Part I, prohibiting certain uses of laser pointing devices.

Part IV, civil liability for damage to highways.

This bill was heard in the House Judiciary Committee this morning which began at 9:00 a.m.

Deb

Deborah A. Chroniak

Assistant to Senator Sharon M. Carson

New Hampshire State Senate

State House, Room 106

107 North Main Street

Concord N.H. 03301-4951

Deborah.chroniak@leg.state.nh.us

603-271-1403

Archived: Wednesday, July 7, 2021 10:14:52 AM

From: [David G. Collins](#)

Sent: Monday, April 26, 2021 8:42:11 PM

To: [~House Judiciary Committee](#)

Subject: NH House Remote Testify: 9:00 am - SB134 in House Judiciary

Importance: Normal

Attachments:

[NH Statement in Support of SB 134 Electronic Notarization bill 4.27.21.pdf](#) 

Chairman Gordon and members of the House Judiciary Committee

I do not intend to testify on SB 134 but would appreciate your consideration of my written testimony on behalf of NH Credit Unions in support of the electronic notary section of the proposed legislation.

Thank you

David Collins

Archived: Wednesday, July 7, 2021 10:14:52 AM

From: Marissa Chase

Sent: Monday, April 26, 2021 8:26:16 PM

To: ~House Judiciary Committee

Subject: Testimony in support of SB 134

Importance: Normal

Attachments:

4.22.2021 Ltr in support of SB 134.pdf House Judiciary Committee letter from NHCLA BOARD
4-23-2021.pdf 2021_04_26_14_58_35.pdf

Hello Representatives,

Attached, please find three letters in support of SB 134 section VI, establishing a Collaborative Law Act.

The three letters are from family law practitioners who practice in the area of collaborative law, as well as a letter on behalf of the Collaborative Law Alliance.

Attorney Anna Zimmerman will be testifying on behalf of the collaborative law practitioners in support of this section tomorrow morning, and would be happy to answer any questions you may have.

Thank you for your time, and consideration.

Sincerely,
Marissa

Marissa Chase

Executive Director

New Hampshire Association for Justice

10 Ferry Street, #311

Concord, NH 03301

O 603.224.7077 **F** 603.224.3256 **I** **C** 603.854.9330

Archived: Wednesday, July 7, 2021 10:14:52 AM

From: [Paul Berch](#)


Sent: Monday, April 26, 2021 4:43:53 PM

To: [~House Judiciary Committee](#); [Jennifer Foor](#)

Subject: Fwd: SB 134 - 2021-1189h,

Importance: High

Attachments:

[SB 134 - 2021-1189h.pdf](#) 

Dear colleagues,

Enclosed please find a proposed Amendment to SB 134. I plan to introduce the Amendment on Tuesday, if possible.

Best,

Paul Berch

Paul Berch, NH State Representative, Cheshire-1
Assistant Democratic Leader
House Judiciary Committee
Supreme Court Advisory Committee on Rules
Commissioner, Ct. River Valley Flood Control Commission
Chair, Cheshire County Delegation Executive Committee

Archived: Wednesday, July 7, 2021 10:14:52 AM


From: [Patch, Douglas L.](#)

Sent: Monday, April 26, 2021 4:28:57 PM

To: ~House Judiciary Committee

Subject: SB 134/Letter in Support of Section X [IWOV-iManage.FID489568]

Importance: Normal

Attachments: [MX-M5070_20210426_161826.pdf](#) ;

Attached please find a letter in support of Section X of SB 134.

Archived: Wednesday, July 7, 2021 10:14:52 AM
From: Carol Willoughby
Sent: Monday, April 26, 2021 11:49:24 AM
To: ~House Judiciary Committee
Subject: House Judiciary Committee Hearing SB 134 fn - Testimony
Importance: Normal
Attachments:

[Testimony Carol Willoughby - First American Title S B 134-FN 02.16.2021 and Appendix.pdf](#) 

Good morning;

Attached is my written testimony to be submitted to the House Judiciary Committee in support of SB 134 fn.

Please let me know if there are any questions. I will also be available to testify tomorrow for the hearing. Thank you,

Carol E. Willoughby

Regional Underwriting Director – New England Region
First American Title Insurance Company
6 Loudon Road, Suite 406, Concord, NH 03301
Direct Dial: 603.226.1613
Mobile: 603.315.6952
Email: cwilloughby@firstam.com

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Thank you.

FAFLD

Archived: Wednesday, July 7, 2021 10:14:52 AM

From: David Cuzzi



Sent: Friday, April 23, 2021 3:44:42 PM

To: ~House Judiciary Committee

Subject: BAE Systems - SB 134 Part 1

Importance: Normal

Attachments:

[BAE Systems Written Materials Supporting SB 134 Part 1 04-23-2021.pdf](#)  [BAE Systems SB134 Part 1 Amendment Request April 2021.pdf](#) 

Dear Members of the Judiciary Committee-

On behalf of BAE Systems, please find two attachments outlining the company's support for SB 134 Part 1, relative to shining a laser pointing device at an aircraft or vessel, or at another person. The company has no position on any other parts of this omnibus legislation. I am not aware of any opposition to Part 1 of SB 134.

BAE Systems is respectfully requesting a technical amendment to the bill. I am not aware of any opposition to this technical amendment.

The attached PDF titled "BAE Systems Written Materials Supporting SB 134 Part 1 04-23-2021" contains the following:

- Letter from BAE Systems
- One page overview of why the company supports SB 134 Part 1
- One page overview of the technical amendment the company is seeking to SB 134 Part 1
- Copy of testimony from Ms. Erin Poitras, Laser Safety Officer for BAE Systems in Nashua

I also attached, as a stand-alone document, the one page overview describing the need for the technical amendment to SB 134 Part 1, which includes draft language for OLS, should the Committee be so inclined to bring forth this amendment. The amendment one page overview is titled "BAE Systems SB 134 Part 1 Amendment Request April 2021."

In addition to Ms. Poitras, I, and Tom Bishop from BAE Systems in Nashua have signed up to speak in support of the bill. With the indulgence of Chairman Gordon, I hope the three of us can be "promoted" to speakers at the same time so Ms. Poitras can briefly speak to the need for the bill and I can briefly speak to the need for the requested amendment. Mr. Bishop will speak only if he is best positioned to answer any questions from the Committee.

Thank you for your consideration of the attached materials. Please do not hesitate to contact me (603-716-0569) with any questions or concerns. Have a nice weekend.

Respectfully Submitted,

David Cuzzi

David Cuzzi, President

PROSPECT HILL STRATEGIES

M/O: 603-716-0569

Office: 72 N. Main St., Ste. 201, Concord, NH 03301

Mail: PO Box 174, Manchester, NH 03105-0174

www.prospecthillstrategies.com

Archived: Wednesday, July 7, 2021 10:14:53 AM

From: Cynthia Weston

Sent: Friday, April 23, 2021 2:09:16 PM

To: ~House Judiciary Committee

Subject: letter in support of SB 134-FN part VI

Importance: Normal

Attachments:

[House Judiciary Committee letter from NHCLA BOARD 4-23-2021.pdf](#) 

Dear Committee Chairman Gordon and Members of the Committee-

On behalf of the New Hampshire Collaborative Alliance Board of Directors, we submit this testimony in support of SB 134-FN, Section VI.

Ann Conway and myself are Co-Chairs this year, and many members of the board, as well as each of us are well-versed in the collaborative process and are happy to answer any questions going forward. We hope you consider our proposed legislation to further our efforts at standardizing such an excellent process for use in alternative dispute resolution.

Cynthia

Cynthia M. Weston
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Archived: Wednesday, July 7, 2021 10:14:53 AM

From: Mackey, Jay

Sent: Friday, April 23, 2021 9:53:50 AM

To: ~House Judiciary Committee

Subject: SB 134 Testimony for NHDOC

Importance: Normal

Attachments:

SB134 Testimony.docx ;

Good morning honorable members of the House Judiciary Committee,
My name is Jay Mackey and I am the Administrator of Classifications and Client Records for the NH Department of Corrections. I will be testifying on behalf of the NHDOC in support of SB 134 on Tuesday April 27., 2021. I have attached written testimony for you to review. If you have any questions, please do not hesitate to contact me. Thank you for your service.

Jay Mackey

Administrator of Classifications and Client Records

New Hampshire Department of Corrections

281 North State Street

Concord, New Hampshire 03301

(603) 271-7925 Phone

(603) 271-8136 Fax

jay.mackey@doc.nh.gov



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To: ~House Judiciary Committee
Cc: Patch, Douglas L.; jdiana@sambasafety.com; aboyn@sambasafety.com
Subject: NH House Remote Testify: 9:00 am - SB134 in House Judiciary [IWOV-iManage.FID489568]
Importance: Normal
Attachments:
Letter_from_Samba_Safety_to_House Judiciary Comm (22 April 2021).pdf ;

Good morning,

Attached is the testimony of John Diana with SambaSafety in support of Section X of SB 134 which is scheduled to be heard by the Judiciary Committee on April 27, 2021 at 9:00 a.m.

Please let me know if you have any questions.

Thank you,

Ellen

Ellen A. Cole

Legal Assistant

Orr&Reno

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Testimony of First American Title Insurance Company

on

**S.B. 134-FN Relating to the revised uniform law on notarial acts and the uniform
real property electronic recording act**

before the

House Judiciary Committee, New Hampshire Legislature

Tuesday, April 27, 2021

9:00 a.m.

Chairman Gordon, Vice Chairman McLean and Distinguished Members of the Committee:

First American Title Insurance Company¹ is grateful for the opportunity to **support** S.B. 134-FN for the adoption of remote online notarization in New Hampshire, and to discuss how the legislation will benefit New Hampshire's residents and business community. First American Title has a local office in Concord, New Hampshire which provides underwriting support to more than one hundred and ten (110) small businesses throughout New Hampshire, consisting of title companies and real estate attorneys.

One has only to recall the events of the past year to grasp the timeliness of this discussion and the importance of remote online notarization. Everyday New Hampshire residents are grappling with the need to execute critically important documents while balancing concerns over social distancing. Remote online notarization serves many needs beyond those occasioned by the current pandemic, but the challenges we've all faced over the past year, and will continue to face in the coming months, illustrate this best.

Along with others in the mortgage and land title industries, the title industry has taken a keen interest in remote online notary laws because notaries are the lynchpin of our system of real estate transfer and recording. As a leading national provider of real estate settlement services, and a major consumer of notary services, we are interested in making sure that any remote online notary law provides sufficient safeguards to protect the identities and real property interests of New Hampshire's citizens. In this testimony, First American Title, as a member of the title industry, seeks to discuss our interest in Section II of S.B. 134-FN as amended, our role amongst industry stakeholders in the notarial process, the benefits and potential pitfalls that accompany online notarization, and the principles that we believe should inform the legislative process to have a safe and effective online notarization system. In addition, we discuss the shortfall of NH RSA 456-B as written today, in relation to the authorization and regulation of remote online notarization.

Notaries perform a vital function across a wide spectrum of our country's commercial, private, and governmental spheres. While real estate transactions constitute only a fraction of the total number of notarizations that take place today, notaries play an outsized role in the real estate industry, which by some estimates constitutes the single largest sector of the U.S. economy.

¹ First American Title Insurance Company is a subsidiary of First American Financial Corporation (NYSE:FAF), one of the nation's largest title insurance companies and providers of real estate settlement services.

Notaries are critical to our system of real estate transfer and land records. For a document to be recorded with a county registry, state law requires documents evidencing transfer of an interest in title to be notarized. Without a proper and valid notarization, a document may not be able to be recorded. What is more, if a document is recorded but contains an improper or invalid notarization, a court may still find that the document was not properly entitled to be recorded or worse, set aside the validity of the document itself. Such an outcome can result in serious legal and economic consequences. The risk of improperly or invalidly notarized documents is thus a core threat that runs through our entire real estate economy.

The Challenges of Remote Online Notarization

Until a few years ago, the concept of notarizing a document when the signatory is in a different physical location than the notary would have been a contradiction in terms. The very purpose of the notarial process is to determine the identity of the person in front of the notary, to assess the capacity of the signatory, and to certify, in the notary's best professional judgment, that a signatory's execution of a document or attestation of facts was duly, freely, and voluntarily given. These functions all require personal interaction and a high degree of awareness by a notary of the circumstances surrounding a notarial event.

The advent of high-speed internet and increases in the security, effectiveness and availability of communication technologies (both hardware and software) have resulted in an overwhelming number of states enabling, or considering enabling, the notarial event to take place over the internet.² These "remote online" notarization laws serve to revolutionize the notarial process in the same way that new technologies have affected other fundamental aspects of our daily lives. However, unique safety and legal challenges must be addressed.

We believe that a remote online notarization law, when done *correctly*, can provide a superior consumer experience, increase efficiencies across many industries, provide greater ease of access, and lower costs to consumers and business. In particular, rural or underserved communities, those without ready access to transportation, and persons serving in the military in other parts of the country and world, to name a few, will be tremendously helped by technology that allows people to notarize documents from the convenience of their homes or jobs at any time of the day. In other words, remote online notarization holds out the promise of becoming a major societal good.

We also believe that, when done *poorly*, remote online notarization could jeopardize consumers' identities, create new avenues for elder abuse, and make it easier for fraudsters and the unscrupulous to steal property rights. In addition, a poorly conceived remote online notary law could result in legal challenges to the validity of notarized documents that are a part of the public records, thereby rendering property rights less secure. Addressing these issues is what we term the *challenges of remote online notarization*.

² Appendix A provides a list of states that have enacted remote online notarization, or who have legislation pending relating to remote online notarization.

Because of these complex challenges, and the utmost need to protect the property rights of NH's citizens, the enactment of any remote online notary law should be undertaken carefully and methodically.

NH's Uniform Law on Notarial Acts ("ULONA") and "Personal Appearance"

NH law does not currently authorize remote online notarization. The language of RSA 456-B:I tells us that a "notarial act" includes "taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument." In every notarial act, the "officer must determine, either from personal knowledge or from satisfactory evidence, that the *person appearing before the officer* ... is the person whose true signature is on the instrument" (emphasis added). Historically under the common law, which the Uniform Law on Notarial Acts ("ULONA") and thus RSA 456-B codifies, this requirement for "personal appearance" means that the officer must be in the physical presence of the signatory. Therefore, to authorize remote online notarizations NH law must specifically permit the "personal appearance" requirement to be satisfied by use of audio-video communication technology (*e.g.*, a webcam).

As of the drafting of this testimony, thirty-two (32) states have passed legislation authorizing remote online notarization. Thirteen (13) additional states have pending remote notarization related legislation pending, including New Hampshire. Outside of the authority of our current Emergency Order #11, issued by Governor Sununu, the inability of a New Hampshire notary to perform a remote notarization means New Hampshire's citizens may only seek such services out-of-state. Such a result does not benefit New Hampshire notaries or consumers.

Use of Uniform Law and Standards for Remote Online Notarization

Several states have enacted legislation based on the 2018 version of the Revised Uniform Law on Notarial Acts, also known as "RULONA 2018."³ This is the model that S.B. 134-FN is based upon. Very simply, it creates another method by which a notarial act may be carried out, remotely. This is done through the modification of NH RSA 455 and 456: B, our existing legal framework governing notaries and notarial acts, and through adoption of sections of the Uniform Real Property Electronic Recording Act ("URPERA"). S.B. 134-FN utilizes necessary definitions from RULONA 2018 to contemplate the notarial act being undertaken when the signer is not in the physical presence of the notary using technology. Moreover, S.B. 143-FN implements a legal framework which support the National Electronic Notarization Standards adopted by the National Association of Secretary of States (NASS) in February 2018. In short, RULONA 2018 is a well drafted and tested legislative model, which fits neatly into New Hampshire's existing Uniform Law on Notarial Act and therefore our laws.

³ See: <https://www.uniformlaws.org/committees/community-home?CommunityKey=8acec8a5-123b-4724-b131-e5ca8cc6323e>

Enhanced Security for the Most Important Transactions

A comprehensive notarization law embraces the latest technologies to prevent fraud in the notarial process. It is crucial to use available tools to protect people's most valuable assets—ownership of their homes.

- **Enhanced Identification Requirements**: Any remote online notarization law must incorporate enhanced ID requirements and use a multi-factor approach to authenticate signers. Leveraging the latest technologies and forensic tools, a well-crafted law can stop fraud before it happens. In addition, such a statute needs flexibility to give the Secretary of State's office the authority to adopt the latest technological tools as they may become available in the future.
- **Robust Audit Trail**: A well-crafted law will require a secure electronic journal entry and audio-video recording made of each notarization be retained by the notary, creating an auditable record to deter potential fraudsters. Criminals are much less likely to steal someone's identity when the camera is rolling.
- **Secure Technologies**: Moreover, a well-crafted law will involve the latest tamper-evident technologies so that third parties can detect whether someone has tried to alter an electronically notarized document.
- **Inconsistent Legislation Among States**: It is important that any remote online notarization legislation take into account the inter-connectivity of our many states. Any new law must ensure that remote online notarizations performed in NH will be effective in other jurisdictions, as well as the reverse. The use of one of the model acts above is the best way to make sure NH law remains consistent with the laws of the other states.

S.B. 134-FN addresses these principals by incorporating the Remote Online Notarization Standards of August 28, 2019 adopted by the Mortgage Industry Standards Maintenance Organization (MISMO Ron Standards)⁴. The MISMO RON Standards are the industry standard for credential analysis, dynamic knowledge-based authentication of witnesses and signers, secure simultaneous sight and sound technology over which to conduct the notarial act, and automated tamper evident record keeping. Under S.B. 134-FN, the MISMO Standards would control unless and until the New Hampshire Secretary of State issues regulations.

⁴ A copy of the MISMO Remote Online Notarization Standards, (Ver.1, August 28, 2019) is included with this testimony.

The Consumer-Friendly Choice

Remote online notarization is the consumer-friendly alternative to the difficult and time-consuming process of finding a traditional notary for an in-person notarization. Significant benefits include:

- Ease of Access: NH residents can get documents notarized *anywhere, anytime*. It is especially useful to disadvantaged or immobilized residents who need to notarize official documents.
- Health and Safety: NH residents can get documents notarized safely, without having to leave the security of their home when health or safety concerns for them or others would recommend or require otherwise. NH notaries will have the ability to offer notarial services without the requirement of being in the signor's physical presence thereby reducing the number of in-person interactions.
- Save on Time, Lost Wages and Travel Costs: Remote online notarization eliminates the need to make appointments, take leave from work, or drive for miles to find a notary—all you need is a computer and an internet connection.
- Good for Rural Residents and Members of the Military: Remote online notarization can benefit NH's residents who live in remote areas and members of the military on deployment.
- Consumer Choice: Under S.B. 134-FN, remote online notarization is strictly optional and preserves consumer choice. Use of remote notarization would and should simply be an alternative for those who wish to use it.

Summary

The internet knows no borders. Remote notarizations are happening today in the thousands by residents of all states, including New Hampshire. When New Hampshire residents use online remote notaries from other states they are being deprived of important legal protections which other states' residents are receiving and which New Hampshire residents deserve. Out of state notaries are servicing this important business and societal need that could and should be served by New Hampshire notaries. S.B. 134-FN utilizes tested national model laws, model regulations and model technology standards that New Hampshire can and should adopt to give New Hampshire residents and businesses the advantage and protection of these best-in-class models. At no time is this more important than when our residents are executing some of the most important documents they may ever execute in their lives, such as affidavits, powers of attorney, deeds, and mortgages, to name a few. At no time has the need for such important legislation been so evident. **For all the reasons stated herein, First American Title respectfully requests that SB 134-FN be adopted without delay.**

* * *

Thank you for the opportunity to provide testimony in support of this bill.

APPENDIX A

Enacted Permanent Remote Online Notarization Legislation

- Alaska
- Arizona
- Colorado
- Florida
- Hawaii
- Idaho
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maryland
- Michigan
- Minnesota
- Missouri
- Montana
- Nebraska
- Nevada
- New Mexico
- North Dakota
- Ohio
- Oklahoma
- Pennsylvania
- Tennessee
- Texas
- Utah
- Vermont
- Virginia
- Washington
- West Virginia (effective June 17, 2021)
- Wisconsin
- Wyoming (RULONA effective July 1, 2021)

Enacted Temporary Remote Online Notarization Legislation

- New Jersey
- Oregon

States Now or Previously Considering Remote Online Notarization Legislation

- Alabama
- Arkansas
- California
- Connecticut
- Georgia
- Illinois

Cont'd - States Now or Previously Considering Remote Online Notarization Legislation

- Maine
- Massachusetts
- New Hampshire
- New Jersey
- New York
- Oregon
- South Carolina



MISMO Remote Online Notarization Standards

FINAL Candidate Recommendation (CR) Version

Version 1

August 28, 2019

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Standards for Remote Online Notarization

Summary

This document outlines technical and procedural guidance and establishes underlying principles that should be considered as organizations move towards implementation of Remote Online Notarization.

The intended audience includes but is not limited to: state regulators, commissioning or licensing officials; financial institutions; service providers; technology providers; title insurance underwriters; trade associations; mortgage and title/settlement service providers.

It is worth noting that these are the minimum set of technical and procedural standards and parties are free to implement additional requirements, practices or processes for the items addressed by these standards¹. While not specifically addressed in these standards, remote online notarization system implementations should accommodate ADA (Americans with Disabilities Act) computer user interface standards and/or best practices as required by state and/or federal law².

Capitalized terms not defined in the text are defined in Section 7, entitled "DEFINITIONS".

1. CREDENTIAL ANALYSIS AND AUTHENTICATION

The following authentication and analysis protocols are intended to support the notary public (Notary) in making the determination that satisfactory evidence of each Principal's identity has been established for a Remote Online Notarization. This section specifies standards for States to reference when identity proofing involving Knowledge-Based Authentication (KBA) and/or credential analysis is required to perform Remote Online Notarization³. If a State specifies additional or alternative means for identify verification aside from identify proofing or credential analysis (such as by oath or affirmation of a credible witness, by a Notary's personal knowledge of the Principal, or by other methods), such additional or alternative means are not addressed by these standards.

- a. Principal identity verification for Remote Online Notarization services must include consistent Multi-Factor Authentication procedures:
 - i. Each Principal's identity credential must be verified against trusted third-party data sources;

¹ Mortgage lenders, insurance underwriters or other parties may impose more restrictive or additional standards based on jurisdiction, transaction type, financial implications or other factors.

² ADA requirements are a separate and distinct body of work and are not addressed by these standards.

³ As of the time of this writing, KBA, and credential analysis procedures and technology are widely accepted as identity proofing processes and are therefore specifically addressed, however, MISMO supports efforts to explore and permit other types of analysis and authentication.

- ii. Each Principal's identity must be bound to each individual Principal following successful Knowledge-Based Authentication, or another form of authentication or trusted third-party identity verification such as online banking authentication; and
- iii. Procedures must provide for human visual comparison between the Principal's identity credential presented to the Notary and the Principal himself or herself.

b. Credential Analysis of Government Issued Identification

Remote Online Notarization service providers must use automated software processes to aid the Notary with their role in verifying each Principal's identity.

- i. The credential must pass an authenticity test, consistent with sound commercial practices that:
 - 1. Use appropriate technologies to confirm the integrity of visual, physical or cryptographic security features;
 - 2. Use appropriate technologies to confirm that the credential is not fraudulent or inappropriately modified;
 - 3. Use information held or published by the issuing source or authoritative source(s), as available, to confirm the validity of credential details; and
 - 4. Provide the output of the authenticity test to the Notary.⁴
- ii. The credential analysis procedure must enable the Notary to visually compare both of the following for consistency:
 - 1. The information and photo on the presented credential image; and
 - 2. The Principal as viewed by the Notary in real time through the audio/video system.
- iii. Credential Type Requirements
 - 1. Must be a government-issued document meeting the requirements of the State that contains a photograph of the individual, may be imaged, photographed and video recorded under applicable state and federal law⁵, and can be subjected to credential analysis.
- iv. Credential Image Capture
 - 1. The credential image capture procedure must confirm that:
 - a. The Principal is in possession of the credential at the time of the Notarial Act;
 - b. Credential images submitted for credential analysis have not been manipulated; and
 - c. Credential images match the credential in the Principal's possession.

⁴ The output may simply indicate a "pass" or "fail" type score, or may provide more information to indicate the outcome of the authenticity test to the Notary.

⁵ State or federal law may prohibit the capture of certain credential images.

2. The following general principles should be considered in the context of image resolution:

- a. Captured image resolution should be sufficient enough for the service provider to perform credential analysis per the requirements above.
- b. Image resolution should be sufficient to enable visual inspection by the Notary, including legible text and clarity of photographs, barcodes, and other credential features.
- c. All images necessary to perform visual inspection and credential analysis must be captured — e.g. U.S. Passport requires identity page; state driver’s licenses require front and back.

c. **Dynamic Knowledge-Based Authentication**

Dynamic Knowledge-Based Authentication (KBA) is an identity assessment that is based on a set of questions formulated from public or private data sources. A Dynamic Knowledge-Based Authentication procedure must meet the following requirements:

- i. Each Principal must answer questions and achieve a passing score.
 - 1. MISMO Recommends:
 - a. Five questions, drawn from public or private data sources.
 - b. A minimum of five possible answer choices per question.
 - c. At least four of the five questions answered correctly (a passing score of 80%).
 - d. All five questions answered within two minutes.
- ii. Each Principal to be provided a reasonable number of attempts per Signing Session.
 - 1. MISMO Recommends:
 - a. If a Principal fails their first quiz, they may attempt up to two additional quizzes within 48 hours from the first failure⁶.
 - b. During any quiz retake, a minimum of 40% (two) of the prior questions must be replaced⁷.
- iii. The Remote Online Notarization system provider must not include the KBA procedure as part of the video recording or as part of the system provided person-to-person video interaction between the Notary and the Signatory, and must not store the data or information presented in the KBA

⁶ The standard of three total attempts within 48 hours accommodates a security provision (a maximum number of attempts per Signing Session) and a business provision (a reasonable time frame for such attempts) for a wide range of notarial scenarios. These standards also accommodate known technical limitations imposed by KBA service providers.

⁷ The purpose of replacing questions in subsequent KBA quizzes is to reduce the statistical probability of an individual guessing correct answers.

questions and answers. However, the output of the KBA assessment procedure must be provided to the Notary.⁸

d. Biometrics and Other Requirements

Biometric sensing technologies have potential application to Remote Online Notarization in the areas of authentication, credential analysis, and identity verification. These technologies include but are not limited to: facial, voice, and fingerprint recognition.⁹

e. Workflow Continuity Requirement

If a Principal must exit the workflow, they must meet the criteria outlined in this section and restart the Credential Analysis and Authentication workflow from the beginning.¹⁰

2. AUDIO/VIDEO QUALITY

- a. A reliable Remote Online Notarization operating model should consist of continuous, synchronous audio and video feeds with good clarity such that all participants can be clearly seen and understood at all times.
- b. Inherent in online audio/video technology is the presence of temporary surges or spikes in quantitative measures like bitrate and/or frequency of communications and no simple technical limits are practical or prudent. Rather, a sounder approach to ensuring reliable real-time communications is to rely on the judgement of the Notary to determine the adequacy of the communications and provide direction to terminate the session if those conditions are not met¹¹.
- c. The audio/video recording must include the person-to-person interaction required as part of the Notarial Act as defined by the State¹², must be logically associated to the electronic Audit Trail¹³, and must be capable of being viewed and heard using broadly available audio/video players.
- d. The video recording of the transaction documents executed in the Remote Online Notarization process is not required as part of these standards.¹⁴

⁸ The output may simply indicate a “pass” or “fail” type score, and/or may provide more information to indicate the outcome of the KBA assessment to the Notary.

⁹ MISMO does not offer specific guidance in applying this type of authentication protocol due to the lack of available industry standards regarding biometric technology.

¹⁰ Principals may have to exit the workflow for various valid or invalid reasons and may do so for an unpredictable amount of time. Therefore, to simplify these standards and provide unambiguous guidance, MISMO requires a new Remote Online Notarization workflow be started each time a Principal exits the workflow.

¹¹ Uniform standards that take into account all potential audio/video disruptions and whether they affect the integrity of the Notarial Act are not practical, and therefore, these standards provide for human judgement to determine adequate audio/video quality.

¹² The specific activities required in the Notarial Act may vary by state and therefore are not defined here.

¹³ One must be able to match the application of eSignatures, and other trackable events recorded in the Audit Trail, to the people and actions in the audio/video recording.

¹⁴ Many documents that may be notarized in this manner may contain non-public personal information (NPI) as defined under applicable law. Therefore, MISMO does not require video capture of documents or credentials as part

3. STORAGE OF NOTARIAL RECORDS

- a. Where applicable, and in accordance with State laws, rules and regulations, the Notary must maintain accurate and reliable Notarial Records. These State laws, rules and regulations may or may not require that a copy of the audio/video recording be part of a notarial journal (which may be subject to public access under State law)¹⁵. Notaries must have the ability to electronically capture the required Notarial Records or to direct a third party to do so on their behalf. In either case, the Remote Online Notarization system must:
 - i. Facilitate the process of collecting the required Notarial Records;
 - ii. Provide a method by which a Notary can access and/or export the Notarial Records; and
 - iii. Provide automated backup of the Notarial Records and audio/video recording to ensure redundancy.
- b. The Remote Online Notarization technology solution must employ data protection safeguards consistent with generally accepted information security standards.
- c. Retention of the audio/video recording and Notarial Records by either the Notary public or their designated third party, as directed by the Notary, must adhere to the laws, directives, rules and regulations of the State.

4. POST-EXECUTION RECORDS

- a. Significant actions completed as part of a Remote Online Notarization Signing Session should be recorded in an Audit Trail. Each entry in this Audit Trail should clearly indicate the action performed (e.g. addition of an electronic signature), the date/time of its performance (e.g. Coordinated Universal Time, 2018-08-21 01:14:22 UTC), the name of the party performing the action (e.g. John Doe) and the IP address of the party performing the action. Further detailed guidance on the contents of the Audit Trail or its form is beyond the scope of these standards.
- b. Each document completed as part of a Remote Online Notarization should be electronically signed and rendered Tamper-Evident.

5. SECURITY CONSIDERATIONS

Remote Online Notarization technology providers must have comprehensive security programs in place to ensure privacy and data security. Technology providers should be vigilant to ensure consumer data, privacy and information security laws and regulations are satisfied through their information security programs. There are many industry accepted models, standards and frameworks for how to develop such programs.

of these standards. Including the documents and/or credentials in the video recording may be considered as a matter of policy on a state-by-state basis.

¹⁵ Treatment of the audio/video recording in the context of the Notarial Record or journal is a matter of public policy and not addressed in these standards.

6. COUNTY RECORDING CONSIDERATIONS FOR ELECTRONICALLY NOTARIZED DOCUMENTS

- a. The Remote Online Notarization system, process, and procedures must be capable of generating a printable version of all documents executed in the system, including but not limited to the documents executed in the Notarial Act, and associated certifications as required by the State, county and/or other governing or regulatory body.¹⁶
- b. Any document notarized remotely online must clearly state, in the remote online notarial certificate, that the person making the acknowledgment, oath or affirmation and signing the document appeared remotely online using audio/video communication technology.

7. DEFINITIONS

- a. **“Audit Trail”** means a chronological and detailed list of critical events and actions, from the beginning to the end of the Remote Online Notarization process, including the dates and times the events and actions took place and identification of the individuals and/or systems that performed the events or actions. Also known as: Audit Log or Event Log.
- b. **“Knowledge-Based Authentication” or “KBA”** means an identity verification method based on knowledge of private information associated with the claimed identity of a person.¹⁷
- c. **“Multi-Factor Authentication” or “MFA”** means a method of access control in which a user is granted access after successfully presenting identity evidence through a minimum of two of the following mechanisms: something they *have* (e.g. an ID credential), something they *know* (e.g. KBA), something they *are* (e.g. iris, retinal, thumbprint scans, facial recognition and other forms of biometric identification).
- d. **“Notarial Act”** means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of a specific State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.¹⁸
- e. **“Notarial Records”** means details of the Notarial Act common to the State’s notarial journal or register requirements.

¹⁶ While outside the scope of these standards, the concept of “papering out” and printing eNotarized documents for use in a paper county recording process may be permissible under the law of some states. These standards require electronically created documents be printable for this purpose.

¹⁷ DIGITAL IDENTITY GUIDELINES NIST SP 800-63-3 (page 46 for definition of KBV a.k.a. KBA)

¹⁸ Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (9) “Notarial Act” page 3

- f. **“Principal”** means an individual whose electronic signature is notarized in a remote online notarization; or making an oath or affirmation or an acknowledgment other than in the capacity of a witness for the remote online notarization.¹⁹
- g. **“Record”** means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.²⁰
- h. **“Remote Online Notarization”** means a Notarial Act performed by means of an electronic device or process that allows a notary public and a Principal, who is not in the same physical location as the notary public, to complete a Notarial Act and communicate with each other simultaneously by sight and sound.²¹
- i. **“Signing Session”** means one or more Notarial Acts performed on a single set of documents as a single event by a single Notary with one or more Principals and any applicable witnesses.
- j. **“State”** means the state or jurisdiction under which the notary public is commissioned and for which the notary public is performing the Remote Online Notarization.²²
- k. **“Tamper-Evident”** A technology based process that indicates whether a change has been made to the record since the technology was applied.

¹⁹ Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (11) “Notarial Act” page 3

²⁰ RULONA Section 2. Definition for Record (Page 5)

²¹ Adapted from the Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (13) “Remote online notarization” page 4 and “(2) “Communication technology” page 1.

²² This state definition provides clarity for which jurisdiction rules, requirements or regulations must be referenced when there is more than one state related to a Notarial Act: (1) the state where the Principal is located, (2) the state where a property related to the Notarial Act is located, (3) the state in which the Notary is located, or (4) other state references.



Testimony of First American Title Insurance Company

on

**S.B. 134-FN Relating to the revised uniform law on notarial acts and the uniform
real property electronic recording act**

before the

House Judiciary Committee, New Hampshire Legislature

Tuesday, April 27, 2021

9:00 a.m.

Chairman Gordon, Vice Chairman McLean and Distinguished Members of the Committee:

First American Title Insurance Company¹ is grateful for the opportunity to **support** S.B. 134-FN for the adoption of remote online notarization in New Hampshire, and to discuss how the legislation will benefit New Hampshire's residents and business community. First American Title has a local office in Concord, New Hampshire which provides underwriting support to more than one hundred and ten (110) small businesses throughout New Hampshire, consisting of title companies and real estate attorneys.

One has only to recall the events of the past year to grasp the timeliness of this discussion and the importance of remote online notarization. Everyday New Hampshire residents are grappling with the need to execute critically important documents while balancing concerns over social distancing. Remote online notarization serves many needs beyond those occasioned by the current pandemic, but the challenges we've all faced over the past year, and will continue to face in the coming months, illustrate this best.

Along with others in the mortgage and land title industries, the title industry has taken a keen interest in remote online notary laws because notaries are the lynchpin of our system of real estate transfer and recording. As a leading national provider of real estate settlement services, and a major consumer of notary services, we are interested in making sure that any remote online notary law provides sufficient safeguards to protect the identities and real property interests of New Hampshire's citizens. In this testimony, First American Title, as a member of the title industry, seeks to discuss our interest in Section II of S.B. 134-FN as amended, our role amongst industry stakeholders in the notarial process, the benefits and potential pitfalls that accompany online notarization, and the principles that we believe should inform the legislative process to have a safe and effective online notarization system. In addition, we discuss the shortfall of NH RSA 456-B as written today, in relation to the authorization and regulation of remote online notarization.

Notaries perform a vital function across a wide spectrum of our country's commercial, private, and governmental spheres. While real estate transactions constitute only a fraction of the total number of notarizations that take place today, notaries play an outsized role in the real estate industry, which by some estimates constitutes the single largest sector of the U.S. economy.

¹ First American Title Insurance Company is a subsidiary of First American Financial Corporation (NYSE:FAF), one of the nation's largest title insurance companies and providers of real estate settlement services.

Notaries are critical to our system of real estate transfer and land records. For a document to be recorded with a county registry, state law requires documents evidencing transfer of an interest in title to be notarized. Without a proper and valid notarization, a document may not be able to be recorded. What is more, if a document is recorded but contains an improper or invalid notarization, a court may still find that the document was not properly entitled to be recorded or worse, set aside the validity of the document itself. Such an outcome can result in serious legal and economic consequences. The risk of improperly or invalidly notarized documents is thus a core threat that runs through our entire real estate economy.

The Challenges of Remote Online Notarization

Until a few years ago, the concept of notarizing a document when the signatory is in a different physical location than the notary would have been a contradiction in terms. The very purpose of the notarial process is to determine the identity of the person in front of the notary, to assess the capacity of the signatory, and to certify, in the notary's best professional judgment, that a signatory's execution of a document or attestation of facts was duly, freely, and voluntarily given. These functions all require personal interaction and a high degree of awareness by a notary of the circumstances surrounding a notarial event.

The advent of high-speed internet and increases in the security, effectiveness and availability of communication technologies (both hardware and software) have resulted in an overwhelming number of states enabling, or considering enabling, the notarial event to take place over the internet.² These "remote online" notarization laws serve to revolutionize the notarial process in the same way that new technologies have affected other fundamental aspects of our daily lives. However, unique safety and legal challenges must be addressed.

We believe that a remote online notarization law, when done *correctly*, can provide a superior consumer experience, increase efficiencies across many industries, provide greater ease of access, and lower costs to consumers and business. In particular, rural or underserved communities, those without ready access to transportation, and persons serving in the military in other parts of the country and world, to name a few, will be tremendously helped by technology that allows people to notarize documents from the convenience of their homes or jobs at any time of the day. In other words, remote online notarization holds out the promise of becoming a major societal good.

We also believe that, when done *poorly*, remote online notarization could jeopardize consumers' identities, create new avenues for elder abuse, and make it easier for fraudsters and the unscrupulous to steal property rights. In addition, a poorly conceived remote online notary law could result in legal challenges to the validity of notarized documents that are a part of the public records, thereby rendering property rights less secure. Addressing these issues is what we term the *challenges of remote online notarization*.

² Appendix A provides a list of states that have enacted remote online notarization, or who have legislation pending relating to remote online notarization.

Because of these complex challenges, and the utmost need to protect the property rights of NH's citizens, the enactment of any remote online notary law should be undertaken carefully and methodically.

NH's Uniform Law on Notarial Acts ("ULONA") and "Personal Appearance"

NH law does not currently authorize remote online notarization. The language of RSA 456-B:I tells us that a "notarial act" includes "taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument." In every notarial act, the "officer must determine, either from personal knowledge or from satisfactory evidence, that the *person appearing before the officer* ... is the person whose true signature is on the instrument" (emphasis added). Historically under the common law, which the Uniform Law on Notarial Acts ("ULONA") and thus RSA 456-B codifies, this requirement for "personal appearance" means that the officer must be in the physical presence of the signatory. Therefore, to authorize remote online notarizations NH law must specifically permit the "personal appearance" requirement to be satisfied by use of audio-video communication technology (*e.g.*, a webcam).

As of the drafting of this testimony, thirty-two (32) states have passed legislation authorizing remote online notarization. Thirteen (13) additional states have pending remote notarization related legislation pending, including New Hampshire. Outside of the authority of our current Emergency Order #11, issued by Governor Sununu, the inability of a New Hampshire notary to perform a remote notarization means New Hampshire's citizens may only seek such services out-of-state. Such a result does not benefit New Hampshire notaries or consumers.

Use of Uniform Law and Standards for Remote Online Notarization

Several states have enacted legislation based on the 2018 version of the Revised Uniform Law on Notarial Acts, also known as "RULONA 2018."³ This is the model that S.B. 134-FN is based upon. Very simply, it creates another method by which a notarial act may be carried out, remotely. This is done through the modification of NH RSA 455 and 456: B, our existing legal framework governing notaries and notarial acts, and through adoption of sections of the Uniform Real Property Electronic Recording Act ("URPERA"). S.B. 134-FN utilizes necessary definitions from RULONA 2018 to contemplate the notarial act being undertaken when the signer is not in the physical presence of the notary using technology. Moreover, S.B. 143-FN implements a legal framework which support the National Electronic Notarization Standards adopted by the National Association of Secretary of States (NASS) in February 2018. In short, RULONA 2018 is a well drafted and tested legislative model, which fits neatly into New Hampshire's existing Uniform Law on Notarial Act and therefore our laws.

³ See: <https://www.uniformlaws.org/committees/community-home?CommunityKey=8acec8a5-123b-4724-b131-e5ca8cc6323e>

Enhanced Security for the Most Important Transactions

A comprehensive notarization law embraces the latest technologies to prevent fraud in the notarial process. It is crucial to use available tools to protect people's most valuable assets—ownership of their homes.

- Enhanced Identification Requirements: Any remote online notarization law must incorporate enhanced ID requirements and use a multi-factor approach to authenticate signers. Leveraging the latest technologies and forensic tools, a well-crafted law can stop fraud before it happens. In addition, such a statute needs flexibility to give the Secretary of State's office the authority to adopt the latest technological tools as they may become available in the future.
- Robust Audit Trail: A well-crafted law will require a secure electronic journal entry and audio-video recording made of each notarization be retained by the notary, creating an auditable record to deter potential fraudsters. Criminals are much less likely to steal someone's identity when the camera is rolling.
- Secure Technologies: Moreover, a well-crafted law will involve the latest tamper-evident technologies so that third parties can detect whether someone has tried to alter an electronically notarized document.
- Inconsistent Legislation Among States: It is important that any remote online notarization legislation take into account the inter-connectivity of our many states. Any new law must ensure that remote online notarizations performed in NH will be effective in other jurisdictions, as well as the reverse. The use of one of the model acts above is the best way to make sure NH law remains consistent with the laws of the other states.

S.B. 134-FN addresses these principals by incorporating the Remote Online Notarization Standards of August 28, 2019 adopted by the Mortgage Industry Standards Maintenance Organization (MISMO Ron Standards)⁴. The MISMO RON Standards are the industry standard for credential analysis, dynamic knowledge-based authentication of witnesses and signers, secure simultaneous sight and sound technology over which to conduct the notarial act, and automated tamper evident record keeping. Under S.B. 134-FN, the MISMO Standards would control unless and until the New Hampshire Secretary of State issues regulations.

⁴ A copy of the MISMO Remote Online Notarization Standards, (Ver.1, August 28, 2019) is included with this testimony.

The Consumer-Friendly Choice

Remote online notarization is the consumer-friendly alternative to the difficult and time-consuming process of finding a traditional notary for an in-person notarization. Significant benefits include:

- Ease of Access: NH residents can get documents notarized *anywhere, anytime*. It is especially useful to disadvantaged or immobilized residents who need to notarize official documents.
- Health and Safety: NH residents can get documents notarized safely, without having to leave the security of their home when health or safety concerns for them or others would recommend or require otherwise. NH notaries will have the ability to offer notarial services without the requirement of being in the signor's physical presence thereby reducing the number of in-person interactions.
- Save on Time, Lost Wages and Travel Costs: Remote online notarization eliminates the need to make appointments, take leave from work, or drive for miles to find a notary—all you need is a computer and an internet connection.
- Good for Rural Residents and Members of the Military: Remote online notarization can benefit NH's residents who live in remote areas and members of the military on deployment.
- Consumer Choice: Under S.B. 134-FN, remote online notarization is strictly optional and preserves consumer choice. Use of remote notarization would and should simply be an alternative for those who wish to use it.

Summary

The internet knows no borders. Remote notarizations are happening today in the thousands by residents of all states, including New Hampshire. When New Hampshire residents use online remote notaries from other states they are being deprived of important legal protections which other states' residents are receiving and which New Hampshire residents deserve. Out of state notaries are servicing this important business and societal need that could and should be served by New Hampshire notaries. S.B. 134-FN utilizes tested national model laws, model regulations and model technology standards that New Hampshire can and should adopt to give New Hampshire residents and businesses the advantage and protection of these best-in-class models. At no time is this more important than when our residents are executing some of the most important documents they may ever execute in their lives, such as affidavits, powers of attorney, deeds, and mortgages, to name a few. At no time has the need for such important legislation been so evident. **For all the reasons stated herein, First American Title respectfully requests that SB 134-FN be adopted without delay.**

* * *

Thank you for the opportunity to provide testimony in support of this bill.

APPENDIX A

Enacted Permanent Remote Online Notarization Legislation

- Alaska
- Arizona
- Colorado
- Florida
- Hawaii
- Idaho
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maryland
- Michigan
- Minnesota
- Missouri
- Montana
- Nebraska
- Nevada
- New Mexico
- North Dakota
- Ohio
- Oklahoma
- Pennsylvania
- Tennessee
- Texas
- Utah
- Vermont
- Virginia
- Washington
- West Virginia (effective June 17, 2021)
- Wisconsin
- Wyoming (RULONA effective July 1, 2021)

Enacted Temporary Remote Online Notarization Legislation

- New Jersey
- Oregon

States Now or Previously Considering Remote Online Notarization Legislation

- Alabama
- Arkansas
- California
- Connecticut
- Georgia
- Illinois

Cont'd - States Now or Previously Considering Remote Online Notarization Legislation

- Maine
- Massachusetts
- New Hampshire
- New Jersey
- New York
- Oregon
- South Carolina



MISMO Remote Online Notarization Standards

FINAL Candidate Recommendation (CR) Version

Version 1

August 28, 2019

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Standards for Remote Online Notarization

Summary

This document outlines technical and procedural guidance and establishes underlying principles that should be considered as organizations move towards implementation of Remote Online Notarization.

The intended audience includes but is not limited to: state regulators, commissioning or licensing officials; financial institutions; service providers; technology providers; title insurance underwriters; trade associations; mortgage and title/settlement service providers.

It is worth noting that these are the minimum set of technical and procedural standards and parties are free to implement additional requirements, practices or processes for the items addressed by these standards¹. While not specifically addressed in these standards, remote online notarization system implementations should accommodate ADA (Americans with Disabilities Act) computer user interface standards and/or best practices as required by state and/or federal law².

Capitalized terms not defined in the text are defined in Section 7, entitled "DEFINITIONS".

1. CREDENTIAL ANALYSIS AND AUTHENTICATION

The following authentication and analysis protocols are intended to support the notary public (Notary) in making the determination that satisfactory evidence of each Principal's identity has been established for a Remote Online Notarization. This section specifies standards for States to reference when identity proofing involving Knowledge-Based Authentication (KBA) and/or credential analysis is required to perform Remote Online Notarization³. If a State specifies additional or alternative means for identify verification aside from identify proofing or credential analysis (such as by oath or affirmation of a credible witness, by a Notary's personal knowledge of the Principal, or by other methods), such additional or alternative means are not addressed by these standards.

- a. Principal identity verification for Remote Online Notarization services must include consistent Multi-Factor Authentication procedures:
 - i. Each Principal's identity credential must be verified against trusted third-party data sources;

¹ Mortgage lenders, insurance underwriters or other parties may impose more restrictive or additional standards based on jurisdiction, transaction type, financial implications or other factors.

² ADA requirements are a separate and distinct body of work and are not addressed by these standards.

³ As of the time of this writing, KBA, and credential analysis procedures and technology are widely accepted as identity proofing processes and are therefore specifically addressed, however, MISMO supports efforts to explore and permit other types of analysis and authentication.

- ii. Each Principal's identity must be bound to each individual Principal following successful Knowledge-Based Authentication, or another form of authentication or trusted third-party identity verification such as online banking authentication; and
- iii. Procedures must provide for human visual comparison between the Principal's identity credential presented to the Notary and the Principal himself or herself.

b. Credential Analysis of Government Issued Identification

Remote Online Notarization service providers must use automated software processes to aid the Notary with their role in verifying each Principal's identity.

- i. The credential must pass an authenticity test, consistent with sound commercial practices that:
 - 1. Use appropriate technologies to confirm the integrity of visual, physical or cryptographic security features;
 - 2. Use appropriate technologies to confirm that the credential is not fraudulent or inappropriately modified;
 - 3. Use information held or published by the issuing source or authoritative source(s), as available, to confirm the validity of credential details; and
 - 4. Provide the output of the authenticity test to the Notary.⁴
- ii. The credential analysis procedure must enable the Notary to visually compare both of the following for consistency:
 - 1. The information and photo on the presented credential image; and
 - 2. The Principal as viewed by the Notary in real time through the audio/video system.
- iii. Credential Type Requirements
 - 1. Must be a government-issued document meeting the requirements of the State that contains a photograph of the individual, may be imaged, photographed and video recorded under applicable state and federal law⁵, and can be subjected to credential analysis.
- iv. Credential Image Capture
 - 1. The credential image capture procedure must confirm that:
 - a. The Principal is in possession of the credential at the time of the Notarial Act;
 - b. Credential images submitted for credential analysis have not been manipulated; and
 - c. Credential images match the credential in the Principal's possession.

⁴ The output may simply indicate a "pass" or "fail" type score, or may provide more information to indicate the outcome of the authenticity test to the Notary.

⁵ State or federal law may prohibit the capture of certain credential images.

2. The following general principles should be considered in the context of image resolution:

- a. Captured image resolution should be sufficient enough for the service provider to perform credential analysis per the requirements above.
- b. Image resolution should be sufficient to enable visual inspection by the Notary, including legible text and clarity of photographs, barcodes, and other credential features.
- c. All images necessary to perform visual inspection and credential analysis must be captured — e.g. U.S. Passport requires identity page; state driver’s licenses require front and back.

c. **Dynamic Knowledge-Based Authentication**

Dynamic Knowledge-Based Authentication (KBA) is an identity assessment that is based on a set of questions formulated from public or private data sources. A Dynamic Knowledge-Based Authentication procedure must meet the following requirements:

- i. Each Principal must answer questions and achieve a passing score.
 - 1. MISMO Recommends:
 - a. Five questions, drawn from public or private data sources.
 - b. A minimum of five possible answer choices per question.
 - c. At least four of the five questions answered correctly (a passing score of 80%).
 - d. All five questions answered within two minutes.
- ii. Each Principal to be provided a reasonable number of attempts per Signing Session.
 - 1. MISMO Recommends:
 - a. If a Principal fails their first quiz, they may attempt up to two additional quizzes within 48 hours from the first failure⁶.
 - b. During any quiz retake, a minimum of 40% (two) of the prior questions must be replaced⁷.
- iii. The Remote Online Notarization system provider must not include the KBA procedure as part of the video recording or as part of the system provided person-to-person video interaction between the Notary and the Signatory, and must not store the data or information presented in the KBA

⁶ The standard of three total attempts within 48 hours accommodates a security provision (a maximum number of attempts per Signing Session) and a business provision (a reasonable time frame for such attempts) for a wide range of notarial scenarios. These standards also accommodate known technical limitations imposed by KBA service providers.

⁷ The purpose of replacing questions in subsequent KBA quizzes is to reduce the statistical probability of an individual guessing correct answers.

questions and answers. However, the output of the KBA assessment procedure must be provided to the Notary.⁸

d. Biometrics and Other Requirements

Biometric sensing technologies have potential application to Remote Online Notarization in the areas of authentication, credential analysis, and identity verification. These technologies include but are not limited to: facial, voice, and fingerprint recognition.⁹

e. Workflow Continuity Requirement

If a Principal must exit the workflow, they must meet the criteria outlined in this section and restart the Credential Analysis and Authentication workflow from the beginning.¹⁰

2. AUDIO/VIDEO QUALITY

- a. A reliable Remote Online Notarization operating model should consist of continuous, synchronous audio and video feeds with good clarity such that all participants can be clearly seen and understood at all times.
- b. Inherent in online audio/video technology is the presence of temporary surges or spikes in quantitative measures like bitrate and/or frequency of communications and no simple technical limits are practical or prudent. Rather, a sounder approach to ensuring reliable real-time communications is to rely on the judgement of the Notary to determine the adequacy of the communications and provide direction to terminate the session if those conditions are not met¹¹.
- c. The audio/video recording must include the person-to-person interaction required as part of the Notarial Act as defined by the State¹², must be logically associated to the electronic Audit Trail¹³, and must be capable of being viewed and heard using broadly available audio/video players.
- d. The video recording of the transaction documents executed in the Remote Online Notarization process is not required as part of these standards.¹⁴

⁸ The output may simply indicate a “pass” or “fail” type score, and/or may provide more information to indicate the outcome of the KBA assessment to the Notary.

⁹ MISMO does not offer specific guidance in applying this type of authentication protocol due to the lack of available industry standards regarding biometric technology.

¹⁰ Principals may have to exit the workflow for various valid or invalid reasons and may do so for an unpredictable amount of time. Therefore, to simplify these standards and provide unambiguous guidance, MISMO requires a new Remote Online Notarization workflow be started each time a Principal exits the workflow.

¹¹ Uniform standards that take into account all potential audio/video disruptions and whether they affect the integrity of the Notarial Act are not practical, and therefore, these standards provide for human judgement to determine adequate audio/video quality.

¹² The specific activities required in the Notarial Act may vary by state and therefore are not defined here.

¹³ One must be able to match the application of eSignatures, and other trackable events recorded in the Audit Trail, to the people and actions in the audio/video recording.

¹⁴ Many documents that may be notarized in this manner may contain non-public personal information (NPI) as defined under applicable law. Therefore, MISMO does not require video capture of documents or credentials as part

3. STORAGE OF NOTARIAL RECORDS

- a. Where applicable, and in accordance with State laws, rules and regulations, the Notary must maintain accurate and reliable Notarial Records. These State laws, rules and regulations may or may not require that a copy of the audio/video recording be part of a notarial journal (which may be subject to public access under State law)¹⁵. Notaries must have the ability to electronically capture the required Notarial Records or to direct a third party to do so on their behalf. In either case, the Remote Online Notarization system must:
 - i. Facilitate the process of collecting the required Notarial Records;
 - ii. Provide a method by which a Notary can access and/or export the Notarial Records; and
 - iii. Provide automated backup of the Notarial Records and audio/video recording to ensure redundancy.
- b. The Remote Online Notarization technology solution must employ data protection safeguards consistent with generally accepted information security standards.
- c. Retention of the audio/video recording and Notarial Records by either the Notary public or their designated third party, as directed by the Notary, must adhere to the laws, directives, rules and regulations of the State.

4. POST-EXECUTION RECORDS

- a. Significant actions completed as part of a Remote Online Notarization Signing Session should be recorded in an Audit Trail. Each entry in this Audit Trail should clearly indicate the action performed (e.g. addition of an electronic signature), the date/time of its performance (e.g. Coordinated Universal Time, 2018-08-21 01:14:22 UTC), the name of the party performing the action (e.g. John Doe) and the IP address of the party performing the action. Further detailed guidance on the contents of the Audit Trail or its form is beyond the scope of these standards.
- b. Each document completed as part of a Remote Online Notarization should be electronically signed and rendered Tamper-Evident.

5. SECURITY CONSIDERATIONS

Remote Online Notarization technology providers must have comprehensive security programs in place to ensure privacy and data security. Technology providers should be vigilant to ensure consumer data, privacy and information security laws and regulations are satisfied through their information security programs. There are many industry accepted models, standards and frameworks for how to develop such programs.

of these standards. Including the documents and/or credentials in the video recording may be considered as a matter of policy on a state-by-state basis.

¹⁵ Treatment of the audio/video recording in the context of the Notarial Record or journal is a matter of public policy and not addressed in these standards.

6. COUNTY RECORDING CONSIDERATIONS FOR ELECTRONICALLY NOTARIZED DOCUMENTS

- a. The Remote Online Notarization system, process, and procedures must be capable of generating a printable version of all documents executed in the system, including but not limited to the documents executed in the Notarial Act, and associated certifications as required by the State, county and/or other governing or regulatory body.¹⁶
- b. Any document notarized remotely online must clearly state, in the remote online notarial certificate, that the person making the acknowledgment, oath or affirmation and signing the document appeared remotely online using audio/video communication technology.

7. DEFINITIONS

- a. **“Audit Trail”** means a chronological and detailed list of critical events and actions, from the beginning to the end of the Remote Online Notarization process, including the dates and times the events and actions took place and identification of the individuals and/or systems that performed the events or actions. Also known as: Audit Log or Event Log.
- b. **“Knowledge-Based Authentication” or “KBA”** means an identity verification method based on knowledge of private information associated with the claimed identity of a person.¹⁷
- c. **“Multi-Factor Authentication” or “MFA”** means a method of access control in which a user is granted access after successfully presenting identity evidence through a minimum of two of the following mechanisms: something they *have* (e.g. an ID credential), something they *know* (e.g. KBA), something they *are* (e.g. iris, retinal, thumbprint scans, facial recognition and other forms of biometric identification).
- d. **“Notarial Act”** means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of a specific State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.¹⁸
- e. **“Notarial Records”** means details of the Notarial Act common to the State’s notarial journal or register requirements.

¹⁶ While outside the scope of these standards, the concept of “papering out” and printing eNotarized documents for use in a paper county recording process may be permissible under the law of some states. These standards require electronically created documents be printable for this purpose.

¹⁷ DIGITAL IDENTITY GUIDELINES NIST SP 800-63-3 (page 46 for definition of KBV a.k.a. KBA)

¹⁸ Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (9) “Notarial Act” page 3

- f. **“Principal”** means an individual whose electronic signature is notarized in a remote online notarization; or making an oath or affirmation or an acknowledgment other than in the capacity of a witness for the remote online notarization.¹⁹
- g. **“Record”** means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.²⁰
- h. **“Remote Online Notarization”** means a Notarial Act performed by means of an electronic device or process that allows a notary public and a Principal, who is not in the same physical location as the notary public, to complete a Notarial Act and communicate with each other simultaneously by sight and sound.²¹
- i. **“Signing Session”** means one or more Notarial Acts performed on a single set of documents as a single event by a single Notary with one or more Principals and any applicable witnesses.
- j. **“State”** means the state or jurisdiction under which the notary public is commissioned and for which the notary public is performing the Remote Online Notarization.²²
- k. **“Tamper-Evident”** A technology based process that indicates whether a change has been made to the record since the technology was applied.

¹⁹ Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (11) “Notarial Act” page 3

²⁰ RULONA Section 2. Definition for Record (Page 5)

²¹ Adapted from the Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (13) “Remote online notarization” page 4 and “(2) “Communication technology” page 1.

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New Hampshire Credit Unions



Creating Cooperative Power

**HOUSE JUDICIARY COMMITTEE
PUBLIC HEARING
APRIL 27, 2021**

**A STATEMENT BY DAVID COLLINS ON BEHALF OF
NEW HAMPSHIRE CREDIT UNIONS
IN SUPPORT
SB 134
AN ACT ADOPTING OMNIBUS LEGISLATION RELATIVE TO CIVIL ACTIONS AND
CRIMINAL LIABILITY**

The Cooperative Credit Union Association, Inc. (“Association”) is the state credit union trade association, serving 14 New Hampshire federally and state-chartered credit unions that are cooperatively owned by 761,000 consumers as members. On behalf of the New Hampshire credit union movement, the Association supports SB 134, *An Act Adopting Omnibus Legislation Relative to Civil Actions and Criminal Liability*. Testimony in support is limited to Part II of the bill relative to the revised uniform law on notarial acts and the uniform real property electronic recording act.

Overview of Notarial Acts

Notarial acts are a necessary component of the residential loan closing process. Credit unions are continually striving to meet member demand and convenience at every opportunity. New Hampshire credit unions support this legislation which would serve to increase their online capacity to efficiently and safely serve members’ needs in real estate transactions. This is a benefit that is currently enjoyed in most other states across the country.

The Association notes that the Uniform Electronic Transaction Act (“UETA”), and/or E-SIGN currently have the authorization to utilize electronic notarization. Yet even though both UETA and E-SIGN authorize electronic notarization, they do not provide a framework for performing notarial acts electronically. With the rapid advances that have come with online communication and electronic signing technology, which have only been magnified by the current Coronavirus pandemic, there is a need and a desire to have notarial acts be performed electronically. The Association submits that the authority to electronically notarize documents will lead to higher efficiency and less paper in the workplace, allowing credit unions to more efficiently service their members’ notarial needs.

Electronic Notarization vs. Remote Online Notarization:

Electronic notarization requires an individual to physically appear before a notary public for positive identification. The signatures of both the individual and the notary public can be done electronically. The notary public can electronically seal the document using this method of e-notarization. During this process, the document is electronic, the signatures and seal are electronic, but the individual still must physically appear before the notary public for identification purposes.

Remote online notarization provides a platform in which the individual requiring a notarial act can log into and share a document with a notary public online. The individual wishing to have their document notarized would provide positive identification by holding up their government-issued identification to a webcam. The platform uses positive identification technology to then confirm the individual's identity before allowing the notary to perform any notarial acts. The individual would then electronically sign their portions of the document and the notary would electronically sign and seal the document. The entire transaction would be completed online, further increasing the ease and efficiency of having documents notarized.

Overview of Senate Bill 134:

The Association supports consumer choice for remote online notarization. SB 134 is a legislative proposal that works to promote a modern, paperless mortgage closing process. It ensures that safety and soundness is preserved with a rigorous proposed statutory framework so that New Hampshire consumers, as prospective homeowners, and others receive the benefits of a system that protects document integrity and is secure, efficient and cost effective.

New Hampshire credit unions utilized without incident with the temporary authority granted by Executive Order granted at the beginning of the pandemic¹ which set guidelines for remote authorization. In addition, last session the Legislature passed Chapter 17, which authorized remote notarization of paper estate planning documents during the COVID-19 state of emergency. Finally, HB 287 relative to remote notarization remains pending before the House Judiciary Committee. Accordingly, the Association believes that both the volume and cumulative impact of all of these efforts underscores the need for favorable consideration today of SB 134 as a reasonable solution to permanently carry remote online notarization efforts forward.

Credit Unions Seek to Improve Member Service by Senate Bill 134:

Service to members is the hallmark of the mission of credit unions as not-for-profit financial cooperatives. Furthermore, striving to improve service levels is a core component of the fabric of every credit union's strategic plans. The need for the authorities in SB 134 is the result of the goal of credit unions to enhance and to expedite current closing features which were brought to light and accelerated by the Know Before You Owe mortgage rule, promulgated by the federal Bureau of Financial Consumer Protection, effective October 3, 2015. One of the important requirements of the rule mandates that consumers receive a new, easier-to-use closing document, the Closing Disclosure, three business days before closing. This allocates more time for borrowers to understand mortgage terms and costs, and provides protection from surprises at the closing table. It also provides time for borrowers to consult with lawyers or housing counselors and ask

¹ Executive Order #11 issued March 23, 2020.

Request for Technical Amendment to SB134 Part 1- Prohibiting certain uses of laser pointing devices

Background: HB1599 in 2016, which became law in 2017, updated RSA 631:3-a and RSA 422:28 to prohibit shining a laser pointer at an aircraft or vessel, a window, or another person, including law enforcement personnel. In simple terms, RSA 631:3-a deals with people and things on the ground. RSA 422:28, paragraph XIV, which is part of the state Aeronautics Act, deals with aircraft in flight, landing, taking off, and taxiing. HB1599 in 2016 rightly amended both RSAs to ensure the prohibition would cover aircraft on the ground and in flight consistently in state law.

Due to an oversight, SB134, as passed by the Senate, inadvertently did not update RSA 422:28, paragraph XIV, as it did RSA 631:3-a. An amendment is needed to ensure the same prohibitions and exceptions made in the bill for RSA 631:3-a apply consistently to RSA 422:28, paragraph XIV, as supporters of SB 134 Part 1 intend.

Proposed Amendment Language for SB 134 Part 1: We respectfully suggest the following language for the Committee to present to OLS for their perfecting modifications as needed to be placed into accurate and appropriate amendment form:

“Amend Part I of the bill by inserting after Sec. 1 the following:

Amend RSA 422:28, XIV by repealing and replacing it with the following:

‘Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at an aircraft that is in flight or in the process of takeoff, landing, or taxiing, except as allowed in Part 1, Sec. 1, IV of the bill.’”

Other Resources

- Link to SB 134 as [passed by the Senate](#).
- Link to HB1599 [that passed in 2016](#).
- Link to [RSA 631](#).
- Link to [RSA 422](#).

BAE Systems POC: David Cuzzi, Prospect Hill Strategies,
david.cuzzi@prospecthillstrategies.com; 603-716-0569

April 21, 2021

Ray Brousseau
Vice President & Deputy General Manager
BAE Systems Electronic Systems
65 Spit Brook Road
Nashua, NH 03061

BAE SYSTEMS

April 22, 2021

The Honorable Edward Gordon, Chair
House Judiciary Committee
Legislative Office Building, Rom 208
33 North State Street
Concord, NH 03301

Dear Chairman Gordon:

BAE Systems supports SB 134 Part I, relative to prohibiting certain uses of laser pointing devices. We are requesting the Committee adopt an amendment to make a technical correction to the bill. The company has no position on any of the other parts of this omnibus legislation. On behalf of the thousands of men and women who work for BAE Systems in Southern New Hampshire, thank you for your consideration of our support of Part 1 of SB 134 and an amendment making a technical correction thereto.

As you know, current New Hampshire law prohibits the pointing of lasers, visible and invisible, with limited exceptions. The very broad prohibition unintentionally makes illegal the everyday use of lasers, from vehicle sensors to certain consumer electronics, and, most important to us at BAE Systems, some national security-related research and development projects involving lasers. The current law regarding laser pointers was unanimously passed and signed into law in 2016 in response to a growing number of incidents of people shining laser pointers at aircraft and law enforcement personnel. Though well intentioned, the bill did not provide adequate exemptions for the lawful pointing of lasers, nor did it anticipate advances in various technologies.

SB 134, Part I is needed to ensure the malicious use of laser pointers remains prohibited as intended in the 2016 law. Equally important, it provides appropriate exemptions for the lawful pointing of lasers. These exemptions in the language would apply to companies like BAE Systems engaged in government funded research and development, as well as other common, lawful, commercial, civilian and government uses of laser pointing devices, including those by law enforcement officials. A one-page overview of Part 1 of SB 134 is attached.

BAE Systems respectfully requests the Judiciary Committee recommend SB 134 Part I, relative to prohibiting certain uses of laser pointing devices, Ought to Pass with an amendment to the full House. Should you have any questions or require additional information, please feel free to contact me, or our Concord representative, David Cuzzi of Prospect Hill Strategies (603-716-0569).

Sincerely,



Ray Brousseau
Vice President & Deputy General Manager
BAE Systems Electronics Systems

INFORMATION PAPER

SB 134 Part I – Prohibiting certain uses of laser pointing devices

ISSUE: Current New Hampshire law prohibits the pointing of lasers, visible and invisible, with limited exceptions. The very broad prohibition in state law of a laser pointer unintentionally makes illegal the everyday use of lasers, from vehicle sensors to national security-related research and development, to golf and hunting rangefinders.

BACKGROUND: In 2016, the legislature passed, and then-Governor Hassan into law HB 1599, relative to shining a laser at an aircraft or vessel, or another person. This was in response to a growing number of incidents of people shining green laser pointers into the cockpits of aircraft, and also shining laser pointers on law enforcement personnel to give the appearance of a weapon targeting them. Unfortunately, the bill, which became law after passing both chambers by voice vote, did not account for technological advances. As a result, the law unintentionally makes the common, everyday use of visible and invisible lasers illegal. Vehicle safety sensors, golf and hunting rangefinders, and research, development, and testing of laser-based military technologies are examples of visible and invisible lasers that are often pointed at vehicles and people. And as such, are technically illegal under current state law. Moreover, HB 1599, as amended and signed into law, did not account for broader misuse of laser pointers, such as using them on drones or pointing them at OHRVs and snowmobiles.

SOLUTION: Legislation is needed to amend RSA 631: 3-a to make sure the malicious use of visible lasers remains prohibited as intended by HB1599 in 2016, but extends the prohibition to include pointing a laser beam at OHRVs and snowmobiles, and mounting a laser pointer on drones for malicious purposes. Equally important, RSA 631: 3-a should be amended to broaden the exceptions to the prohibitions on laser pointers so that state law no longer unwittingly make illegal what are common, everyday use of lasers in civilian, commercial, and government settings, including law enforcement uses.

Also, an amendment to SB 134 Part 1 is needed to provide a technical correction to the Senate-passed bill to make sure the same changes made to RSA 631:3-a are also made to RSA 422:28, XIV. In doing so, the revised prohibitions and exemptions proposed by the bill will also apply to aircraft in flight, taking off, landing and taxiing. This would ensure consistency with the 2016 law, which dealt with both RSA 631 and RSA 422.

OTHER CONSIDERATIONS: This proposed solution has been put forth with input from the Departments of Safety, Transportation, and Fish and Game and other stakeholders to identify any possible concerns with these suggested improvements to RSA 631: 3-a. solution.

RECOMMENDATION: Recommend SB 134 Part I, relative to prohibiting certain uses of laser pointing devices, Ought to Pass with an amendment (OTPA) to the full House to change NH law regarding lasers pointers to align with the original intent on HB1599 in 2016 and ensure it accounts for technological advances going forward.

Request for Technical Amendment to SB134 Part 1- Prohibiting certain uses of laser pointing devices

Background: HB1599 in 2016, which became law in 2017, updated RSA 631:3-a and RSA 422:28 to prohibit shining a laser pointer at an aircraft or vessel, a window, or another person, including law enforcement personnel. In simple terms, RSA 631:3-a deals with people and things on the ground. RSA 422:28, paragraph XIV, which is part of the state Aeronautics Act, deals with aircraft in flight, landing, taking off, and taxiing. HB1599 in 2016 rightly amended both RSAs to ensure the prohibition would cover aircraft on the ground and in flight consistently in state law.

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Other Resources

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- Link to HB1599 [that passed in 2016](#).
- Link to [RSA 631](#).
- Link to [RSA 422](#).

BAE Systems POC: David Cuzzi, Prospect Hill Strategies,
david.cuzzi@prospecthillstrategies.com; 603-716-0569

April 21, 2021

**Testimony of Erin Poitras, Laser Safety Officer, BAE Systems
Regarding SB 134 Part I
NH House Judiciary Committee, 04/27/2021, 9:00 am (via Zoom)**

- Good afternoon, Chairman Gordon and members of the committee.
- For the record, my name is Erin Poitras, and I am the Laser Safety Officer for BAE Systems' Electronic Systems sector in Nashua, New Hampshire testifying on behalf of the company.
- BAE Systems supports Part One of Senate Bill 134, regarding the prohibition of certain uses of laser pointing devices.
- We are seeking an amendment to the bill to make a technical correction, which Mr. Cuzzi will discuss.
- We do not have any position on any of the other parts of this omnibus legislation.
- By way of background, in 2016, a bill was signed into law prohibiting the shining of a laser pointer at an airplane, law enforcement officer, law enforcement vehicle, or a person or structure.
- The bill was in response to such laser pointer incidents in the state and nationwide.
- The 2016 law included very limited exceptions, which had the unintentional effect of making today's everyday uses of lasers potentially illegal, from vehicle sensors to the latest consumer electronics.
- Our company became aware of an issue with the New Hampshire state law about a year ago.

- At the time, it was too late to seek legislative remedy.
- The reason we approached Senator Carson with this issue, is that the law also prohibits some of the research, development, and testing work that aerospace and defense technology companies like BAE Systems conducts with lasers.
- To be clear, BAE Systems takes every precaution to legally work around the unintended prohibitions set forth in the 2016 law until the legislature can provide a remedy.
- In addition, we are not aware of any law enforcement entity interpreting and enforcing the statute beyond the intent of the law.
- However, we do believe appropriate exemptions should be placed in statute to clarify lawful uses, while ensuring the malicious use of lasers and laser pointers is prohibited.
- I'd like to thank the Departments of Safety, Transportation, and Fish and Game for their willingness to provide feedback to us as we worked to provide a solution for legislators to consider.
- I respectfully request the committee recommends "Ought to Pass" with the amendment we're seeking on Part One of Senate Bill 134
- Thank you for your consideration.
- I'm happy to take any questions.

Respectfully Submitted by David Cuzzi of Prospect Hill Strategies for BAE Systems
David.Cuzzi@prospecthillstrategies.com, 603-716-0569

April 27, 2021



DEPARTMENT OF CORRECTIONS
STATE OF NEW HAMPSHIRE

P. O. BOX 1806

CONCORD, NH 03302-1806

Office of the Commissioner

FROM: Jay Mackey, Administrator of Classifications and Client Records for NHDOC **DATE:** April 23, 2021

SUBJECT: **SB 134 Part III Relative to Incarceration Under a Suspended Sentence** **OFFICE:** Commissioner's Office

Phone: 271-5603
Fax: 271-5643

TO: The Honorable Members of House Judiciary Committee

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The New Hampshire Department of Corrections is in support of SB 134 Part III Relative to Incarceration Under a Suspended Sentence as amended for the following reasons. This bill as amended will allow NHDOC residents that are serving a minimum sentence of 6 years or more, to petition the court to suspend their sentence 12 months prior to reaching their 2/3rds date through RSA 651:20 (a). Under the current statute, residents cannot petition the court until they reach their 2/3rds date. This often poses challenges for the NHDOC to assist in the reentry programming for the residents. If the court grants the petition to suspend, the resident becomes parole eligible immediately and it becomes a challenge to properly prepare the resident to reenter the community. This bill would give the resident and appropriate staff ample time to prepare for the resident's reentry into the community. It would allow the resident to progress through the Classification system to Minimum Custody and potentially Community Custody/Work Release to establish connections and supports in the community prior to their release. This legislation will help provide the NHDOC the proper tools in our mission to ensure each resident is prepared to return to society at the appropriate time, and give the residents the skills they will need to become successful.

Thank you for your attention to this matter. We look forward to discussing this further and answering additional questions. I can be reached at (603)271-7925 or jay.mackey@doc.nh.gov

Thank you for your service to the State of NH.



SHANELARIS & SCHIRCH, PLLC
Attorneys at Law

Catherine E. Shanelaris
Jennifer E. Warburton

Jane M. Schirch*
*Admitted in NH and MA

April 26, 2021

New Hampshire House of Representatives
Judiciary Committee
Hon. Ned Gordon, Chair
107 N. State Street
Concord, New Hampshire 03301

Re: Support of SB 134 – Section VI, relative to the New Hampshire Collaborative Law Act

Dear Chairman Gordon and Members of the Committee:

This letter is written in support of Senate Bill 134 Section VI. I am an attorney practicing in the area of family law for more than 25 years. I am a member of the New Hampshire Bar Association, family law section as well as past co-chair of the New Hampshire Collaborative Law Alliance (NHCLA). I am currently a member of the NHCLA legislative committee and have been involved in the effort to enact this legislation.

The practice of Collaborative Law is a voluntary process that allows individuals the choice to resolve their family law matter outside of the traditional court process. In the last 10 years, we have seen the practice of Collaborative Law grow as more individuals choose a more holistic approach to resolve their family law matters than is offered through litigation. Collaborative Law in New Hampshire utilizes a team approach, with neutral coaches/facilitators and financial professionals as well as attorneys to assist the family.

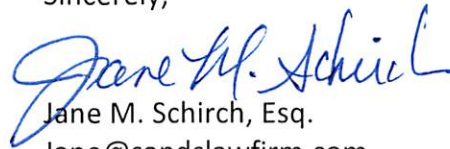
Currently, if a couple chooses to use the Collaborative process, all parties and professionals sign a Participation Agreement that sets the expectations and parameters of the process. In conjunction with their attorneys, the couple hires the rest of the team (financial neutral and coach/facilitator), then meet with the individual team members to work on those areas of strength for the team member (for instance they may do a parenting plan with the coach, and work on collecting values of assets and a budget with the financial neutral). Then there are several team meetings with the couple and all team members present in order to try to reach agreement on all areas required to be addressed in their divorce. Finally, a final agreement is presented to the Court for approval.

The Collaborative Law Act as written in SB 134 will standardize the contents of the Participation Agreement in order to ensure that all citizens utilizing the process are granted the same rights, and everyone follows the same rules. While the vast majority of Collaborative Law cases resolve successfully, there are those cases that do not, at which point the parties must leave the Collaborative Law process to resolve their issues within the court system. It is important to note that the Court must sanction the final agreement of any divorce. Helpfully, most Collaborative cases are agreed upon by the parties before the final agreement is filed with the Court, saving valuable docket space for our overworked family court system. Currently, with no statutory parameters, there is nothing to protect an individual from a rogue practitioner who might say they are practicing in the Collaborative realm, then do not follow the recommended process which could unfortunately result in a poor outcome for the parties.

The passage of this legislation would assure those individuals that choose the Collaborative process that they will be protected should the process require litigation. This statute would require that agreements entered into during the Collaborative Process are protected and enforced by the Court, and that the confidentiality of the process is respected with the same enforcement that we currently offer parties who choose mediation. The Collaborative Law community has been trying to maintain and improve a standardized framework for the Collaborative Law process by outreach efforts to all practitioners in New Hampshire. This legislation will provide our practitioners that much needed framework within a statutory construction. My colleagues and I who have spent many hours crafting this carefully considered language before you, and urge you to support it in its current form.

Thank you for your consideration of this long awaited and necessary legislation, and please do not hesitate to contact me should you have any questions.

Sincerely,



Jane M. Schirch, Esq.

Jane@sandslawfirm.com

/JMS

PARNELL, MICHELS & McKAY, PLLC
Attorneys at Law

E-mail: cmckay@pmmlawyers.com

*Catherine P. McKay
Nancy H. Michels
Rory J. Parnell*
Carole A. Mansur**
David M. Stamatis*

*John R. Michels (1944-2013)
William B. Parnell (1949-2020)*

** Admitted in NH & MA
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North Woodstock, NH
(603) 745-8600*

April 22, 2021

New Hampshire House of Representatives
Judiciary Committee
Concord, New Hampshire 03301

Re: New Hampshire Collaborative Law Act – Part VI of Omnibus Bill SB 134-FN

Dear Chairman Gordon and Members of the Committee:

This letter is written in support of the New Hampshire Collaborative Law Act which is being considered by the House Judiciary Committee on April 27, 2021 as part of Omnibus Bill SB 134-FN (the New Hampshire Collaborative Law Act being Part VI of the bill). My name is Catherine McKay, and I am a New Hampshire attorney practicing in the area of family law. I have been a member of the New Hampshire bar for 28 years and have practiced exclusively in the family law field for the last 25+ years. I have a private law firm in Londonderry, New Hampshire and also reside in Londonderry, New Hampshire. I am a member of the New Hampshire Collaborative Law Alliance (NH/CLA) and have been representing clients in Collaborative family law cases since 2000.

Collaborative law is an alternative dispute resolution method that families who are divorcing or have parenting or other family-law related issues can choose instead of traditional litigation or mediation. It is entirely voluntary on the part of the participants. You may have heard of this alternative dispute process, as it is gaining popularity in New Hampshire, the U.S. and internationally. Many states have already passed legislation or court rules, governing the process.

The Collaborative law process is one in which the couple commits to resolving their case outside of court, with each person being represented by an attorney (who also commits to the out-of-court process). The parties and their attorneys work in a team approach with the help of “neutral” professionals- a mental health professional and a financial planner/professional to help the parties address all aspects of their divorce or parenting case (legal, financial, and emotional). As a team, they respect the concerns and goals of each party, while working together to find resolutions that benefit the family as a whole. Ideas are able to be freely exchanged, and financial and other information is provided to all.

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Offices in Londonderry NH and No. Woodstock NH

April 22, 2021

Page 2

The goal of this process is for the folks in a divorce or other family law case to resolve their issues in a positive way, privately, and at their own pace, having learned tools that will allow them to continue to work together positively going forward. It is entirely done outside of court, so the process is not only private, but it has the added benefit of resolving cases without using the court process, which results in fewer cases on the court's already crowded docket. The final agreements are still subject to review and approval by the court.

The passage of the New Hampshire Collaborative Law Act assures that, as we grow as a group and more members of your constituency use the process, all are assured that certain protocols and rules are followed. Much like the legislation concerning mediation, we want to codify the process to protect its integrity by setting out procedures to be followed and parameters for all professionals and those who want to use the process. Here is a link to more information about collaborative divorce in New Hampshire: <https://collaborativelawnh.org/why-collaborative-divorce/>.

I appreciate your willingness to consider this legislation and I would be happy to answer any questions you may have. I am unfortunately not available to testify at the committee hearing but am happy to schedule a phone call with any committee members who have questions or wish to learn more information about the Collaborative process.

Thank you for your consideration.

Very truly yours,

Catherine P. McKay

CATHERINE P. MCKAY



Board of Directors

April 23, 2021

Ann Conway, MSW, LICSW
Co-Chair

NH House of Representatives

Cynthia Weston, Esq
Co-Chair

Judiciary Committee

Caren Rifkin, LICW, BCB
Secretary

Concord, NH 03301

Kristina George, CPA,
CFA®, CFP®
Treasurer

Dear Chairman Gordon and Members of the Committee:

We write today as Co-Chairs of the New Hampshire Collaborative Alliance board of Directors in support of Omnibus bill SB 134-FN, Part VI, which is our proposed New Hampshire Collaborative Law Act. Each of us is also a NH constituent, Ann being from Hollis and Cynthia from Londonderry. We urge you, on behalf of our Board of Directors of the NH Collaborative Law Alliance to support the passage of SB 134-FN, Part VI, the New Hampshire Collaborative Law Act.

Collaborative law is an alternative dispute resolution that divorcing families or those who have family-law related issues can choose instead of traditional litigation or the option of mediation. It is entirely voluntary on the part of the participants. You may have heard of this alternative dispute process as it is gaining popularity in New Hampshire, the U.S. and internationally. The process is one in which the couple commits to resolving their case outside of court, with each person being represented by an attorney (who also commits to the out-of-court process), and with the additional help of "neutral" professionals- a mental health professional and a financial planner/professional.

The benefits to collaborative law as an alternative for the citizens of New Hampshire to use are many, which include:

*Spouses are each respected and supported by their own attorneys, the neutral mental health professional and financial expert, forming a team to work toward resolution and the drafting of agreements.

Joanne M LaGree,
Administrator

*Information is shared transparently and ideas, concerns and goals are freely shared and respected.

*The resolution for the couple is at a pace designed by the couple, not dictated by a court calendar.

*Resolution is handled privately by the couple, their lawyers, and the neutral professionals in a series of meetings.

* The collaborative resolution(s) incorporate the concerns and goals of each party while helping the couple to learn tools of effective communication assisting them as they transition to a post-divorce relationship.

* The collaborative divorce process is normally less expensive than litigation.

*Final agreements/resolutions, upon review and approval of the court, become court orders.

The passage of a NH Collaborative Law Act assures that, as we grow as a group and more members of your constituency use the process, all are assured that certain protocols and rules are followed. Much like the legislation concerning mediation, we want to codify the process to protect its integrity by setting out procedures to be followed and parameters for all professionals and those who want to use the process. There is no cost to the State of New Hampshire and having another alternate dispute resolution allows citizens another choice, while potentially un-burdening our court system by reducing the number of litigated cases. Here is a link to more information about collaborative divorce in New Hampshire: <https://collaborativelawnh.org/why-collaborative-divorce/>. Many of our members are also members of the International Academy of Collaborative Professionals, and that website is: <https://collaborativepractice.com>.

Thank you for your consideration. Please reach out to either of us should you have further questions. Ann may be reached at aknconway@gmail.com and Cynthia at westlau2@aol.com.



Cynthia Weston

Best,



Ann Conway

3 Whipple Street
Nashua, NH 03060
(603) 860-3066



April 22, 2021
House Judiciary Committee
Legislative Office Building, Room 208
33 N. State Street
Concord, NH 03301

RE: Support for employer access to motor vehicle records (section X of SB 134, adopting omnibus legislation relative to civil actions and criminal liability)

Dear Chairman Gordon and Members of the House Judiciary Committee:

I am writing to offer support for Section X of SB 134, relative to employer access to motor vehicle records (initially known as LSR 2021-1013).

UPS is a global company with multiple locations throughout New Hampshire. We employ approximately 2,000 people, including 1,015 drivers in the Granite State. With so many drivers on New Hampshire roadways, especially during times like these when there are many more home deliveries being made, safety is a top concern for UPS. That is why we support amending the motor vehicle law to allow employers, such as UPS (and their authorized agents) to access the driver records and driver license status of current employees and job applicants in bulk electronic form as needed.

New Hampshire law currently allows for the disclosure of this information, however it is burdensome and time consuming to access because the records must be requested individually and there is no convenient and up-to-date way to access driver license status on an ongoing basis. Under the bill before you, employers and their agents would be able to obtain the same information in a much more efficient way by authorizing the Division of Motor Vehicles to provide the records in electronic bulk form when the employer needs to access them. When data on driver records is made readily available, it allows employers to efficiently identify high-risk drivers, take appropriate action and enforce company policies as necessary, and make well-informed hiring decisions – all of which lead to increased safety.

It is important to remember that this bill maintains current employee and prospective employee privacy, and due process protections already in place under state and federal law. It merely allows for the disclosure of the same information in a streamlined manner.

New Hampshire is the only state we are aware of that does not already allow the release of such electronic records from the DMV. By passing this legislation, you would be facilitating employers and their agents being able to conduct motor vehicle record checks in New Hampshire that are consistent with those being done in other states, thus preventing unsafe drivers from jeopardizing public safety on our highways and on an interstate basis.

For these reasons, we urge you to vote OUGHT TO PASS on Section X of SB 134.

Mark Giuffre
UPS
Vice President, State Government Affairs



Board of Directors

April 23, 2021

Ann Conway, MSW, LICSW
Co-Chair

NH House of Representatives

Cynthia Weston, Esq
Co-Chair

Judiciary Committee

Caren Rifkin, LICW, BCB
Secretary

Concord, NH 03301

Kristina George, CPA,
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The benefits to collaborative law as an alternative for the citizens of New Hampshire to use are many, which include:

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* The collaborative divorce process is normally less expensive than litigation.

*Final agreements/resolutions, upon review and approval of the court, become court orders.

The passage of a NH Collaborative Law Act assures that, as we grow as a group and more members of your constituency use the process, all are assured that certain protocols and rules are followed. Much like the legislation concerning mediation, we want to codify the process to protect its integrity by setting out procedures to be followed and parameters for all professionals and those who want to use the process. There is no cost to the State of New Hampshire and having another alternate dispute resolution allows citizens another choice, while potentially un-burdening our court system by reducing the number of litigated cases. Here is a link to more information about collaborative divorce in New Hampshire: <https://collaborativelawnh.org/why-collaborative-divorce/>. Many of our members are also members of the International Academy of Collaborative Professionals, and that website is: <https://collaborativepractice.com>.

Thank you for your consideration. Please reach out to either of us should you have further questions. Ann may be reached at aknconway@gmail.com and Cynthia at westlau2@aol.com.



Cynthia Weston

Best,



Ann Conway



Board of Directors

April 23, 2021

Ann Conway, MSW, LICSW
Co-Chair

NH House of Representatives

Cynthia Weston, Esq
Co-Chair

Judiciary Committee

Caren Rifkin, LICW, BCB
Secretary

Concord, NH 03301

Kristina George, CPA,
CFA®, CFP®
Treasurer

Dear Chairman Gordon and Members of the Committee:

We write today as Co-Chairs of the New Hampshire Collaborative Alliance board of Directors in support of Omnibus bill SB 134-FN, Part VI, which is our proposed New Hampshire Collaborative Law Act. Each of us is also a NH constituent, Ann being from Hollis and Cynthia from Londonderry. We urge you, on behalf of our Board of Directors of the NH Collaborative Law Alliance to support the passage of SB 134-FN, Part VI, the New Hampshire Collaborative Law Act.

Collaborative law is an alternative dispute resolution that divorcing families or those who have family-law related issues can choose instead of traditional litigation or the option of mediation. It is entirely voluntary on the part of the participants. You may have heard of this alternative dispute process as it is gaining popularity in New Hampshire, the U.S. and internationally. The process is one in which the couple commits to resolving their case outside of court, with each person being represented by an attorney (who also commits to the out-of-court process), and with the additional help of "neutral" professionals- a mental health professional and a financial planner/professional.

The benefits to collaborative law as an alternative for the citizens of New Hampshire to use are many, which include:

*Spouses are each respected and supported by their own attorneys, the neutral mental health professional and financial expert, forming a team to work toward resolution and the drafting of agreements.

Joanne M LaGree,
Administrator

*Information is shared transparently and ideas, concerns and goals are freely shared and respected.

*The resolution for the couple is at a pace designed by the couple, not dictated by a court calendar.

*Resolution is handled privately by the couple, their lawyers, and the neutral professionals in a series of meetings.

* The collaborative resolution(s) incorporate the concerns and goals of each party while helping the couple to learn tools of effective communication assisting them as they transition to a post-divorce relationship.

* The collaborative divorce process is normally less expensive than litigation.

*Final agreements/resolutions, upon review and approval of the court, become court orders.

The passage of a NH Collaborative Law Act assures that, as we grow as a group and more members of your constituency use the process, all are assured that certain protocols and rules are followed. Much like the legislation concerning mediation, we want to codify the process to protect its integrity by setting out procedures to be followed and parameters for all professionals and those who want to use the process. There is no cost to the State of New Hampshire and having another alternate dispute resolution allows citizens another choice, while potentially un-burdening our court system by reducing the number of litigated cases. Here is a link to more information about collaborative divorce in New Hampshire: <https://collaborativelawnh.org/why-collaborative-divorce/>. Many of our members are also members of the International Academy of Collaborative Professionals, and that website is: <https://collaborativepractice.com>.

Thank you for your consideration. Please reach out to either of us should you have further questions. Ann may be reached at aknconway@gmail.com and Cynthia at westlau2@aol.com.



Cynthia Weston

Best,



Ann Conway



Testimony of First American Title Insurance Company

on

**S.B. 134-FN Relating to the revised uniform law on notarial acts and the uniform
real property electronic recording act**

before the

House Judiciary Committee, New Hampshire Legislature

Tuesday, April 27, 2021

9:00 a.m.

Chairman Gordon, Vice Chairman McLean and Distinguished Members of the Committee:

First American Title Insurance Company¹ is grateful for the opportunity to **support** S.B. 134-FN for the adoption of remote online notarization in New Hampshire, and to discuss how the legislation will benefit New Hampshire's residents and business community. First American Title has a local office in Concord, New Hampshire which provides underwriting support to more than one hundred and ten (110) small businesses throughout New Hampshire, consisting of title companies and real estate attorneys.

One has only to recall the events of the past year to grasp the timeliness of this discussion and the importance of remote online notarization. Everyday New Hampshire residents are grappling with the need to execute critically important documents while balancing concerns over social distancing. Remote online notarization serves many needs beyond those occasioned by the current pandemic, but the challenges we've all faced over the past year, and will continue to face in the coming months, illustrate this best.

Along with others in the mortgage and land title industries, the title industry has taken a keen interest in remote online notary laws because notaries are the lynchpin of our system of real estate transfer and recording. As a leading national provider of real estate settlement services, and a major consumer of notary services, we are interested in making sure that any remote online notary law provides sufficient safeguards to protect the identities and real property interests of New Hampshire's citizens. In this testimony, First American Title, as a member of the title industry, seeks to discuss our interest in Section II of S.B. 134-FN as amended, our role amongst industry stakeholders in the notarial process, the benefits and potential pitfalls that accompany online notarization, and the principles that we believe should inform the legislative process to have a safe and effective online notarization system. In addition, we discuss the shortfall of NH RSA 456-B as written today, in relation to the authorization and regulation of remote online notarization.

Notaries perform a vital function across a wide spectrum of our country's commercial, private, and governmental spheres. While real estate transactions constitute only a fraction of the total number of notarizations that take place today, notaries play an outsized role in the real estate industry, which by some estimates constitutes the single largest sector of the U.S. economy.

¹ First American Title Insurance Company is a subsidiary of First American Financial Corporation (NYSE:FAF), one of the nation's largest title insurance companies and providers of real estate settlement services.

Notaries are critical to our system of real estate transfer and land records. For a document to be recorded with a county registry, state law requires documents evidencing transfer of an interest in title to be notarized. Without a proper and valid notarization, a document may not be able to be recorded. What is more, if a document is recorded but contains an improper or invalid notarization, a court may still find that the document was not properly entitled to be recorded or worse, set aside the validity of the document itself. Such an outcome can result in serious legal and economic consequences. The risk of improperly or invalidly notarized documents is thus a core threat that runs through our entire real estate economy.

The Challenges of Remote Online Notarization

Until a few years ago, the concept of notarizing a document when the signatory is in a different physical location than the notary would have been a contradiction in terms. The very purpose of the notarial process is to determine the identity of the person in front of the notary, to assess the capacity of the signatory, and to certify, in the notary's best professional judgment, that a signatory's execution of a document or attestation of facts was duly, freely, and voluntarily given. These functions all require personal interaction and a high degree of awareness by a notary of the circumstances surrounding a notarial event.

The advent of high-speed internet and increases in the security, effectiveness and availability of communication technologies (both hardware and software) have resulted in an overwhelming number of states enabling, or considering enabling, the notarial event to take place over the internet.² These "remote online" notarization laws serve to revolutionize the notarial process in the same way that new technologies have affected other fundamental aspects of our daily lives. However, unique safety and legal challenges must be addressed.

We believe that a remote online notarization law, when done *correctly*, can provide a superior consumer experience, increase efficiencies across many industries, provide greater ease of access, and lower costs to consumers and business. In particular, rural or underserved communities, those without ready access to transportation, and persons serving in the military in other parts of the country and world, to name a few, will be tremendously helped by technology that allows people to notarize documents from the convenience of their homes or jobs at any time of the day. In other words, remote online notarization holds out the promise of becoming a major societal good.

We also believe that, when done *poorly*, remote online notarization could jeopardize consumers' identities, create new avenues for elder abuse, and make it easier for fraudsters and the unscrupulous to steal property rights. In addition, a poorly conceived remote online notary law could result in legal challenges to the validity of notarized documents that are a part of the public records, thereby rendering property rights less secure. Addressing these issues is what we term the *challenges of remote online notarization*.

² Appendix A provides a list of states that have enacted remote online notarization, or who have legislation pending relating to remote online notarization.

Because of these complex challenges, and the utmost need to protect the property rights of NH's citizens, the enactment of any remote online notary law should be undertaken carefully and methodically.

NH's Uniform Law on Notarial Acts ("ULONA") and "Personal Appearance"

NH law does not currently authorize remote online notarization. The language of RSA 456-B:I tells us that a "notarial act" includes "taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument." In every notarial act, the "officer must determine, either from personal knowledge or from satisfactory evidence, that the *person appearing before the officer* ... is the person whose true signature is on the instrument" (emphasis added). Historically under the common law, which the Uniform Law on Notarial Acts ("ULONA") and thus RSA 456-B codifies, this requirement for "personal appearance" means that the officer must be in the physical presence of the signatory. Therefore, to authorize remote online notarizations NH law must specifically permit the "personal appearance" requirement to be satisfied by use of audio-video communication technology (e.g., a webcam).

As of the drafting of this testimony, thirty-two (32) states have passed legislation authorizing remote online notarization. Thirteen (13) additional states have pending remote notarization related legislation pending, including New Hampshire. Outside of the authority of our current Emergency Order #11, issued by Governor Sununu, the inability of a New Hampshire notary to perform a remote notarization means New Hampshire's citizens may only seek such services out-of-state. Such a result does not benefit New Hampshire notaries or consumers.

Use of Uniform Law and Standards for Remote Online Notarization

Several states have enacted legislation based on the 2018 version of the Revised Uniform Law on Notarial Acts, also known as "RULONA 2018."³ This is the model that S.B. 134-FN is based upon. Very simply, it creates another method by which a notarial act may be carried out, remotely. This is done through the modification of NH RSA 455 and 456: B, our existing legal framework governing notaries and notarial acts, and through adoption of sections of the Uniform Real Property Electronic Recording Act ("URPERA"). S.B. 134-FN utilizes necessary definitions from RULONA 2018 to contemplate the notarial act being undertaken when the signer is not in the physical presence of the notary using technology. Moreover, S.B. 143-FN implements a legal framework which support the National Electronic Notarization Standards adopted by the National Association of Secretary of States (NASS) in February 2018. In short, RULONA 2018 is a well drafted and tested legislative model, which fits neatly into New Hampshire's existing Uniform Law on Notarial Act and therefore our laws.

³ See: <https://www.uniformlaws.org/committees/community-home?CommunityKey=8acec8a5-123b-4724-b131-e5ca8cc6323e>

Enhanced Security for the Most Important Transactions

A comprehensive notarization law embraces the latest technologies to prevent fraud in the notarial process. It is crucial to use available tools to protect people's most valuable assets—ownership of their homes.

- Enhanced Identification Requirements: Any remote online notarization law must incorporate enhanced ID requirements and use a multi-factor approach to authenticate signers. Leveraging the latest technologies and forensic tools, a well-crafted law can stop fraud before it happens. In addition, such a statute needs flexibility to give the Secretary of State's office the authority to adopt the latest technological tools as they may become available in the future.
- Robust Audit Trail: A well-crafted law will require a secure electronic journal entry and audio-video recording made of each notarization be retained by the notary, creating an auditable record to deter potential fraudsters. Criminals are much less likely to steal someone's identity when the camera is rolling.
- Secure Technologies: Moreover, a well-crafted law will involve the latest tamper-evident technologies so that third parties can detect whether someone has tried to alter an electronically notarized document.
- Inconsistent Legislation Among States: It is important that any remote online notarization legislation take into account the inter-connectivity of our many states. Any new law must ensure that remote online notarizations performed in NH will be effective in other jurisdictions, as well as the reverse. The use of one of the model acts above is the best way to make sure NH law remains consistent with the laws of the other states.

S.B. 134-FN addresses these principals by incorporating the Remote Online Notarization Standards of August 28, 2019 adopted by the Mortgage Industry Standards Maintenance Organization (MISMO Ron Standards)⁴. The MISMO RON Standards are the industry standard for credential analysis, dynamic knowledge-based authentication of witnesses and signers, secure simultaneous sight and sound technology over which to conduct the notarial act, and automated tamper evident record keeping. Under S.B. 134-FN, the MISMO Standards would control unless and until the New Hampshire Secretary of State issues regulations.

⁴ A copy of the MISMO Remote Online Notarization Standards, (Ver.1, August 28, 2019) is included with this testimony.

The Consumer-Friendly Choice

Remote online notarization is the consumer-friendly alternative to the difficult and time-consuming process of finding a traditional notary for an in-person notarization. Significant benefits include:

- Ease of Access: NH residents can get documents notarized *anywhere, anytime*. It is especially useful to disadvantaged or immobilized residents who need to notarize official documents.
- Health and Safety: NH residents can get documents notarized safely, without having to leave the security of their home when health or safety concerns for them or others would recommend or require otherwise. NH notaries will have the ability to offer notarial services without the requirement of being in the signor's physical presence thereby reducing the number of in-person interactions.
- Save on Time, Lost Wages and Travel Costs: Remote online notarization eliminates the need to make appointments, take leave from work, or drive for miles to find a notary—all you need is a computer and an internet connection.
- Good for Rural Residents and Members of the Military: Remote online notarization can benefit NH's residents who live in remote areas and members of the military on deployment.
- Consumer Choice: Under S.B. 134-FN, remote online notarization is strictly optional and preserves consumer choice. Use of remote notarization would and should simply be an alternative for those who wish to use it.

Summary

The internet knows no borders. Remote notarizations are happening today in the thousands by residents of all states, including New Hampshire. When New Hampshire residents use online remote notaries from other states they are being deprived of important legal protections which other states' residents are receiving and which New Hampshire residents deserve. Out of state notaries are servicing this important business and societal need that could and should be served by New Hampshire notaries. S.B. 134-FN utilizes tested national model laws, model regulations and model technology standards that New Hampshire can and should adopt to give New Hampshire residents and businesses the advantage and protection of these best-in-class models. At no time is this more important than when our residents are executing some of the most important documents they may ever execute in their lives, such as affidavits, powers of attorney, deeds, and mortgages, to name a few. At no time has the need for such important legislation been so evident. **For all the reasons stated herein, First American Title respectfully requests that SB 134-FN be adopted without delay.**

* * *

Thank you for the opportunity to provide testimony in support of this bill.

APPENDIX A

Enacted Permanent Remote Online Notarization Legislation

- Alaska
- Arizona
- Colorado
- Florida
- Hawaii
- Idaho
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maryland
- Michigan
- Minnesota
- Missouri
- Montana
- Nebraska
- Nevada
- New Mexico
- North Dakota
- Ohio
- Oklahoma
- Pennsylvania
- Tennessee
- Texas
- Utah
- Vermont
- Virginia
- Washington
- West Virginia (effective June 17, 2021)
- Wisconsin
- Wyoming (RULONA effective July 1, 2021)

Enacted Temporary Remote Online Notarization Legislation

- New Jersey
- Oregon

States Now or Previously Considering Remote Online Notarization Legislation

- Alabama
- Arkansas
- California
- Connecticut
- Georgia
- Illinois

Cont'd - States Now or Previously Considering Remote Online Notarization Legislation

- Maine
- Massachusetts
- New Hampshire
- New Jersey
- New York
- Oregon
- South Carolina



MISMO Remote Online Notarization Standards

FINAL Candidate Recommendation (CR) Version

Version 1

August 28, 2019

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Standards for Remote Online Notarization

Summary

This document outlines technical and procedural guidance and establishes underlying principles that should be considered as organizations move towards implementation of Remote Online Notarization.

The intended audience includes but is not limited to: state regulators, commissioning or licensing officials; financial institutions; service providers; technology providers; title insurance underwriters; trade associations; mortgage and title/settlement service providers.

It is worth noting that these are the minimum set of technical and procedural standards and parties are free to implement additional requirements, practices or processes for the items addressed by these standards¹. While not specifically addressed in these standards, remote online notarization system implementations should accommodate ADA (Americans with Disabilities Act) computer user interface standards and/or best practices as required by state and/or federal law².

Capitalized terms not defined in the text are defined in Section 7, entitled "DEFINITIONS".

1. CREDENTIAL ANALYSIS AND AUTHENTICATION

The following authentication and analysis protocols are intended to support the notary public (Notary) in making the determination that satisfactory evidence of each Principal's identity has been established for a Remote Online Notarization. This section specifies standards for States to reference when identity proofing involving Knowledge-Based Authentication (KBA) and/or credential analysis is required to perform Remote Online Notarization³. If a State specifies additional or alternative means for identify verification aside from identify proofing or credential analysis (such as by oath or affirmation of a credible witness, by a Notary's personal knowledge of the Principal, or by other methods), such additional or alternative means are not addressed by these standards.

- a. Principal identity verification for Remote Online Notarization services must include consistent Multi-Factor Authentication procedures:
 - i. Each Principal's identity credential must be verified against trusted third-party data sources;

¹ Mortgage lenders, insurance underwriters or other parties may impose more restrictive or additional standards based on jurisdiction, transaction type, financial implications or other factors.

² ADA requirements are a separate and distinct body of work and are not addressed by these standards.

³ As of the time of this writing, KBA, and credential analysis procedures and technology are widely accepted as identity proofing processes and are therefore specifically addressed, however, MISMO supports efforts to explore and permit other types of analysis and authentication.

- ii. Each Principal's identity must be bound to each individual Principal following successful Knowledge-Based Authentication, or another form of authentication or trusted third-party identity verification such as online banking authentication; and
- iii. Procedures must provide for human visual comparison between the Principal's identity credential presented to the Notary and the Principal himself or herself.

b. Credential Analysis of Government Issued Identification

Remote Online Notarization service providers must use automated software processes to aid the Notary with their role in verifying each Principal's identity.

- i. The credential must pass an authenticity test, consistent with sound commercial practices that:
 - 1. Use appropriate technologies to confirm the integrity of visual, physical or cryptographic security features;
 - 2. Use appropriate technologies to confirm that the credential is not fraudulent or inappropriately modified;
 - 3. Use information held or published by the issuing source or authoritative source(s), as available, to confirm the validity of credential details; and
 - 4. Provide the output of the authenticity test to the Notary.⁴
- ii. The credential analysis procedure must enable the Notary to visually compare both of the following for consistency:
 - 1. The information and photo on the presented credential image; and
 - 2. The Principal as viewed by the Notary in real time through the audio/video system.
- iii. Credential Type Requirements
 - 1. Must be a government-issued document meeting the requirements of the State that contains a photograph of the individual, may be imaged, photographed and video recorded under applicable state and federal law⁵, and can be subjected to credential analysis.
- iv. Credential Image Capture
 - 1. The credential image capture procedure must confirm that:
 - a. The Principal is in possession of the credential at the time of the Notarial Act;
 - b. Credential images submitted for credential analysis have not been manipulated; and
 - c. Credential images match the credential in the Principal's possession.

⁴ The output may simply indicate a "pass" or "fail" type score, or may provide more information to indicate the outcome of the authenticity test to the Notary.

⁵ State or federal law may prohibit the capture of certain credential images.

2. The following general principles should be considered in the context of image resolution:

- a. Captured image resolution should be sufficient enough for the service provider to perform credential analysis per the requirements above.
- b. Image resolution should be sufficient to enable visual inspection by the Notary, including legible text and clarity of photographs, barcodes, and other credential features.
- c. All images necessary to perform visual inspection and credential analysis must be captured — e.g. U.S. Passport requires identity page; state driver’s licenses require front and back.

c. **Dynamic Knowledge-Based Authentication**

Dynamic Knowledge-Based Authentication (KBA) is an identity assessment that is based on a set of questions formulated from public or private data sources. A Dynamic Knowledge-Based Authentication procedure must meet the following requirements:

- i. Each Principal must answer questions and achieve a passing score.
 - 1. MISMO Recommends:
 - a. Five questions, drawn from public or private data sources.
 - b. A minimum of five possible answer choices per question.
 - c. At least four of the five questions answered correctly (a passing score of 80%).
 - d. All five questions answered within two minutes.
- ii. Each Principal to be provided a reasonable number of attempts per Signing Session.
 - 1. MISMO Recommends:
 - a. If a Principal fails their first quiz, they may attempt up to two additional quizzes within 48 hours from the first failure⁶.
 - b. During any quiz retake, a minimum of 40% (two) of the prior questions must be replaced⁷.
- iii. The Remote Online Notarization system provider must not include the KBA procedure as part of the video recording or as part of the system provided person-to-person video interaction between the Notary and the Signatory, and must not store the data or information presented in the KBA

⁶ The standard of three total attempts within 48 hours accommodates a security provision (a maximum number of attempts per Signing Session) and a business provision (a reasonable time frame for such attempts) for a wide range of notarial scenarios. These standards also accommodate known technical limitations imposed by KBA service providers.

⁷ The purpose of replacing questions in subsequent KBA quizzes is to reduce the statistical probability of an individual guessing correct answers.

questions and answers. However, the output of the KBA assessment procedure must be provided to the Notary.⁸

d. Biometrics and Other Requirements

Biometric sensing technologies have potential application to Remote Online Notarization in the areas of authentication, credential analysis, and identity verification. These technologies include but are not limited to: facial, voice, and fingerprint recognition.⁹

e. Workflow Continuity Requirement

If a Principal must exit the workflow, they must meet the criteria outlined in this section and restart the Credential Analysis and Authentication workflow from the beginning.¹⁰

2. AUDIO/VIDEO QUALITY

- a. A reliable Remote Online Notarization operating model should consist of continuous, synchronous audio and video feeds with good clarity such that all participants can be clearly seen and understood at all times.
- b. Inherent in online audio/video technology is the presence of temporary surges or spikes in quantitative measures like bitrate and/or frequency of communications and no simple technical limits are practical or prudent. Rather, a sounder approach to ensuring reliable real-time communications is to rely on the judgement of the Notary to determine the adequacy of the communications and provide direction to terminate the session if those conditions are not met¹¹.
- c. The audio/video recording must include the person-to-person interaction required as part of the Notarial Act as defined by the State¹², must be logically associated to the electronic Audit Trail¹³, and must be capable of being viewed and heard using broadly available audio/video players.
- d. The video recording of the transaction documents executed in the Remote Online Notarization process is not required as part of these standards.¹⁴

⁸ The output may simply indicate a “pass” or “fail” type score, and/or may provide more information to indicate the outcome of the KBA assessment to the Notary.

⁹ MISMO does not offer specific guidance in applying this type of authentication protocol due to the lack of available industry standards regarding biometric technology.

¹⁰ Principals may have to exit the workflow for various valid or invalid reasons and may do so for an unpredictable amount of time. Therefore, to simplify these standards and provide unambiguous guidance, MISMO requires a new Remote Online Notarization workflow be started each time a Principal exits the workflow.

¹¹ Uniform standards that take into account all potential audio/video disruptions and whether they affect the integrity of the Notarial Act are not practical, and therefore, these standards provide for human judgement to determine adequate audio/video quality.

¹² The specific activities required in the Notarial Act may vary by state and therefore are not defined here.

¹³ One must be able to match the application of eSignatures, and other trackable events recorded in the Audit Trail, to the people and actions in the audio/video recording.

¹⁴ Many documents that may be notarized in this manner may contain non-public personal information (NPI) as defined under applicable law. Therefore, MISMO does not require video capture of documents or credentials as part

3. STORAGE OF NOTARIAL RECORDS

- a. Where applicable, and in accordance with State laws, rules and regulations, the Notary must maintain accurate and reliable Notarial Records. These State laws, rules and regulations may or may not require that a copy of the audio/video recording be part of a notarial journal (which may be subject to public access under State law)¹⁵. Notaries must have the ability to electronically capture the required Notarial Records or to direct a third party to do so on their behalf. In either case, the Remote Online Notarization system must:
 - i. Facilitate the process of collecting the required Notarial Records;
 - ii. Provide a method by which a Notary can access and/or export the Notarial Records; and
 - iii. Provide automated backup of the Notarial Records and audio/video recording to ensure redundancy.
- b. The Remote Online Notarization technology solution must employ data protection safeguards consistent with generally accepted information security standards.
- c. Retention of the audio/video recording and Notarial Records by either the Notary public or their designated third party, as directed by the Notary, must adhere to the laws, directives, rules and regulations of the State.

4. POST-EXECUTION RECORDS

- a. Significant actions completed as part of a Remote Online Notarization Signing Session should be recorded in an Audit Trail. Each entry in this Audit Trail should clearly indicate the action performed (e.g. addition of an electronic signature), the date/time of its performance (e.g. Coordinated Universal Time, 2018-08-21 01:14:22 UTC), the name of the party performing the action (e.g. John Doe) and the IP address of the party performing the action. Further detailed guidance on the contents of the Audit Trail or its form is beyond the scope of these standards.
- b. Each document completed as part of a Remote Online Notarization should be electronically signed and rendered Tamper-Evident.

5. SECURITY CONSIDERATIONS

Remote Online Notarization technology providers must have comprehensive security programs in place to ensure privacy and data security. Technology providers should be vigilant to ensure consumer data, privacy and information security laws and regulations are satisfied through their information security programs. There are many industry accepted models, standards and frameworks for how to develop such programs.

of these standards. Including the documents and/or credentials in the video recording may be considered as a matter of policy on a state-by-state basis.

¹⁵ Treatment of the audio/video recording in the context of the Notarial Record or journal is a matter of public policy and not addressed in these standards.

6. COUNTY RECORDING CONSIDERATIONS FOR ELECTRONICALLY NOTARIZED DOCUMENTS

- a. The Remote Online Notarization system, process, and procedures must be capable of generating a printable version of all documents executed in the system, including but not limited to the documents executed in the Notarial Act, and associated certifications as required by the State, county and/or other governing or regulatory body.¹⁶
- b. Any document notarized remotely online must clearly state, in the remote online notarial certificate, that the person making the acknowledgment, oath or affirmation and signing the document appeared remotely online using audio/video communication technology.

7. DEFINITIONS

- a. **“Audit Trail”** means a chronological and detailed list of critical events and actions, from the beginning to the end of the Remote Online Notarization process, including the dates and times the events and actions took place and identification of the individuals and/or systems that performed the events or actions. Also known as: Audit Log or Event Log.
- b. **“Knowledge-Based Authentication” or “KBA”** means an identity verification method based on knowledge of private information associated with the claimed identity of a person.¹⁷
- c. **“Multi-Factor Authentication” or “MFA”** means a method of access control in which a user is granted access after successfully presenting identity evidence through a minimum of two of the following mechanisms: something they *have* (e.g. an ID credential), something they *know* (e.g. KBA), something they *are* (e.g. iris, retinal, thumbprint scans, facial recognition and other forms of biometric identification).
- d. **“Notarial Act”** means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of a specific State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.¹⁸
- e. **“Notarial Records”** means details of the Notarial Act common to the State’s notarial journal or register requirements.

¹⁶ While outside the scope of these standards, the concept of “papering out” and printing eNotarized documents for use in a paper county recording process may be permissible under the law of some states. These standards require electronically created documents be printable for this purpose.

¹⁷ DIGITAL IDENTITY GUIDELINES NIST SP 800-63-3 (page 46 for definition of KBV a.k.a. KBA)

¹⁸ Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (9) “Notarial Act” page 3

- f. **“Principal”** means an individual whose electronic signature is notarized in a remote online notarization; or making an oath or affirmation or an acknowledgment other than in the capacity of a witness for the remote online notarization.¹⁹
- g. **“Record”** means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.²⁰
- h. **“Remote Online Notarization”** means a Notarial Act performed by means of an electronic device or process that allows a notary public and a Principal, who is not in the same physical location as the notary public, to complete a Notarial Act and communicate with each other simultaneously by sight and sound.²¹
- i. **“Signing Session”** means one or more Notarial Acts performed on a single set of documents as a single event by a single Notary with one or more Principals and any applicable witnesses.
- j. **“State”** means the state or jurisdiction under which the notary public is commissioned and for which the notary public is performing the Remote Online Notarization.²²
- k. **“Tamper-Evident”** A technology based process that indicates whether a change has been made to the record since the technology was applied.

¹⁹ Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (11) “Notarial Act” page 3

²⁰ RULONA Section 2. Definition for Record (Page 5)

²¹ Adapted from the Mortgage Bankers Association – American Land Title Association Model Legislation for Remote Online Notarization Sec.1 Definitions (13) “Remote online notarization” page 4 and “(2) “Communication technology” page 1.

²² This state definition provides clarity for which jurisdiction rules, requirements or regulations must be referenced when there is more than one state related to a Notarial Act: (1) the state where the Principal is located, (2) the state where a property related to the Notarial Act is located, (3) the state in which the Notary is located, or (4) other state references.

SB134 Testimony

My name is Susan Cragin, and I am testifying in opposition to SB-134, and in particular to the portion regarding land records.

I am the Merrimack County Register of Deeds, and also a former Senior Investigator with the FDIC Division of Liquidations, in the Fraud division.

You are being asked here today to enact legislation put out by the Uniform Real Property Electronic Recording Act of 2004 (UREPRA).

<https://www.uniformlaws.org/committees/community-home?CommunityKey=643c99ad-6abf-4046-9da4-0a6367da00cc>

That legislation was drafted in 2004, prior to the financial crisis, and is now obsolete.

Background:

Electronic signatures were first legalized at the federal level by Bill Clinton, back in 2000.

Electronic Signatures Act

https://www.ecsi.net/help/help_esig.html

Electronic Signatures Act of 2000 - text

<https://www.govinfo.gov/content/pkg/BILLS-106s761enr/pdf/BILLS-106s761enr.pdf>

In the Act, the term "electronic signature" is defined broadly as follows: "The term 'electronic signature' means an electronic sound, symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record." Section 106(5).

In other words, a signature could take almost any form.

The New Hampshire Attorney General's office sent me something a few months ago with the attorney's signature typed. He insisted that it constituted an "electronic signature," and I told him it didn't. But as we were arguing, both of us were aware that fraud between our two agencies was so unlikely as to be ludicrous.

That isn't always the case, particularly with lending fraud.

As a result, more recently the FDIC has a strict definition for "electronic signature," that applies to its regulated banks.

<https://www.fdic.gov/regulations/information/fils/banktechbulletin.html>

"A digital signature is a unique sequence of data that is split into two parts that together form a complete encryption key. One part is publicly shared and the other part is kept private - known only by the owner."

Why is this important? Because subprime lenders are not regulated by the FDIC, and they were the origin of some of the worst parts of the fraudulent loan market.

Cast your mind back to the property collapse in 2005-2007. This is the report on the Commission.

SB134 Testimony

<https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>

This report is 663 pages long. I've read the whole thing, and here's what stood out, to me, among the thousands of transactions that led to the failure of many banks and a bail-out of our entire private financial system, including not only FDIC-insured banks but investment banks.

Signatures were critically important to linking fraudulent loan transactions to fraudsters at the bank level.

A HUD-sponsored report under the National Predatory Lending Task Force "cited testimony regarding incidents of forged signatures, falsification of incomes and appraisals, illegitimate fees, and bait-and-switch tactics. The investigation confirmed that subprime lenders often preyed on the elderly, minorities, and borrowers with lower incomes and less education, frequently targeting individuals who had "limited access to the mainstream financial sector"—meaning the banks, thrifts, and credit unions, which it viewed as subject to more extensive government oversight." P. 78.

MERS (the system by which most loans are bought/sold) had "questionable signatures on assignments and affidavits attesting to the ownership of the note and mortgage; and questionable notary stamps on assignments." P. 408.

"[L]enders have relied on "robo-signers" who substituted speed for accuracy by signing, and sometimes backdating, hundreds of affidavits claiming personal knowledge of facts about mortgages that they did not actually know to be true. One such "robo-signer," Jeffrey Stephan of GMAC, said that he signed 10,000 affidavits in a month—roughly 1 per minute, in a 40-hour workweek—making it highly unlikely that he verified payment histories in each individual case of foreclosure."

Why was this important? Because the person signing had no what is called "plausible deniability." That was his wet signature, and he could not deny it.

But the legislation as it stands would allow all types of e-signatures, anything formed with the "intent" to authenticate. This could mean names filled in by computers on massive amounts of documentation.

We need to think this legislation through, and make sure that e-signatures are what we want them to be, that they protect not only our economy but our people, especially those most vulnerable to exploitation.

For this reason, I oppose this legislation in its present form. I oppose it personally and on behalf of the Merrimack County Registry of Deeds.

We cannot enact an e-signature law applicable to our land records until we can also legislatively enact the same kind of protections as the FDIC requires for a mortgage, and require the same level of accountability of those signing documents.

Susan Cragin susancragin@earthlink.net
Merrimack County Register of Deeds
cc: Gerald H. Little, New Hampshire Banking Commissioner

Hello Representatives,

SB134 Testimony

Attached, please find three letters in support of SB 134 section VI, establishing a Collaborative Law Act.

The three letters are from family law practitioners who practice in the area of collaborative law, as well as a letter on behalf of the Collaborative Law Alliance.

Attorney Anna Zimmerman will be testifying on behalf of the collaborative law practitioners in support of this section tomorrow morning, and would be happy to answer any questions you may have.

Thank you for your time, and consideration.

Sincerely,
Marissa

Marissa Chase

Executive Director
New Hampshire Association for Justice
10 Ferry Street, #311
Concord, NH 03301
O 603.224.7077 | F 603.224.3256 | C 603.854.9330

Dear Members of the House Judiciary Committee:

I write regarding the portion of SB 134 that concerns the cultivation of hemp. In the 2015, House E&A heard HB 421, which allowed New Hampshire institutes of higher education to grow hemp for research. SB 134 expands that permission to include contracting with other growers to perform that research. This is an improvement to current statute.

In 2019, the legislature passed HB 459, which legalized the growing of hemp in New Hampshire. While working on HB 1658 in 2020, we determined that it did not make sense to establish a state inspection program for hemp agriculture, but we did discover a small error in HB 459, which is still present in statute. This error requires New Hampshire processors and commercial traders to be licensed by the USDA, but the USDA only licenses growers. We amended HB 1658 to correct the error, but the bill was then tabled in the Senate because of Covid-19. I spoke with Senator Carson about including this correction in her bill to allow contracting growing of hemp for research, and she agreed. Apparently, it was overlooked in the drafting process.

The necessary text is as follows:

HB 1658-FN - AS AMENDED BY THE HOUSE

1 Hemp Permitted. Amend RSA 439-A:3 to read as follows:

439-A:3 Hemp Permitted. Hemp is an agricultural product which may be grown as a crop, processed, possessed, and commercially traded in New Hampshire. Any grower[, processor, or commercial trader] of hemp shall be licensed by the United States Department of Agriculture.

2 Effective Date. This act shall take effect upon its passage.

Please include this housekeeping language in any amendment you make to SB 134

Thank you,

Peter Bixby Peter.Bixby@leg.state.nh.us

SB134 Testimony

House E&A

NH House Judiciary Committee

My name is Anne Parsons and I am a member of the New Hampshire Collaborative Law Alliance as a Mental Health professional. I am also a NH constituent, living in the town of Windham. I am writing to urge your support of the New Hampshire Collaborative Law Act, which is being considered by the House Judiciary Committee on April 27, 2021 as part of the Omnibus Bill SB 134-FN (the NH Collaborative Law Act being Part VI of the bill).

Collaborative law is an alternative dispute resolution that families who are divorcing or have family-law related issues can choose instead of traditional litigation or the option of mediation. It is entirely voluntary on the part of the participants. You may have heard of this alternative dispute process, it is gaining popularity in New Hampshire, the U.S. and internationally. The process is one in which the couple commits to resolving their case outside of court, with each person being represented by an attorney (who also commits to the out-of-court process), and with the additional help of “neutral” professionals- a mental health professional and a financial planner/professional. As a team they respect the concerns and goals of each party, while working together to find resolutions. Ideas are able to be freely exchanged, and information is provided to all. The goal of this type of alternative dispute resolution is for the folks in a family law case to resolve their issues in a positive way, privately, and at their own pace, having learned tools that will allow them to continue to work together positively going forward. It is entirely done outside of court, so the process is not only private, but it has the added benefit of resolving cases without using the court process, which results in fewer cases on the court’s already crowded docket. The final agreements would still be subject to review and approval by the court

The passage of a NH Collaborative Law Act assures that, as we grow as a group and more members of your constituency use the process, all are assured that certain protocols and rules are followed by all. Much like the legislation concerning mediation, we want to codify the process to protect its integrity by setting out procedures to be followed and parameters for all professionals and those who want to use the process. Here is a link to more information about collaborative divorce in New Hampshire: <https://collaborativelawnh.org/why-collaborative-divorce/>.

Thank you,

Anne B. Parsons, PhD outlook_243A86B975B98B23@outlook.com

Dear Members of the Judiciary Committee-

On behalf of BAE Systems, please find two attachments outlining the company’s support for SB 134 Part 1, relative to shining a laser pointing device at an aircraft or vessel, or at another person. The company has no position on any other parts of this omnibus legislation. I am not aware of any opposition to Part 1 of SB 134.

BAE Systems is respectfully requesting a technical amendment to the bill. I am not aware of any opposition to this technical amendment.

SB134 Testimony

The attached PDF titled "BAE Systems Written Materials Supporting SB 134 Part 1 04-23-2021" contains the following:

- Letter from BAE Systems
- One page overview of why the company supports SB 134 Part 1
- One page overview of the technical amendment the company is seeking to SB 134 Part 1
- Copy of testimony from Ms. Erin Poitras, Laser Safety Officer for BAE Systems in Nashua

I also attached, as a stand-alone document, the one page overview describing the need for the technical amendment to SB 134 Part 1, which includes draft language for OLS, should the Committee be so inclined to bring forth this amendment. The amendment one page overview is titled "BAE Systems SB 134 Part 1 Amendment Request April 2021."

In addition to Ms. Poitras, I, and Tom Bishop from BAE Systems in Nashua have signed up to speak in support of the bill. With the indulgence of Chairman Gordon, I hope the three of us can be "promoted" to speakers at the same time so Ms. Poitras can briefly speak to the need for the bill and I can briefly speak to the need for the requested amendment. Mr. Bishop will speak only if he is best positioned to answer any questions from the Committee.

Thank you for your consideration of the attached materials. Please do not hesitate to contact me (603-716-0569) with any questions or concerns. Have a nice weekend.

Respectfully Submitted,

David Cuzzi

David Cuzzi, President

PROSPECT HILL STRATEGIES

M/O: 603-716-0569

Office: 72 N. Main St., Ste. 201, Concord, NH 03301

Mail: PO Box 174, Manchester, NH 03105-0174

www.prospecthillstrategies.com

Chairman Gordan and Judiciary Committee members,

Please find attached to this email, amendments which Senator Carson stated this morning during her testimony that she would be sending to the House Judiciary Committee members. These amendments are for Part I and Part IV of SB 134-FN, adopting omnibus legislation relative to civil actions and criminal liability.

Part I, prohibiting certain uses of laser pointing devices.

Part IV, civil liability for damage to highways.

This bill was heard in the House Judiciary Committee this morning which began at 9:00 a.m.

Deb

SB134 Testimony

Deborah A. Chroniak
Assistant to Senator Sharon M. Carson
New Hampshire State Senate
State House, Room 106
107 North Main Street
Concord N.H. 03301-4951
Deborah.chroniak@leg.state.nh.us
603-271-1403

Chairman Gordon and members of the House Judiciary Committee
I do not intend to testify on SB 134 but would appreciate your consideration of my written testimony on behalf of NH Credit Unions in support of the electronic notary section of the proposed legislation.
Thank you
David Collins dgc@rypgranite.com

Dear Committee Chairman Gordon and Members of the Committee-

On behalf of the New Hampshire Collaborative Alliance Board of Directors, we submit this testimony in support of SB 134-FN, Section VI.

Ann Conway and myself are Co-Chairs this year, and many members of the board, as well as each of us are well-versed in the collaborative process and are happy to answer any questions going forward. We hope you consider our proposed legislation to further our efforts at standardizing such an excellent process for use in alternative dispute resolution.

Cynthia

Cynthia M. Weston
Law Office of Cynthia M. Weston
17 McAllister Drive
Londonderry, NH 03053
603.432.1931
603.494.3112
email: westlau2@aol.com

Good Afternoon Chairman Gordon and Members of the House Judiciary Committee,

I writing to you about SB 134 (Section X), which is scheduled to come before your committee on April 27. I am registered to lobby on behalf of a company called SambaSafety, which provides pre-hire motor vehicle record checks and continuous driver monitoring to over 100,000 employers in the US and Canada. The service Samba provides to its customers allows them to protect communities and roadways from risky drivers and to better manage and assess driver risk. When bulk data on driver records and license status is made available it allows employers to identify high-risk drivers, enforce company policies and make well-informed hiring decisions.

Section X of SB 134 contains an amendment to the motor vehicle records law to allow companies to access the driver records and driver license status of employees and prospective employees

SB134 Testimony

electronically and in bulk. This amendment is necessary because the Division of Motor Vehicles interprets the current law to prevent it from allowing such bulk data users from obtaining this information if it is to be used for employment purposes. The DMV interprets the current law to only allow the checking of driver records and licenses status in bulk by insurance companies. Others must have a notarized authorization from that employee or prospective employee on file with the DMV and check on an individual basis. It is impractical and time consuming for employers to conduct periodic checks of driver records individually.

Employees and prospective employees are protected under federal law, the Driver Privacy Protection Act of 1994, which prohibits states from releasing personal information of motor vehicle records to sales and marketing organizations and the general public unless an individual specifically consents to the release by completing a form. This law also provides a number of layers of protection for employees. Individuals are thus already protected under federal law from random and unauthorized driver record checks.

As a result of the pandemic many commercial transactions now take place over the Internet with packages of goods being delivered to homes and businesses by company drivers who do not have commercial driver licenses (CDL) because the vehicles they are driving are smaller than a vehicle that requires possession of a CDL. There are many more of these basically unregulated drivers on the road logging many more miles than they did prior to the pandemic. Allowing the employers of these drivers, or agents of the employers, to conduct regular bulk electronic driver record checks and license status checks on their employees or prospective employees ensures greater driver safety. Without this legislation there is a much greater chance that a driver with a suspended license or new motor vehicle violations will be operating a vehicle for commercial purposes on the roads of New Hampshire in a manner that could threaten public safety.

Other states allow these kind of employer record and license checks and find ways to facilitate them in order to protect public safety. By passing this legislation you would be facilitating employers being able to conduct record checks in New Hampshire that are consistent with those being done in other states, thus preventing unsafe drivers from jeopardizing public safety on our highways and on an interstate basis.

The law already authorizes the Division of Motor Vehicles to charge fees to the applicants for such record and license status tests to recover their costs. We have been working with the DMV for close to a year to try to get electronic access to this information. They finally suggested in December that we seek legislation. We worked on an amendment to this bill while it was in the Senate to address a few concerns that DMV Director Bielecki had expressed with the original language during the Senate hearing. In so far as we now know they do not have any issues with the legislation, though they have remained neutral on the bill.

The BIA, the Auto Dealers Association and the Easter Seals all supported the bill in the Senate.

I realize this is only one section in a much larger bill, but for my client and, I believe, for NH drivers, this is an important piece of legislation.

I would be happy to speak with you further about this if it would be helpful.

Thank you.

SB134 Testimony

Regards,
Doug Patch

Douglas L. Patch

45 South Main Street, P.O. Box 3550

Phone: 603.224.2381

Direct Ext: 603.223.9161

Fax: 603.223.9061

www.orr-reno.com

Good morning honorable members of the House Judiciary Committee,

My name is Jay Mackey and I am the Administrator of Classifications and Client Records for the NH Department of Corrections. I will be testifying on behalf of the NHDOC in support of SB 134 on Tuesday April 27., 2021. I have attached written testimony for you to review. If you have any questions, please do not hesitate to contact me. Thank you for your service.

Jay Mackey

Administrator of Classifications and Client Records

New Hampshire Department of Corrections

281 North State Street

Concord, New Hampshire 03301

(603) 271-7925 Phone

(603) 271-8136 Fax

jay.mackey@doc.nh.gov

Please support SB 134 - Part II- RON

Angel Hallice

Assistant Manager

Barristers Title & Closing Services

A division of Cronin, Bisson & Zalinsky, P.C.

46 Bay Street

Manchester, NH 03104

Direct Dial: 603-821-9064

Office Phone: 603-665-9495

Office Fax: 603-935-8841

www.nhbarristers.com

Please support SB 134 - Part II- RON.

Jaime Frederes

Senior Vice President

Director of Residential Lending

SB134 Testimony

Bar Harbor Bank & Trust
1000 Elm Street | Suite 804
Manchester, NH 03101

NMLS# 422577

Cell: 585-233-9699

Direct Line: 603-843-6608

E-mail: jfrederes@barharbor.bank

Please support SB 134 – Part II – RON to enact Remote Online Notarization in New Hampshire. It would be a great help to streamline real estate closings and boost the economy!

Thank you. Susan Contos ?Susan.Contos@accuratetitlenh.com

Please support SB 134 - Part II- RON

Have a *''')

,.•' ,. •*'''),.•*''')

(,.•' (,.•' * Wonderful Day

Karen Desrochers

Closing Coordinator

Karen.Desrochers@AccurateTitleNH.com

TOLL FREE: 1-800-639-4405

Fax: 603-296-2783

Please support SB 134 - Part II- RON.

Final push to make sure RON is enacted in NH!

Thank you,

Kate

Title Order Specialist

Kate@AccurateTitleNH.com

DIRECT: 603-296-2724

EFAX: 603-296-2784

TOLL FREE: 1-800-639-4405

I urge you to support SB 134-Part II- RON. This is very important legislation for the real estate, mortgage and banking industry and also powerful for the consumer.

Respectfully

Paul Amatucci

Experience Extraordinary

Paul Amatucci | National Renovation Sales Manager

CMG Financial | Corporate NMLS #1820

1685 Congress Street, Portland, ME 04102

SB134 Testimony

NMLS 455827
207-558-8870 Direct
603-833-3988 Cell
pamatucci@cmgfi.com

Every Customer – Every Time – No Exceptions – No Excuses

Email	Uses
RenoUnderwriters@cmgfi.com	Underwriting questions
RenoProcessors@cmgfi.com	Reno processor questions on contractor document questions
EscrowHoldback@cmgfi.com	Escrow holdback requests/EHB disbursements
RetailRenovation@cmgfi.com	Scenarios

Please support SB 134 - Part II- RON.

Paula Warner Portsmouth, NH

Cheryl Culveyhouse Human Resources/Accounting Cheryl.Culveyhouse@AccurateTitleNH.com

Peter Jennings ?pjennings@harborone.com

Rachel Rodrick ?rachel@stscorp.com

Carol Marois ?carol@stscorp.com

Vanessa Hayward ?Vanessa@stscorp.com

Amber Humphrey ?amber@stscorp.com

Ellen Frith ?ellen@stscorp.com

Anthony Toscano ?anthony@stscorp.com

Patty Wolf ?patty@stscorp.com

Kristen Carder ?Kristen@stscorp.com

Christine Sculos ?chris@stscorp.com

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Martha Cossey ?martha@stscorp.com

Shannon Kennedy ?shannon@stscorp.com

Gladys White ?Gladys.White@rmsmortgage.com

Sent from iPhone

Pam Koehler
Business Development
Summit Title Services, LLC

603.571.5268 Cell
603.644.4747 Office

I'm a private citizen and also the Executive Director of Mortgage Bankers and Brokers Association of New Hampshire.

SB134 Testimony

I can assure you Secretaries of State Office David Scanlan and Tom Donnelly and members of the Registry Kathy Monahan and Cathy Stacy were included in taskforce emails throughout the summer and fall and invited to participate in zoom meetings. The last email dated December 15, 2020 had attached the draft LSR. The task force did respond to one inquire by the Secretary of State office and Kathy Stacy has registered her support for the bill.

In a national zoom meeting sponsored by National Association of Secretaries of State (NASS) on April 26th the overwhelming message was the need to educate recorders and clerks on the RON platform. MBBA-NH will take the lead in this education once RON is approved in New Hampshire.

Established standards for uniformity in law by policy makers:

- 1) The Revised Uniform Law on Notarial Acts: "RULONA 2018", is a comprehensive act addressing every area of notarial law and has the support of two national organizations: the American Society of Notaries (ASN) and the Property Records Industry Association (PRIA).
- 2) National Association Secretaries of State (NASS): 2017 Implementation Guide offered to Notary Public commissioning authorities, and others involved in the eNotarization implementation process.
- 3) The MISMO RON Software Compliance Certification provides assurances that RON technology providers will meet a common set of standards.
- 4) There are several technology companies that offer end-to-end remote notarization systems and training.

For the citizens of New Hampshire! It's a good bill, it's a common sense bill, its needed with Covid, there are established and tested industry standards.

Please support SB134 – Part II – RON

Thank you,
Steven Bauer
237 Dockham Shore Road
Gilford, NH 03249

Good afternoon. I am writing in support of the above referenced bill. It truly has been a long time coming. This will enable companies to do business in a much more efficient manner and also allow buyers and sellers who cannot, for whatever reason, physically get to a notary with ease, have the documents notarized. It also keeps the notarial business within the state. NH has to keep up with the times and technology and this is truly a good start. Thank you for your time.

Louise A. Ferola
124 Alsace Street
Manchester, NH 03102

Hi there,

My name is Cheryl Megan I am the VP of Operations here at Summit Title. I am wiring to show support for the Remote Online Notarization Act. What has been proven by our industry during the pandemic is that this is NECESSARY. Not only for convenience but for the future of the real estate industry in New Hampshire as a whole, importantly the role of the New Hampshire Title Company.

Please consider your New Hampshire team of employees and consumers when taking your consideration.

Thank you.

SB134 Testimony

Cheryl Megan ?cheryl@stscorp.com

Good afternoon,

I am writing today to ask for your support for the RON Bill SB 134 – Part II.

I am on the Committee which presented the bill and have been in attendance to (in-person and virtual) to many industry seminars and trainings with regards to RON. I have been in the title business for 28 years now and pride myself on keeping up with best practices and being a part of what can help us to work smarter and more securely.

Prior to COVID-19 (2018), I attended a 3-day Summit/Roundtable with a couple of key employees that allowed us to see RON first-hand with title agents across the country that had already passed this legislation. It was eye opening, especially after a representative from Fannie Mae spoke about the security that will stop fraudulent transactions that include, forgery, fake id's, robo-signings, etc. The security measures that are required far surpass an in-person notary public who asks a person whom they don't know, to show them identification (that can be fake), AND the entire process is recorded. If someone is committing fraud, they will think twice before being on video committing a felony.

COVID is only one reason to show the importance of this Bill passing (because of the EO allowing us to conduct remote closings). We were able to keep 45 team members employed AND help to keep the housing market strong, allowing people to still close on new homes and refinance to lower rates.

Other reasons to consider:

- *More secure for consumers than traditional notarization because of knowledge based multi-factor authentication of identification credentials and the true identity of the signer, and a secure record of the interchange and transaction for the future – not “he said” “she said”*
- *Convenient for those who cannot physically get to a notary with ease*
- *Keeping the notarial business in state, because consumers will go out of state if they don't have it here and they will not have the same protections without a robust law here*
- *Concerns about the ability to record fraudulent documents are addressed through the use of attestation by a notary, and can be further addressed through the existing e-recording systems*

Lastly, it is very disappointing to hear testimony at the very end of the 3 hour Zoom Hearing contradicting what we had worked on for so long as a Committee. This has been a very important topic in our Industry over the past few years and the concerns that were brought up, have been discussed and addressed already. This coming up AFTER the bill passed the Senate (and not presented to the committee before it went to the House) is frustrating. We have all put a lot of time and effort into this to be sure that we have addressed any concerns. 29 States have already passed this legislation. It is imperative that we do as well so we do not allow national companies to take over our local businesses.

I appreciate your consideration to pass SB 134 – Part II RON.

Best Regards,
Roselyn

Roselyn J. Langianese ?Roselyn@stscorp.com

SB134 Testimony

Good afternoon.

Please accept this e-mail in support of RON SB 134 - Part 2.

There are many reasons that I support this bill, but the convenience factor for many people who can not physically get to a notary with ease is very important to me.

There are many areas where notaries are not readily available and/or clients may have issues with leaving their homes to get to a notary because of mobility issues, transportation, health issues and many other reasons. RON SB 134 - Part 2 would alleviate the stress of finding a way to a notary in these types of situations.

In addition to that convenience for many people, more importantly is the fact that it is more secure for consumers in verifying the true identity of those involved in the signing. This is so important in a world and industry fraught with fraud.

I thank you for taking the time to read this. I thank you for all that you are doing to get this passed.

Thank you so much.

Enjoy your day.

Debbie Lurvey [?dslurvey@gmail.com](mailto:dslurvey@gmail.com)

14 Fillmore Ave, Laconia, NH 03246
Dear House Judiciary Committee,

I am a current Notary for the state of NH we need to protect our clients and citizens!

I feel it is so necessary for the multi-factor authentication of identification prevent false transactions and fraudulent documents .

It is also so necessary to keep in state to keep it convenient for those who can and cannot physically meet with a notary and prevents them from having to go out to another state.

We have good laws here in NH and are familiar with them. It just makes sense to keep it all here.

Thanks

Please support SB 134 - Part II - RON
603.630.3043

Shelly Akatyszewski

Branch Manager

NMLS: 23321

Team SaRa

Phone: (603) 664-4401 x.250

Mobile: (603) 801-0397

eFax: (603) 218-6321

SB134 Testimony

Address: 154 Broad St Suite 1523 Nashua, NH 03063

Email: ShellyA@trynorthpoint.com

www.tryteamSaRa.com

Dear Chairman Gordan and Members of the Judiciary Committee;

It is my understanding you will be meeting to on SB 134-fn shortly. I write to supplement my written and oral testimony provided to the Committee at the hearing April 27, 2021. I appreciate that I was given the ability to speak at the hearing, but the volume of testimony given the several components of SB 134-fn meant that a couple important points were glossed over. I hope you will consider the following.

Section 2 of SB 134-fn is comprised of two pieces of uniform legislation, the Revised Uniform Law on Notarial Acts (RULONA) and the Uniform Real Property Electronic Recording Act (URPERA). RULONA allows consumers of a myriad of business transactions to move from utilizing a tangible, wet-ink signature format, to a digital format. URPERA provides a method by which to record electronic documents affecting real estate. For more than a decade, the real estate and mortgage lending industry has been working diligently to create a cohesive network of legislation across the country to facilitate the use of technology in real estate transactions. Consistency of certain components of such legislation is imperative as we are a cross-jurisdictional society in many ways, and a highly mobile one. In NH, RULONA and URPERA are critical missing components to being part of that network. In the visage of SB 134-fn we have vetted, well-written, model legislation that can bring NH's citizens into that national network .

RULONA is a revision to our current notarial statute, NH RSA 456-B, the Uniform Law on Notarial Acts. RSA 456-B requires notarization be undertaken only in the physical presence of the notary. RULONA pulls in the use of remote online notarization. This is particularly important in the real estate industry as key documents which transfer interests in real estate must be acknowledged by a notarial officer. While the traditional, in person method relies on the notary to establish 'satisfactory evidence' that the signer is who they represent themselves to be, RULONA dives deep into security protocols which create greater reliability and a higher barrier to fraud than conventional notarization. Aside from the notarial officer's testimony, there is no evidence supporting the identity of the signer and the authenticity of the signature applied to the document. However, an electronic document, notarized remotely under RULONA (Section 2 of SB 134-fn) requires:

- Secure verification of the validity of a signer's identification credential – that the government issued identification is valid and unexpired ;
- Review of the identification credential presented against a visual review of the person's appearance who tenders the credential – the notarial officer gets to compare the photo on the government issued credential against the person's appearance before them during a secure audio/video connection; and
- Knowledge based verification that the signer who tendered the credential and who looks like the person depicted in the identification credential actually is who they claim to be – they have to answer multiple, objective questions created randomly from third party data sources which only the actual individual would know.

SB134 Testimony

These protocols are not contemplated in our current system of notarization. With traditional, in person notarization, the notary is obligated to obtain evidence of the signer's identity, but unlike with remote notarization and the accompanying electronic documents, there is no independent data driven verification of the signer's identity. There is also no independent verification of the signer's tendered identity credential. The resulting documents, from each method, would be tendered for recording. With these protocols, we see a much greater success of detecting and avoiding fraud and forgery in documents of conveyance. Because of the methodology used, the document is necessarily a native digital document.

URPERA, the second component of SB 134-fn, provides enabling legislation to utilize electronic documents in our official land records. Pursuant to NH RSA 477:3-a requires that documents affecting title to real estate be recorded "at length" in the respective county registry of deeds. This means that original documents, tangible, wet-inked signed documents must be utilized for recording purposes as our law currently stands. Documents purporting to affect an interest in real estate which do not have wet-ink signatures can and should be rejected by the Registrar. Currently, we have e-recording through vetted vendors and contracts with parties seeking to record documents electronically which require that the recording party have an original as defined by NH law. URPERA allows for a print out of an electronic (native digital) document to be recorded and treated as an original, as if it had wet ink signatures applied to it. This is done through requiring a certification by a NH duly commissioned notary who attests and applies their signature and seal, stating that the attached print-out is a "true and correct copy of an electronic record printed by me or under my supervision." This is an additional certification for a notarial act, only useable with a native digital document for purposes of recording it at the registry of deeds. As with a wet-ink signed document, a flat .pdf is created which is then transmitted to the registry for recording.

While the COVID-19 pandemic certainly highlighted the safety reasons for such legislation, there are other reasons not affected by situations that pass with time. I hope I've given you a flavor of those reasons and that this is helpful to your deliberations surrounding Section 2 of SB 134-fn. The bill provides significantly increased security for NH's citizens created by the RULONA/URPERA model. A NH law would keep that notary business in state, and provide an additional measure of reliability and stability surrounding of our citizens' legal documents, particularly documents involving real estate transactions.

I will be listening in on the Executive Session tomorrow, as I am an active member of the taskforce that put forward the legislation, and would be happy to answer any questions. Thank you for your consideration.

Carol E. Willoughby

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Good Morning Committee Members,

SB134 Testimony

Thank you again for the time you took to listen to my testimony regarding the Collaborate Law Action portion of SB 134. I understand that there is likely to be an amendment proposed which would remove this section from SB 134. I believe this may be because there is a belief that the legislation is not necessary. I write to ask that you please keep this section in the bill. It is important to families and not just superfluous legislation.

Here are a few examples of why I believe this bill is important:

1. **Confidentiality:** In mediation confidentiality is guaranteed, and what the parties say or argue in mediation cannot be used against them in court. There is no such protection in Collaborative Law as it currently exists. While the parties can agree that their communications are confidential, there is nothing that requires a court to enforce this. This includes candid discussions with a mental health provider (the team coach). The result is that people are curtailed in how candid they can be – diminishing the effectiveness of the process.
2. **Timing:** Currently the law is that child support is ordered or modified from the date the other party is served, pensions are valued upon the date a divorce is filed, and other retirement assets are typically valued on the date of the divorce (although the Court has more discretion with regard to retirement assets). Under the Collaborative Act, the parties can agree upon a date. For example, I could agree that any increase/reduction in child support would be effective on today's date and that a pension would be valued on today's date. This gives incentive for the parties to investigate financial information and negotiate to a fair result, without feeling like they need to rush to court to start the deadline. It also lets parties know that this part of the agreement is enforceable, even if all or part of the case ultimately ends up in court – so nobody can stall the process just to get an advantage.
3. **Everyone participates under the same rules:** The question came up during my testimony on whether someone must be trained in collaborative law to be a collaborative law attorney. While I have only had cases with other collaborative law attorneys, there is nothing that prevents an attorney not familiar with the process from taking such a case. This law would set out a framework to make sure everyone is following the same rules, has the same expectations, and is held to the same standards.
4. **The courts are given guidance on these matters:** This process would also set out the expectations for the courts on confidentiality and enforceability – something which is currently lacking. I had a case several years ago that failed in the collaborative process. As a part of the process we had agreed to a distribution from a particular asset to my client's spouse and that this would be considered a part of the overall property distribution. The distribution happened and the spouse spent the funds. When the collaborative case failed, my understanding is that the Court was not willing to enforce this agreement (I was no longer the attorney involved, having left the case when the collaborative process failed) and the funds distributed were not considered as a part of the property division. In the future, without the Collaborative Law Act being enacted, this would remain a concern for people looking at ways to resolve their divorces amicably.

I really appreciate your time and consideration regarding the foregoing. I am available today and happy to take any questions.

SB134 Testimony

Anna Goulet Zimmerman, Esq.

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Manchester, NH 03101
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Good morning, I understand there is a vote at 1 pm today on the Collaborative law Act.

I also understand that certain Representatives are proposing to remove Section VI from SB 134-FN from the Act. Section VI is the Collaborative Law Act. There are many modalities that practitioners in family law cases utilize, including mediation as well as litigation. Without specific laws that outline these modalities there is confusion among practitioners.

I would strongly urge that the Collaborative Law Act, as drafted be approved.

Mary Beth L. Sweeney
Senior Partner,
Atwood & Cherny P.C.
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Boston MA 02115 USA
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Dear Representatives:

I urge you to support SB 134 Section VI- The New Hampshire Collaborative Law Act. I have been practicing collaborative law as part of my family law practice for ten years of my nearly forty years of practice. New Hampshire practitioners have adopted and developed this alternative dispute resolution over the years, and have found that citizens appreciate the process, which again I remind you is a voluntary out-of-court process. We have been developing the Act through multiple drafts to address issues and concerns that have arisen over the years and for which, thus far, there are no solutions.

As an example of the issues we hope the Act would address is confidentiality. All participants must honor our confidentiality rules in order to preserve an open dialogue and ideas during negotiation. This is much like mediation, and just like mediation, needs legislation to clearly point to the importance and enforcement of confidentiality. This will give our citizens more comfort during the process will help to prevent them, or the professionals involved from using the process as a means of obtaining information for litigation. On a couple of occasions, this has happened. We need all involved to be bound by the confidentiality of the process so our citizens can be assured that, in choosing the collaborative process, their offers, ideas, and positions will not be used against them in litigation. We believe that folks need more than an honor system to protect the integrity of the process. Much like in mediation, our citizens count on it.

Another need arises in the enforceability of agreements reached during the process. We need the Act so that the agreements made by the couple along the way will be recognized as

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enforceable. Preliminary issues such as valuation dates for pensions and other liquid assets are important components of divorce, and our citizens deserve a law that recognizes that the agreements made are binding contracts and can be enforced.

Another important component of the proposed Act clearly sets forth when a lawyer/lawyers are disqualified. This has also been an issue. Everyone in the collaborative process signs a participant agreement that the lawyers who do participate will not participate in litigation if the process fails. There have been times when this custom was not respected, the process failed (perhaps designed to fail by one party), and that party's lawyer has assisted in the litigation. If these types of occurrences continue without clear legislation, our citizens will lose faith in the process, and litigation will become, once again, each citizen's best or only alternative.

With our citizens and so many professionals opting to try collaborative law, it has become necessary for there to be legislation providing clear explanations, uniformity in practice, and boundaries. In this regard, it is much like mediation, which process found that it needed guidelines set forth in our statutes. Our citizens are interested in finding alternative dispute resolutions. Our goal is to provide them with the option of the collaborative law process that is clearly defined, and has adopted and enforceable parameters to support them. Our citizens deserve an alternative dispute process where the parameters and procedures are well-defined. We believe the New Hampshire Collaborative Law Act, Section VI of SB 134 will do that.

Thank you for your time. I can be reached at 603-494-3112 to answer any questions by telephone or text message.

Cynthia Weston
Co-Chair of the New Hampshire Collaborative Alliance

Cynthia M. Weston
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email: westlau2@aol.com

Dear Members of the Judiciary Committee,

I write today in support of SB-134-FN. I am a family law practitioner and trained collaborative lawyer practicing in the seacoast area. I also practice in Maine. Over my years of practice, I have found collaborative law to be an amazing method in helping families resolve their contested divorce issues in a healthy way. It can be a transformative process. It is so important that we protect this process and clarify this process vis a vis the court system. This statute does just that. It codifies the collaborative process and gives it the clarity and recognition it needs. The clearer we can make things for the judges, court staff, and parties, the more successful we can be in keeping what would otherwise be hotly contested, litigated cases out of the courtroom. Doing so would further ease the burdens on the court system by helping practitioners like myself keep cases out of the clogged courthouses.

Feel free to reach out with any questions.

Jessica L. Ecker, Esq.

SB134 Testimony

Weibrecht & Ecker, PLLC

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Good morning Chairman Gordon and Members of the Committee,

My name is Cathy McKay. I am a NH attorney, practicing in the area of family law in Londonderry. For the last 20 years, I have also practiced Collaborative Law, and have been involved in its evolution from a lawyer only model to the team approach we currently use today. For several years, we have been working on drafting legislation that will address the needs of our clients and all of the professionals in the NH Collaborative community. That legislation is the NH Collaborative Law Act, modeled after the Uniform Collaborative Law Act.

I understand there are efforts to amend Omnibus Bill SB 134-FN to remove Section VI, the Collaborative Law Act, and that some of the members of the committee are in support of this amendment. I urge you to vote against the amendment and keep Section VI in the bill. I feel strongly that the NH Collaborative Law Act is important legislation which will help to remove the uncertainties associated with the practice of Collaborative Law for both professionals and parties who choose to use the process. Much like the legislation that codified the mediation process, this legislation will help to protect the integrity of the Collaborative Law process by setting out procedures to be followed, establishing clear expectations for all who use the process.

I understand there is some concern that the NH Collaborative Law Act is not necessary as parties are already using the Collaborative Law process. While that is true, what is also true is that the process is not uniformly followed or enforced. Legislation will ensure that the process is uniformly followed and enforced. Some of the important provisions of the NH Collaborative Law Act that need to be uniformly followed are:

1. Discussions in the Collaborative Process are confidential. In mediation, parties are protected as all discussions in mediation are confidential. Nothing discussed or presented in mediation can be used against a party in Court. This allows participants to speak freely and openly, offering solutions that they may not offer in Court. This is not the case with Collaborative Law. Although the agreement they sign states that the process is confidential, it is not uniformly applied or enforced. When participants get to Court after being unable to reach an agreement in the Collaborative Law process, they are not always protected by the agreement they signed. This legislation will provide them with that protection, requiring the protection to be uniformly applied. (See proposed RSA 490-J:8, 490-J:14 and 490-J:15 in Section VI of SB 134-FN)
2. Timing of child support/alimony or division of assets. Although there are many benefits to settling divorce cases outside of a Court process, when parties are engaged in settlement discussions outside of a pending divorce case, they may do so at their peril. This is because under current law, child support does not begin until a party is served. Also under current law, pensions are valued as of the date of filing for divorce. If the parties participate in a Collaborative Law process which does not result in a full divorce agreement, and the process has

SB134 Testimony

taken 6-9 months, they are unable to seek child support for that period of time and their date of filing is significantly delayed. The NH Collaborative Law act allows parties to agree on the dates to begin child support or to divide pensions, and that agreement will be enforceable. The parties are free to take the time they need to reach agreements on all of the issues in their divorce without the fear that they will be missing out on important timing by not filing for divorce. (See proposed RSA 490-J:8 in Section VI of SB 134-FN).

You may be thinking that these are not real risks. However, I can tell you that from experience, they are risks to divorcing parties. By way of example, I was successor counsel for a client who had participated in a Collaborative Divorce process. The process failed as no final agreement was reached, and both parties secured new attorneys. The attorney for the opposing party sought to introduce a written unsigned agreement the parties had reached in the Collaborative process. The Court allowed the agreement to be filed but did not approve it because it was unsigned. However, even offering the unsigned agreement can be prejudicial to that party. The document was written but not signed for a reason and resulted in several Court filings and a hearing to prevent the Court from approving it. The party seeking to prevent the filing of that unsigned agreement was shocked that the other lawyer could even file it and was facing the risk that the Court may approve it. The NH Collaborative Law Act would have avoided that risk completely, and avoided the waste of the Court's limited time and resources.

Please remember that professionals were mediating cases long before there were mediation statutes. This is not a reason to avoid establishing legislation that will protect the integrity of the process and protect your constituents.

Please also remember that the Collaborative Law process gives parties another alternative to resolve their divorce issues outside of Court. As the Court system is already overburdened, resulting in significant delays for parties seeking to get divorce, any way to keep a percentage of cases out of Court is beneficial to all. Establishing this legislation will help the Collaborative Law process to become more well-known, which will result in more parties seeking to divorce this way.

I hope you will consider this additional information as you vote this afternoon. If you have any questions or would like any additional information, please feel free to call me.

Thank you.

Cathy McKay

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Members of House Judiciary Committee,

SB134 Testimony

I am a member of the Board of NH Collaborative Law Alliance. I strongly recommend your support for Section VI, the NH Collaborative Law Act. Many states in the US have Collaborative Law Acts. Mediators have been granted a similar endorsement of their process from the NH Legislature. Please vote in favor of Section VI to remain in SB 134- FN.

Ann Conway, Hollis, NH [?aknconway@gmail.com](mailto:aknconway@gmail.com)

To Whom it may concern,

I am a collaboratively trained mental practitioner with over 40 years of experience. I am also a current board member of the NH Collaborative Law Alliance. I trained in the collaborative practice model in 2014 and have witnessed the positive effects of this process for individuals and families (especially children). The collaborative divorce process is distinctly different than other methods of getting divorced. The public should have options as to how they can divorce and what is the best process for their circumstances.

We receive extensive training and very specific guidelines that we are bound to adhere to as collaborative professionals, both state and national guidelines. Many people do not understand the difference between their divorce options. The NH Collaborative Law Alliance has worked hard to educate the public and legislators on why this legislation is so important to legitimize the Collaborative Divorce process. Our primary interest has always been to minimize the stress and negative outcomes that divorcing couples and families experience.

I am asking for your support for Section VI, the NH Collaborative Law Act.

The passage of this bill will allow many more people to understand and access the collaborative law process. Nationally, it is getting passed in the States that have been educated on this alternative dispute resolution method. Mediators have been granted a similar endorsement for their work.

Please vote in favor of section VI to remain in SB-134-FN.

Thank you for your consideration!

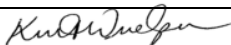
Caren

Caren B. Rifkin, LICSW

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Rep Kurt Wuelper

SB134 Testimony

From: Cole, Ellen A. <ecole@orr-reno.com>
Sent: Friday, April 23, 2021 9:28 AM
To: ~House Judiciary Committee
Cc: Patch, Douglas L.; jdiana@sambasafety.com; aboyd@sambasafety.com
Subject: NH House Remote Testify: 9:00 am - SB134 in House Judiciary [IWOV-iManage.FID489568]
Attachments: Letter_from_Samba_Safety_to_House Judiciary Comm (22 April 2021).pdf

From: Mackey, Jay <Jay.P.Mackey@doc.nh.gov>
Sent: Friday, April 23, 2021 9:54 AM
To: ~House Judiciary Committee
Subject: SB 134 Testimony for NHDOC
Attachments: SB134 Testimony.docx

From: Cynthia Weston <westlau2@aol.com>
Sent: Friday, April 23, 2021 2:09 PM
To: ~House Judiciary Committee
Subject: letter in support of SB 134-FN part VI
Attachments: House Judiciary Committee letter from NHCLA BOARD 4-23-2021.pdf

From: David Cuzzi <david.cuzzi@prospecthillstrategies.com>
Sent: Friday, April 23, 2021 3:44 PM
To: ~House Judiciary Committee
Subject: BAE Systems - SB 134 Part 1
Attachments: BAE Systems Written Materials Supporting SB 134 Part 1 04-23-2021.pdf; BAE Systems SB134 Part 1 Amendment Request April 2021.pdf

From: Carol Willoughby <CWilloughby@firstam.com>
Sent: Monday, April 26, 2021 11:49 AM
To: ~House Judiciary Committee
Subject: House Judiciary Committee Hearing SB 134 fn - Testimony
Attachments: Testimony Carol Willoughby - First American Title S B 134-FN 02.16.2021 and Appendix.pdf

From: Patch, Douglas L. <DPatch@orr-reno.com>
Sent: Monday, April 26, 2021 4:29 PM
To: ~House Judiciary Committee
Subject: SB 134/Letter in Support of Section X [IWOV-iManage.FID489568]
Attachments: MX-M5070_20210426_161826.pdf

Attached please find a letter in support of Section X of SB 134.

From: Paul Berch <pberch@myfairpoint.net>
Sent: Monday, April 26, 2021 4:44 PM
To: ~House Judiciary Committee; Jennifer Foor
Subject: Fwd: SB 134 - 2021-1189h,
Attachments: SB 134 - 2021-1189h.pdf

Importance: High

Dear colleagues,

Enclosed please find a proposed Amendment to SB 134. I plan to introduce the

Amendment on Tuesday, if possible.

Best,
Paul Berch

Paul Berch, NH State Representative, Cheshire-1
Assistant Democratic Leader
House Judiciary Committee
Supreme Court Advisory Committee on Rules
Commissioner, Ct. River Valley Flood Control Commission
Chair, Cheshire County Delegation Executive Committee

From: Marissa Chase <mchase@nhaj.org>
Sent: Monday, April 26, 2021 8:26 PM
To: ~House Judiciary Committee
Subject: Testimony in support of SB 134
Attachments: 4.22.2021 Ltr in support of SB 134.pdf; House Judiciary Committee letter from NHCLA BOARD 4-23-2021.pdf; 2021_04_26_14_58_35.pdf

From: David G. Collins <dgc@rypgranite.com>
Sent: Monday, April 26, 2021 8:42 PM
To: ~House Judiciary Committee
Subject: NH House Remote Testify: 9:00 am - SB134 in House Judiciary
Attachments: NH Statement in Support of SB 134 Electronic Notarization bill 4.27.21.pdf

From: Deborah Chroniak
Sent: Tuesday, April 27, 2021 12:32 PM
To: ~House Judiciary Committee
Cc: Sharon Carson; Jennifer Horgan; MulcaheyHampson, Kathleen; David Cuzzi
Subject: Hearing on SB 134-FN, Amendments from Senator Carson on Part I, Prohibiting Certain Uses of Laser Pointing Devices (2021-1196s), and PART IV, Civil Liability to damage to highways (2021-1206s)
Attachments: SB 134 - 2021-1196s - PART I - laser pointing devices.pdf; SB 134 - 2021-1206s PART IV request of DOT 4-27-21.pdf

Importance: High

From: Alexis Simpson
Sent: Tuesday, April 27, 2021 12:36 PM
To: ~House Judiciary Committee; Jennifer Foor
Subject: Amendment to SB 134 (Part XI)
Attachments: SB 134 - 2021-1213h.pdf



April 22, 2021

sambasafety.com

House Judiciary Committee
Legislative Office Building, Room 208
33 N. State Street
Concord, NH 03301

RE: Support for Section X of SB 134, relative to employer access to motor vehicle records

Dear Chairman Gordon and Members of the House Judiciary Committee:

On behalf of SambaSafety, I wish to offer this testimony in strong support of Section X of Senate Bill 134-FN, relative to employer access to motor vehicle records (formerly LSR 2021-1013).

SambaSafety is a company that provides pre-hire motor vehicle record checks and continuous driver monitoring to protect all highway users from risky drivers and allow companies to better manage and assess employee driver risk. Our mission is to help employers transform data into action, protecting businesses and communities from driver and mobility risk. SambaSafety assists over 100,000 employers nationwide to access and interpret motor vehicle records for driver safety. Motor vehicle records are critical for employers to ensure that drivers are qualified to drive for employment and do not present unnecessary risk to the public.

SambaSafety supports amending New Hampshire's motor vehicle records law, RSA 260:14, to allow companies and their agents to efficiently access the driver records and driver license status of employees and prospective employees electronically.

This change is necessary because the New Hampshire Division of Motor Vehicles interprets the current law to prevent it from allowing such employers from obtaining electronic access if this information is to be used for employment purposes. The DMV interprets the current law to only allow the checking of driver records and license status in bulk by insurance companies; other than for that purpose, records must be obtained on an individual basis with a notarized authorization from the employee or prospective employee on file with the DMV. It is impractical, costly and time consuming for employers to conduct periodic checks of driver records individually. SambaSafety has been trying for over a year to obtain this information in bulk from the DMV, but the DMV has felt constrained by the current law. In fact the DMV encouraged SambaSafety to seek legislation to address this issue.

It is important to emphasize that employees and prospective employees are protected under federal law, the Driver Privacy Protection Act of 1994 (DPPA), which prohibits states from releasing personal information of motor vehicle records to sales and marketing organizations and the general public unless an individual specifically consents to the release. The DPPA and the federal Fair Credit Reporting Act, also provides a number of layers of due process protections for employees. Individuals are thus already protected under federal law from random and unauthorized

driver record checks. Because Samba Safety and other similarly situated companies are bound by and strictly follow these federal requirements, current New Hampshire law provides an unnecessary barrier for employees that in fact works to impede highway safety and prevent employers from making sure that their employees are initially, and continue to be, safe drivers.

As a result of the pandemic many commercial transactions now take place over the Internet with packages of goods being delivered to homes and businesses by company drivers who do not have commercial driver licenses (CDL) because the vehicles they are driving are smaller than a vehicle that requires possession of a CDL. There are many more of these basically unregulated drivers on the road logging many more miles than they did prior to the pandemic. Allowing the employers of these drivers, or agents of the employers, to conduct regular electronic driver record checks and license status checks on their employees or prospective employees ensures greater driver safety. Without this legislation, there is a much greater chance that a driver with a suspended license or new motor vehicle violations will be operating a vehicle for commercial purposes on the roads of New Hampshire in a manner that could threaten public safety.

Other states allow these kinds of electronic employer driving record and license status checks and find ways to facilitate them in order to protect public safety. By passing this legislation you would be facilitating employers being able to conduct record checks in New Hampshire that are consistent with those being done in virtually all other states, thus preventing unsafe drivers from jeopardizing public safety on our highways and on an interstate basis.

The law currently authorizes the Division of Motor Vehicles to charge fees to the applicants for such record and license status checks to recover their costs. Therefore, since it is likely that this legislation will result in more employers requesting such documents because this legislation will break down barriers to accessing records, it is very likely that the state will see more revenues.

Ten percent of drivers are responsible for 40 percent of car crashes. When data on driver records and license status is made available it allows employers to identify high-risk drivers, enforce company policies and make well-informed hiring decisions.

Please vote OUGHT TO PASS on Section X of SB 134 regarding employer access to motor vehicle records.

Sincerely,

DocuSigned by:

6F202567B6054A4...

John Diana

General Counsel and Chief Compliance Officer

3 Whipple Street
Nashua, NH 03060
(603) 860-3066



April 22, 2021
House Judiciary Committee
Legislative Office Building, Room 208
33 N. State Street
Concord, NH 03301

RE: Support for employer access to motor vehicle records (section X of SB 134, adopting omnibus legislation relative to civil actions and criminal liability)

Dear Chairman Gordon and Members of the House Judiciary Committee:

I am writing to offer support for Section X of SB 134, relative to employer access to motor vehicle records (initially known as LSR 2021-1013).

UPS is a global company with multiple locations throughout New Hampshire. We employ approximately 2,000 people, including 1,015 drivers in the Granite State. With so many drivers on New Hampshire roadways, especially during times like these when there are many more home deliveries being made, safety is a top concern for UPS. That is why we support amending the motor vehicle law to allow employers, such as UPS (and their authorized agents) to access the driver records and driver license status of current employees and job applicants in bulk electronic form as needed.

New Hampshire law currently allows for the disclosure of this information, however it is burdensome and time consuming to access because the records must be requested individually and there is no convenient and up-to-date way to access driver license status on an ongoing basis. Under the bill before you, employers and their agents would be able to obtain the same information in a much more efficient way by authorizing the Division of Motor Vehicles to provide the records in electronic bulk form when the employer needs to access them. When data on driver records is made readily available, it allows employers to efficiently identify high-risk drivers, take appropriate action and enforce company policies as necessary, and make well-informed hiring decisions – all of which lead to increased safety.

It is important to remember that this bill maintains current employee and prospective employee privacy, and due process protections already in place under state and federal law. It merely allows for the disclosure of the same information in a streamlined manner.

New Hampshire is the only state we are aware of that does not already allow the release of such electronic records from the DMV. By passing this legislation, you would be facilitating employers and their agents being able to conduct motor vehicle record checks in New Hampshire that are consistent with those being done in other states, thus preventing unsafe drivers from jeopardizing public safety on our highways and on an interstate basis.

For these reasons, we urge you to vote OUGHT TO PASS on Section X of SB 134.

Mark Giuffre
UPS
Vice President, State Government Affairs

From: Patch, Douglas L. <DPatch@orr-reno.com>
Sent: Monday, April 26, 2021 4:29 PM
To: ~House Judiciary Committee
Subject: SB 134/Letter in Support of Section X [IWOV-iManage.FID489568]
Attachments: MX-M5070_20210426_161826.pdf

Attached please find a letter in support of Section X of SB 134.

From: Cole, Ellen A. <ecole@orr-reno.com>
Sent: Friday, April 23, 2021 12:57 PM
To: ~House Judiciary Committee
Cc: Patch, Douglas L.
Subject: SB 134 Section X - Employer Access to DMV Records
[IWOV-iManage.FID489568]

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Sent: Monday, April 26, 2021 4:29 PM
To: ~House Judiciary Committee
Subject: SB 134/Letter in Support of Section X [IWOV-iManage.FID489568]
Attachments: MX-M5070_20210426_161826.pdf

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Please let me know if you have any questions.

Thank you,

Ellen

Ellen A. Cole

Legal Assistant

Sustained Excellence Since 1946

45 South Main Street, P.O. Box 3550

Concord, NH 03302-3550

Phone: 603.224.2381

Direct Ext: 603.223.9121

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From: Cole, Ellen A. <ecole@orr-reno.com>
Sent: Friday, April 23, 2021 12:57 PM
To: ~House Judiciary Committee
Cc: Patch, Douglas L.
Subject: SB 134 Section X - Employer Access to DMV Records
[IWOV-iManage.FID489568]

Good Afternoon Chairman Gordon and Members of the House Judiciary Committee,

I writing to you about SB 134 (Section X), which is scheduled to come before your committee on April 27. I am registered to lobby on behalf of a company called SambaSafety, which provides pre-hire motor vehicle record checks and continuous driver monitoring to over 100,000 employers in the US and Canada. The service Samba provides to its customers allows them to protect communities and roadways from risky drivers and to better manage and assess driver risk. When bulk data on driver records and license status is made available it allows employers to identify high-risk drivers, enforce company policies and make well-informed hiring decisions.

Section X of SB 134 contains an amendment to the motor vehicle records law to allow companies to access the driver records and driver license status of employees and prospective employees electronically and in bulk. This amendment is necessary because the Division of Motor Vehicles interprets the current law to prevent it from allowing such bulk data users from obtaining this information if it is to be used for employment purposes. The DMV interprets the current law to only allow the checking of driver records and licenses status in bulk by insurance companies. Others must have a notarized authorization from that employee or prospective employee on file with the DMV and check on an individual basis. It is impractical and time consuming for employers to conduct periodic checks of driver records individually.

Employees and prospective employees are protected under federal law, the Driver Privacy Protection Act of 1994, which prohibits states from releasing personal information of motor vehicle records to sales and marketing organizations and the general public unless an individual specifically consents to the release by completing a form. This law also provides a number of layers of protection for employees. Individuals are thus already protected under federal law from random

and unauthorized driver record checks.

As a result of the pandemic many commercial transactions now take place over the Internet with packages of goods being delivered to homes and businesses by company drivers who do not have commercial driver licenses (CDL) because the vehicles they are driving are smaller than a vehicle that requires possession of a CDL. There are many more of these basically unregulated drivers on the road logging many more miles than they did prior to the pandemic. Allowing the employers of these drivers, or agents of the employers, to conduct regular bulk electronic driver record checks and license status checks on their employees or prospective employees ensures greater driver safety. Without this legislation there is a much greater chance that a driver with a suspended license or new motor vehicle violations will be operating a vehicle for commercial purposes on the roads of New Hampshire in a manner that could threaten public safety.

Other states allow these kind of employer record and license checks and find ways to facilitate them in order to protect public safety. By passing this legislation you would be facilitating employers being able to conduct record checks in New Hampshire that are consistent with those being done in other states, thus preventing unsafe drivers from jeopardizing public safety on our highways and on an interstate basis.

The law already authorizes the Division of Motor Vehicles to charge fees to the applicants for such record and license status tests to recover their costs. We have been working with the DMV for close to a year to try to get electronic access to this information. They finally suggested in December that we seek legislation. We worked on an amendment to this bill while it was in the Senate to address a few concerns that DMV Director Bielecki had expressed with the original language during the Senate hearing. In so far as we now know they do not have any issues with the legislation, though they have remained neutral on the bill.

The BIA, the Auto Dealers Association and the Easter Seals all supported the bill in the Senate.

I realize this is only one section in a much larger bill, but for my client and, I believe, for NH drivers, this is an important piece of legislation.

I would be happy to speak with you further about this if it would be helpful.

Thank you.

Regards,

Doug Patch

Douglas L. Patch

Admitted in NH and MA

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From: Patch, Douglas L. <DPatch@orr-reno.com>
Sent: Monday, April 26, 2021 4:29 PM
To: ~House Judiciary Committee
Subject: SB 134/Letter in Support of Section X [IWOV-iManage.FID489568]
Attachments: MX-M5070_20210426_161826.pdf

Attached please find a letter in support of Section X of SB 134.

From: Cole, Ellen A. <ecole@orr-reno.com>
Sent: Friday, April 23, 2021 9:28 AM
To: ~House Judiciary Committee
Cc: Patch, Douglas L.; jdiana@sambasafety.com; aboyd@sambasafety.com
Subject: NH House Remote Testify: 9:00 am - SB134 in House Judiciary [IWOV-iManage.FID489568]
Attachments: Letter_from_Samba_Safety_to_House Judiciary Comm (22 April 2021).pdf

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Thank you,

Ellen

Ellen A. Cole

Legal Assistant

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Attached please find a letter in support of Section X of SB 134.

PARNELL, MICHELS & McKAY, PLLC
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April 22, 2021

New Hampshire House of Representatives
Judiciary Committee
Concord, New Hampshire 03301

Re: New Hampshire Collaborative Law Act – Part VI of Omnibus Bill SB 134-FN

Dear Chairman Gordon and Members of the Committee:

This letter is written in support of the New Hampshire Collaborative Law Act which is being considered by the House Judiciary Committee on April 27, 2021 as part of Omnibus Bill SB 134-FN (the New Hampshire Collaborative Law Act being Part VI of the bill). My name is Catherine McKay, and I am a New Hampshire attorney practicing in the area of family law. I have been a member of the New Hampshire bar for 28 years and have practiced exclusively in the family law field for the last 25+ years. I have a private law firm in Londonderry, New Hampshire and also reside in Londonderry, New Hampshire. I am a member of the New Hampshire Collaborative Law Alliance (NH/CLA) and have been representing clients in Collaborative family law cases since 2000.

Collaborative law is an alternative dispute resolution method that families who are divorcing or have parenting or other family-law related issues can choose instead of traditional litigation or mediation. It is entirely voluntary on the part of the participants. You may have heard of this alternative dispute process, as it is gaining popularity in New Hampshire, the U.S. and internationally. Many states have already passed legislation or court rules, governing the process.

The Collaborative law process is one in which the couple commits to resolving their case outside of court, with each person being represented by an attorney (who also commits to the out-of-court process). The parties and their attorneys work in a team approach with the help of “neutral” professionals- a mental health professional and a financial planner/professional to help the parties address all aspects of their divorce or parenting case (legal, financial, and emotional). As a team, they respect the concerns and goals of each party, while working together to find resolutions that benefit the family as a whole. Ideas are able to be freely exchanged, and financial and other information is provided to all.

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April 22, 2021

Page 2

The goal of this process is for the folks in a divorce or other family law case to resolve their issues in a positive way, privately, and at their own pace, having learned tools that will allow them to continue to work together positively going forward. It is entirely done outside of court, so the process is not only private, but it has the added benefit of resolving cases without using the court process, which results in fewer cases on the court's already crowded docket. The final agreements are still subject to review and approval by the court.

The passage of the New Hampshire Collaborative Law Act assures that, as we grow as a group and more members of your constituency use the process, all are assured that certain protocols and rules are followed. Much like the legislation concerning mediation, we want to codify the process to protect its integrity by setting out procedures to be followed and parameters for all professionals and those who want to use the process. Here is a link to more information about collaborative divorce in New Hampshire: <https://collaborativelawnh.org/why-collaborative-divorce/>.

I appreciate your willingness to consider this legislation and I would be happy to answer any questions you may have. I am unfortunately not available to testify at the committee hearing but am happy to schedule a phone call with any committee members who have questions or wish to learn more information about the Collaborative process.

Thank you for your consideration.

Very truly yours,

Catherine P. McKay

CATHERINE P. MCKAY



SHANELARIS & SCHIRCH, PLLC
Attorneys at Law

Catherine E. Shanelaris
Jennifer E. Warburton

Jane M. Schirch*
*Admitted in NH and MA

April 26, 2021

New Hampshire House of Representatives
Judiciary Committee
Hon. Ned Gordon, Chair
107 N. State Street
Concord, New Hampshire 03301

Re: Support of SB 134 – Section VI, relative to the New Hampshire Collaborative Law Act

Dear Chairman Gordon and Members of the Committee:

This letter is written in support of Senate Bill 134 Section VI. I am an attorney practicing in the area of family law for more than 25 years. I am a member of the New Hampshire Bar Association, family law section as well as past co-chair of the New Hampshire Collaborative Law Alliance (NHCLA). I am currently a member of the NHCLA legislative committee and have been involved in the effort to enact this legislation.

The practice of Collaborative Law is a voluntary process that allows individuals the choice to resolve their family law matter outside of the traditional court process. In the last 10 years, we have seen the practice of Collaborative Law grow as more individuals choose a more holistic approach to resolve their family law matters than is offered through litigation. Collaborative Law in New Hampshire utilizes a team approach, with neutral coaches/facilitators and financial professionals as well as attorneys to assist the family.

Currently, if a couple chooses to use the Collaborative process, all parties and professionals sign a Participation Agreement that sets the expectations and parameters of the process. In conjunction with their attorneys, the couple hires the rest of the team (financial neutral and coach/facilitator), then meet with the individual team members to work on those areas of strength for the team member (for instance they may do a parenting plan with the coach, and work on collecting values of assets and a budget with the financial neutral). Then there are several team meetings with the couple and all team members present in order to try to reach agreement on all areas required to be addressed in their divorce. Finally, a final agreement is presented to the Court for approval.

The Collaborative Law Act as written in SB 134 will standardize the contents of the Participation Agreement in order to ensure that all citizens utilizing the process are granted the same rights, and everyone follows the same rules. While the vast majority of Collaborative Law cases resolve successfully, there are those cases that do not, at which point the parties must leave the Collaborative Law process to resolve their issues within the court system. It is important to note that the Court must sanction the final agreement of any divorce. Helpfully, most Collaborative cases are agreed upon by the parties before the final agreement is filed with the Court, saving valuable docket space for our overworked family court system. Currently, with no statutory parameters, there is nothing to protect an individual from a rogue practitioner who might say they are practicing in the Collaborative realm, then do not follow the recommended process which could unfortunately result in a poor outcome for the parties.

The passage of this legislation would assure those individuals that choose the Collaborative process that they will be protected should the process require litigation. This statute would require that agreements entered into during the Collaborative Process are protected and enforced by the Court, and that the confidentiality of the process is respected with the same enforcement that we currently offer parties who choose mediation. The Collaborative Law community has been trying to maintain and improve a standardized framework for the Collaborative Law process by outreach efforts to all practitioners in New Hampshire. This legislation will provide our practitioners that much needed framework within a statutory construction. My colleagues and I who have spent many hours crafting this carefully considered language before you, and urge you to support it in its current form.

Thank you for your consideration of this long awaited and necessary legislation, and please do not hesitate to contact me should you have any questions.

Sincerely,


Jane M. Schirch, Esq.
Jane@sandslawfirm.com

/JMS

INFORMATION PAPER

SB 134 Part I – Prohibiting certain uses of laser pointing devices

ISSUE: Current New Hampshire law prohibits the pointing of lasers, visible and invisible, with limited exceptions. The very broad prohibition in state law of a laser pointer unintentionally makes illegal the everyday use of lasers, from vehicle sensors to national security-related research and development, to golf and hunting rangefinders.

BACKGROUND: In 2016, the legislature passed, and then-Governor Hassan into law HB 1599, relative to shining a laser at an aircraft or vessel, or another person. This was in response to a growing number of incidents of people shining green laser pointers into the cockpits of aircraft, and also shining laser pointers on law enforcement personnel to give the appearance of a weapon targeting them. Unfortunately, the bill, which became law after passing both chambers by voice vote, did not account for technological advances. As a result, the law unintentionally makes the common, everyday use of visible and invisible lasers illegal. Vehicle safety sensors, golf and hunting rangefinders, and research, development, and testing of laser-based military technologies are examples of visible and invisible lasers that are often pointed at vehicles and people. And as such, are technically illegal under current state law. Moreover, HB 1599, as amended and signed into law, did not account for broader misuse of laser pointers, such as using them on drones or pointing them at OHRVs and snowmobiles.

SOLUTION: SB 134 Part 1, as amended by the House Judiciary Committee, is needed to improve RSA 631: 3-a and RSA 422:28, XIV to make sure the malicious use of visible lasers remains prohibited as intended by HB1599 in 2016, but extend the prohibition to include pointing a laser beam at OHRVs and snowmobiles, and mounting a laser pointer on drones for malicious purposes. Equally important, RSA 631: 3-a and RSA 422:28, XIV should be improved to broaden the exceptions to the prohibitions on laser pointers so that state law no longer unwittingly make illegal what are common, everyday use of lasers in civilian, commercial, and government settings, including law enforcement uses.

OTHER CONSIDERATIONS: SB 134 Part 1 has been put forth with input from the Departments of Safety, Transportation, and Fish and Game and other stakeholders to identify any possible concerns with these suggested improvements to RSA 631: 3-a, and RSA 422:28, XIV. BAE Systems has no position on any other parts of SB 134.

RECOMMENDATION: BAE Systems respectfully requests the full House votes in favor of the House Judiciary Committee's recommendation of OTPA on SB 134 to change NH law regarding lasers pointers to align with the original intent on HB1599 in 2016 and ensure it accounts for technological advances going forward.

BAE SYSTEMS POC: David Cuzzi, Prospect Hill Strategies, 603-716-0569, david.cuzzi@prospecthillstrategies.com

Request for Technical Amendment to SB134 Part 1- Prohibiting certain uses of laser pointing devices

Background: HB1599 in 2016, which became law in 2017, updated RSA 631:3-a and RSA 422:28 to prohibit shining a laser pointer at an aircraft or vessel, a window, or another person, including law enforcement personnel. In simple terms, RSA 631:3-a deals with people and things on the ground. RSA 422:28, paragraph XIV, which is part of the state Aeronautics Act, deals with aircraft in flight, landing, taking off, and taxiing. HB1599 in 2016 rightly amended both RSAs to ensure the prohibition would cover aircraft on the ground and in flight consistently in state law.

Due to an oversight, SB134, as passed by the Senate, inadvertently did not update RSA 422:28, paragraph XIV, as it did RSA 631:3-a. An amendment is needed to ensure the same prohibitions and exceptions made in the bill for RSA 631:3-a apply consistently to RSA 422:28, paragraph XIV, as supporters of SB 134 Part 1 intend.

Proposed Amendment Language for SB 134 Part 1: We respectfully suggest the following language for the Committee to present to OLS for their perfecting modifications as needed to be placed into accurate and appropriate amendment form:

“Amend Part I of the bill by inserting after Sec. 1 the following:

Amend RSA 422:28, XIV by repealing and replacing it with the following:

‘Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at an aircraft that is in flight or in the process of takeoff, landing, or taxiing, except as allowed in Part 1, Sec. 1, IV of the bill.’”

Other Resources

- Link to SB 134 as [passed by the Senate](#).
- Link to HB1599 [that passed in 2016](#).
- Link to [RSA 631](#).
- Link to [RSA 422](#).

BAE Systems POC: David Cuzzi, Prospect Hill Strategies,
david.cuzzi@prospecthillstrategies.com; 603-716-0569

April 21, 2021

Ray Brousseau
Vice President & Deputy General Manager
BAE Systems Electronic Systems
65 Spit Brook Road
Nashua, NH 03061

BAE SYSTEMS

May 27, 2021

The Honorable Sherman Packard
Speaker of the New Hampshire House of Representatives
State House, Room 311
107 North Main Street
Concord, NH 03301

Dear Speaker Packard:

BAE Systems supports SB 134 Part I, relative to prohibiting certain uses of laser pointing devices. Although the company has no position on any other part of this omnibus legislation, I urge you and your colleagues in the House to support the Judiciary Committee's recommendation of Ought to Pass with Amendment (OTPA) on SB 134.

As you know, current New Hampshire law prohibits the pointing of lasers, visible and invisible, with limited exceptions. The very broad prohibition unintentionally makes illegal the everyday use of lasers in certain situations, from vehicle sensors to various consumer electronics, and, most important to us at BAE Systems, some national security-related research and development projects involving lasers. The current law regarding laser pointers was unanimously passed and signed into law in 2016 in response to a growing number of incidents of people shining laser pointers at aircraft and law enforcement personnel. Though well intentioned, the bill did not provide adequate exemptions for the lawful pointing of lasers, nor did it anticipate advances in various technologies.

SB 134, Part I is needed to ensure the malicious use of laser pointers remains prohibited as intended in the 2016 law. Equally important, it provides appropriate exemptions for the lawful pointing of lasers. These exemptions in the language would apply to companies like BAE Systems engaged in government funded research and development, as well as other common, lawful, commercial, civilian and government uses of laser pointing devices, including those by law enforcement officials. A one-page overview of Part 1 of SB 134 is attached for your information.

BAE Systems respectfully requests the House vote OTPA on SB 134. Should you or your colleagues in the House have any questions or require additional information, please feel free to contact me, or our Concord representative, David Cuzzi of Prospect Hill Strategies (603-716-0569).

Sincerely,



Ray Brousseau
Vice President & Deputy General Manager
BAE Systems Electronics Systems

Rebecca Stuart

From: Steve Zemanek <Steve@Zemanek.us>
Sent: Tuesday, April 27, 2021 1:31 PM
To: ~House Judiciary Committee
Subject: SB134 Part 1: First Amendment use of Lasers.

I am writing in opposition to Part 1 of SB134, I believe as written that this part of the bill is overly vague. I believe the intention of this part of the bill is to stop people from using laser pointers as a weapon to blind and disorient people, however this bill as written makes no differentiation between malicious use and legitimate use. There are hundreds of legitimate uses of lasers that could violate this section as written that don't fall within the limited exemptions in the section. Lasers are used for all kinds of distance measurement equipment, even the auto-focus of many cameras and phones.

My biggest concern is that some people have used laser projectors to project political messages onto buildings, signs, and bridges, during protests, rallies, and events. People have already been harassed by police for first amendment use of laser projectors. (One of many examples here: <https://www.youtube.com/watch?v=53IRCs3oS5Q>) I'm afraid that as written, this bill will give ammunition to squash free speech use of lasers.

I would add language that would limit prosecutions to cases where the use of the laser was **maliciously** used in a way that could blind or disorient people.

--Steve Zemanek
Manchester, NH

Rebecca Stuart

From: David G. Collins <dgc@rypgranite.com>
Sent: Monday, April 26, 2021 8:42 PM
To: ~House Judiciary Committee
Subject: NH House Remote Testify: 9:00 am - SB134 in House Judiciary
Attachments: NH Statement in Support of SB 134 Electronic Notarization bill 4.27.21.pdf

Chairman Gordon and members of the House Judiciary Committee

I do not intend to testify on SB 134 but would appreciate your consideration of my written testimony on behalf of NH Credit Unions in support of the electronic notary section of the proposed legislation.

Thank you

David Collins

Rebecca Stuart

From: Chloe <starrychloe@oliveyou.net>
Sent: Sunday, April 25, 2021 12:36 PM
To: ~House Judiciary Committee
Subject: NH House Remote Testify: 9:00 am - SB134 in House Judiciary

This is a bad bill and bad for marketing. A restaurant or car dealership could not even use light marketing on their own building or vehicles.

Sent from my iPhone

Rebecca Stuart

From: David Cuzzi <david.cuzzi@prospecthillstrategies.com>
Sent: Friday, April 23, 2021 3:44 PM
To: ~House Judiciary Committee
Subject: BAE Systems - SB 134 Part 1
Attachments: BAE Systems Written Materials Supporting SB 134 Part 1 04-23-2021.pdf; BAE Systems SB134 Part 1 Amendment Request April 2021.pdf

Dear Members of the Judiciary Committee-

On behalf of BAE Systems, please find two attachments outlining the company's support for SB 134 Part 1, relative to shining a laser pointing device at an aircraft or vessel, or at another person. The company has no position on any other parts of this omnibus legislation. I am not aware of any opposition to Part 1 of SB 134.

BAE Systems is respectfully requesting a technical amendment to the bill. I am not aware of any opposition to this technical amendment.

The attached PDF titled "BAE Systems Written Materials Supporting SB 134 Part 1 04-23-2021" contains the following:

- Letter from BAE Systems
- One page overview of why the company supports SB 134 Part 1
- One page overview of the technical amendment the company is seeking to SB 134 Part 1
- Copy of testimony from Ms. Erin Poitras, Laser Safety Officer for BAE Systems in Nashua

I also attached, as a stand-alone document, the one page overview describing the need for the technical amendment to SB 134 Part 1, which includes draft language for OLS, should the Committee be so inclined to bring forth this amendment. The amendment one page overview is titled "BAE Systems SB 134 Part 1 Amendment Request April 2021."

In addition to Ms. Poitras, I, and Tom Bishop from BAE Systems in Nashua have signed up to speak in support of the bill. With the indulgence of Chairman Gordon, I hope the three of us can be "promoted" to speakers at the same time so Ms. Poitras can briefly speak to the need for the bill and I can briefly speak to the need for the requested amendment. Mr. Bishop will speak only if he is best positioned to answer any questions from the Committee.

Thank you for your consideration of the attached materials. Please do not hesitate to contact me (603-716-0569) with any questions or concerns. Have a nice weekend.

Respectfully Submitted,

David Cuzzi

David Cuzzi, President

PROSPECT HILL STRATEGIES

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Rebecca Stuart

From: Mackey, Jay <Jay.P.Mackey@doc.nh.gov>
Sent: Friday, April 23, 2021 9:54 AM
To: ~House Judiciary Committee
Subject: SB 134 Testimony for NHDOC
Attachments: SB134 Testimony.docx

Good morning honorable members of the House Judiciary Committee,

My name is Jay Mackey and I am the Administrator of Classifications and Client Records for the NH Department of Corrections. I will be testifying on behalf of the NHDOC in support of SB 134 on Tuesday April 27., 2021. I have attached written testimony for you to review. If you have any questions, please do not hesitate to contact me. Thank you for your service.

Jay Mackey

Administrator of Classifications and Client Records
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Rebecca Stuart

From: Cole, Ellen A. <ecole@orr-reno.com>
Sent: Friday, April 23, 2021 9:28 AM
To: ~House Judiciary Committee
Cc: Patch, Douglas L.; jdiana@sambasafety.com; aboyd@sambasafety.com
Subject: NH House Remote Testify: 9:00 am - SB134 in House Judiciary [IWOV-iManage.FID489568]
Attachments: Letter_from_Samba_Safety_to_House Judiciary Comm (22 April 2021).pdf

Good morning,

Attached is the testimony of John Diana with SambaSafety in support of Section X of SB 134 which is scheduled to be heard by the Judiciary Committee on April 27, 2021 at 9:00 a.m.

Please let me know if you have any questions.

Thank you,
Ellen

Ellen A. Cole

Legal Assistant

Orr&Reno

Sustained Excellence Since 1946

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Rebecca Stuart

From: Karen Karwocki
Sent: Tuesday, April 20, 2021 10:44 AM
To: ~House Judiciary Committee
Subject: JUDICIARY Notice - 05-04-2021
Attachments: JUDICIARY Notice - 05-04-2021.pdf

Rebecca Stuart

From: Karen Karwocki
Sent: Tuesday, April 13, 2021 3:55 PM
To: ~House Judiciary Committee
Subject: JUDICIARY Notice - 04-27-2021
Attachments: JUDICIARY Notice - 04-27-2021.pdf

Bill as
Introduced

SB 134-FN - AS INTRODUCED

2021 SESSION

21-0931
04/06

SENATE BILL **134-FN**

AN ACT adopting omnibus legislation relative to civil actions and criminal liability.

SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Judiciary

ANALYSIS

This bill adopts legislation relative to:

- I. Prohibiting certain uses of laser pointing devices.
- II. The revised uniform law on notarial acts and the uniform real property electronic recording act.
- III. Incarceration under a suspended sentence.
- IV. Civil liability for damage to highways.
- V. Procedures for structured settlements.
- VI. Establishing the New Hampshire collaborative law act.
- VII. Probate administration, distribution upon intestacy, and powers of attorney and adopting the uniform disclaimer of property interests act.
- VIII. School employee and school volunteer criminal history background checks and establishing a committee to study department of education oversight of criminal history background checks for private schools.
- IX. Making an appropriation funding mental health intervention training programs.
- X. Interference with the enjoyment of a dwelling place.
- XI. Employer access to motor vehicle records.
- XII. Authorization to grow industrial hemp.

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.

21-0931
04/06

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to civil actions and criminal liability.

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

1 Sponsorship. This act consists of the following proposed legislation:

Part I: LSR 21-0931, relative to prohibiting certain uses of laser pointing devices, sponsored by Sen. Carson, Prime/Dist 14.

Part II: LSR 21-0498, relative to the revised uniform law on notarial acts and the uniform real property electronic recording act, sponsored by Sen. Cavanaugh, Prime/Dist 16; Sen. Hennessey, Dist 1; Sen. Bradley, Dist 3; Rep. Danielson, Hills 7.

Part III: LSR 21-0913, relative to incarceration under a suspended sentence, sponsored by Sen. Whitley, Prime/Dist 15; Sen. Perkins Kwoka, Dist 20; Sen. Kahn, Dist 10; Sen. D'Allesandro, Dist 20.

Part IV: LSR 21-0932, relative to civil liability for damage to highways, sponsored by Sen. Carson, Prime/Dist 14.

Part V: LSR 21-0934, relative to structured settlement protection, sponsored by Sen. Carson, Prime/Dist 14.

Part VI: LSR 21-0944, establishing the New Hampshire collaborative law act, sponsored by Sen. Carson, Prime/Dist 14.

Part VII: LSR 21-0979, relative to probate administration, distribution upon intestacy, and powers of attorney and adopting the uniform disclaimer of property interests act, sponsored by Sen. Whitley, Prime/Dist 15; Rep. McWilliams, Merr 27; Rep. Piedra, Hills 9.

Part VIII: LSR 21-1041, relative to school employee and school volunteer criminal history background checks and establishing a committee to study department of education oversight of criminal history background checks for private schools, sponsored by Sen. Kahn, Prime/Dist 10; Sen. Cavanaugh, Dist 16; Rep. Ladd, Graf 4.

Part IX: LSR 21-0996, making an appropriation funding mental health intervention training programs, sponsored by Sen. Giuda, Prime/Dist 2; Sen. Watters, Dist 4; Sen. Hennessey, Dist 1; Sen. Sherman, Dist 24; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Rep. Salloway, Straf 5; Rep. Weyler, Rock 13; Rep. Gordon, Graf 9; Rep. Lang, Belk 4; Rep. G. Sanborn, Graf 6.

Part X: LSR 21-0192, relative to interference with the enjoyment of a dwelling place, sponsored by Sen. Ward, Prime/Dist 8.

Part XI: LSR 21-1013, relative to employer access to motor vehicle records, sponsored by Sen. Carson, Prime/Dist 14.

Part XII: LSR 21-0969, relative to authorization to grow industrial hemp, sponsored by Sen. Carson, Prime/Dist 14.

2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

Relative to prohibiting certain uses of laser pointing devices.

1 Assault and Related Offenses; Conduct Involving Laser Pointing Devices. RSA 631:3-a is repealed and reenacted to read as follows:

631:3-a Conduct Involving Laser Pointing Devices.

I. As used in this section:

(a) "Government" means the federal government, the state government or any political subdivision thereof, or a state or municipal agency or department, including any employee or agent.

(b) "Person" means any individual, partnership, limited liability company, corporation, or any other organization, including a for-profit and not-for-profit entity, but excluding government.

II.(a) Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at an occupied motor vehicle, off highway recreational vehicle, snowmobile, vessel, window, or structure, or at a person shall be guilty of a violation and the laser pointing device shall be seized and forfeited upon conviction.

(b) Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at an occupied aircraft shall be guilty of a misdemeanor and the laser pointing device shall be seized and forfeited upon conviction.

III. Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at a law enforcement officer or law enforcement vehicle, off highway recreational vehicle, or snowmobile shall be guilty of a class A misdemeanor and the laser pointing device shall be seized and forfeited upon conviction.

IV. This section shall not prohibit aiming a beam of a laser pointing device at a motor vehicle, aircraft, vessel, window, structure, or at a person by any of the following:

(a) An authorized person in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations.

(b) The government or persons authorized by the government, including defense and aerospace contractors, engaged in research, development, operations, testing, or training.

(c) An individual using a laser emergency signaling device to send an emergency distress signal, in an organized meeting or training class by the instructor or speaker, the use of medical lasers by qualified medical personnel, sporting use related only to calibrate distance without violating the prohibitions set forth in paragraph III, agricultural use, use related to land surveying, construction lasers used by construction personnel in the course of their work or other use of lasers for lawful business purposes, or lawful laser devices utilized by law enforcement personnel in the performance of their official duties.

(d) Vehicle sensors, including those used for navigational aids, and research, development, test, evaluation, and operation of autonomous vehicles, as permitted by law

2 Effective Date. Part I of this act shall take effect January 1, 2022.

PART II

Relative to the revised uniform law on notarial acts and the uniform real property electronic recording act.

1 Notaries Public. Amend RSA 455:3 to read as follows:

455:3 Powers.

I. Every notary public, in addition to the usual powers of the office, shall have the same powers as a justice of the peace in relation to depositions and the acknowledgment of deeds and other instruments and the administering of oaths.

II. All ~~[acknowledgments made]~~ **notarial acts performed** by a notary public **with respect to a record** shall be either under an **embossed** official seal or shall carry the legible imprint of an **electronic or rubber** official ~~[rubber]~~ stamp stating the name of the notary, the words "notary public, New Hampshire" and the expiration date of the notary public's commission.

III. As used in this section:

(a) **"Electronic" has the same meaning given in RSA 456-B:1, VI;**

(b) **"Notarial Act" has the same meaning given in RSA 456-B:1, I;**

(c) **"Official stamp" has the same meaning given in RSA 456-B:1, IX; and**

(d) **"Record" has the same meaning given in RSA 456-B:1, XI.**

2 New Paragraph; Notarial Fees. Amend RSA 455:11 by inserting after paragraph II the following new paragraph:

III. For performing notarial acts for a remotely located individual under RSA 456-B:6-a, a notary public shall be entitled to a fee of \$25 per act.

3 Uniform Law on Notarial Acts; Definitions. Amend RSA 456-B:1 to read as follows:

456-B:1 Definitions.

I. "Notarial act" means ~~[any act that a notary public]~~ **an act, whether performed with respect to a tangible or electronic record, that a notarial officer** is authorized to perform **under the law of this state**, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

II. "Acknowledgment" means a declaration by ~~[a person]~~ **an individual before a notarial officer** that the ~~[person has executed an instrument]~~ **individual has signed a record** for the purposes stated therein and, if ~~[the instrument is executed]~~ **the record is signed** in a representative capacity, that the ~~[person]~~ **individual** signed the ~~[instrument]~~ **record** with proper authority and ~~[executed]~~ **signed** it as the act of the ~~[person]~~ **individual** or entity ~~[represented and]~~ identified therein.

III. "Verification upon oath or affirmation" means a declaration that a statement is true made by ~~[a person]~~ **an individual** upon oath or affirmation.

IV. "In a representative capacity" means **acting as:**

(a) ~~[For and on behalf of a corporation, partnership, trust, or other entity, as]~~ An authorized officer, agent, partner, trustee, or other representative **for a person other than an individual;**

(b) ~~[As]~~ A public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(c) ~~[As]~~ An **agent or** attorney in fact for a principal; or

(d) In any other capacity as an authorized representative of another.

V. "Notarial officer" means a notary public, justice of the peace, or other officer authorized to perform notarial acts.

VI. **"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.**

VII. **"Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.**

VIII. **"Notary public" means an individual appointed to perform a notarial act by the governor and executive council.**

IX. **"Official stamp" means an official seal of office consisting of a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.**

X. **"Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.**

XI. **"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.**

XII. **"Sign" means, with present intent to authenticate or adopt a record:**

(a) **To execute or adopt a tangible symbol; or**

(b) **To attach to or logically associate with the record an electronic symbol, sound, or process.**

XIII. **"Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.**

XIV. **"Stamping device" means:**

(a) **A physical device capable of affixing to or embossing on a tangible record an official stamp; or**

(b) **An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.**

XV. **"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.**

4 Uniform Law on Notarial Acts; Notarial Acts. Amend RSA 456-B:2 to read as follows:

456-B:2 Notarial Acts.

I. In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the ~~[person]~~ **individual** appearing before the officer and making the acknowledgment ~~[is the person whose true]~~ **has the identity claimed and that the** signature ~~[is]~~ on the instrument **is the signature of the individual.**

II. In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the ~~[person]~~ **individual** appearing before the officer and making the verification ~~[is the person whose true]~~ **has the identity claimed and that the** signature ~~[is]~~ on the statement verified **is the signature of the individual.**

III. In witnessing or attesting a signature the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the ~~[signature is that of the person]~~ **individual** appearing before the officer and ~~[named therein]~~ **signing the record has the identity claimed.**

IV. In certifying or attesting a copy of a ~~[document]~~ **record** or other item **that was copied**, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of ~~[that which was copied]~~ **the record or item.**

V. In making or noting a protest of a negotiable instrument the notarial officer must determine the matters set forth in RSA 382-A:3-505.

VI. ~~[A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person is personally known to the notarial officer, is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or is identified on the basis of identification documents.]~~ **A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.**

VII.(a) For the purposes of this section, but only in the context of executing an estate planning instrument such as a will, trust, or power of attorney, the requirement that a person appear before a notarial officer at the time of the notarial act is satisfied if the notarial officer is:

- (1) The attorney, licensed to practice law in New Hampshire and in good standing, who drafted the estate planning instrument;
 - (2) Another attorney licensed to practice law in New Hampshire and in good standing, under the drafting attorney's supervision; or
 - (3) A paralegal under the supervision of either such attorney; and
- (b) The person and the notarial officer can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarial act.
- (c) This paragraph shall apply only to notarial acts performed on or after March 23, 2020 and ending on the last day of the state of emergency declared by executive order 2020-04. In addition, a notarial act performed in compliance with emergency order #11 pursuant to executive order 2020-04 from its effective date through the date of its expiration is valid.

5 New Sections; Personal Appearance Required; Identification of Individual. Amend RSA 456-B by inserting after section 2 the following new sections:

456-B:2-a Personal Appearance Required. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

456-B:2-b Identification of Individual.

I. A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

II. A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(1) A passport, driver's license, or government issued nondriver identification card, which is current and unexpired; or

(2) Another form of government identification issued to an individual, which is current and unexpired, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(b) By a verification upon oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government issued nondriver identification card, which is current and unexpired.

III. A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

6 Notarial Acts. Amend RSA 456-B:3, III to read as follows:

III. The signature, **embossed** official seal or the legible imprint of an **electronic or rubber** official [~~rubber~~] stamp stating the name of the notary, and the words "notary public, New Hampshire" and the expiration date of the notary public's commission of a person performing a notarial act or for a justice of the peace the name of the justice and the expiration date of his or her commission typed, printed, or stamped on the document are prima facie evidence that the signature is genuine and that the person holds the designated title.

7 New Section; Notarial Act Performed for Remotely Located Individual. Amend RSA 456-B by inserting after section 6 the following new section:

456-B:6-a Notarial Act Performed for Remotely Located Individual.

I. In this section:

(a) "Communication technology" means an electronic device or process that:

(1) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(2) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(b) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(c) “Identity proofing” means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(d) “Outside the United States” means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(e) “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act under paragraph III.

II. A remotely located individual may comply with RSA 456-B:2-a, and any other requirement under the law of this state to appear before or be in the presence of a notary public at the time of a notarial act, by using communication technology to appear before a notary public.

III. A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(a) The notary public:

(1) Has personal knowledge under RSA 456-B:2-b, I, of the identity of the individual;

(2) Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under RSA 456-B:2-b, II, or this section; or

(3) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least 2 different types of identity proofing;

(b) The notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(c) The notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

(d) For a remotely located individual located outside the United States:

(1) The record:

(A) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(2) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

IV. If a notarial act is performed under this section, the certificate of notarial act required by RSA 456-B:7 and the short-form certificate provided in RSA 456-B:8 must indicate that the notarial act was performed using communication technology.

V. A short-form certificate provided in RSA 456-B:8 for a notarial act subject to this section is sufficient if it:

(a) Complies with rules adopted under subparagraph VIII(a); or

(b) Is in the form provided in RSA 456-B:8 and contains a statement substantially as follows: “This notarial act involved the use of communication technology.”

VI. A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subparagraph III(c) or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subparagraph VIII(d), the recording must be retained for a period of at least 10 years after the recording is made.

VII. Before a notary public performs the notary public’s initial notarial act under this section, the notary public must notify the secretary of state that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the secretary of state has established standards under paragraph VIII and RSA 456-B:8-b, IV, for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

VIII. In addition to adopting rules under RSA 456-B:8-b, IV, the secretary of state may adopt rules under RSA 541-A regarding performance of a notarial act under this section. The rules may:

- (a) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;
- (b) Establish standards for communication technology and identity proofing;
- (c) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and
- (d) Establish standards and a period for the retention of an audio-visual recording created under subparagraph III(c).

IX. Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state must consider:

- (a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the National Association of Secretaries of State;
- (b) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and
- (c) The views of governmental officials and entities and other interested persons.

X. Unless the secretary of state has adopted a rule establishing standards for identity proofing under subparagraph VIII(b), a notary public shall comply with the credential analysis and authentication provisions of the Standards for Remote Online Notarization (Version 1) adopted by The Mortgage Industry Standards Maintenance Organization on August 28, 2019. Compliance with this paragraph satisfies the requirement of using at least 2 different types of identity proofing when performing a notarial act for a remotely located individual under this section.

8 New Sections; Official Stamp; Stamping Device; Notification Regarding Performance of Notarial Act on Electronic Record; Selection of Technology; Rules; Journal; Validity of Notarial Acts; Relation to Electronic Signatures in Global and National Commerce Act. Amend RSA 456-B by inserting after section 8 the following new sections:

456-B:8-a Official Stamp; Stamping Device.

I. The electronic or rubber official stamp of a notary public shall:

- (a) Include the information required by RSA 455:3; and
- (b) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

II. A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

III. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the secretary of state on discovering that the device is lost or stolen.

456-B:8-b Notification Regarding Performance of Notarial Act on Electronic Record; Selection of Technology; Rules.

I. A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

II. Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology, the technology shall conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

III. The secretary of state may adopt rules under RSA 541-A to implement this chapter. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification.

IV. Unless the secretary of state has adopted a rule establishing standards for tamper-evident technology, a notary public shall attach or logically associate the notary public's official stamp to an electronic record by use of a digital

certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology.

456-B:8-c Journal.

I. A notary public shall maintain a journal in which the notary public chronicles all notarial acts the notary public performs with respect to a remotely located individual under RSA 456-B:6-a. The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

II. A journal may be created on a tangible medium or in an electronic format. A notary public shall maintain only one journal at a time to chronicle all notarial acts performed regarding tangible records and one or more journals to chronicle all notarial acts performed regarding electronic records. If a journal is maintained on a tangible medium, it shall be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

III. An entry in a journal shall be made contemporaneously with performance of the notarial act and contain the following information:

- (a) The date and time of the notarial act;
- (b) A description of the record, if any, and type of notarial act;
- (c) The full name and address of each individual for whom the notarial act is performed;
- (d) If identity of the individual is based on personal knowledge, a statement to that effect;
- (e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of the identification credential; and
- (f) The fee, if any, charged by the notary public.

IV. If the journal of a notary public is lost, the notary public loses access to the journal, or the journal is stolen, the notary public promptly shall notify the secretary of state upon discovering the journal is lost, access is lost, or the journal is stolen.

V. On resignation from, or the revocation or suspension of, the commission of a notary public, the notary public shall retain the journal in accordance with paragraph I and inform the secretary of state where the journal is located.

VI. Instead of retaining a journal as provided in paragraphs I and V, a current or former notary public may transmit the journal to a repository approved by the secretary of state.

VII. Upon the death or adjudication of incompetency of a current or former notary public, the personal representative or guardian of the notary public shall retain the journal as provided in paragraphs I or V or transmit the journal to a repository approved by the secretary of state.

456-B:8-d Validity of Notarial Acts. The failure of a notarial officer to perform a duty or meet a requirement specified in this chapter or RSA 455 does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter or RSA 455 does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this chapter or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

456-B:8-e Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

9 New Paragraph; Short Forms. Amend RSA 456-B:8 by inserting after paragraph V the following new paragraph:

VI. For certifying a tangible copy of an electronic record:

State of _____

(County) of _____

I certify that this record is a true and correct copy of an electronic record printed by me or under my supervision.

Dated _____

(Signature of notarial officer)

(Seal, if any)

Title (and Rank)

[My commission expires: _____]

10 New Chapter; Uniform Real Property Electronic Recording Act. Amend RSA by inserting after chapter 478 the following new chapter:

CHAPTER 478-A

UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

478-A:1 Short Title. This chapter may be cited as the Uniform Real Property Electronic Recording Act.

478-A:2 Definitions. In this chapter:

I. "Document" means information that is:

- (a) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and
- (b) Eligible to be recorded in the land records maintained by the register of deeds.

II. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

III. "Electronic document" means a document that is received by the register of deeds in an electronic form.

IV. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

V. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

VI. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

478-A:3 Validity of Electronic Documents; Recordation of Electronic Documents in Tangible Form.

I. If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this section.

II. If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

III. A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

IV. A register of deeds shall accept for recording a tangible copy of an electronic document containing a notarial certificate as satisfying any requirement that a document accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic document. A notarial certificate in the form provided in RSA 456-B:8, VI, satisfies the requirement of this paragraph.

478-A:4 Recording of Documents.

I. In this section, "paper document" means a document that is received by the register of deeds in a form that is not electronic.

II. A register of deeds:

- (a) May receive, index, store, archive, and transmit electronic documents;
- (b) May provide for access to, and for search and retrieval of, documents and information by electronic means;
- (c) Shall, if accepting electronic documents for recording, continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;
- (d) May convert paper documents accepted for recording into electronic form;
- (e) May convert into electronic form information recorded before the register of deeds began to record electronic documents;
- (f) May accept electronically any fee or tax that the register of deeds is authorized to collect; and
- (g) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

478-A:5 Uniformity of Application and Construction. In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact

it.

478-A:6 Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

11 Effective Date. Part II of this act shall take effect 180 days after its passage.

PART III

Relative to incarceration under a suspended sentence.

1 Incarceration Under a Suspended Sentence. Amend the introductory paragraph of RSA 651:20, I(a) to read as follows:

(a) Any person sentenced to state prison for a minimum term of 6 years or more shall not bring a petition to suspend sentence until such person [~~has served at least 4 years or 2/3 of his minimum sentence, whichever is greater;~~] **is within 18 months of serving 2/3 of the minimum sentence**, and not more frequently than every 3 years thereafter. Any person sentenced to state prison for a minimum term of less than 6 years shall not bring a petition to suspend sentence until such person has served at least 2/3 of the minimum sentence, or the petition has been authorized by the sentencing court. For the purposes of this subparagraph:

2 Effective Date. Part III of this act shall take effect 60 days after its passage.

PART IV

Relative to civil liability for damage to highways.

1 Liability for Obstruction or Injury to Highway; Civil Liability. Amend RSA 263:39 to read as follows:

236:39 Civil Liability.

I. If any person, without authority, shall place any obstruction in a highway, or cause any defect, insufficiency, or want of repair of a highway which renders it unsuitable for public travel, he or she shall be **strictly** liable to the state for all damages to the highway, including **full and current** replacement costs of protective barriers, **and any structure or device that is part of the highway or turnpike system**, when maintained by the state, or to the municipality for all damages to a highway, including **full and current** replacement costs of protective barriers **and any structure or device that is part of the highway**, when maintained by the municipality, and for all damages and costs which the state or municipality shall be compelled to pay to any person injured by such obstruction, defect, insufficiency, or want of repair as established through an appropriate contribution claim or under the rules of joint and several liability.

II. "Full and current replacement cost" as used in this section means actual or reasonable estimates of labor, including contracted labor; material, equipment, and overhead. Such costs shall not be reduced for depreciation.

2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

PART V

Relative to structured settlement protection.

1 New Chapter; Structured Settlement Protection. Amend RSA by inserting after chapter 408-F the following new chapter:

CHAPTER 408-G

STRUCTURED SETTLEMENT PROTECTION

408-G:1 Definitions. In this chapter:

I. "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

II. "Assignee" means a party acquiring or proposing to acquire structured settlement payment rights from a transferee of such rights.

III. "Dependents" include a payee's spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony.

IV. "Discounted present value" means the present value of future payments determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value

of an annuity, as issued by the United States Internal Revenue Service.

V. "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

VI. "Independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional adviser.

VII. "Interested parties" means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party to such structured settlement that has continuing rights or obligations to receive or make payments under such structured settlement.

VIII. "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed pursuant to this chapter.

IX. "Payee" means an individual who is receiving tax free payments under a structured settlement and proposes to make a transfer of payment rights thereunder.

X. "Periodic payments" includes both recurring payments and scheduled future lump sum payments.

XI. "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of United States Internal Revenue Code, 26 U.S.C. section 130, as amended.

XII. "Settled claim" means the original tort claim resolved by a structured settlement.

XIII. "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim.

XIV. "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

XV. "Structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

XVI. "Structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(a) The payee resides in this state; or

(b) The structured settlement agreement was approved by a court in this state.

XVII. "Terms of the structured settlement" include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and any order or other approval of any court or other government authority that authorized or approved such structured settlement;

XVIII. "Transfer" means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration; provided that the term "transfer" shall not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights.

XIX. "Transfer agreement" means the agreement providing for a transfer of structured settlement payment rights.

XX. "Transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorneys fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary; "transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.

XXI. "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

408-G:2 Required Disclosure to Payee. Not less than 3 days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than 14 points, setting forth the following:

I. The amounts and due dates of the structured settlement payments to be transferred.

II. The aggregate amount of such payments.

III. The discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities and the amount of the Applicable Federal Rate used in calculating such discounted present value.

IV. The gross advance amount.

V. An itemized listing of all applicable transfer expenses, other than attorneys' fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements.

VI. The effective annual interest rate, which must be disclosed in a statement in the following form: "On the basis of the net amount that you will receive from us and the amounts and timing of the structured settlement payments that you are transferring to us, you will, in effect be paying interest to us at a rate of _____ percent per year."

VII. The net advance amount.

VIII. The amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee.

IX. That the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.

X. That the payee has the right to seek and receive independent professional advice regarding the proposed transfer and should consider doing so before agreeing to transfer any structured settlement payment rights.

408-G:3 Approval of Transfers of Structured Settlement Payment Rights. No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee or assignee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by such court that:

I. The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents; and

II. The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived in writing the opportunity to seek and receive such advice; and

III. The transfer does not contravene any applicable statute or the order of any court or other government authority.

408-G:4 Effects of Transfer of Structured Settlement Payment Rights. Following a transfer of structured settlement payment rights under this chapter:

I. The structured settlement obligor and the annuity issuer may rely on the court order approving the transfer in redirecting periodic payments to an assignee or transferee in accordance with the order approving the transfer and shall, as to all parties except the transferee or an assignee designated by the transferee, be discharged and released from any and all liability for the redirected payments; and such discharge and release shall not be affected by the failure of any party to the transfer to comply with this chapter or with the court order approving the transfer;

II. The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(a) If the transfer contravenes the terms of the structured settlement, for any taxes incurred by the structured settlement obligor or annuity issuer as a consequence of the transfer; and

(b) For any other liabilities or costs, including reasonable costs and attorneys' fees, arising from compliance by the structured settlement obligor or annuity issuer with the court order approving the transfer or from the failure of any party to the transfer to comply with this chapter;

III. Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between 2 or more transferees or assignees; and

IV. Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this chapter.

408-G:5 Procedure For Approval of Transfers.

I. An application under this chapter for approval of a transfer of structured settlement payment rights shall be made by the transferee and shall be brought in the superior court in the county in which the payee resides, except that if the payee does not reside in this state, the application may be brought in the court in this state that approved the structured settlement agreement.

II. A timely hearing shall be held on an application for approval of a transfer of structured settlement payment rights. The payee shall appear in person at the hearing unless the court determines that good cause exists to excuse the payee from appearing in person.

III. Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under RSA 408-G:3, the transferee shall file with the court and serve on all interested parties, including a parent or other guardian or authorized legal representative of any interested party who is not legally competent, a notice of the proposed transfer and the application for its authorization, including with such notice:

(a) A copy of the transferee's application.

(b) A copy of the transfer agreement.

(c) A copy of the disclosure statement required under RSA 408-G:2.

(d) The payee's name, age, and county of residence and the number and ages of each of the payee's dependents.

(e) A summary of:

(1) Any prior transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate to an assignee, within the 4 years preceding the date of the transfer agreement and any proposed transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate, applications for approval of which were denied within the 2 years preceding the date of the transfer agreement; and

(2) Any prior transfers by the payee to any person or entity other than the transferee or an affiliate or an assignee of the transferee or an affiliate within the 3 years preceding the date of the transfer agreement and any prior proposed transfers by the payee to any person or entity other than the transferee or an affiliate or an assignee of a transferee or affiliate, applications for approval of which were denied within the one year preceding the date of the current transfer agreement, to the extent that the transfers or proposed transfers have been disclosed to the transferee by the payee in writing or otherwise are actually known to the transferee.

(f) Notification that any interested party is entitled to support, oppose or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing.

(g) Notification of the time and place of the hearing and notification of the manner in which and the date by which written responses to the application must be filed, which date shall be not less than 5 days prior to the hearing, in order to be considered by the court.

408-G:6 General Provisions; Construction.

I. The provisions of this chapter shall not be waived by any payee.

II. Any transfer agreement entered into on or after the effective date of this chapter by a payee who resides in this state shall provide that disputes under such transfer agreement, including any claim that the payee has breached the agreement, shall be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

III. No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for periodically confirming the payee's survival, and giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

IV. If the payee cancels a transfer agreement, or if the transfer agreement otherwise terminates, after an application for approval of a transfer of structured settlement payment rights has been filed and before it has been granted or denied, the transferee shall promptly request dismissal of the application.

V. No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of this chapter.

VI. Nothing contained in this chapter shall be construed to authorize any transfer of structured settlement payment rights in contravention of any applicable law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this chapter is valid or invalid.

VII. Compliance with the requirements set forth in RSA 408-G:2 and fulfillment of the conditions set forth in RSA 408-G:3 shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights,

and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, non-compliance with such requirements or failure to fulfill such conditions.

2 Applicability. RSA 408-G as inserted by section 1 of Part V of this act shall apply to any transfer of structured settlement payment rights under a transfer agreement entered into on or after the 30th day after the effective date of Part V of this act.

3 Effective Date. Part V of this act shall take effect 60 days after its passage.

PART VI

Establishing the New Hampshire collaborative law act.

1 New Chapter; New Hampshire Collaborative Law Act. Amend RSA by inserting after chapter 490-I the following new chapter:

CHAPTER 490-J

NEW HAMPSHIRE COLLABORATIVE LAW ACT

490-J:1 Short Title. This chapter may be cited as the New Hampshire collaborative law act.

490-J:2 Definitions. In this chapter:

I. "Collaborative law communication" means a statement, whether oral or in a document, that:

(a) Is made as part of a collaborative law process;

(b) Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded; and

(c) Is not otherwise privileged pursuant to the attorney client relationship.

II. "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

III. "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a court in which persons:

(a) Sign a collaborative law participation agreement; and

(b) Are represented by collaborative lawyers.

IV. "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

V. "Collaborative matter" means an issue for resolution which is described in a collaborative law participation agreement and arises under the law of this state, including, but not limited to:

(a) Marriage, divorce, annulment, legal separation, and property distribution;

(b) Parental rights and responsibilities;

(c) Grandparent rights;

(d) Alimony, maintenance, and child support;

(e) Parentage;

(f) Premarital and post-marital agreements; and

(g) Any modifications of any orders arising out of the matters set forth in subparagraphs (a)-(f).

VI. "Court" means a body acting in an adjudicative capacity which has jurisdiction to render a decision affecting a party's interests in a matter.

VII. "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

VIII. "Law firm" means lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, association or legal services organization.

IX. "Neutral participant" means a person, other than a party and a party's collaborative lawyer, that participates in a collaborative law process.

X. "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

XI. "Proceeding" means a judicial or other adjudicative process.

XII. "Prospective party" means a person who discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

XIII. "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

XIV. "Sign" means with present intent to authenticate or adopt a document by electronic or non-electronic signature.
490-J:3 Applicability. This chapter applies to a collaborative law participation agreement that meets the requirements of RSA 490-J:4 signed on or after the effective date of the chapter.

490-J:4 Collaborative Law Participation Agreement; Requirements.

I. A collaborative law participation agreement shall:

- (a) Be in writing;
- (b) Be signed by the parties;
- (c) State the parties' intention to resolve a collaborative matter through a collaborative law process under this chapter;
- (d) Describe the nature and scope of the matter;
- (e) Contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process; and
- (f) Disqualify the collaborative lawyer from representing a party in a case filed with a court involving one or more of the same parties in the same or a related matter, except for the filing needed to seek the court's approval of an agreement reached in the collaborative case or in pending cases while stayed pursuant to RSA 490-J:6, I.

II. Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this chapter or current law.

490-J:5 Beginning and Concluding Collaborative Law Process.

I. A collaborative law process begins when the parties sign a collaborative law participation agreement.

II. A court shall not order a party to participate in a collaborative law process over that party's objection.

III. A collaborative law process is concluded by a:

- (a) Resolution of a collaborative matter as evidenced by a signed agreement;
- (b) Resolution of a part of the collaborative matter, evidenced by a signed agreement, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or
- (c) Termination of the process.

IV. A collaborative law process terminates:

- (a) When a party gives written notice to other parties that the process is ended.
- (b) Except as otherwise provided by paragraph VII, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.
- (c) When a party:
 - (1) Files a petition or other pleading related to a collaborative matter without the agreement of all parties; or
 - (2) In a pending proceeding related to the matter:
 - (A) Initiates a pleading, motion, order to show cause, or request for a conference with the court; or
 - (B) Requests that the proceeding be put on the court's active docket; or
 - (C) The matter is no longer stayed.

V. A party's collaborative lawyer shall give prompt written notice to all other parties if the lawyer has been discharged or withdraws as counsel.

VI. A party may terminate a collaborative law process with or without cause.

VII. Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if within 30 days or within a time agreed to by the team in writing:

- (a) The unrepresented party engages a successor collaborative lawyer; and
- (b) The parties consent in writing to continue the process by reaffirming the collaborative law participation agreement, and the successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

VIII. A collaborative law process shall not conclude if the parties jointly request the court to approve a settlement of the collaborative matter or any part thereof.

IX. A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

490-J:6 Cases Already Filed in Court.

I. Parties who have already initiated a proceeding by filing a petition with the court may jointly request the court to stay future action in the matter so the parties may engage in a collaborative process for resolution of the matter.

Before signing a participation agreement, the parties shall file an assented to motion to stay the proceedings with the court. The case shall not proceed with the collaborative process unless the stay is granted by the court. An extension of the stay may be requested of the court by written agreement to continue the collaborative process.

II. Either party can initiate a filing with the court to remove the stay and proceed with a litigated solution in the matter at any time.

III. Any unilateral filing with the court terminates the collaborative case. The case shall be returned to the active docket.

IV. A court shall provide parties notice and an opportunity to be heard before dismissing a case in which a notice of collaborative process is filed.

490-J:7 Emergency Order. During a collaborative law process, a court may issue emergency orders to protect the health, safety, welfare, or interest of a party; however, filing for such an order terminates the pending collaborative law process. Nothing in this section prohibits parties from exploring a return to the collaborative process after the issues that gave rise to the emergency order have been resolved and process outlined in RSA 490-J:13, III have been followed.

490-J:8 Approval of Agreement by Court.

I. The terms of a collaborative law participation agreement shall be considered a binding contract and shall be enforceable by the trial court.

II. Any agreements signed by the parties during the collaborative process are binding upon the parties in the same manner as they are in other family law proceedings. The trial court fully retains all rights and duties to ensure that the agreements reached are fair and reasonable to all before being approved by the court.

III. Agreements reached during the collaborative process which are not signed by all parties shall not be binding and shall be considered part of settlement discussions only.

490-J:9 Disqualification of Collaborative Lawyer and Lawyers in Associated Law Firm.

I. Except as otherwise provided in paragraph III, a collaborative lawyer is disqualified from appearing before a court to represent a party in a proceeding related to a collaborative matter, including related matters filed by third parties.

II. Except as otherwise provided in paragraph III, RSA 490-J:10, and RSA 490-J:11, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a court to represent a party in a proceeding related to a collaborative matter if the collaborative lawyer is disqualified from doing so under paragraph I.

III. A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(a) To ask a court to approve an agreement resulting from the collaborative law process; or

(b) To seek or defend an emergency order to protect the health, safety, welfare, or interest of a party, a minor child, family or household member as defined in RSA 173-B:1, X, if a successor lawyer is not immediately available to represent that party and only until the person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

490-J:10 Disclosure of Information. During the collaborative law process, on the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to a collaborative matter without formal discovery. A party also shall update promptly previously disclosed information that has materially changed.

The parties may define the scope of disclosure during the collaborative law process.

490-J:11 Standards of Professional Responsibility and Mandatory Reporting Not Affected. This chapter does not affect:

I. The professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or

II. The obligation of a person to report abuse or neglect, abandonment, or exploitation of an adult or child under New Hampshire law.

490-J:12 Appropriateness of Collaborative Law Process. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall:

I. Assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

II. Provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the

material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or neutral evaluation; and

III. Advise the prospective party that:

- (a) After signing an agreement if a party initiates a proceeding or seeks court intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;
- (b) Participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause; and
- (c) The collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a court to represent a party in a proceeding related to the collaborative matter, except as authorized by RSA 490-J:9, III.

490-J:13 Domestic Violence.

I. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.

II. Throughout the collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

III. If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue the collaborative law process unless both parties, after individual consultation with their attorneys, represent to their individual attorney that he/she has no current concern for his/her safety or coercion and both wish to proceed with the collaborative process.

490-J:14 Confidentiality of Collaborative Law Communication. A collaborative law communication is confidential except as agreed by the parties in a signed document, or under the circumstances set forth in RSA 490-J:15, IV.

490-J:15 Privilege Against Disclosure for Collaborative Law Communication.

I. Except as set forth in this section, a collaborative law communication is privileged, is not subject to discovery, and is not admissible into evidence. Accordingly, a party or a party's lawyer or a neutral participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

II. Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

III. Waiver of Privilege.

(a) The privilege may be waived wholly or in part in a document or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a neutral participant, it is also expressly waived by the neutral participant.

(b) A party who discloses a collaborative law communication for which the privilege has not been waived under subparagraph (a) shall be deemed to have waived the privilege, but only to the extent necessary to permit any other party to respond to the unauthorized disclosure.

IV. There is no privilege under this chapter for a collaborative law communication that is:

- (a) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;
- (b) In an agreement resulting from the collaborative law process, evidenced by a document signed by all parties to the agreement;
- (c) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or
- (d) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult.

V. There is no privilege under this chapter if a court finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting the privilege and the collaborative law communication is sought or offered in:

- (a) A court proceeding involving a felony; or
- (b) A proceeding seeking rescission or clarification of an agreement arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

VI. If a collaborative law communication is subject to an exception under paragraph IV or V, only the part of the communication necessary for the application of the exception may be disclosed or admitted.

VII. Disclosure or admission of evidence excepted from the privilege under paragraph IV or V does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

490-J:16 Authority of Court in Case of Noncompliance. Notwithstanding a failure to comply with RSA 490-J:4, RSA 490-J:12, or RSA 490-J:13, a court may enforce an agreement, apply the disqualification provisions of RSA 490-J:9, or apply a privilege under RSA 490-J:15 when the court concludes that the parties intended to enter into a collaborative law participation agreement and to participate in a collaborative law process. Such a conclusion shall be based upon the following findings:

- I. The parties signed a document indicating an intent to enter into a collaborative law participation agreement;
- II. The parties reasonably believed they were participating in a collaborative law process; and
- III. The interests of justice require finding that the parties were participating in collaborative law process.

2 Effective Date. Part VI of this act shall take effect 60 days after its passage.

PART VII

Relative to probate administration, distribution upon intestacy, and powers of attorney and adopting the uniform disclaimer of property interests act.

1 Administrators and Their Appointment; Subdivision Heading Amended. Amend the subdivision heading preceding RSA 553:32 to read as follows:

~~[Administration of Small Estates]~~ ***Waiver of Administration***

2 Waiver of Administration. RSA 553:32, I-II are repealed and reenacted to read as follows:

I.(a) Notwithstanding any provision of law, there shall be no requirement for an inventory of the estate, no requirement for a bond, and no requirement for an accounting for assets in any of the following circumstances:

- (1) Whenever a decedent dies testate and an individual is named in the will as the sole beneficiary of the decedent's estate and is appointed to serve as administrator.
- (2) Whenever a decedent dies testate and all individuals named in the will as beneficiaries of the decedent's estate are appointed to serve as co-administrators or any appropriate person is appointed to serve as administrator with the assent of all such beneficiaries.
- (3) Whenever a decedent dies testate, a trust is named in the will as the sole beneficiary of the estate, and any appropriate person, including one or more trustees of such trust, is appointed to serve as administrator with the assent of all such trustees.
- (4) Whenever a decedent dies intestate and an individual, including a surviving spouse, is the sole heir of the decedent's estate and is appointed to serve as administrator.
- (5) Whenever a decedent dies intestate and all heirs of the decedent's estate, including a surviving spouse, if any, are appointed to serve as co-administrators or any appropriate person is appointed to serve as administrator with the assent of all such heirs.
- (6) Whenever, in the discretion of the court, the court determines it is appropriate under the circumstances.

(b) Administration of the estate shall be completed upon the administrator's filing, and the probate court's approval, of an affidavit of administration. Such filing shall occur not less than 6 months and no more than one year after the date of appointment of the administrator. Upon motion of the administrator, for good cause shown, the court may extend the one year deadline for filing the affidavit of administration. The affidavit of administration shall state that to the best of the knowledge and belief of the administrator there are no outstanding debts or obligations attributable to the decedent's estate and shall list all real estate owned by the decedent at the time of death, including the location, book, and page.

(c) If the administrator fails to file the affidavit of administration within the time prescribed in subparagraph (b), including any extensions granted, the court may take appropriate action in the discretion of the court, including, but not limited to, issuing a notice of default, a show cause order, or requiring full administration of the estate.

II.(a) Any interested person may petition for a full administration of the estate at any time from the original grant of administration to the filing of the affidavit of administration, and such petition may be granted by the probate court for good cause shown.

(b) Where full administration is granted subsequent to an original grant of administration under this section, the deadlines for filing an inventory in RSA 554:1, RSA 554:26-a, and RSA 553:13, I(a), and for filing an account of

administration in RSA 554:26-a, shall run from the date of the grant of full administration. All other deadlines, including but not limited to the deadline to request proof in solemn form in RSA 552:7, the notice to legatees and heirs at law in RSA 552:15, the publication of notice of appointment in RSA 553:16, the requirement that an estate be open for at least 6 months before a motion for summary administration may be filed in RSA 553:33, II, for petitioning to distribute assets of an insolvent estate in RSA 554:19-b, the deadline for waiver or release of the will and homestead rights and election of statutory rights by a surviving spouse in RSA 560:10 and RSA 560:14, and deadlines relating to suits in RSA 556, shall run from the original grant of administration.

3 Distribution Upon Intestacy. Amend RSA 561:1, I(e) to read as follows:

(e) If there are surviving issue of the decedent one or more of whom are not issue of the surviving spouse, the first \$100,000, plus 1/2 of the **balance of the** intestate estate.

4 Uniform Power of Attorney Act; Agent's Authority and Agent's Acceptance or Declination. Amend RSA 564-E:113(a) to read as follows:

(a) A person designated as agent under a general power of attorney shall have no authority to act as agent unless, at any time prior to exercising the power granted under the general power of attorney and not necessarily at the time the general power of attorney is signed by the principal, the person has signed (other than by electronic signature) and affixed to the general power of attorney an acknowledgment in substantially the following form:

I, _____, have read the attached power of attorney and am the person identified as the agent for the principal. I hereby acknowledge that when I act as agent, I am given power under the power of attorney to make decisions about money, property, or both belonging to the principal, and to spend the principal's money, property, or both on the principal's behalf, in accordance with the terms of the power of attorney. When acting as agent, I have duties (called "fiduciary duties") to act in **accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in** the principal's best interest, to act in good faith, and to act only within the scope of authority granted in the power of attorney, as well as other duties imposed by law to the extent not provided otherwise in the power of attorney. As an agent, I am not entitled to use the money or property for my own benefit or to make gifts to myself or others unless the power of attorney specifically gives me the authority to do so. As an agent, my authority under the power of attorney will end when the principal dies and I will not have authority to manage or dispose of any property or administer the estate of the principal. If I violate a fiduciary duty under the power of attorney, I may be liable for damages and may be subject to criminal prosecution. If there is anything about the power of attorney, or my duties under it, that I do not understand, I understand that I should seek professional advice.

5 Uniform Powers of Attorney Act; Authority That Requires Specific Grant. Amend RSA 564-E:201(a)(8) to read as follows:

(8) exercise authority over the content of electronic communications sent or received by the principal **pursuant to RSA 554-A:9.**

6 Uniform Power of Attorney Act; Gifts. Amend RSA 564-E:217(a) to read as follows:

(a) In this section, [~~a "gift" for the benefit of a person~~] **"gift"** includes, without limitation, a gift **for the benefit of a person, including without limitation, a gift** to a trust, **a gift to** an account under the Uniform Transfers to Minors Act, and a **gift to a** tuition savings account or prepaid tuition plan as defined under Internal Revenue Code section 529, 26 U.S.C. section 529, as amended.

7 Uniform Power of Attorney Act; Statutory Form Power of Attorney. Amend RSA 564-E:301 to read as follows:
564-E:301 Statutory Form Power of Attorney.

A document substantially in the following form may be used to create a power of attorney that is in compliance with the provisions of this chapter. **It is not required that a document be substantially in the following form in order to create a power of attorney that is in compliance with the provisions of this chapter:**

NEW HAMPSHIRE

STATUTORY POWER OF ATTORNEY

INFORMATION CONCERNING THE POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT YOU SHOULD KNOW THESE IMPORTANT FACTS:

Notice to the Principal: As the "Principal," you are using this Power of Attorney to grant power to another person (called the "Agent") to make decisions, including, but not limited to, decisions concerning your money, property, or

both, and to use your money, property, or both on your behalf. If this Power of Attorney does not limit the powers that you give to your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property, and to spend your money without advance notice to you or approval by you. Unless you have expressly provided otherwise in this Power of Attorney, your Agent will have these powers before you become incapacitated, and unless you have expressly provided otherwise in this Power of Attorney, your Agent will continue to have these powers after you become incapacitated. You have the right to retain this Power of Attorney and to release it later or to request that another person retain this Power of Attorney on your behalf and release it only if one or more conditions specified in advance by you are satisfied. You have the right to revoke or take back this Power of Attorney at any time, so long as you are of sound mind. If there is anything about this Power of Attorney that you do not understand, you should seek professional advice.

Principal's Signature:

Date:

1. DESIGNATION OF AGENT

I, (Name of Principal), of (Address of Principal), name the following person as my agent:

Name of Agent:

Agent's Address:

2. DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name the following person as my successor agent:

Name of Successor Agent:

Successor Agent's Address:

If my successor agent is unable or unwilling to act for me, I name the following person as my second successor agent:

Name of Second Successor Agent:

Second Successor Agent's Address:

3. REVOCATION OF EXISTING POWERS OF ATTORNEY

(Initial the following statement if it is your choice.)

_____ This Power of Attorney revokes all existing powers of attorney, ***except for powers of attorney relating to health care***, previously executed by me.

4. GRANT OF GENERAL AUTHORITY

(Initial beside your choice of A or B, but not both.)

_____ A. I grant my agent general authority to act for me in all matters, including, without limitation, all of the subjects enumerated in B below.

_____ B. I grant my agent general authority over the following subjects [~~as defined in the following sections of the Uniform Power of Attorney Act~~]:

(Initial each subject you want to include in the agent's general authority.)

_____ Real Property as defined in RSA 564-E:204

_____ Tangible Personal Property as defined in RSA 564-E:205

_____ Stocks and Bonds as defined in RSA 564-E:206

_____ Commodities and Options as defined in RSA 564-E:207

_____ Banks and Other Financial Institutions as defined in RSA 564-E:208

_____ Operation of Entity or Business as defined in RSA 564-E:209

_____ Insurance and Annuities as defined in RSA 564-E:210

_____ Estates, Trusts and Other Beneficial Interests as defined in RSA 564-E:211

_____ Claims and Litigation as defined in RSA 564-E:212

_____ Personal and Family Maintenance as defined in RSA 564-E:213

_____ Benefits from Governmental Programs or Civil or Military Service as defined in RSA 564-E:214

_____ Retirement Plans as defined in RSA 564-E:215

_____ Taxes as defined in RSA 564-E:216

_____ Digital Assets ***as defined in RSA 554-A:2(10)***

5. GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

(Initial each subject you want to include in the agent's authority. CAUTION: As to some of the following subjects, granting your agent authority will give your agent the authority to take actions that could significantly reduce your

property or change how your property is distributed at your death.)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

_____ Create, amend, revoke, or terminate an inter vivos trust

(If you have granted your agent the authority to create, amend, revoke, or terminate an inter vivos trust, then initial the following statement if it is your choice.)

_____ ***My agent may create, amend, revoke, or terminate an inter vivos trust to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.***

_____ Make a gift, subject to the limitations of RSA 564-E:217 [~~of the Uniform Power of Attorney Act~~]

(If you have granted your agent the authority to make a gift, then as to each of the following statements, initial beside it if it is your choice.)

_____ My agent may make a gift, even if it will leave me without sufficient assets or income to provide for my care without relying on Medicaid, other public assistance or charity.

_____ My agent may make a gift to himself or herself and to any individual to whom my agent owes a legal obligation of support.

_____ Create or change rights of survivorship

(If you have granted your agent the authority to create or change rights of survivorship, then initial the following statement if it is your choice.)

_____ ***My agent may create or change rights of survivorship to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.***

_____ Create or change a beneficiary designation

(If you have granted your agent the authority to create or change a beneficiary designation, then initial the following statement if it is your choice.)

_____ ***My agent may create or change a beneficiary designation to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.***

_____ ***Reject, renounce, disclaim, release, or consent to a reduction in or modification of my share in, or a payment to me from, an estate, trust, or other beneficial interest, to benefit my agent or any individual to whom my agent owes a legal obligation of support***

_____ Delegate authority granted under this Power of Attorney to another person

_____ Waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

(If you have granted your agent the authority to waive your right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan, then initial the following statement if it is your choice.)

_____ ***My agent may waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan, to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.***

_____ Exercise the fiduciary power(s) that I have the authority to delegate as specified in the "Special Instructions" in Paragraph [7] **6** of this Power of Attorney

_____ Exercise authority over the content of electronic communication sent or received by me ***pursuant to RSA 554-A:9***

_____ Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks

~~[6. LIMITATION ON AGENT'S AUTHORITY (OTHER THAN GIFTING)~~

~~(If an agent (including successor agent) named in this Power of Attorney is someone other than an ancestor of yours, your spouse, or a descendant of yours, you must initial the following statement if it is your choice that such agent have the following authority. An agent who is an ancestor of yours, your spouse, or a descendant of yours already has the following authority under New Hampshire law.)~~

~~_____ My agent may exercise authority under this Power of Attorney to create in my agent, or in an individual to whom my agent owes a legal obligation of support, an interest in my property by any manner (other than a gift), including, without limitation, by right of survivorship, beneficiary designation, or disclaimer.~~

~~7.]~~ **6. SPECIAL INSTRUCTIONS (OPTIONAL)**

(Here you may include special instructions. You may leave this Paragraph blank. You may attach additional pages as necessary.)

~~8.]~~ **7. EFFECTIVE DATE AND AUTHORITY OF AGENT**

This Power of Attorney is effective immediately unless I have stated otherwise in the Special Instructions in Paragraph ~~[7]~~ **6** of this Power of Attorney. An agent (including successor agent) named in this Power of Attorney will have no authority to act as my agent until he or she has signed and affixed to this Power of Attorney an acknowledgment that is substantially the same as the Acknowledgment at the end of this Power of Attorney.

~~9.]~~ **8. GOVERNING LAW**

This Power of Attorney shall be governed by the laws of the State of New Hampshire.

~~10.]~~ **9. RELIANCE ON THIS POWER OF ATTORNEY**

Any person, including my agent, may rely upon this Power of Attorney if it is acknowledged before a notary public or other individual authorized to take acknowledgments (or a copy of the acknowledged Power of Attorney), unless that person knows it is void, invalid, or terminated.

SIGNATURE AND ACKNOWLEDGMENT

(You must date and sign this Power of Attorney. If you are physically unable to sign, it may be signed by someone else writing your name, in your presence and at your express direction. This Power of Attorney must be acknowledged before a notary public or other individual authorized by law to take acknowledgments.)

Principal's Signature:

Principal's Printed Name:

Principal's Address:

Date:

STATE OF NEW HAMPSHIRE

COUNTY OF _____

The foregoing Power of Attorney was acknowledged before me on _____, by _____, known to me or satisfactorily proven to be the person named herein

Signature of Notarial Officer:

Title (and Rank):

My commission expires:

AGENT ACKNOWLEDGMENT

Notice to Agent: You will have no authority to act as agent under this Power of Attorney until you sign and affix this acknowledgment to the Power of Attorney.

I, _____, have read the attached power of attorney and am the person identified as the agent for the principal. I hereby acknowledge that when I act as agent I am given power under the power of attorney to make decisions about money, property, or both belonging to the principal, and to spend the principal's money, property, or both on the principal's behalf, in accordance with the terms of the power of attorney. When acting as agent, I have duties (called "fiduciary duties") to act in ***accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in*** the principal's best interest, to act in good faith, and to act only within the scope of authority granted in the power of attorney, as well as other duties imposed by law to the extent not provided otherwise in the power of attorney. As an agent, I am not entitled to use the money or property for my own benefit or to make gifts to myself or others unless the power of attorney specifically gives me the authority to do so. As an agent, my authority under the power of attorney will end when the principal dies and I will not have authority to manage or dispose of any property or administer the estate of the principal. If I violate a fiduciary duty under the power of attorney, I may be liable for damages and may be subject to criminal prosecution. If there is anything about this power of attorney, or my duties under it, that I do not understand, I understand that I should seek professional advice.

Agent's Signature:

Date:

8 Applicability.

I. Section 2 of Part VII of this act shall apply to all petitions for estate administration filed on or after July 1, 2021 regardless of the date of the decedent's death.

II. Section 3 of Part VII of this act shall apply to decedents dying on or after July 1, 2021.

III. Section 4 of Part VII of this act shall apply to general powers of attorney executed on or after July 1, 2021.

9 Findings. The general court finds:

I. Through the development of thoughtful, innovative laws, New Hampshire has become one of the best legal environments for trusts, trust companies, fiduciaries, and fiduciary services.

II. This legal environment attracts individuals and families to the state and the revised uniform disclaimer of property interests act further reinforces the state's long tradition of protecting settlor intent and further facilitates the administrations of trusts and estates.

III. The revised uniform disclaimer of property interests act replaces New Hampshire's existing and obsolete uniform disclaimer of property interests act by removing the 9-month time limit for disclaimers, expanding the prior definition of "disclaimer" to include a broader range of property, providing further instructions for when a disclaimer is delivered and under what circumstances it becomes effective, clarifying the result of refusing property or powers through a disclaimer, creating rules for several types of disclaimers that have not been explicitly addressed in the prior act, providing rules for the disclaimer of powers held in a fiduciary capacity, specifically allowing a partial disclaimer of an interest in property, and clarifying that the disclaimed interest passes without direction by the disclaimant.

10 Uniform Disclaimer of Property Interests Act. RSA 563-B is repealed and reenacted to read as follows:

CHAPTER 563-B

UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT

Article 1

Short Title

563-B:1 Short Title. This chapter may be cited as the "Uniform Disclaimer of Property Interests Act."

Article 2

Application

563-B:2 Application. This chapter applies to disclaimers of any interest in or power over property, whenever created.

Article 3

Definitions

563-B:3 Definitions. For purpose of this chapter, the following definitions shall apply:

(a) "Disclaimant" means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made.

(b) "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not been made.

(c) "Disclaimer" means the refusal to accept an interest in or power over property.

(d) "Fiduciary" means a personal representative, administrator, trustee, agent acting under a power of attorney, or other person authorized to act as a fiduciary with respect to the property of another person.

(e) "Jointly held property" means property held in the name of 2 or more persons under an arrangement in which all holders have concurrent interests and under which the last surviving holder is entitled to the whole of the property.

(f) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(g) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, recognized by federal law or formally acknowledged by a state.

(h) "Trust" means:

(1) An express trust, charitable or noncharitable, with additions thereto, whenever and however created as defined in RSA 564-A:1; and

(2) A trust created pursuant to a statute, judgment, or decree which requires the trust to be administered in the manner of an express trust.

Article 4

Power to Disclaim; General Requirements; When Irrevocable

563-B:4 Power to Disclaim; General requirements; When Irrevocable.

(a) Power to Disclaim.

(1) A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(2) Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by this chapter, another statute of this state, or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

(b) General Requirements.

(1) To be effective, a disclaimer must be in a writing or other record, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed in the manner provided in Article 12. In this Article:

(A) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) "Signed" means, with present intent to authenticate or adopt a record, to;

(i) Execute or adopt a tangible symbol; or

(ii) Attach to or logically associate with the record an electronic sound, symbol, or process.

(2) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

(c) When Irrevocable.

(1) A disclaimer becomes irrevocable when it is delivered or filed pursuant to Article 10 or when it becomes effective as provided in Articles 5 through 9, whichever occurs later.

(2) A disclaimer made under this chapter is not a transfer, assignment, or release.

Article 5

Disclaimer of Interest in Property

563-B:5 Disclaimer of Interest in Property.

(a) In this section:

(1) "Future interest" means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation.

(2) "Time of distribution" means the time when a disclaimed interest would have taken effect in possession or enjoyment.

(b) Except for a disclaimer governed by Article 6 or 7, the following rules apply to a disclaimer of an interest in property:

(1) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate's death.

(2) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general.

(3) If the instrument does not contain a provision described in paragraph (2), the following rules apply:

(A) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

(B) If the disclaimant is an individual, except as otherwise provided in subparagraphs (C) and (D), the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.

(C) If by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution.

(D) If the disclaimed interest would pass to the disclaimant's estate had the disclaimant died before the time of distribution, the disclaimed interest instead passes by representation to the descendants of the disclaimant who survive the time of distribution. If no descendant of the disclaimant survives the time of distribution, the disclaimed

interest passes to those persons, including the state but excluding the disclaimant, and in such shares as would succeed to the transferor's intestate estate under the intestate succession law of the transferor's domicile had the transferor died at the time of distribution. However, if the transferor's surviving spouse is living but is remarried at the time of distribution, the transferor is deemed to have died unmarried at the time of distribution.

(4) Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

Article 6

Disclaimer of Rights of Survivorship in Jointly Held Property

563-B:6 Disclaimer of Rights of Survivorship in Jointly Held Property.

(a) Upon the death of a holder of jointly held property, a surviving holder may disclaim, in whole or part, the greater of:

(1) A fractional share of the property determined by dividing the number one by the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates; or

(2) all of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.

(b) A disclaimer under subsection (a) takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

(c) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

Article 7

Disclaimer of Interest by Trustee

563-B:7 Disclaimer of Interest by Trustee. If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

Article 8

Disclaimer of Power of Appointment or Other Power Not Held in a Fiduciary Capacity

563-B:8 Disclaimer of Power of Appointment or Other Power Not Held in a Fiduciary Capacity. If a holder disclaims a power of appointment or other power not held in a fiduciary capacity, the following rules apply:

(a) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power.

(c) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

Article 9

Disclaimer by Appointee, Object, or Taker in Default of Exercise of Power of Appointment

563-B:9 Disclaimer by Appointee, Object, or Taker in Default of Exercise of Power of Appointment.

(a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by an object or taker in default of an exercise of a power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

Article 10

Disclaimer of Power Held in Fiduciary Capacity

563-B:10 Disclaimer of Power Held in Fiduciary Capacity.

(a) If a fiduciary disclaims a power held in a fiduciary capacity which has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a fiduciary disclaims a power held in a fiduciary capacity which has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(c) A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

Article 11
Delivery or Filing

563-B:11 Delivery or Filing.

(a) In this section, "beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

- (1) An annuity or insurance policy;
- (2) An account with a designation for payment on death;
- (3) A security registered in beneficiary form;
- (4) A pension, profit-sharing, retirement, or other employment-related benefit plan; or
- (5) Any other non-probate transfer at death.

(b) Subject to subsections (c) through (l), delivery of a disclaimer may be effected by personal delivery, first-class mail, or any other method likely to result in its receipt.

(c) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

- (1) A disclaimer must be delivered to the administrator of the decedent's estate; or
- (2) If no administrator is then serving, it must be filed with a court having jurisdiction to appoint the administrator.

(d) In the case of an interest in a testamentary trust:

- (1) A disclaimer must be delivered to the trustee then serving, or if no trustee is then serving, to the administrator of the decedent's estate; or
- (2) If no administrator is then serving, it must be filed with a court having jurisdiction to enforce the trust.

(e) In the case of an interest in an inter vivos trust:

- (1) A disclaimer must be delivered to the trustee then serving;
- (2) If no trustee is then serving, it must be filed with a court having jurisdiction to enforce the trust; or
- (3) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it must be delivered to the settlor of a revocable trust or the transferor of the interest.

(f) In the case of an interest created by a beneficiary designation which is disclaimed before the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation.

(g) In the case of an interest created by a beneficiary designation which is disclaimed after the designation becomes irrevocable:

- (1) The disclaimer of an interest in personal property must be delivered to the person obligated to distribute the interest; and
- (2) An attested copy of the disclaimer of an interest in real property must be recorded in the office of registry of deeds of the county where the real property that is the subject of the disclaimer is located.

(h) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

(i) In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created:

- (1) The disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or
- (2) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

- (1) The disclaimer must be delivered to the holder, the administrator of the holder's estate, or to the fiduciary under the instrument that created the power; or
- (2) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

(k) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection (c), (d), or (e), as if the power disclaimed were an interest in property.

(l) In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

(m) Notwithstanding any right to disclaim an interest in property as provided for in this chapter, a person who has been devised real estate by testamentary instrument, or inherited under the laws of intestacy, may waive his or her rights to the property pursuant to RSA 554:18-b.

Article 12

When Disclaimer Barred or Limited

563-B:12 When Disclaimer Barred or Limited.

- (a) A disclaimer is barred by a written waiver of the right to disclaim.
- (b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:
 - (1) The disclaimant accepts the interest sought to be disclaimed;
 - (2) The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or
 - (3) A judicial sale of the interest sought to be disclaimed occurs.
- (c) A disclaimer, in whole or part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.
- (d) A disclaimer, in whole or part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.
- (e) A disclaimer is barred or limited to the extent that it would impair the ability of the department of health and human services to recover pursuant to Title XIX of the Social Security Act or RSA 126-A, 135, 135-C, 130-A, 143, 143-A, 161, 161-B, 161-C, 161-E, 161-F, 161-H, 161-I, 165, 166, 167, 168-A, 169-B, 169-C, 169-D, 169-F, 170-A, 170-B, 170-E, 170-G, 171-B, 172, or 173-B.
- (f) A disclaimer is barred or limited if so provided by law other than this chapter.
- (g) A disclaimer of a power over property which is barred by this section is ineffective. A disclaimer of an interest in property which is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under this chapter had the disclaimer not been barred.

Article 13

Tax Qualified Disclaimer

563-B:13 Tax Qualified Disclaimer. Notwithstanding any other provision of this chapter, if as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to the provisions of Title 26 of the United States Code, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under this chapter.

Article 14

Recording of Disclaimer

563-B:14 Recording of Disclaimer. If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded, or registered, the disclaimer may be so filed, recorded, or registered. Except as otherwise provided in Article 11(g)(2), failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Article 15

Application to Existing Relationships

563-B:15 Application to Existing Relationships. Except as otherwise provided in Article 12, an interest in or power over property existing on the effective date of this chapter as to which the time for delivering or filing a disclaimer under law superseded by this chapter has not expired may be disclaimed after the effective date of this chapter.

Article 16

Supplemented by Other Law

563-B:16 Supplemented by Other Law.

- (a) Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.
- (b) This chapter does not limit any right of a person to waive, release, disclaim, or renounce an interest in or power over property under a law other than this chapter.

Article 17

Uniformity of Application and Construction

563-B:17 Uniformity of Application and Construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact

it.

11 Effective Date.

I. Sections 1-8 of Part VII of this act shall take effect July 1, 2021.

II. The remainder of Part VII of this act shall take effect upon its passage.

PART VIII

Relative to school employee and school volunteer criminal history background checks and establishing a committee to study department of education oversight of criminal history background checks for private schools.

1 School Employee and Designated School Volunteer Criminal History Records Check. Amend RSA 189:13-a, III to read as follows:

III. The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph. ~~[If the criminal history records information indicates no criminal record, the superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall destroy the information received immediately following review of the information.]~~ If the criminal history records information indicates that the applicant has been convicted of any crime or has been charged pending disposition for or convicted of a crime listed in paragraph V, the superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall review the information for a hiring decision~~;~~ and the division of state police shall notify the department of education of any such charges pending disposition or convictions. ~~The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall destroy any criminal history record information that indicates a criminal record within 60 days of receiving such information.]~~ ***If the applicant's criminal history records information indicates that the applicant has been charged pending disposition for or has been convicted of a crime listed in paragraph V, the superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall notify the department of education.***

III-a. The superintendent of the school administrative unit or chief executive officer of the chartered public school or public academy shall immediately destroy any criminal history record information which indicates that the applicant has no criminal record. The superintendent of the school administrative unit or chief executive officer of the chartered public school or public academy shall destroy any criminal history record information that indicates a criminal record within 60 days of receiving said information.

2 School Employee and Designated School Volunteer Criminal History Records Check. Amend RSA 189:13-a, VI to read as follows:

VI. This section shall apply to any employee, ***including substitute teachers***, selected applicant for employment, designated volunteer, ~~[or]~~ volunteer organization, ***or individual or entity*** which contracts with a school administrative unit, school district, chartered public school, or public academy to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel, or any other service where the contractor or employees of the contractor provide services directly to students of the district, chartered public school, or public academy. The employing school administrative unit, school district, or chartered public school shall be responsible for completing the criminal history records check on the people identified in this paragraph, except for school bus drivers and transportation monitors, as provided in RSA 189:13-b. The cost for criminal history records checks for employees or selected applicants for employment with such contractors shall be borne by the contractor.

3 School Employee and Designated School Volunteer Criminal History Records Check. Amend RSA 189:13-a, IX to read as follows:

IX.(a) ~~[Substitute teachers and other educational staff, not otherwise addressed in this section, shall apply for a criminal history records check at the employing school administrative unit, school district, chartered public school, or public academy. The division of state police shall complete the criminal history records check, as established in paragraph II, and, upon completion, shall issue a report to the applicant. The report shall be valid for 30 days from the date of issuance and shall constitute satisfactory proof of compliance with this section.]~~

~~(b) Upon enrollment in an educator preparation program at an institution of higher education, a candidate shall submit to a criminal history records check. The institution of higher education in which the candidate is enrolled~~

~~shall conduct the criminal history records check.] Upon placement of a candidate, *as defined in RSA 189:13-c*, as a student teacher, the receiving school administrative unit, school district, or chartered public school shall conduct ~~[another]~~ **a** criminal history records check of the candidate and shall follow the same procedures for assessing the candidate's criminal history background as for applicants for employment. ~~[The governing body of the institution of higher education may adopt a policy relative to how often a candidate shall submit to a criminal history records check. In this subparagraph, "candidate" shall mean a student who is enrolled in an educator preparation program at an institution of higher education in New Hampshire.]~~~~

(b) A receiving school administrative unit, school district, or chartered public school may conduct a criminal history records check upon a candidate, as defined in RSA 189:13-c.

4 New Section; Teacher Credentialing Criminal History Records Check. Amend RSA 189 by inserting after section 13-b the following new section:

189:13-c Credentialing Applicant and Candidate Criminal History Records Check.

I. Definitions:

(a) "Credentialing applicant" means a first-time applicant for a New Hampshire teaching credential.

(b) "Candidate" means a student who is enrolled in an educator preparation program at an institution of higher education in New Hampshire.

II.(a) The department shall complete a criminal history records check on all first-time applicants for a teaching license, under RSA 21-N:9, II(s), as shall school administrative units, school districts, and chartered public schools pursuant to RSA 189:13-a.

(b) The department shall complete a criminal history records check on all candidates as shall school administrative units, school districts, and chartered public schools pursuant to RSA 189:13-a. The criminal history records check on candidates shall be conducted upon the candidate's enrollment in an educator preparation program at an institution of higher education and shall be valid for a period of 3 years.

III.(a) The credentialing applicant or candidate shall submit to the department a criminal history records release form, as provided by the division of state police, which authorizes the division of state police to conduct a criminal history records check through its state records and through the Federal Bureau of Investigation and to release a report of the credentialing applicant's or candidate's criminal history record information, including confidential criminal history record information, to the background check coordinator of the department, as described in RSA 21-N:8-a, I-a.

(b) The credentialing applicant or candidate shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of education. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be taken in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearance from every city, town, or county where an applicant or candidate has lived during the past 5 years.

IV.(a) The department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph. The department shall destroy all criminal history record information within 60 days of receiving said information.

(b) The department may require the credentialing applicant or candidate to pay the actual costs of the criminal history records check.

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of RSA 630:1; 630:1-a; 630:1-b; 630:2; 632-A:2; 632-A:3; 632-A:4; 633:1; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be granted a teaching credential by the department nor shall candidates be granted clearance.

VI. The department shall adopt rules, pursuant to RSA 541-A, governing the rights of a credentialing applicant and candidate and their ability to appeal a denial of a teaching credential pursuant to a charge pending disposition for or a conviction of any of the offenses under paragraph V.

VII. If a credentialing applicant had submitted to a criminal history records check within the prior 6 months as a candidate, that check shall be deemed valid for purposes of this section.

5 Committee Established. There is established a committee to study department of education oversight of criminal history background checks by private schools.

6 Membership and Compensation.

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

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

(b) Two members of the senate, appointed by the president of the senate.

II. The commissioner of the department of education, or designee, shall serve as a non-voting, ex officio member of the committee.

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

7 Duties. The committee shall:

I. Review current statutes regarding criminal history background checks in private schools.

II. Review department of education rules and oversight of private schools regarding criminal history background checks.

III. Review annual reporting on criminal history background checks to the department of education by private schools.

IV. Review other states' statutes and rules regarding criminal history background checks in private schools.

V. Make recommendations for updating statutes and department of education rules regarding criminal history background checks in private schools.

8 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members.

The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

9 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the commissioner of the department of education, the governor, and the state library on or before November 1, 2021.

10 Effective Date.

I. Sections 1-4 of Part VIII of this act shall take effect 60 days after its passage.

II. The remainder of Part VIII of this act shall take effect upon its passage.

PART IX

Making an appropriation funding mental health intervention training programs.

1 Mental Health Intervention Training; Appropriation. The sum of \$210,000 for the biennium ending June 30, 2023, is hereby appropriated to the police standards and training council for the purposes of funding mental health intervention training programs. The appropriations shall be in addition to any other funds appropriated to the police standards and training council. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

2 Effective Date. Part IX of this act shall take effect July 1, 2021.

PART X

Relative to interference with the enjoyment of a dwelling place.

1 New Section; Wilful Trespass; Interference With the Enjoyment of a Dwelling Place. Amend RSA 539 by inserting after section 9 the following new section:

539:10 Interference With the Enjoyment of a Dwelling Place. Any person who knowingly uses any device, including a mechanical or electronic device, in such a way as to unreasonably disturb the peaceful enjoyment of another person's dwelling place or its curtilage, or any person who aids in such act, shall be guilty of a misdemeanor. Any person injured by a violation of this section shall have a right of action in the superior court to enforce this section and shall be awarded actual damages or \$1,000, whichever is greater, and reasonable attorney's fees and court costs.

2 Effective Date. Part X of this act shall take effect January 1, 2022.

PART XI

Relative to employer access to motor vehicle records.

1 New Paragraph; Motor Vehicle Records; Employer Access. Amend RSA 260:14 by inserting after paragraph IV the following new paragraph:

IV-a.(a) Except for a person's photograph, computerized image, and social security number, motor vehicle records and at least monthly electronic bulk files indicating changes in driving violations and driver license status shall be made available upon proof of the identity of the person requesting the records and representation by such person on a form satisfactory to the department that the records will be strictly limited to one or both of the following described uses:

(1) For use by an entity that employs drivers in the course of their business, or an authorized agent of such an entity, which requires a motor vehicle record or a monthly notification of changes to motor vehicle records in connection with pre-employment or continued employment screening of employees for driver safety reasons; or

(2) For use with respect to requests as to whether a driver meets the requirements of RSA 376-A:12.

(b) No motor vehicle records made available under this paragraph shall be sold, rented, transferred, or otherwise made available in whole or in part, in any form or format, directly or indirectly, to another person, except that an authorized agent may make such records available to any principal on whose behalf the records were sought if the name of that principal was provided to the department at the time the records were sought.

(c) Any person who makes a request under this paragraph shall have first obtained the written consent of the person whose records are being requested. Consent obtained pursuant to 18 U.S.C. section 2725(5) shall meet this requirement. The written consent shall be retained for a period of 3 years and shall be made available upon request to the division for inspection.

2 Motor Vehicle Records; Access to Individual Records. Amend RSA 260:14, VII to read as follows:

VII. ~~[A person]~~ **An individual** shall have access to motor vehicle records relating to such ~~[person]~~ **individual** upon proof of identity. ~~[Motor vehicle records relating to a person may be made available to any other person upon proof, in such form and manner as the department prescribes, that the notarized, written consent of the person who is the subject of the record has been obtained]~~ **An individual may have access to motor vehicle records relating to another individual, provided that the individual making the request presents proof of identity and has the notarized, written consent of the individual who is the subject of the record in a form acceptable to the department.**

3 Effective Date. Part XI of this act shall take effect upon its passage.

PART XII

Relative to authorization to grow industrial hemp.

1 Industrial Hemp Research; Authorization. Amend RSA 433-C:2 to read as follows:

433-C:2 Authorization. An institution of higher education, as defined in 20 U.S.C. section 1001, may grow or cultivate **or may contract with a private party to grow or cultivate**, industrial hemp, on site or off site, for purposes of research under an agricultural pilot program or other agricultural or academic research. In addition to studying the plant's growth and cultivation, the research shall also study the economics of industrial hemp, including markets and processing. Industrial hemp grown or cultivated in accordance with this chapter shall not be considered a controlled drug or controlled substance under RSA 318-B.

2 Effective Date. Part XII of this act shall take effect upon its passage.

LBA
21-0931
Revised 2/8/21

SB 134-FN- FISCAL NOTE AS INTRODUCED

AN ACT adopting omnibus legislation relative to civil actions and criminal liability.

PART I Relative to prohibiting certain uses of laser pointing devices.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[X] General	[] Education	[] Highway	[] Other

COUNTY:

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

METHODOLOGY:

This part of the bill affects penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Violation Level Offense	\$53	\$53
Class B Misdemeanor	\$55	\$55
Class A Misdemeanor	\$78	\$78
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2020 Average Cost of Incarcerating an Individual	\$47,691	\$47,691
FY 2020 Annual Marginal Cost of a General Population Inmate	\$6,407	\$6,407
FY 2020 Average Cost of Supervising an Individual on Parole/Probation	\$584	\$584
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Departments of Corrections and Justice, Judicial Council, and New Hampshire Association of Counties

PART II Relative to the revised uniform law on notarial acts and the uniform real property electronic recording act.

This part of the bill has no fiscal impact.

PART III Relative to incarceration under a suspended sentence.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This part of the bill amends the amount of time that must be served by a person incarcerated under a suspended sentence to petition for the suspension of the remainder of the sentence.

The Judicial Branch indicates there may be an influx of petitions to suspend sentences from those eligible under the new provision that otherwise would have had to wait for the 2/3 minimum sentence date to pass. It is not possible to estimate how many early petitions there may be, but the Branch expects that after the initial influx, the volume of petitions would balance out over time and ultimately be similar to the current volume. The Branch states any measurable increase in workload is likely to be absorbed by the Judicial Branch within existing resources.

The Department of Corrections indicates it cannot predict when current or future residents will petition the court to suspend their sentence or the outcome of such petitions. The Department expects the fiscal impact would be either no change or a decrease in expenditures.

It is assumed any fiscal impact would occur after July 1, 2021.

AGENCIES CONTACTED:

Judicial Branch and Department of Corrections

PART IV Relative to civil liability for damage to highways.

This part of the bill has no fiscal impact.

PART V Relative to structured settlement protection.

This part of the bill has no fiscal impact.

PART VI Establishing the New Hampshire collaborative law act.

The Judicial Branch was originally contacted on January 25, 2021 for a fiscal note worksheet, which they have not provided as of February 8, 2021.

Part VII Relative to probate administration, distribution upon intestacy, and powers of attorney and adopting the uniform disclaimer of property interests act.

The Judicial Branch was originally contacted on January 25, 2021 for a fiscal note worksheet, which they have not provided as of February 8, 2021.

PART VIII Relative to school employee and school volunteer criminal history background checks and establishing a committee to study department of education oversight of criminal history background checks for private schools.

This part of the bill has no fiscal impact.

PART IX Making an appropriation funding mental health intervention training programs.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$210,000	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable. Not to exceed \$210,000 over the FY 2022-2023 biennium	Indeterminable. Not to exceed \$210,000 over the FY 2022-2023 biennium	\$0
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This part of the bill makes a general fund appropriation of \$210,000 for the biennium ending June 30, 2023 to the Police Standards and Training Council for the purpose of funding mental health intervention training programs. It is assumed the appropriation would be expended during FY 2022 and FY 2023, however it is not known how much of the appropriation would be spent in each year.

AGENCIES CONTACTED:

None

Part X Relative to interference with the enjoyment of a dwelling place.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0

Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General	[] Education	[] Highway	[] Other

COUNTY:

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

METHODOLOGY:

This part of the bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Class B Misdemeanor	\$55	\$55
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It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
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It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
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its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Departments of Corrections and Justice, Judicial Council, and New Hampshire Association of Counties

PART XI Relative to employer access to motor vehicle records.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	\$0	\$0	\$0
Funding Source	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Fire Standards and Training and Emergency Medical Services Fund			

METHODOLOGY:

The Department of Safety indicates the proposed legislation would allow an employer to obtain a monthly electronic file reflecting driving violations and driver license status changes upon proof of the identity of the person requesting the records. The employer requesting must first obtain written consent of the individual whose driving records are being requested. Written consent from the driver would be obtained and kept on file to be available upon request by the Division of Motor Vehicles (DMV) for inspection. The proposed legislation would include drivers who are under contracted by transportation network companies (TNCs). Currently the cost to obtain an electronic motor vehicle record is \$13. The Department states the impact on revenue would be indeterminable, because the DMV has no method of calculating how many new records may be requested. There would be no fiscal impact on state expenditures or on county and local revenues and expenditures.

AGENCIES CONTACTED:

Department of Safety

PART XII Relative to authorization to grow industrial hemp.

This part of the bill has no fiscal impact.