

# Committee Report

**CONSENT CALENDAR**

**May 11, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Judiciary to which was referred SB  
143-FN,**

**AN ACT adopting omnibus legislation relative to  
certain agency requests. Having considered the same,  
report the same with the following amendment, and the  
recommendation that the bill OUGHT TO PASS WITH  
AMENDMENT.**

**Rep. Edward Gordon**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Judiciary</b>
Bill Number:	<b>SB 143-FN</b>
Title:	<b>adopting omnibus legislation relative to certain agency requests.</b>
Date:	<b>May 11, 2021</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT 2021-1431h</b>

### STATEMENT OF INTENT

This bill, as amended, is omnibus legislation which includes eight distinct parts. Part one provides for representation of juveniles by legal counsel from the onset of a delinquency filing in the Circuit Court. The second part establishes a quality assurance program for mediation and arbitration services. The third part allows judicial referees to issue orders in uncontested cases. The fourth part authorizes a Supreme Court Justice to sit in cases in the Circuit Court. The fifth part allows for payment of legal services other than counsel when necessary to provide adequate representation in certain cases. The sixth part clarifies the standard to be met in order to obtain a license to engage in the sale of insurance in this state. Part seven creates a program providing for a \$500 incentive for persons to enroll in the New Hampshire National Guard. And finally, part eight restricts state and local law enforcement from engaging in forfeiture of property unless the seized property includes more than \$100,000 in United States currency. The amendment to this bill removes controversial provisions from part one of the bill regarding the scope of representation for minors. The amendment also deletes five other provisions which were contained in the omnibus legislation. It removes a provision giving authority to Health and Human Services to recoup overpayments made to benefit receivers by withholding their future benefits. It removes a provision authorizing the application of a penalty assessment on violations, a practice which is already engaged in by the court system. It removes a requirement for reporting of cybersecurity incidents and setting cybersecurity standards for political subdivisions. It removes a provision requiring the collection of data regarding emergency medical services which appeared to be an intrusion on personal privacy. And finally, the amendment removes a provision which would give the Attorney General the authority to overrule the Victim's Assistance Commission. This bill contains many important provisions and received, as amended, the unanimous approval of the House Judiciary Committee.

Vote 21-0.

Rep. Edward Gordon  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### Judiciary

**SB 143-FN**, adopting omnibus legislation relative to certain agency requests. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Edward Gordon for Judiciary. This bill, as amended, is omnibus legislation which includes eight distinct parts. Part one provides for representation of juveniles by legal counsel from the onset of a delinquency filing in the Circuit Court. The second part establishes a quality assurance program for mediation and arbitration services. The third part allows judicial referees to issue orders in uncontested cases. The fourth part authorizes a Supreme Court Justice to sit in cases in the Circuit Court. The fifth part allows for payment of legal services other than counsel when necessary to provide adequate representation in certain cases. The sixth part clarifies the standard to be met in order to obtain a license to engage in the sale of insurance in this state. Part seven creates a program providing for a \$500 incentive for persons to enroll in the New Hampshire National Guard. And finally, part eight restricts state and local law enforcement from engaging in forfeiture of property unless the seized property includes more than \$100,000 in United States currency. The amendment to this bill removes controversial provisions from part one of the bill regarding the scope of representation for minors. The amendment also deletes five other provisions which were contained in the omnibus legislation. It removes a provision giving authority to Health and Human Services to recoup overpayments made to benefit receivers by withholding their future benefits. It removes a provision authorizing the application of a penalty assessment on violations, a practice which is already engaged in by the court system. It removes a requirement for reporting of cybersecurity incidents and setting cybersecurity standards for political subdivisions. It removes a provision requiring the collection of data regarding emergency medical services which appeared to be an intrusion on personal privacy. And finally, the amendment removes a provision which would give the Attorney General the authority to overrule the Victim's Assistance Commission. This bill contains many important provisions and received, as amended, the unanimous approval of the House Judiciary Committee. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

Amendment to SB 143-FN

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

2

3 1 Sponsorship. This act consists of the following proposed legislation:

4 Part I. LSR 21-0943, relative to the appointment of counsel under RSA 169-B, sponsored by  
5 Sen. Carson, Prime/Dist 14.

6 Part II. LSR 21-0948, relative to alternative dispute resolution, sponsored by Sen. Carson,  
7 Prime/Dist 14.

8 Part III. LSR 21-0950, allowing judicial referees to issue orders in non-contested probate  
9 matters, sponsored by Sen. Carson, Prime/Dist 14.

10 Part IV. LSR 21-0952, permitting a supreme court justice to sit as a circuit court judge,  
11 sponsored by Sen. Carson, Prime/Dist 14.

12 Part V. LSR 21-0953, relative to the payment of costs for services other than counsel for  
13 indigent parties, sponsored by Sen. Carson, Prime/Dist 14.

14 Part VI. LSR 21-0918, relative to insurance company licenses, sponsored by Sen. Daniels,  
15 Prime/Dist 11; Rep. Potucek, Hills 18; Rep. Bartlett, Merr 19.

16 Part VII. LSR 21-1066, relative to the New Hampshire National Guard enlistment incentive  
17 program, sponsored by Sen. Carson, Prime/Dist 14.

18 Part VIII: relative to forfeiture of personal property.

19 2 Legislation Enacted. The general court hereby enacts the following legislation:

20

21

PART I

22

Relative to the appointment of counsel under RSA 169-B.

23 1 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend RSA  
24 169-B:7, III to read as follows:

25 III. ***Upon receipt of the petition, the court shall appoint counsel for the minor. Such***  
26 ***appointment shall occur promptly, and in no event later than the time when the summons***  
27 ***is issued. Notice of the appointment shall be transmitted to counsel and to the petitioner***  
28 ***by electronic mail and by first class mail on the day of the appointment.*** The summons shall  
29 contain a notice of the right to representation by counsel and [~~the available procedures for obtaining~~  
30 ~~counsel~~] ***the name, address, telephone number, and electronic mail address of the attorney***  
31 ***who has been appointed by the court.*** The summons shall also state as follows: "With limited  
32 exception, the department of health and human services shall be responsible for the cost of services

**Amendment to SB 143-FN**  
**- Page 2 -**

1 provided under this chapter. RSA 186-C regarding children with disabilities grants minors and their  
2 parents certain rights to services from school districts at public expense and to appeal school district  
3 decisions regarding services to be provided."

4 2 Appointment of Counsel; Waiver of Counsel. Amend 169-B:12, I to read as follows:

5 I. Absent a valid waiver, the court shall appoint counsel [~~at the time of arraignment of an~~  
6 ~~indigent minor, provided that an indigent minor detained pursuant to RSA 169-B:11, III, shall have~~  
7 ~~counsel appointed upon the issuance of the detention order]~~ **for an indigent minor pursuant to**  
8 **RSA 169-B:7, III.** For purposes of [~~the appointment of counsel under]~~ this section, an indigent  
9 minor shall be a minor who satisfies the court, after appropriate inquiry, that the minor is  
10 financially unable to independently obtain counsel. If the court has received information indicating  
11 that the minor [~~has~~] **may have** an intellectual, cognitive, emotional, learning, or sensory disability,  
12 the court shall [~~require the minor to consult with~~] **not permit the minor to waive the right to**  
13 **counsel.**

14 3 Waiver of Counsel. Amend RSA 169-B:12, II-a to read as follows:

15 II-a. If the minor and the parent, guardian, or custodian have not consulted with counsel  
16 about the possible consequences of the proposed waiver of the right to counsel, the court [~~may only~~]  
17 **shall not** accept a waiver pursuant to paragraph II [~~after making case-specific written findings with~~  
18 ~~regard to each of the required conditions for waiver~~].

19 4 Contract Attorneys. Amend RSA 604-A:2-b to read as follows:

20 604-A:2-b Contract Attorneys. The state of New Hampshire, by the judicial council and with the  
21 approval of governor and council, may, within the limits of available appropriations, contract with  
22 any qualified attorney in the state to provide for the representation of indigents in circumstances  
23 where, pursuant to RSA 604-B, the public defender program is unavailable to provide such  
24 representation. **No contract providing for the representation of children in proceedings**  
25 **arising under RSA 169-B shall be based on payment of a predetermined fee per case or**  
26 **other payment structure which creates a financial disincentive for attorneys to provide**  
27 **effective representation in such cases.** The executive director of the judicial council shall  
28 authorize payments to contract attorneys provided for under this section.

29 5 Development of Performance Standards. Amend RSA 604-A:10, V to read as follows:

30 V. The judicial council shall adopt standards relative to appointment for juvenile counsel.  
31 Such standards shall establish training, experience, and other qualifications for attorneys to  
32 represent minors in such proceedings, and shall be developed with consideration of relevant national  
33 standards including, but not limited to, the Juvenile Justice Standards of the Institute of Judicial  
34 Administration and American Bar Association. **The council shall develop the standards**  
35 **required by this section in consultation with the judicial branch, the New Hampshire Bar**  
36 **Association, New Hampshire Legal Assistance, the New Hampshire Public Defender, the**

1 *Disability Rights Center of New Hampshire, and the American Civil Liberties Union of New*  
2 *Hampshire, and shall adopt them no later than July 1, 2022.*

3 6 Repeal. RSA 169-B:12, II-b, relative to appointment of counsel, is repealed.

4 7 Effective Date. Part I of this act shall take effect January 1, 2022.

5  
6 PART II

7 Relative to alternative dispute resolution.

8 1 New Section; Office of Mediation and Arbitration; Quality Assurance Program. Amend RSA  
9 490-E by inserting after section 5 the following new section:

10 490-E:6 Quality Assurance Program.

11 I. The office of mediation and arbitration may establish a quality assurance program to  
12 support the administration of alternative dispute resolution programs in all courts. The program  
13 may include, but is not limited to:

14 (a) Investigating and resolving complaints about alternative dispute resolution  
15 programs in all courts, including services or assistance provided by the office or a neutral party  
16 approved by the judicial branch; and

17 (b) Monitoring and evaluating the appropriateness of alternative dispute resolution  
18 services provided by the office or a neutral party approved by the judicial branch so that problems or  
19 trends in the delivery of services are identified and steps to correct problems can be taken.

20 II. The office of mediation and arbitration may request information about an alternative  
21 dispute resolution program in the courts. Any information received by the office may be shared only  
22 within the judicial branch and such information shall otherwise be confidential and privileged as  
23 provided by law, rule, or order.

24 III. Records of the office's quality assurance program, including records of interviews,  
25 internal reviews or investigations, reports, statements, minutes, and other documentation, shall be  
26 confidential and shall be protected from direct or indirect discovery, subpoena, or admission into  
27 evidence in any judicial or administrative proceeding.

28 IV. No person who provides information as part of the quality assurance program shall be  
29 held liable in any action for damages or other relief arising from such provision of information.

30 2 Effective Date. Part II of this act shall take effect 60 days after its passage.

31  
32 PART III

33 Allowing judicial referees to issue orders in non-contested probate matters.

34 1 New Paragraph; Judges of Probate; Jurisdiction. Amend RSA 547:3 by inserting after  
35 paragraph IV the following new paragraph:

36 V. The administrative judge of the circuit court may appoint one or more referees to any  
37 matter which is not contested and to which no objection has been filed, or to which all parties have

**Amendment to SB 143-FN**  
**- Page 4 -**

1 assented, for any cases arising under subparagraphs I(a), (b), and (g). Any referee so assigned shall  
2 act under the direction of a judge of probate as defined in RSA 490-F:6, III. Any party aggrieved by a  
3 decision made by a referee pursuant to this paragraph may file a request for reconsideration within  
4 10 days of the clerk's notice of decision, and if such request is filed, the matter shall be reviewed by a  
5 judge of probate.

6 2 Repeal. RSA 547:3, I(h), relative to the jurisdiction of the probate court over cases involving  
7 termination of parental rights, is repealed.

8 3 Effective Date. Part III of this act shall take effect 60 days after its passage.

10 PART IV

11 Permitting a supreme court justice to sit as a circuit court judge.

12 1 Superior Court; Assignment From Supreme Court. Amend RSA 491:3 and 3-a to read as  
13 follows:

14 491:3 Assignment From Supreme Court. When the business of the superior court **or circuit**  
15 **court** requires it, and upon request of the [~~chief or senior associate justice~~] **chief justice of the**  
16 **superior court or the administrative judge** of [~~that~~] **the circuit** court, the chief or senior  
17 associate justice of the supreme court may, if not inconsistent with the proper advancement of the  
18 business of the supreme court, assign himself **or herself** or some other justice of the supreme court  
19 to preside and serve in the superior court **or circuit court**. While thus presiding and serving, such  
20 supreme court justice shall have all the authority of a superior court justice **or circuit court judge**.

21 491:3-a Assignment of Judges. After assessing caseload needs and requirements and consulting  
22 with the **chief justice of the superior court or** administrative [~~judges~~] **judge of the circuit**  
23 **court**, the chief justice of the supreme court may assign any superior court [~~judge~~] **justice** to hear  
24 cases in the [~~district~~] **circuit** court.

25 2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

27 PART V

28 Relative to the payment of costs for services other than counsel for indigent parties.

29 1 Termination of Parental Rights; Fees and Court Costs. Amend RSA 170-C:13 to read as  
30 follows:

31 170-C:13 Fees and Court Costs.

32 I. The petitioner shall pay all entry fees and court costs including costs of giving notice, costs  
33 of advertising, and court-appointed guardian ad litem fees. The court, however, may waive entry  
34 fees and court costs where payment would work a hardship on the petitioner. Where the court  
35 waives payment by the petitioner, the state, through the court system, shall pay court costs. The  
36 judicial council shall pay the cost of a CASA guardian ad litem appointed for the child or other  
37 guardian ad litem in cases arising from an underlying abuse and neglect proceeding when the state



**Amendment to SB 143-FN**  
**- Page 5 -**

1 is the moving party or in cases where payment would work a hardship on the petitioner. The cost of  
2 such appointment, including counsel and investigative, expert, or other services and expenses  
3 necessary to provide adequate representation, shall be paid from funds appropriated for indigent  
4 defense pursuant to RSA 604-A.

5 II. The department of health and human services is exempted from paying any entry fees  
6 and court costs.

7 III. When appointment of counsel is made by the court pursuant to RSA 170-C:10 for a  
8 parent determined to be financially unable to employ counsel, the court shall use a financial  
9 eligibility guideline established by the office of cost containment to determine if the party is indigent.  
10 Upon determination that the party is indigent, the court may appoint counsel, subject to an order of  
11 repayment through the office of cost containment. The judicial council shall bear the financial  
12 responsibility for the payment of costs for attorneys appointed pursuant to RSA 170-C:10 in  
13 accordance with the financial eligibility guideline established by the office of cost containment. The  
14 cost of such appointment, including counsel and investigative, expert, or other services and expenses  
15 necessary to provide adequate representation, shall be paid from funds appropriated for indigent  
16 defense pursuant to RSA 604-A. Counsel shall petition the court for investigative, expert, or other  
17 services necessary to provide adequate representation. If the court finds that such services are  
18 necessary and that the parent is financially unable to obtain them, the court shall authorize counsel  
19 to obtain the necessary services on behalf of the parent. Services authorized under this section shall  
20 not include the payment of expenses that are the responsibility of any other agency pursuant to RSA  
21 169-C or this chapter.

22 2 Guardians and Conservators; Right to Counsel. Amend RSA 464-A:6, I to read as follows:

23 I. The right to legal counsel for any person for whom a temporary guardian or guardianship  
24 of the person and estate, or person, or estate, is sought shall be absolute and unconditional. If the  
25 proposed ward does not have his or her own counsel, the court shall appoint counsel for the proposed  
26 ward immediately upon the filing of a petition for guardianship of the person and estate, or the  
27 person, or estate. The judicial council shall pay the cost of such appointment, including counsel and  
28 investigative, expert, or other services and expenses necessary to provide adequate representation,  
29 from funds appropriated for indigent defense pursuant to RSA 604-A. Prior to obtaining  
30 investigative, expert, and other services necessary to provide adequate representation, counsel shall  
31 apply to the court and, upon finding that such services are necessary and that the person is  
32 financially unable to obtain them, the court shall authorize counsel to obtain the necessary services  
33 on behalf of the person for whom temporary guardian or guardianship of the person and estate, or  
34 person or estate, is sought.

35 3 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused  
36 Children. Amend RSA 604-A:1-a to read as follows:



**Amendment to SB 143-FN**  
**- Page 7 -**

1 shall comply with the requirements of the law, *NAIC guidelines*, and the commissioner shall  
2 regard it as safe, reliable and entitled to confidence, and so long as the company continues to conduct  
3 a meaningful insurance business, as determined by the commissioner, within New Hampshire.

4 3 New Subparagraph; Department of Revenue Administration; Confidentiality of Department  
5 Records. Amend RSA 21-J:14, V(d) by inserting after subparagraph (9) the following new  
6 subparagraph:

7 (10) An officer or employee of the insurance department, pursuant to an agreement  
8 for exchange of information between the department and the insurance department, for the purposes  
9 of sharing information received by the department from insurance companies that claim a business  
10 enterprise tax credit, pursuant to RSA 400-A:34-a, and only to the extent necessary, for the  
11 administration and collection of tax premiums by the insurance department. The information  
12 disclosed pursuant to such exchange agreement shall not include records, files, returns, or  
13 information disclosed to officers or employees of the department by any other state, pursuant to a  
14 compact for the exchange of information between the department and any other state, unless  
15 permitted by such state or compact. Officers or employees of the insurance department, having in  
16 their custody or control any confidential taxpayer information obtained from the department  
17 pursuant to the exchange agreement authorized under this subparagraph, shall be subject to the  
18 provisions of RSA 21-J:14.

19 4 Effective Date. Part VI of this act shall take effect 60 days after its passage.  
20

21 **PART VII**

22 Relative to the New Hampshire National Guard enlistment incentive program.

23 1 National Guard Enlistment Incentive Program. The subdivision heading before RSA 160-B:60  
24 is repealed and reenacted to read as follows:

25 National Guard Enlistment Incentive Program

26 2 National Guard Enlistment Incentive Program. RSA 110-B:60-62 are repealed and reenacted  
27 to read as follows:

28 110-B:60 New Hampshire National Guard Enlistment Incentive Program Established. For the  
29 purpose of encouraging enlistment in the national guard there is hereby established a New  
30 Hampshire national guard enlistment incentive program. This program authorizes a cash incentive  
31 up to \$500 to current members of the New Hampshire national guard in the pay grades of E-1 to O-3  
32 or any former member of the New Hampshire national guard for each new or prior service recruit  
33 that they bring into the New Hampshire national guard.

34 110-B:61 Revenue for Enlistment Incentive Program.

35 I. There is hereby established a fund to be known as national guard enlistment incentive  
36 program fund. Any appropriations received shall be deposited in the fund. Moneys in the fund and  
37 any interest earned on the fund shall be used for the purpose of encouraging enlistment in the

**Amendment to SB 143-FN**  
**- Page 8 -**

1 national guard and shall not be used for any other purpose. The adjutant general shall oversee  
2 expenditures from the fund. The moneys in the fund shall be nonlapsing.

3 II. In addition to any moneys appropriated, the New Hampshire national guard enlistment  
4 incentive program fund may consist of an annual appropriation, as determined by the general court,  
5 to be awarded in accordance with written policies promulgated by the adjutant general under RSA  
6 110-B:62.

7 110-B:62 Oversight and Administration. The adjutant general shall adopt rules pursuant to  
8 RSA 541-A relative to the administration of the enlistment incentive program and relative to its  
9 execution by the New Hampshire Army and Air National Guard recruiting offices in coordination  
10 with the department of military affairs and veterans services.

11 3 New Subparagraph; National Guard Enlistment Incentive Program Fund. Amend RSA 6:12,  
12 I(b) by inserting after subparagraph (364) the following new subparagraph:

13 (365) Moneys deposited in the national guard enlistment incentive program fund  
14 established in RSA 110-B:61.

15 4 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:55, I to read as  
16 follows:

17 I. Fines may be paid to a military court or to an officer executing its process. The amount of  
18 any fine imposed may be noted upon any state roll or account for pay of the delinquent and deducted  
19 from any pay or allowance due or thereafter to become due them, until said fine is liquidated; or the  
20 same may be collected with lawful costs of collection, as in the case of executions issued in action  
21 founded upon torts. [~~Fines shall be paid over to the state treasurer and credited to the New~~  
22 ~~Hampshire national guard recruitment and retention scholarship fund under RSA 110-B:60.]~~

23 5 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:29 to read as  
24 follows:

25 110-B:29 Use of Armories or Other National Guard Facilities.

26 [~~I.~~] All New Hampshire national guard facilities shall be primarily for the military duty,  
27 instruction, and training of the national and state guard and for the storage and maintenance of  
28 military property. Other use of national guard facilities may be authorized by the adjutant general  
29 and shall be governed by rules and regulations promulgated under this section.

30 [~~II. Rental fees for the use of national guard facilities shall be fixed by the adjutant general~~  
31 ~~and shall be declared as revenue and paid to the adjutant general subject to the provisions of RSA~~  
32 ~~110-B:61.]~~

33 6 Repeal. RSA 110-B:63, relative to the national guard scholarship program, is repealed.

34 7 Effective Date. Part VII of this act shall take effect July 1, 2021.

35  
36 **PART VIII**

37 Relative to forfeiture of personal property

**Amendment to SB 143-FN**  
**- Page 9 -**

1           1 New Section; Forfeiture of Personal Property. Amend RSA 617 by inserting after section 12  
2 the following new section:

3           617:13 Limiting Adoptions by the Federal Government of Property Seized Under State Law.

4           I. A state or local law enforcement agency shall not offer for transfer or adoption property,  
5 seized under state law, to a federal agency for the purpose of forfeiture under the federal Controlled  
6 Substances Act, Public Law 91-513, unless the seized property includes more than \$100,000 in  
7 United States currency.

8           II. Paragraph I shall only apply to a seizure by a state or local law enforcement agency  
9 pursuant to its own authority under state law and without involvement of the federal government in  
10 the seizure. Nothing in paragraph I shall be construed to limit state and local law enforcement  
11 agencies from participating in a joint task force with the federal government.

12           III. The state or local law enforcement agency shall not accept payment of any kind or  
13 distribution of forfeiture proceeds from the federal government if the state or local law enforcement  
14 agency violates paragraph I. All proceeds received shall be transferred and deposited to the state's  
15 general fund.

16           2 Effective Date. Part VIII of this act shall take effect January 1, 2022.

2021-1431h

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Appointment of counsel for a minor in a juvenile delinquency proceeding.
- II. Alternative dispute resolution.
- III. Allowing judicial referees to issue orders in non-contested probate matters.
- IV. Permitting a supreme court justice to sit as a circuit court judge.
- V. Payment of costs for services other than counsel for indigent parties.
- VI. Insurance company licenses.
- VII. The New Hampshire National Guard enlistment incentive program.
- VIII. Limiting the conditions under which seized property may be transferred to a federal agency.

# Voting Sheets

HOUSE COMMITTEE ON Judiciary

EXECUTIVE SESSION ON ~~HB~~ SB143

BILL TITLE:

DATE: 5/11/21

LOB ROOM:

MOTION: (Please check one box)

Reconsider

OTP

ITL

Retain (1<sup>st</sup> year)

Adoption of  
Amendment # \_\_\_\_\_

Interim Study (2<sup>nd</sup> year)

(if offered)

Moved by Rep. Gordon

Seconded by Rep. Rice

Vote: 11-10

MOTION: (Please check one box)

OTP

OTP/A

ITL

Retain (1<sup>st</sup> year)

Adoption of  
Amendment # \_\_\_\_\_

Interim Study (2<sup>nd</sup> year)

(if offered)

Moved by Rep. Gordon

PROCEDURAL  
Seconded by Rep. Rice

Vote: 10-11  
~~13-10~~

MOTION: (Please check one box)

OTP

OTP/A

ITL

Retain (1<sup>st</sup> year)

Adoption of  
Amendment # 1370h

Interim Study (2<sup>nd</sup> year)

(if offered)

Moved by Rep. Gordon

Seconded by Rep. Alexander

Vote: \_\_\_\_\_

MOTION: (Please check one box)

OTP

OTP/A

ITL

Retain (1<sup>st</sup> year)

Adoption of  
Amendment # \_\_\_\_\_

Interim Study (2<sup>nd</sup> year)

(if offered)

Moved by Rep. Gordon

Seconded by Rep. Rice

Vote: 21-0

CONSENT CALENDAR?



Yes

No

Minority Report? \_\_\_\_\_ Yes \_\_\_\_\_ No If yes, author, Rep.: \_\_\_\_\_ Motion: \_\_\_\_\_

Respectfully submitted, Rep. Kudrinski, Clerk





2021 SESSION

Judiciary

Bill #: SB143 Motion: BTPA AM #: \_\_\_\_\_ Exec Session Date: 5/11/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman		11	
McLean, Mark Vice Chairman		1	
Sylvia, Michael J.		2	
Wuelper, Kurt F. Clerk		3	
Alexander, Joe H.		4	
Rice, Kimberly A.		5	
Silber, Norman J. — <u>MERNEZ, TROY</u>		6	
Greene, Bob J.		7	
Kelley, Diane E.		8	
Tausch, Lindsay — <u>NOTTER, SEANINE</u>		9	
Trottier, Douglas R.		10	
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		

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2021 SESSION

Judiciary

Bill #: SB143 Motion: Reconsider AM #: \_\_\_\_\_ Exec Session Date: 5/11/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	11		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A.	5		
<del>Silber, Norman J.</del> <u>MERNER</u>	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
Tausch, Lindsay <u>NOTTER</u>	9		
Trottier, Douglas R.	10		
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	

*Kurt Wuelper*

11

10



2021 SESSION

Judiciary

Bill #: SB143 Motion: OTPA AM #: 1370h Exec Session Date: 5/11/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	21		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.	4		
Rice, Kimberly A.	5		
<del>Silber, Norman J.</del> <u>MERNER, TROY</u>	6		
Greene, Bob J.	7		
Kelley, Diane E.	8		
<del>Tausch, Lindsay</del> <u>NOTTER, JEANINE</u>	9		
Trottier, Douglas R.	10		
Smith, Marjorie K.	11		
Berch, Paul S.	12		
Horrigan, Timothy O.	13		
DiLorenzo, Charlotte I.	14		
Chase, Wendy	15		
Kenney, Cam E.	16		
Langley, Diane M.	17		
McBeath, Rebecca Susan	18		
Paige, Mark	19		
Simpson, Alexis	20		
<i>[Signature]</i>	21	0	

Rep. M. Smith, Straf. 6  
April 29, 2021  
2021-1252h  
04/06

Amendment to SB 143-FN

- 1 Amend section 1 of the bill (Sponsorship) by deleting Part II and renumbering the original Parts III-
- 2 XII to read as Parts II-XI, respectively.
- 3
- 4 Amend the bill by deleting Part II and renumbering the original Parts III-XII, including the effective
- 5 date references contained therein, to read as Parts II-XI, respectively.

UNAPPROVED

2021-1252h

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Appointment of counsel for a minor in a juvenile delinquency proceeding.
- II. Alternative dispute resolution.
- III. Allowing judicial referees to issue orders in non-contested probate matters.
- IV. Permitting a supreme court justice to sit as a circuit court judge.
- V. Payment of costs for services other than counsel for indigent parties.
- VI. Requiring a penalty assessment on violations.
- VII. Cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions.
- VIII. Emergency medical and trauma services data.
- IX. The appeal of a claim denied by the victims' assistance commission.
- X. Insurance company licenses.
- XI. The New Hampshire National Guard enlistment incentive program.

Rep. Sylvia, Belk. 6  
May 3, 2021  
2021-1272h  
04/11

Amendment to SB 143-FN

- 1 Amend section 1 of the bill (Sponsorship) by deleting Part VII and renumbering Parts VIII-XII to
- 2 read as Parts VII-XI, respectively.
- 3
- 4 Amend the bill by deleting Part VII and renumbering Parts VIII-XII, including the effective date
- 5 references contained therein, to read as Parts VII-XI, respectively.

UNAPPROVED

2021-1272h

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Appointment of counsel for a minor in a juvenile delinquency proceeding.
- II. Recovery of unauthorized payments by the state, as requested by the department of health and human services.
- III. Alternative dispute resolution.
- IV. Allowing judicial referees to issue orders in non-contested probate matters.
- V. Permitting a supreme court justice to sit as a circuit court judge.
- VI. Payment of costs for services other than counsel for indigent parties.
- VII. Cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions.
- VIII. Emergency medical and trauma services data.
- IX. The appeal of a claim denied by the victims' assistance commission.
- X. Insurance company licenses.
- XI. The New Hampshire National Guard enlistment incentive program.

Amendment to SB 143-FN

1 Amend the bill by inserting after Part XII the following new Part:

2

3

Part XIII

4

Relative to forfeiture of personal property

5

1 New Section; Forfeiture of Personal Property. Amend RSA 617 by inserting after section 12  
6 the following new section:

6

7

617:13 Limiting Adoptions by the Federal Government of Property Seized Under State Law.

8

I. A state or local law enforcement agency shall not offer for transfer or adoption property,  
9 seized under state law, to a federal agency for the purpose of forfeiture under the federal Controlled  
10 Substances Act, Public Law 91-513, unless the seized property includes more than \$100,000 in  
11 United States currency.

11

12

II. Paragraph I shall only apply to a seizure by a state or local law enforcement agency  
13 pursuant to its own authority under state law and without involvement of the federal government in  
14 the seizure. Nothing in paragraph I shall be construed to limit state and local law enforcement  
15 agencies from participating in a joint task force with the federal government.

15

16

III. The state or local law enforcement agency shall not accept payment of any kind or  
17 distribution of forfeiture proceeds from the federal government if the state or local law enforcement  
18 agency violates paragraph I. All proceeds received shall be transferred and deposited to the state's  
19 general fund.

19

20

2 Effective Date. Part XIII of this act shall take effect January 1, 2022.



2021-1280h

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Appointment of counsel for a minor in a juvenile delinquency proceeding.
- II. Recovery of unauthorized payments by the state, as requested by the department of health and human services.
- III. Alternative dispute resolution.
- IV. Allowing judicial referees to issue orders in non-contested probate matters.
- V. Permitting a supreme court justice to sit as a circuit court judge.
- VI. Payment of costs for services other than counsel for indigent parties.
- VII. Requiring a penalty assessment on violations.
- VIII. Cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions.
- IX. Emergency medical and trauma services data.
- X. The appeal of a claim denied by the victims' assistance commission.
- XI. Insurance company licenses.
- XII. The New Hampshire National Guard enlistment incentive program.
- XIII. Limiting the conditions under which seized property may be transferred to a federal agency.

# Public Hearing

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON SB 143-FN

**BILL TITLE:** adopting omnibus legislation relative to certain agency requests.

**DATE:** 4/20/2021

**LOB ROOM:** 301/Remote      **Time Public Hearing Called to Order:** 9:30 AM  
**Time Adjourned:** 11:38 AM

**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:** Sen. Carson

TESTIMONY

Blue Sheet      Support      14      Oppose 2

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

**Sen Carson Sponsor SD 14 Support** Gave a brief history of each part of the bill, basically restating its purpose. Sen Prentiss suggests we amend part 9 of the bill. I have proposed language. I can forward the Senate Hearing report and have an amendment drafted. **Q. Rice** A Fiscal Note on Part 1 was requested? A we got no update to the original one. **Q** How would a Supreme Court justice sitting on a case affect an appeal? A We didn't discuss that.

**Sen Rosenwald SD 13 Support** Part 8 was filed at the request if the Insurance dept and they can speak to its details.

**Sen Gray SD 14 Support** Part 2 Failure to report collateral assets and the ability of the State to recoup the funds from future grants. The state needs to be a good steward of the funds and the Department asked for this bill to allow greater recovery for misstated funds.

**David Mikolaites . NH Nat'l Guard/Dept Of Military Affairs Support** Part 12 was submitted for us. We provide scholarship funds for any member. The biggest people we have is recruiting new people. This legislation will allow a current member to get a cash benefit for bringing in new recruits. We need 350 new people each year. **Q Chase:** Is this the same as an earlier program? A No. **Q Gordon:** It's as simple as you find someone to enlist, and you get a bonus? A Yes. **Q DiLorenzo?** Is there a requirement as to how long one needs to be a member to get the bonus? A No, but we would probably wait for a member to have completed basic training. **Q Langley:** Could you clarify about the tuition reimbursement? A No change to that

**Sen Daniels** Part 11 is requested by the insurance department. This will a reference national standards **Q DiLorenzo:** What are "Foreign Insurance companies"? A best to ask the Department.

**Heather Silverstein Insurance Dept Support** the Foreign companies are out-of-stat companies. We are trying to clean up the licensing requirements and adding gthe n national standards language will be clearer. We want the DRA to share information with us so we can accurately assess credit requests. Our statute is become similar to theirs with this change. **Q Sylvia:** What kind of entity is NAIC? A It is a national and organization working to make State insurance laws similar. We often use their recommendations into consideration.

**Sarah Blodgett Judicial Counsel Support** Part 1 is a response to a report we got about representation of juveniles. intent is to adopt some of their recommendations. I think we need

this, and authors did not want to extend representation to civil matters. This bill has several guardrails to limit that concern. **Q Gordon:** Does representation of the juvenile trump concerns about juvenile statements? A If we adopt the juvenile statement language we would be in the forefront, but we really do need most of the other parts.

**Michelle Wangerin Public defender** We know we need earlier representation in custodial cases, and we know the fees need modification. We know we need to adopt standards. In terms of ancillary proceedings, etc., the purpose is not to go into, civil proceedings. The intent is to provide counsel in criminal situations. There is significant overlap in the statutes. In some cases, the civil and criminal proceedings are closely related. The main concern is the language in the bill may be too broad. I have some ideas about how to clarify that. Repayment of counsel fees is desired because pressure can be put on a juvenile if the parents are paying the bill. Sometimes that pressure is really extensive. Eliminating counsel fees for juveniles removes that pressure and is recommended by the report and is not very expensive. **Q Berch:** Use of statement or confession of juvenile. Does the language require representation or just use of the statement? A There is no restriction of questioning unless the statements are to be used later. **Q** Have you looked at other states for a 'bright line' about representation? A No. There are efforts underway to reduce the number of juveniles coming into the system. Working with law enforcement with representation can lead of more creative solutions than juvenile court. **Q Rice:** Confessions to a cousin or friend. Would they be stopped from testifying in court? Have we resolved that? A Limiting the representation to custodial actions will help. **Q DiLorenzo:** I think the term 'Juvenile Delinquent' is antiquated. A The term has a clear legal definition. **Q Horrigan:** Should we redefine the term? A I don't know.

**Michael Skibbe** Disability Rights Center Supports Immediate appointment of counsel is very important. Lots of things happen in the first hearing and counsel can save a lot of time and effort. Provision Limiting waiver of counsel is the national standard toward which we have been slowly moving. Compensation of lawyers for people is pretty low and, in NH, we compound that with the fixed fee system. This is especially true in juvenile cases and we need to put more resources there. **Q Rice:** Didn't we have an amendment to HB 188 to deal with this? A Yes, HB188 set an hourly rate. Fee schedules are better, but the hourly rate is best.

**Kevin Grady** State Veterans Advisory Committee Supports The old fund was hardly used and the new one is supported by our members.

**\*Richard Head** Gov't affairs Coordinator Judicial Branch Supports Parts 4 thru 7

Part 4 will allow referees [a retired judge] to be appointed in uncontested probate matters. This will be more efficient. It would also take parental rights termination out of probate court **Q Mclean:** How could one be uncontested and aggrieved at the same time? A A judge may include something in an order that would upset one. **Q Horrigan:** Why move parental rights cases out? A It actually expands the court that could review. **Q Berch:** Is this an 'end run' around mandatory retirement age? A No. Referees are already allowed, and this just removes some situations where the judge doesn't have to, sign off for efficiency. **Q** Uncontested & aggrieved? A It's a kind of insurance against a very unlikely occurrence. **Q McLean:** This intends to expedite uncontested cases. How would this help? A Allowing the referee to issue the order it just removes a step [approval by the judge], **Q Simpson:** How often are qualifications of referees questioned? A Extremely rare.

Part 5: Provides a way for a Supreme Court justice to sit in a circuit court if needed. In the case of an appeal, the Justice would have to recuse.

Part 6 clarifies that the judicial /council will pay all costs. **Q Rice:** Clarification about what is covered A This involves adds additional costs required to be paid by the Judicial Counsel. **Q Chase:** Where does the money come from? A The judicial /counsel is funded from the General fund. **Q** How much money is involved? A I don't know.

Section 7 A clarification of penalty assessments. This just codifies the way we currently interpret the statute. **Q Berch:** Does this itself increase the amount of fee or penalty? A no, it simply adds the violation as a source.

**Francesca Hennessey** HHS Part 2 allows the department to collect from a recipient in ways not currently specifically authorized but used by some. It also, helps us hold more people liable. Q: **Gordon:** This, just allows for where you have overpaid? A Yes, and this simply allows people to pay back as opposed to, the department going after them. Q **Chase:** Who are we talking about? A We investigate cases and sometimes we know people have been overpaid because they accidentally failed to disclose information and in other cases they may be charged with fraud and have to go to court. Q **Smith:** How much money have you collected in the last biennium and how much do you pay your investigative unit? A I would prefer to get you exact numbers. You want the past biennium? A Well, the idea is to see the costs and benefits. A I will get you data today. Q **Horrigan:** how many people are investigating these cases.? We have 6 fraud investigators. Q **Langley:** Does this also include nursing home admissions? A No, it only overs people overpaid for food stamps, etc. Q **DiLorenzo:** What happens when people are overpaid? A We do investigation and allocate funds back to the Feds as well.

**Jeffrey Phillips** Asst Director Section 9 Comprehensive database. Data can only be released for research. Data could be used for various analytical purposes. This bill would allow the State to make decisions based on NH data. Sen, Prentiss' amendment will not deal with this portion. Q **McLean:** What data is shared? A depends on the request. Virtually all identification data is removed. We are looking at aggregating by county. Q When you share personal info how do you protect people's privacy? A Requests have to be reviewed by a privacy board and the receiver has to sign an agreement to destroy data when they are done with it. Q **Gordon:** I don't see any proscription in the bill? A There are protections. We abide by all HIPPA requirements.

**Margaret Huang** Alt Dispute Coordinator-Judicial Branch This allows Department to institute an Alternative Dispute Resolution process. Q **McLean:** Why do, you need this? Aa the framework of confidentiality is a patchwork. This allows an exception for quality assurance purposes only.

**Denis Goulet** Commissioner Dept of Information Technology Support Part 8 We need to coordinate better with subordinated re cybersecurity. The first part will let people know if they are secure. The second part will help us know about breaches like ransomware earlier and communities don't always know what resources are available to them. The sentence 'hold harmless' language needs revision. I will send proposed language to the committee.



Rep. Kurt Wuelper

# House Remote Testify

## Judiciary Committee Testify List for Bill SB143 on 2021-04-20

Support: 21 Oppose: 2 Neutral: 0 Total to Testify: 10

Export to Excel

<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>
Mikolaities, David	Concord, NH david.j.mikolaities.mil@mail.mil	State Agency Staff	New Hampshire National Guard / Department of Military Affairs and Veterans Services	Support	Yes (5m)	No	4/17/2021 7:39 AM
Rosenwald, Cindy	Concord, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	Yes (5m)	No	4/16/2021 8:42 AM
Silverstein, Heather	Concord, NH heather.g.silverstein@ins.nh.gov	State Agency Staff	Insurance Department	Support	Yes (5m)	No	4/16/2021 1:48 PM
Blodgett, Sarah	Concord - work, NH Sarah.T.Blodgett@jc.nh.gov	State Agency Staff	Judicial Council	Support	Yes (5m)	No	4/18/2021 7:26 PM
Prentiss, Sue	Lebanon, NH jessica.bourque@leg.state.nh.us	An Elected Official	Senate District 5	Support	Yes (5m)	No	4/19/2021 8:37 AM
Gray, James	Rochester, NH james.gray@leg.state.nh.us	An Elected Official	Senator James Gray: Part II	Support	Yes (5m)	No	4/19/2021 9:08 AM
Grady, Kevin	Hooksett, NH jaws15@hotmail.com	A Member of the Public	State Veterans Advisory Committee	Support	Yes (3m)	No	4/14/2021 10:41 AM
Carson, Sharon	Londonderry, NH deborah.chroniak@leg.state.nh.us	An Elected Official	Senate District 14 - PRIME SPONSOR Parts I, III, IV, V, VI, VII, XII	Support	Yes (10m)	No	4/14/2021 10:40 AM
skibbie, michael	Concord, NH, NH mikes@drenh.org	A Lobbyist	Disability Rights Center -- NH	Support	Yes (10m)	No	4/16/2021 10:53 AM
Head, Richard	Concord, NH rhead@courts.state.nh.us	State Agency Staff	Myself	Support	Yes (10m)	No	4/19/2021 4:54 PM
Wangerin, Michelle	Portsmouth, NH mwangerin@nhla.org	A Lobbyist	New Hampshire Legal Assistance	Support	No	No	4/20/2021 8:12 AM
Kipphut, Nicole	Concord, NH Nicole.Kipphut@doc.nh.gov	State Agency Staff	The NH Department of Corrections	Support	No	No	4/20/2021 8:28 AM
Avery, Cheryl	Laconia, NH	A Lobbyist	New Futures	Support	No	No	4/20/2021 8:29 AM

cavery@new-futures.org

Hennessy, Francesca	Concord, NH Francesca.Hennessy@dhhs.nh.gov	State Agency Staff	DHHS	Support	No	No	4/20/2021 9:09 AM
Daniels, Senator Gary	Milford, NH gary.daniels@leg.state.nh.us	An Elected Official	Senate District 11 - Prime Sponsor	Support	No	No	4/20/2021 9:48 AM
Phillips, Jeffre	Depart of Safety, NH jeffrey.r.phillips@dos.nh.gov	State Agency Staff	Department of Safety	Support	No	No	4/20/2021 10:01 AM
Dolan, Joel	Salem, NH jpdolan113@gmail.com	A Member of the Public	Myself	Support	No	No	4/20/2021 11:51 AM
Bartlett, Doug	Concord, NH douglas.i.bartlett@ins.nh.gov	State Agency Staff	Insurance Department	Support	No	No	4/16/2021 1:49 PM
Mobley, Marty	Concord, NH martha.v.mobley@ins.nh.gov	State Agency Staff	Insurance Department	Support	No	No	4/16/2021 1:50 PM
Kudlik, Cindy	Grafton, NH cindykudlik@protonmail.com	An Elected Official	Myself	Oppose	No	No	4/18/2021 11:52 AM
Kaufman, Amy	Newfields, NH seventags@hotmail.com	A Member of the Public	Myself	Support	No	No	4/17/2021 2:03 PM
DeJoie, John	Concord, NH dejoiej@waypointnh.org	A Lobbyist	Waypoint	Support	No	No	4/19/2021 1:29 PM
Vogt, Robin	Portsmouth, NH robin.w.vogt@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/19/2021 9:15 AM

# Testimony



## SB143 Testimony

Good afternoon Chairman Gordon and members of House Judiciary

I am writing to follow up on my testimony regarding Senate Bill 143, the omnibus bill that included a number of bills filed on behalf of the Judicial Branch. Specifically, during the discussion of Part VI (payment of costs for services), the question was asked regarding how fees for CASA guardians ad litem are established. I reached out to Sarah Blodgett at the Judicial Council, who provided me with the following response:

**Richard W. Head** [RHead@courts.state.nh.us](mailto:RHead@courts.state.nh.us)

**From:** Blodgett, Sarah <Sarah.T.Blodgett@jc.nh.gov>

**Sent:** Thursday, April 22, 2021 11:37 AM

**To:** Richard W. Head <RHead@courts.state.nh.us>

**Subject:** CASA

Hi Richard,

Thank you for sharing the questions about CASA. Although the individual advocates/guardians ad litem are volunteers, CASA is required to provide training and supervision of these individuals. CASA employs 30 full-time and 9 part-time employees. 17 employees supervise and co-manage cases with the advocates, 5 employees are dedicated to recruiting, screening and training applicants and 3 attorneys provide statewide legal support to CASA advocates and the children they serve. The state's appropriation constitutes a portion of CASA's overall operating budget. CASA engages in fundraising and receives various grants.

CASA submits a requested state appropriation through the Judicial Council's budget. This amount is approved by the Council and then included in our agency budget. The Council enters into a biennial contract with CASA for the amount of the state appropriation. CASA receives quarterly payments for the contracted amount throughout the fiscal year.

Thank you.

Richard

Richard W. Head      Government Affairs Coordinator      New Hampshire Judicial Branch

One Granite Place, Suite N400   Concord, NH 03301

[rhead@courts.state.nh.us](mailto:rhead@courts.state.nh.us)      Direct dial: 603-415-0779 Cell: 603-716-8235

## SB143 Testimony

Good afternoon Mr. Chair and members of the committee. This message is to follow up on my request to amend SB 143 PART VIII.

The specific request is to REMOVE the last sentence in Section 3 which reads ...

The state shall hold harmless a governing body, or chief administrative officer or designee of a political subdivision, for failing to report a cyber security incident because they were unaware such incident had occurred.

And REPLACE it with this language.

***There will be no penalty or liability if a political subdivision fails to report a cybersecurity incident.***

Denis Goulet  
Commissioner / Chief Information Officer  
NH Department of Information Technology

Office: 603-223-5703

Mobile: 603-545-5988

[www.doit.nh.gov](http://www.doit.nh.gov)

---

Dear Representative Gordon and members of the House Judiciary Committee:

The following information is in response to the questions raised by the Committee at the April 20 public hearing on SB 143 PART II:

During SFY 2020, the Department of Health and Human Services, Special Investigations Unit recovered \$784,700 in unauthorized payments with \$823,600 in cost-avoidance through the FRED (Front End Detection) Program.

For SFY 2019, the Department recovered \$977,656 in unauthorized payments with \$1,259,654 in cost-avoidance.

## SB143 Testimony

For SFY 2022, the Department projects staffing cost of \$991,372 TF including salary and benefits (see attached spreadsheet). With eleven FTE's and one PT position, the Unit includes six Fraud Investigators (LG 21/Steps 3-9), two Program Specialist I's (LG 19/Step 8-9), a Supervisor III (LG 23/Step 2), a Paralegal I (LG 16/Step), a PT Quality Control Reviewer (LG 20/Step 2), and an Administrator II (LG 29/Step 5). Based on the Department's recovery performance, the federal government provides approximately 50% percent federal financial participation (FFP) or \$495,686 GF/\$495,686 FF = \$991,372 TF.

Respectfully submitted,

Francesca Hennessy

Administrator III, Fraud Waste and Abuse Unit

Bureau of Program Integrity, DHHS

129 Pleasant St.

Concord, NH 03301

(603) 271-5134

---



Rep. Kurt Wuelper

Bill as  
Introduced

SB 143-FN - AS INTRODUCED

2021 SESSION

21-0943  
04/10

SENATE BILL **143-FN**

AN ACT adopting omnibus legislation relative to certain agency requests.

SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

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ANALYSIS

This bill adopts legislation relative to:

- I. Appointment of counsel for a minor in a juvenile delinquency proceeding.
- II. Recovery of unauthorized payments by the state, as requested by the department of health and human services.
- III. Alternative dispute resolution.
- IV. Allowing judicial referees to issue orders in non-contested probate matters.
- V. Permitting a supreme court justice to sit as a circuit court judge.
- VI. Payment of costs for services other than counsel for indigent parties.
- VII. Requiring a penalty assessment on violations.
- VIII. Cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions.
- IX. Emergency medical and trauma services data.
- X. The appeal of a claim denied by the victims' assistance commission.
- XI. Insurance company licenses.
- XII. The New Hampshire National Guard enlistment incentive program.

-----

Explanation: Matter added to current law appears in **bold italics**.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

21-0943  
04/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT adopting omnibus legislation relative to certain agency requests.

*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 21-0943, relative to the appointment of counsel under RSA 169-B, sponsored by Sen. Carson, Prime/Dist 14.

Part II. LSR 21-0177, relative to recovery of unauthorized payments by the state, sponsored by Sen. Gray, Prime/Dist 6.

Part III. LSR 21-0948, relative to alternative dispute resolution, sponsored by Sen. Carson, Prime/Dist 14.

Part IV. LSR 21-0950, allowing judicial referees to issue orders in non-contested probate matters, sponsored by Sen. Carson, Prime/Dist 14.

Part V. LSR 21-0952, permitting a supreme court justice to sit as a circuit court judge, sponsored by Sen. Carson, Prime/Dist 14.

Part VI. LSR 21-0953, relative to the payment of costs for services other than counsel for indigent parties, sponsored by Sen. Carson, Prime/Dist 14.

Part VII. LSR 21-0954, requiring a penalty assessment on violations, sponsored by Sen. Carson, Prime/Dist 14.

Part VIII. LSR 21-0643, relative to cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions, sponsored by Sen. Rosenwald, Prime/Dist 13; Sen. Carson, Dist 14; Sen. Cavanaugh, Dist 16; Rep. Ebel, Merr 5; Rep. Leishman, Hills 24.

Part IX. LSR 21-1012, relative to emergency medical and trauma services data, sponsored by Sen. Prentiss, Prime/Dist 5; Sen. Cavanaugh, Dist 16; Rep. Goley, Hills 8; Rep. Merchant, Sull 4.

Part X. LSR 21-1000, relative to the appeal of a claim denied by the victims' assistance commission, sponsored by Sen. Kahn, Prime/Dist 10; Sen. Whitley, Dist 15; Sen. Prentiss, Dist 5.

Part XI. LSR 21-0918, relative to insurance company licenses, sponsored by Sen. Daniels, Prime/Dist 11; Rep. Potucek, Hills 18; Rep. Bartlett, Merr 19.

Part XII. LSR 21-1066, relative to the New Hampshire National Guard enlistment incentive program, sponsored by Sen. Carson, Prime/Dist 14.

2 Legislation Enacted. The general court hereby enacts the following legislation:

## PART I

Relative to the appointment of counsel under RSA 169-B.

1 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend RSA 169-B:7, III to read as follows:

**III. Upon receipt of the petition, the court shall appoint counsel for the minor. Such appointment shall occur promptly, and in no event later than the time when the summons is issued. Notice of the appointment shall be transmitted to counsel and to the petitioner by electronic mail and by first class mail on the day of the appointment.** The summons shall contain a notice of the right to representation by counsel and ~~[the available procedures for obtaining counsel]~~ **the name, address, telephone number, and electronic mail address of the attorney who has been appointed by the court.** The summons shall also state as follows: "With limited exception, the department of health and human services shall be responsible for the cost of services provided under this chapter. RSA 186-C regarding children with disabilities grants minors and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided."

2 Appointment of Counsel; Waiver of Counsel. Amend 169-B:12, I and I-a to read as follows:

I. Absent a valid waiver, the court shall appoint counsel ~~[at the time of arraignment of an indigent minor, provided that an indigent minor detained pursuant to RSA 169-B:11, III, shall have counsel appointed upon the issuance of the detention order]~~ **for an indigent minor pursuant to RSA 169-B:7, III.** For purposes of ~~[the appointment of counsel under]~~ this section, an indigent minor shall be a minor who satisfies the court, after appropriate inquiry, that the minor is financially unable to independently obtain counsel. If the court has received information indicating that the minor ~~[has]~~ **may have** an intellectual, cognitive, emotional, learning, or sensory disability, the court shall ~~[require the minor to consult with]~~ **not permit the minor to waive the right to** counsel.

I-a. When an attorney is appointed as counsel for a child, representation shall include counsel and investigative, expert, and other services, including process to compel the attendance of witnesses, as may be necessary to protect

the rights of the child. ***Representation shall include representation at related proceedings when such matters are based on the same factual circumstances as the petition under this chapter and involvement in the related proceeding is necessary to provide effective representation on the petition. Such appointment shall remain in effect until the court no longer has jurisdiction over the child pursuant to this chapter.***

3 Waiver of Counsel. Amend RSA 169-B:12, II-a to read as follows:

II-a. If the minor and the parent, guardian, or custodian have not consulted with counsel about the possible consequences of the proposed waiver of the right to counsel, the court ~~[may only]~~ ***shall not*** accept a waiver pursuant to paragraph II ~~[after making case-specific written findings with regard to each of the required conditions for waiver].~~

4 New Section; Use of Statement or Confession from a Minor; Appointment of Counsel Required. Amend RSA 169-B by inserting after section 12-a the following new section:

169-B:12-b Use of Statement or Confession from a Minor. No statement or confession from a person who was a minor at the time of the statement or confession may be used against the person in any judicial proceeding unless the person was represented by counsel at the time of the statement or confession and had consulted with their counsel prior to the time of the statement or confession. Any law enforcement agency may petition the court for the appointment of counsel for a minor that the agency intends to question. Upon receipt of such a petition, the court shall appoint counsel using the procedure in RSA 169-B:12, and provide notice to the minor and the attorney who is appointed using the procedures in that section.

5 Contract Attorneys. Amend RSA 604-A:2-b to read as follows:

604-A:2-b Contract Attorneys. The state of New Hampshire, by the judicial council and with the approval of governor and council, may, within the limits of available appropriations, contract with any qualified attorney in the state to provide for the representation of indigents in circumstances where, pursuant to RSA 604-B, the public defender program is unavailable to provide such representation. ***No contract providing for the representation of children in proceedings arising under RSA 169-B shall be based on payment of a predetermined fee per case or other payment structure which creates a financial disincentive for attorneys to provide effective representation in such cases.*** The executive director of the judicial council shall authorize payments to contract attorneys provided for under this section.

6 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9, I(a) and (b) to read as follows:

I.(a) Any adult defendant ~~[or juvenile respondent]~~ who has been assigned counsel or a public defender shall be subject to an order by the court, pursuant to this section, regarding payment to the state for counsel fees and expenses paid by the state on behalf of the defendant ~~[or juvenile]~~, and regarding payment of an administrative service assessment. Any payment obligation shall apply only to a defendant who has been convicted ~~[or a juvenile who has been found delinquent].~~

(b) Upon entering a judgment of conviction ~~[or a finding of delinquency]~~, and the issuance of sentence or disposition, the court shall enter a separate written order setting forth the reasons for the court's conclusion regarding the financial ability of the defendant ~~[or the juvenile, including any person liable for the support of the juvenile pursuant to RSA 604-A:2-a,]~~ to make payment of counsel fees and expenses, and administrative service assessment. In its discretion, the court may conduct an ability-to-pay hearing to assist in its determination. If the court finds that there is an ability to pay some or all of the counsel fees and expenses and the assessment, either presently or in the future, it shall order payment in such amounts and upon such terms and conditions it finds equitable; any payment obligation shall not commence until the conviction and sentence ~~[or the finding of delinquency and disposition]~~ has become final. If the court finds that there is no such ability to pay, it shall so order, and any payment obligation shall terminate.

7 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9, I(f) to read as follows:

(f) The maximum payment amount for counsel fees and expenses shall be according to a schedule established by the administrator of the office of cost containment with the approval of the administrative justices of the courts. Any payment obligation for fees and expenses shall not exceed the amount of the state's flat rate payable to a contract attorney as established pursuant to RSA 604-B. The administrative service assessment shall not exceed 10 percent of the counsel fees and expenses. Payment shall be made to the office of cost containment unless the defendant ~~[or~~

~~juvenile]~~ is placed on probation or sentenced to a period of conditional discharge, in which case repayment shall be made to the state through the department of corrections. ~~[Any payment obligation attributable to a juvenile shall terminate when the juvenile reaches the age of majority, except when the juvenile has been certified and tried as an adult.]~~

8 Development of Performance Standards. Amend RSA 604-A:10, V to read as follows:

V. The judicial council shall adopt standards relative to appointment for juvenile counsel. Such standards shall establish training, experience, and other qualifications for attorneys to represent minors in such proceedings, and shall be developed with consideration of relevant national standards including, but not limited to, the Juvenile Justice Standards of the Institute of Judicial Administration and American Bar Association. ***The council shall develop the standards required by this section in consultation with the judicial branch, the New Hampshire Bar Association, New Hampshire Legal Assistance, the New Hampshire Public Defender, the Disability Rights Center of New Hampshire, and the American Civil Liberties Union of New Hampshire, and shall adopt them no later than July 1, 2022.***

9 Repeal. The following are repealed:

I. RSA 169-B:12, II-b, relative to appointment of counsel.

II. RSA 169-B:12, III, relative to financial responsibility for appointment of counsel.

10 Effective Date. Part I of this act shall take effect January 1, 2022.

## PART II

Relative to recovery of unauthorized payments by the state.

1 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children; Unauthorized Payments; Recovery by State. RSA 167:17-a is repealed and reenacted to read as follows:

167:17-a Unauthorized Payments; Recovery by State. Any sums paid to or on behalf of any individual for any public assistance program under the provisions of RSA 167 or RSA 161 as a result of any failure to report collateral resources as described in RSA 167:17, false statement, misrepresentation or concealment of or failure to disclose the receipt of property, wages, income or resources by the individual or by any person legally liable for the individual's support, or with regard to supplemental nutrition assistance program (SNAP) benefits such assistance overpaid without regard to the reason for such overpayment including, but not limited to, errors committed by the department of health and human services, its employees, agents or contractors, may be recovered through administrative or judicial process, in an action brought by the state or the commissioner of the department of health and human services or his or her designee against such individual. This recovery shall be limited by the provisions of RSA 161:10. The commissioner of the department of health and human services shall recover any unauthorized payments by reasonably adjusting current and future grant amounts received by the individual violating the provisions of this section, or through the return of the overpayment through repayment to the department. A person who knowingly, and with malfeasance, assists a recipient or other person in obtaining an overpayment is jointly and severally liable for the overpayment.

2 Effective Date. Part II of this act shall take effect upon its passage.

## PART III

Relative to alternative dispute resolution.

1 New Section; Office of Mediation and Arbitration; Quality Assurance Program. Amend RSA 490-E by inserting after section 5 the following new section:

490-E:6 Quality Assurance Program.

I. The office of mediation and arbitration may establish a quality assurance program to support the administration of alternative dispute resolution programs in all courts. The program may include, but is not limited to:

(a) Investigating and resolving complaints about alternative dispute resolution programs in all courts, including services or assistance provided by the office or a neutral party approved by the judicial branch; and

(b) Monitoring and evaluating the appropriateness of alternative dispute resolution services provided by the office or a neutral party approved by the judicial branch so that problems or trends in the delivery of services are identified and steps to correct problems can be taken.



II. The office of mediation and arbitration may request information about an alternative dispute resolution program in the courts. Any information received by the office may be shared only within the judicial branch and such information shall otherwise be confidential and privileged as provided by law, rule, or order.

III. Records of the office's quality assurance program, including records of interviews, internal reviews or investigations, reports, statements, minutes, and other documentation, shall be confidential and shall be protected from direct or indirect discovery, subpoena, or admission into evidence in any judicial or administrative proceeding.

IV. No person who provides information as part of the quality assurance program shall be held liable in any action for damages or other relief arising from such provision of information.

2 Effective Date. Part III of this act shall take effect 60 days after its passage.

#### PART IV

Allowing judicial referees to issue orders in non-contested probate matters.

1 New Paragraph; Judges of Probate; Jurisdiction. Amend RSA 547:3 by inserting after paragraph IV the following new paragraph:

V. The administrative judge of the circuit court may appoint one or more referees to any matter which is not contested and to which no objection has been filed, or to which all parties have assented, for any cases arising under subparagraphs I(a), (b), and (g). Any referee so assigned shall act under the direction of a judge of probate as defined in RSA 490-F:6, III. Any party aggrieved by a decision made by a referee pursuant to this paragraph may file a request for reconsideration within 10 days of the clerk's notice of decision, and if such request is filed, the matter shall be reviewed by a judge of probate.

2 Repeal. RSA 547:3, I(h), relative to the jurisdiction of the probate court over cases involving termination of parental rights, is repealed.

3 Effective Date. Part IV of this act shall take effect 60 days after its passage.

#### PART V

Permitting a supreme court justice to sit as a circuit court judge.

1 Superior Court; Assignment From Supreme Court. Amend RSA 491:3 and 3-a to read as follows:

491:3 Assignment From Supreme Court. When the business of the superior court *or circuit court* requires it, and upon request of the [~~chief or senior associate justice~~] *chief justice of the superior court or the administrative judge of [that] the circuit court*, the chief or senior associate justice of the supreme court may, if not inconsistent with the proper advancement of the business of the supreme court, assign himself *or herself* or some other justice of the supreme court to preside and serve in the superior court *or circuit court*. While thus presiding and serving, such supreme court justice shall have all the authority of a superior court justice *or circuit court judge*.

491:3-a Assignment of Judges. After assessing caseload needs and requirements and consulting with the *chief justice of the superior court or* administrative [~~judges~~] *judge of the circuit court*, the chief justice of the supreme court may assign any superior court [~~judge~~] *justice* to hear cases in the [~~district~~] *circuit court*.

2 Effective Date. Part V of this act shall take effect 60 days after its passage.

#### PART VI

Relative to the payment of costs for services other than counsel for indigent parties.

1 Termination of Parental Rights; Fees and Court Costs. Amend RSA 170-C:13 to read as follows:

170-C:13 Fees and Court Costs.

I. The petitioner shall pay all entry fees and court costs including costs of giving notice, costs of advertising, and court-appointed guardian ad litem fees. The court, however, may waive entry fees and court costs where payment would work a hardship on the petitioner. Where the court waives payment by the petitioner, the state, through the court system, shall pay court costs. The judicial council shall pay the cost of a CASA guardian ad litem appointed for the child or other guardian ad litem in cases arising from an underlying abuse and neglect proceeding when the state is the moving party or in cases where payment would work a hardship on the petitioner. The cost of such appointment, including counsel and investigative, expert, or other services and expenses necessary to provide adequate representation, shall be paid from funds appropriated for indigent defense pursuant to RSA 604-A.

II. The department of health and human services is exempted from paying any entry fees and court costs.

III. When appointment of counsel is made by the court pursuant to RSA 170-C:10 for a parent determined to be financially unable to employ counsel, the court shall use a financial eligibility guideline established by the office of cost containment to determine if the party is indigent. Upon determination that the party is indigent, the court may appoint counsel, subject to an order of repayment through the office of cost containment. The judicial council shall bear the financial responsibility for the payment of costs for attorneys appointed pursuant to RSA 170-C:10 in accordance with the financial eligibility guideline established by the office of cost containment. The cost of such appointment, including counsel and investigative, expert, or other services and expenses necessary to provide adequate representation, shall be paid from funds appropriated for indigent defense pursuant to RSA 604-A.

Counsel shall petition the court for investigative, expert, or other services necessary to provide adequate representation. If the court finds that such services are necessary and that the parent is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the parent. Services authorized under this section shall not include the payment of expenses that are the responsibility of any other agency pursuant to RSA 169-C or this chapter.

2 Guardians and Conservators; Right to Counsel. Amend RSA 464-A:6, I to read as follows:

I. The right to legal counsel for any person for whom a temporary guardian or guardianship of the person and estate, or person, or estate, is sought shall be absolute and unconditional. If the proposed ward does not have his or her own counsel, the court shall appoint counsel for the proposed ward immediately upon the filing of a petition for guardianship of the person and estate, or the person, or estate. The judicial council shall pay the cost of such appointment, including counsel and investigative, expert, or other services and expenses necessary to provide adequate representation, from funds appropriated for indigent defense pursuant to RSA 604-A. Prior to obtaining investigative, expert, and other services necessary to provide adequate representation, counsel shall apply to the court and, upon finding that such services are necessary and that the person is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the person for whom temporary guardian or guardianship of the person and estate, or person or estate, is sought.

3 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused Children. Amend RSA 604-A:1-a to read as follows:

604-A:1-a Neglected or Abused Children. In cases involving a neglected or abused child, when a guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such appointment shall be paid from funds appropriated for indigent defense pursuant to this chapter. In cases involving a neglected or abused child, when an attorney is appointed to represent a parent determined to be indigent pursuant to RSA 169-C:10, II, at the preliminary hearing or a hearing pursuant to RSA 169-C:6-a, III, whichever occurs earlier, the cost of such appointment, including counsel and investigative, expert, or other services and expenses, shall be paid from funds appropriated for indigent defense pursuant to this chapter. Counsel shall petition the court for investigative, expert, or other services necessary to provide adequate representation. If the court finds that such services are necessary and that the parent is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the parent. Services authorized under this section shall be in addition to payment for expenses provided under RSA 169-C or RSA 170-C.

4 Effective Date. Part VI of this act shall take effect 60 days after its passage.

## PART VII

Requiring a penalty assessment on violations.

1 Police Standards and Training Council; Penalty Assessment. Amend RSA 106-L:10, I to read as follows:

I. Every court shall levy a penalty assessment of \$2 or 24 percent, whichever is greater, on each fine or penalty imposed by the court for a criminal offense *or violation*, including any fine or penalty for a violation of RSA title XXI or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. Notwithstanding any law or rule to the contrary, the penalty assessment shall be levied in addition to the amount of the fine or penalty imposed by the court.

2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

## PART VIII

Relative to cybersecurity incident reporting and

recommended cybersecurity standards for political subdivisions.

1 New Paragraphs; Department of Information Technology; Duties of Commissioner. Amend RSA 21-R:4 by inserting after paragraph XX the following new paragraphs:

XXI. Designating the New Hampshire cyber integration center to receive and coordinate cybersecurity incident reports from political subdivisions.

XXII. Publishing recommended minimum cybersecurity standards for political subdivisions, to be updated semi-annually.

2 New Paragraph; Department of Information Technology; Definitions. Amend RSA 21-R:1 by inserting after paragraph I the following new paragraph:

I-a. "Cybersecurity incident" means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

3 New Section; Duties of Towns; Cybersecurity. Amend RSA 31 by inserting after section 103-a the following new section:

31:103-b Cybersecurity. The governing body, chief administrative officer or the designee of any political subdivision who knows of or suspects a cybersecurity incident within such political subdivision, or within any vendor acting as an agent of the political subdivision, shall immediately report such incident, upon discovery, and shall disclose all known information and interactions to the New Hampshire cyber integration center of the department of information technology.

4 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

## PART IX

Relative to emergency medical and trauma services data.

1 Department of Safety; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II(g) to read as follows:

(g) Establish a data collection and analysis capability that provides for the evaluation of the emergency medical and trauma services system and for modifications to the system based on identified gaps and shortfalls in the delivery of emergency medical and trauma services. ~~[The data and resulting analysis shall be provided to the bodies established under this chapter]~~ ***Any emergency medical and trauma services data or analysis collected or maintained by the division may be provided to any state or federal agency or to any third party entity contracted to work on behalf of a federal or state entity***, provided that such use does not violate the confidentiality of recipients of emergency medical care. The provisions of RSA 153-A:35 shall be followed with regard to other uses of this data for research and evaluation purposes, and for protecting the confidentiality of data in those uses. All analyses shall be public documents, provided that the identity of the recipients of emergency medical care are protected from disclosure either directly or indirectly.

2 New Subparagraph; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II by inserting after subparagraph (n) the following new subparagraph:

(o) Notwithstanding subparagraph II(g), the division is hereby authorized to enter to execute all documents and perform all other acts necessary to participate in the National Emergency Medical Services Information System or any similar data collection, sharing, or analysis system, provided that the data provided to any such system does not violate the confidentiality of recipients of emergency medical care. The commissioner shall review and approve any such authorization prior to sharing any data.

3 Emergency Medical and Trauma Services; Protected Health Information. Amend RSA 153-A:35 to read as follows:  
153-A:35 Protected Health Information; Privacy Committee Established.

I. All protected health information possessed by the department shall be considered confidential, except that the commissioner, or designee, may provide emergency medical and trauma services record information to ~~[institutions and individuals]~~ ***any person or entity*** outside of the department who demonstrate a need for such information for the purpose of conducting health-related research ***or analysis and other uses for evaluation not provided for under RSA 21-P:12-b, II(g)***. Any such release shall be conditioned upon the understanding that once the health-related research is complete that all information provided shall be returned to the department or be destroyed and no copies shall be kept. All releases of information shall be consistent with the federal Health Insurance Portability and

Accountability Act of 1996, Public Law 104-191 (HIPAA) and regulations promulgated thereunder by the United States Department of Health and Human Services 45 C.F.R. part 160 and part 164. This shall include the requirement that all proposed releases of emergency medical and trauma services records information to institutions and individuals outside the department for the purposes of health-related research be reviewed and approved by the privacy committee, established in paragraph II, and the commissioner, under this section before the requested information is released.

II. There is hereby established a privacy committee which shall review and approve requests for the use of emergency medical and trauma services records data for the purposes of research *or analysis* and other uses for evaluation not provided for under RSA 21-P:12-b, II(g). The privacy committee shall consist of 7 members who shall include the director, or designee, 4 members of the emergency medical and trauma services coordinating board, appointed by the chair of the board, and 2 persons who are not affiliated with the department and who are not part of the immediate family of a person who is affiliated with the department, appointed by the commissioner.

III. The committee shall review and approve requests for the use of emergency medical and trauma services records data for the purposes of research *or analysis* and other uses for evaluation not provided under RSA 21-P:12-b, II(g).

Emergency medical and trauma services records data or copies of such records that directly or indirectly identify individuals shall be made available for health-related research purposes upon receipt and approval of a written application to the committee. No emergency medical and trauma services records shall be released until the request has been reviewed and approved by the privacy committee and authorized by the commissioner, or designee.

IV. The committee may consult with any person or entity the committee deems relevant to the work of the committee. Such individuals may only offer advice and guidance and shall not participate in the decision as to whether to approve the release of any records under this section [~~for the purposes of health-related research~~].

4 Effective Date. Part IX of this act shall take effect 60 days after its passage.

## PART X

Relative to the appeal of a claim denied by the victims' assistance commission.

1 New Paragraph; Victims' Assistance Fund; Claimant Eligibility. Amend RSA 21-M:8-h by inserting after paragraph IV the following new paragraph:

IV-a. If the commission determines the claimant is ineligible for compensation, in whole or in part, the claimant may petition the attorney general for a rehearing pursuant to RSA 541:3. The attorney general, or designee, shall review the complete record before the commission and may affirm or reverse, in whole or in part, the commission's decision.

An appeal of the attorney general's decision may be taken directly to the supreme court pursuant to RSA 541:6.

2 Effective Date. Part X of this act shall take effect 60 days after its passage.

## PART XI

Relative to insurance company licenses.

1 Insurance Company Licenses. Amend RSA 402:12, I to read as follows:

I. On compliance with the foregoing conditions and if the company is found upon examination made by or under the direction of the commissioner to **(a)** have complied with the laws of the state applicable to it; **(b) have been consistent with the NAIC's Uniform Certificate of Authority Application process and standards; and (c) have complied with any other terms or documentation the commissioner may require**, a license to transact the kind of business specified in the license shall be issued until June 14 thereafter. Annually thereafter, on June 14, such license may be renewed so long as the company shall comply with the requirements of the law and the commissioner shall regard it as safe, reliable, and entitled to confidence, **so long as its application is consistent with the standards set forth by state law and NAIC guidelines** and so long as the company continues to conduct a meaningful insurance business, as determined by the commissioner, within New Hampshire.

2 Insurance Company Licenses; Foreign Insurance Companies and Agents. Amend RSA 405:12, I to read as follows:

I. If the foregoing provisions are complied with and the commissioner is satisfied that the company **(a)** has the requisite capital and assets [~~and~~]; **(b)** is a safe, reliable company, entitled to confidence; **and (c) is consistent with the NAIC's Uniform Certificate of Authority Application process and standards, [he] the commissioner** shall grant a license to it to do insurance business by authorized agents within the state, subject to the laws of the state, until June 14 thereafter. Annually thereafter, on June 14, such license may be renewed so long as the company

shall comply with the requirements of the law, *NAIC guidelines*, and the commissioner shall regard it as safe, reliable and entitled to confidence, and so long as the company continues to conduct a meaningful insurance business, as determined by the commissioner, within New Hampshire.

3 New Subparagraph; Department of Revenue Administration; Confidentiality of Department Records. Amend RSA 21-J:14, V(d) by inserting after subparagraph (9) the following new subparagraph:

(10) An officer or employee of the insurance department, pursuant to an agreement for exchange of information between the department and the insurance department, for the purposes of sharing information received by the department from insurance companies that claim a business enterprise tax credit, pursuant to RSA 400-A:34-a, and only to the extent necessary, for the administration and collection of tax premiums by the insurance department.

The information disclosed pursuant to such exchange agreement shall not include records, files, returns, or information disclosed to officers or employees of the department by any other state, pursuant to a compact for the exchange of information between the department and any other state, unless permitted by such state or compact.

Officers or employees of the insurance department, having in their custody or control any confidential taxpayer information obtained from the department pursuant to the exchange agreement authorized under this subparagraph, shall be subject to the provisions of RSA 21-J:14.

4 Effective Date. Part XI of this act shall take effect 60 days after its passage.

## PART XII

Relative to the New Hampshire National Guard enlistment incentive program.

1 National Guard Enlistment Incentive Program. The subdivision heading before RSA 160-B:60 is repealed and reenacted to read as follows:

### National Guard Enlistment Incentive Program

2 National Guard Enlistment Incentive Program. RSA 110-B:60-62 are repealed and reenacted to read as follows:

110-B:60 New Hampshire National Guard Enlistment Incentive Program Established. For the purpose of encouraging enlistment in the national guard there is hereby established a New Hampshire national guard enlistment incentive program. This program authorizes a cash incentive up to \$500 to current members of the New Hampshire national guard in the pay grades of E-1 to O-3 or any former member of the New Hampshire national guard for each new or prior service recruit that they bring into the New Hampshire national guard.

110-B:61 Revenue for Enlistment Incentive Program.

I. There is hereby established a fund to be known as national guard enlistment incentive program fund. Any appropriations received shall be deposited in the fund. Moneys in the fund and any interest earned on the fund shall be used for the purpose of encouraging enlistment in the national guard and shall not be used for any other purpose.

The adjutant general shall oversee expenditures from the fund. The moneys in the fund shall be nonlapsing.

II. In addition to any moneys appropriated, the New Hampshire national guard enlistment incentive program fund may consist of an annual appropriation, as determined by the general court, to be awarded in accordance with written policies promulgated by the adjutant general under RSA 110-B:62.

110-B:62 Oversight and Administration. The adjutant general shall adopt rules pursuant to RSA 541-A relative to the administration of the enlistment incentive program and relative to its execution by the New Hampshire Army and Air National Guard recruiting offices in coordination with the department of military affairs and veterans services.

3 New Subparagraph; National Guard Enlistment Incentive Program Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

(365) Moneys deposited in the national guard enlistment incentive program fund established in RSA 110-B:61.

4 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:55, I to read as follows:

I. Fines may be paid to a military court or to an officer executing its process. The amount of any fine imposed may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due them, until said fine is liquidated; or the same may be collected with lawful costs of collection, as in the case of executions issued in action founded upon torts. [~~Fines shall be paid over to the state treasurer and credited to the New Hampshire national guard recruitment and retention scholarship fund under RSA 110-B:60.~~]

5 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:29 to read as follows:

110-B:29 Use of Armories or Other National Guard Facilities.

[F] All New Hampshire national guard facilities shall be primarily for the military duty, instruction, and training of the national and state guard and for the storage and maintenance of military property. Other use of national guard facilities may be authorized by the adjutant general and shall be governed by rules and regulations promulgated under this section.

~~[H. Rental fees for the use of national guard facilities shall be fixed by the adjutant general and shall be declared as revenue and paid to the adjutant general subject to the provisions of RSA 110-B:61.]~~

6 Repeal. RSA 110-B:63, relative to the national guard scholarship program, is repealed.

7 Effective Date. Part XII of this act shall take effect July 1, 2021.

LBA  
21-0943  
2/4/21

**SB 143-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT adopting omnibus legislation relative to certain agency requests.

**PART I: Relative to the appointment of counsel under RSA 169-B.**

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

Part I of the bill directs the court to appoint counsel for a minor when the juvenile delinquency petition is filed or the summons issued. The part also provides that a confession or statement from an unrepresented minor shall not be used in any judicial proceeding.

The Judicial Council indicates this part of the bill makes several changes to the juvenile justice process, including the following:

- Earlier appointment of counsel.
- No waiver of counsel for a juvenile who may have a disability.
- Representation of juvenile at related proceedings.
- Prohibiting use of juvenile’s statements to law enforcement unless represented by counsel.
- Appointment of counsel would continue until court no longer has jurisdiction.
- Elimination of the flat fee reimbursement model for juvenile cases.
- Elimination of legal fees assessed against juveniles.
- Development of performance standards for counsel assigned to juveniles.

These changes address several findings of the National Juvenile Defender Center’s recent assessment of indigent juvenile representation in New Hampshire. The Council assumes it would be responsible for the costs of legal representation for indigent juveniles. Earlier appointment of counsel would not impact expenditures, and may allow cases to resolve more expeditiously. It is also assumed that this legislation would significantly decrease the number of juveniles proceeding without counsel. According to information provided by the court, approximately

89 juveniles waived the right to counsel last year. Because the Public Defender is the State’s institutional provider of indigent-defense services, it could absorb the increase in the charge level with no change in the cost of its operations. There may be increased costs to the indigent-defense delivery system for new appointments that have to be handled by either the Contract-Attorney System or the Assigned-Counsel System.

It is not clear to the Council what representation at related proceedings would involve. Counsel needs to be competent in all areas in which they provide representation. Currently, the indigent defense system does not provide representation to juveniles outside of delinquency proceedings. This requirement would require additional training and attorney time. A reimbursement model for contract attorneys and assigned counsel would need to be developed. Under the current system, the indigent defense system does not provide representation until a delinquency petition has been filed against a juvenile. This bill would prevent the use of statements to law enforcement unless the juvenile was represented by counsel. It is assumed that law enforcement would request appointment occur as expeditiously as possible. The Council cannot accurately predict the number of appointments that would result from this change, but it would require additional attorney time and resources.

It is not possible to predict the additional attorney time that representation at related proceedings and police interrogations will require, but it is assumed that the Public Defender would require more attorneys on staff to meet these obligations. The cost for a new attorney, including benefits, is approximately \$95,000. While the time commitment and resources necessary to provide representation until the court no longer has jurisdiction would be case specific, keeping cases open will result in more ethical conflicts of interest that would prevent the Public Defender from accepting new cases. This part of the bill also eliminates the flat-fee reimbursement model for contract attorney representation of juveniles. The assessment found that “flat-fee contracts provide a disincentive for attorneys to spend the requisite time and resources on a case and encourage attorneys to close cases quickly”.

In FY 2020, contract attorneys were appointed on 165 juvenile matters at an approximate cost of \$44,475. It is assumed that the flat-fee model would be replaced with the assigned counsel model. Assigned counsel cases are reimbursed at \$60/hour with fee caps imposed by court rule. Based on the maximum fees, the cost of representation on juvenile felonies would be \$196,800. The cost of representation on juvenile misdemeanors and similar proceedings would be \$130,200.

The elimination of legal fees would not impact indigent defense expenditures. It is assumed that there would be no cost to develop performance standards, but there could costs associated with training and reimbursing attorneys to meet such standards.

The Judicial Branch believes the fiscal impact of part I would be minimal and anticipates that any costs to the Judicial Branch associated with the changes would be less than \$10,000 per year.

**AGENCIES CONTACTED:**

Judicial Branch and Judicial Council

**PART II: Relative to recovery of unauthorized payments by the state.**

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

Part II of the bill authorizes the Department of Health and Human Services to recover unauthorized payments of public assistance from any legally liable person. Currently, state law allows recovery only from “future grants,” meaning the Department can recover only if the legally responsible party is open for assistance in the future, and then may recover only those future grants. This part will require a recipient of public assistance to pay the Department back directly for unauthorized payments made to that person. The Department will be able to collect funds paid from all public assistance programs in cases in which the recipient misrepresented facts in their case that would have affected benefit amounts. The Department assumes this change will result in an indeterminable increase in state revenue, and further assumes that it will be able to implement the change with existing budgetary resources.

It is assumed any fiscal impact would occur after July 1, 2021.

**AGENCIES CONTACTED:**

Department of Health and Human Services

**PART III: Relative to alternative dispute resolution.**

This part has no fiscal impact.

**Part IV: Allowing judicial referees to issue orders in non-contested probate matters.**

This part has no fiscal impact.

**PART V: Permitting a supreme court justice to sit as a circuit court judge.**

This part has no fiscal impact.

**PART VI: Relative to the payment of costs for services other than counsel for indigent parties.**

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill provides for the apportionment of costs and expenses for legal counsel, investigative, expert, and other necessary services in abuse and neglect, guardianship, and termination of parental rights cases.

The Judicial Branch makes the following assumptions concerning the fiscal impact of this bill:

- The bill would authorize services other than counsel for indigent parties at state expense in certain civil proceedings. This would apply to abuse and neglect, termination of parental rights, and guardianship cases. The services would be at the request of the parent attorney or guardian. All requests for services must be necessary for adequate representation.
- Clarifying the availability of such services, along with efforts to enhance the quality of parent representation, would lead to an increase in the number and cost of services other than counsel.



The Branch reports in FY 2019, there were 968 appointments of attorneys in abuse and neglect cases and 323 appointments of attorneys in termination cases. It is not possible to accurately predict the cost of requested services but several factors indicate that these services would constitute a significant expense. Many parents involved in these cases suffer from complex mental health and/or substance use disorders. In FY 2020, CASA (the provider of most guardian ad litem services in child protection cases), reported an average of 79% of new cases had a known parental substance abuse component. The requested services would likely range from Licensed Drug and Alcohol Counselor evaluations (\$300) to psychological evaluations (\$5,000+). Cases involving allegations of physical harm may require medical experts. The use of investigators (\$80-\$100/hour) would likely be necessary for adequate representation in a number of cases. Litigation services, including depositions and witness fees, would also be utilized. It is not possible, however, to determine what these expenses would be in the future. The Branch anticipates that, if the bill becomes law, there will be an increase in expenditures for indigent parties in these cases.

The Judicial Council states that currently, the Judicial Branch pays for approved services in these case types. These costs have been infrequent, but it is anticipated that clarifying the availability of such services, and enhancing the quality of parent representation, will increase the number and cost of services other than counsel. In FY 2020, attorneys were appointed on over 917 abuse and neglect cases and 381 termination cases. Given the complex issues facing accused parents, and the anticipated increase in service requests once attorneys become aware of this opportunity, these costs are expected to be substantial. Requiring the court to pre-approve all services would minimize costs. Depending on the number of invoices that will require processing by Judicial Council staff, additional part-time funding may be necessary in the future. The Council expects these costs would be in excess of \$100,000 within 24 months of implementation.

It is assumed that any fiscal impact would occur after July 1, 2021.

**AGENCIES CONTACTED:**

Judicial Branch and Judicial Council

**PART VII: Requiring a penalty assessment on violations.**

The Judicial Branch and Department of Safety have indicated this part has no fiscal impact.

**AGENCIES CONTACTED:**

Judicial Branch and Department of Safety

**PART VIII: Relative to cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions**

The Department of Information Technology has indicated this part of the bill has no fiscal impact.

**AGENCIES CONTACTED:**

Department of Information Technology

**PART IX: Relative to emergency medical and trauma services data.**

This part has no fiscal impact.

**PART X: Relative to the appeal of a claim denied by the victims' assistance commission.**

The Department of Justice was originally contacted on January 21, 2021 for a fiscal note worksheet, which they have not provided as of February 3, 2021.

**Part XI: Relative to insurance company licenses.**

This part has no fiscal impact.

**PART XII: Relative to the New Hampshire National Guard enlistment incentive program.**

**FISCAL IMPACT:**     State             County             Local             None

STATE:	<b>Estimated Increase / (Decrease)</b>			
	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$25,000	\$25,000	\$25,000
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill establishes the New Hampshire National Guard Enlistment Incentive Program and the nonlapsing New Hampshire National Guard Enlistment Incentive Program Fund. The Department of Military Affairs and Veterans Services indicates the bill would eliminate the National Guard Scholarship Fund and replace it with a \$500.00 incentive payment to retirees and members of the NHNG who refer someone for enlistment into the guard. If passed, the NH National Guard would execute the incentive program in coordination with the Department. The Department reports, based on projected enlistments, an amount of \$22,500 per year would be needed for the incentive payments. This would allow for 45 individual incentive payments to eligible recipients. The Department estimates it would incur annual administrative costs of approximately \$2,500 to establish each recipient as a vendor for payment in the State accounting system, to process necessary W-9 and 1099 tax forms, to process the payments, and to comply with year end reporting and program audit requirements.

**AGENCIES CONTACTED:**

Department of Military Affairs and Veterans Services

# Fiscal Notes

**SB 143-FN FISCAL NOTE  
AS AMENDED BY THE SENATE (AMENDMENT #2021-0776s)**

AN ACT                    adopting omnibus legislation relative to certain agency requests.

**PART I: Relative to the appointment of counsel under RSA 169-B.**

**FISCAL IMPACT:**     State                     County                     Local                     None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

Part I of the bill directs the court to appoint counsel for a minor when the juvenile delinquency petition is filed or the summons issued. The part also provides that a confession or statement from an unrepresented minor shall not be used in any judicial proceeding.

The Judicial Council indicates this part of the bill makes several changes to the juvenile justice process, including the following:

- Earlier appointment of counsel.
- No waiver of counsel for a juvenile who may have a disability.
- Representation of juvenile at related proceedings.
- Prohibiting use of juvenile’s statements to law enforcement unless represented by counsel.
- Appointment of counsel would continue until court no longer has jurisdiction.
- Elimination of the flat fee reimbursement model for juvenile cases.
- Elimination of legal fees assessed against juveniles.
- Development of performance standards for counsel assigned to juveniles.

These changes address several findings of the National Juvenile Defender Center’s recent assessment of indigent juvenile representation in New Hampshire. The Council assumes it

would be responsible for the costs of legal representation for indigent juveniles. Earlier appointment of counsel would not impact expenditures, and may allow cases to resolve more expeditiously. It is also assumed that this legislation would significantly decrease the number of juveniles proceeding without counsel. According to information provided by the court, approximately 89 juveniles waived the right to counsel last year. Because the Public Defender is the State's institutional provider of indigent-defense services, it could absorb the increase in the charge level with no change in the cost of its operations. There may be increased costs to the indigent-defense delivery system for new appointments that have to be handled by either the Contract-Attorney System or the Assigned-Counsel System.

It is not clear to the Council what representation at related proceedings would involve. Counsel needs to be competent in all areas in which they provide representation. Currently, the indigent defense system does not provide representation to juveniles outside of delinquency proceedings. This requirement would require additional training and attorney time. A reimbursement model for contract attorneys and assigned counsel would need to be developed. Under the current system, the indigent defense system does not provide representation until a delinquency petition has been filed against a juvenile. This bill would prevent the use of statements to law enforcement unless the juvenile was represented by counsel. It is assumed that law enforcement would request appointment occur as expeditiously as possible. The Council cannot accurately predict the number of appointments that would result from this change, but it would require additional attorney time and resources.

It is not possible to predict the additional attorney time that representation at related proceedings and police interrogations will require, but it is assumed that the Public Defender would require more attorneys on staff to meet these obligations. The cost for a new attorney, including benefits, is approximately \$95,000. While the time commitment and resources necessary to provide representation until the court no longer has jurisdiction would be case specific, keeping cases open will result in more ethical conflicts of interest that would prevent the Public Defender from accepting new cases. This part of the bill also eliminates the flat-fee reimbursement model for contract attorney representation of juveniles. The assessment found that "flat-fee contracts provide a disincentive for attorneys to spend the requisite time and resources on a case and encourage attorneys to close cases quickly". In FY 2020, contract attorneys were appointed on 165 juvenile matters at an approximate cost of \$44,475. It is assumed that the flat-fee model would be replaced with the assigned counsel model. Assigned counsel cases are reimbursed at \$60/hour with fee caps imposed by court rule. Based on the

maximum fees, the cost of representation on juvenile felonies would be \$196,800. The cost of representation on juvenile misdemeanors and similar proceedings would be \$130,200.

The elimination of legal fees would not impact indigent defense expenditures. It is assumed that there would be no cost to develop performance standards, but there could be costs associated with training and reimbursing attorneys to meet such standards.

The Judicial Branch believes the fiscal impact of part I would be minimal and anticipates that any costs to the Judicial Branch associated with the changes would be less than \$10,000 per year.

**AGENCIES CONTACTED:**

Judicial Branch and Judicial Council

**PART II: Relative to recovery of unauthorized payments by the state.**

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

Part II of the bill authorizes the Department of Health and Human Services to recover unauthorized payments of public assistance from any legally liable person. Currently, state law allows recovery only from “future grants,” meaning the Department can recover only if the legally responsible party is open for assistance in the future, and then may recover only those future grants. This part will require a recipient of public assistance to pay the Department back directly for unauthorized payments made to that person. The Department will be able to collect funds paid from all public assistance programs in cases in which the recipient misrepresented facts in their case that would have affected benefit amounts. The Department assumes this change will result in an indeterminable increase in state revenue, and further assumes that it will be able to implement the change with existing budgetary resources.

It is assumed any fiscal impact would occur after July 1, 2021.

**AGENCIES CONTACTED:**

Department of Health and Human Services

**PART III: Relative to alternative dispute resolution.**

This part has no fiscal impact.

**Part IV: Allowing judicial referees to issue orders in non-contested probate matters.**

This part has no fiscal impact.

**PART V: Permitting a supreme court justice to sit as a circuit court judge.**

This part has no fiscal impact.

**PART VI: Relative to the payment of costs for services other than counsel for indigent parties.**

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill provides for the apportionment of costs and expenses for legal counsel, investigative, expert, and other necessary services in abuse and neglect, guardianship, and termination of parental rights cases.

The Judicial Branch makes the following assumptions concerning the fiscal impact of this bill:

- The bill would authorize services other than counsel for indigent parties at state expense in certain civil proceedings. This would apply to abuse and neglect, termination of parental rights, and guardianship cases. The services would be at the request of the

parent attorney or guardian. All requests for services must be necessary for adequate representation.

- Clarifying the availability of such services, along with efforts to enhance the quality of parent representation, would lead to an increase in the number and cost of services other than counsel.

The Branch reports in FY 2019, there were 968 appointments of attorneys in abuse and neglect cases and 323 appointments of attorneys in termination cases. It is not possible to accurately predict the cost of requested services but several factors indicate that these services would constitute a significant expense. Many parents involved in these cases suffer from complex mental health and/or substance use disorders. In FY 2020, CASA (the provider of most guardian ad litem services in child protection cases), reported an average of 79% of new cases had a known parental substance abuse component. The requested services would likely range from Licensed Drug and Alcohol Counselor evaluations (\$300) to psychological evaluations (\$5,000+). Cases involving allegations of physical harm may require medical experts. The use of investigators (\$80-\$100/hour) would likely be necessary for adequate representation in a number of cases. Litigation services, including depositions and witness fees, would also be utilized. It is not possible, however, to determine what these expenses would be in the future. The Branch anticipates that, if the bill becomes law, there will be an increase in expenditures for indigent parties in these cases.

The Judicial Council states that currently, the Judicial Branch pays for approved services in these case types. These costs have been infrequent, but it is anticipated that clarifying the availability of such services, and enhancing the quality of parent representation, will increase the number and cost of services other than counsel. In FY 2020, attorneys were appointed on over 917 abuse and neglect cases and 381 termination cases. Given the complex issues facing accused parents, and the anticipated increase in service requests once attorneys become aware of this opportunity, these costs are expected to be substantial. Requiring the court to pre-approve all services would minimize costs. Depending on the number of invoices that will require processing by Judicial Council staff, additional part-time funding may be necessary in the future. The Council expects these costs would be in excess of \$100,000 within 24 months of implementation.

It is assumed that any fiscal impact would occur after July 1, 2021.

**AGENCIES CONTACTED:**



Judicial Branch and Judicial Council

**PART VII: Requiring a penalty assessment on violations.**

The Judicial Branch and Department of Safety have indicated this part has no fiscal impact.

**AGENCIES CONTACTED:**

Judicial Branch and Department of Safety

**PART VIII: Relative to cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions**

The Department of Information Technology has indicated this part of the bill has no fiscal impact.

**AGENCIES CONTACTED:**

Department of Information Technology

**PART IX: Relative to emergency medical and trauma services data.**

This part has no fiscal impact.

**PART X: Relative to the appeal of a claim denied by the victims' assistance commission.**

The Department of Justice was originally contacted on January 21, 2021 for a fiscal note worksheet, which they have not provided as of February 3, 2021.

**Part XI: Relative to insurance company licenses.**

This part has no fiscal impact.

**PART XII: Relative to the New Hampshire National Guard enlistment incentive program.**

**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

<b>Expenditures</b>	\$0	\$25,000	\$25,000	\$25,000
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill establishes the New Hampshire National Guard Enlistment Incentive Program and the nonlapsing New Hampshire National Guard Enlistment Incentive Program Fund. The Department of Military Affairs and Veterans Services indicates the bill would eliminate the National Guard Scholarship Fund and replace it with a \$500.00 incentive payment to retirees and members of the NHNG who refer someone for enlistment into the guard. If passed, the NH National Guard would execute the incentive program in coordination with the Department. The Department reports, based on projected enlistments, an amount of \$22,500 per year would be needed for the incentive payments. This would allow for 45 individual incentive payments to eligible recipients. The Department estimates it would incur annual administrative costs of approximately \$2,500 to establish each recipient as a vendor for payment in the State accounting system, to process necessary W-9 and 1099 tax forms, to process the payments, and to comply with year end reporting and program audit requirements.

**AGENCIES CONTACTED:**

Department of Military Affairs and Veterans Services

**SB 143-FN FISCAL NOTE  
 AS AMENDED BY THE SENATE (AMENDMENT #2021-0776s)**

AN ACT                    adopting omnibus legislation relative to certain agency requests.

**PART I: Relative to the appointment of counsel under RSA 169-B.**

**FISCAL IMPACT:**     State                     County                     Local                     None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

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The Judicial Council indicates this part of the bill makes several changes to the juvenile justice process, including the following:

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These changes address several findings of the National Juvenile Defender Center’s recent assessment of indigent juvenile representation in New Hampshire. The Council assumes it

would be responsible for the costs of legal representation for indigent juveniles. Earlier appointment of counsel would not impact expenditures, and may allow cases to resolve more expeditiously. It is also assumed that this legislation would significantly decrease the number of juveniles proceeding without counsel. According to information provided by the court, approximately 89 juveniles waived the right to counsel last year. Because the Public Defender is the State's institutional provider of indigent-defense services, it could absorb the increase in the charge level with no change in the cost of its operations. There may be increased costs to the indigent-defense delivery system for new appointments that have to be handled by either the Contract-Attorney System or the Assigned-Counsel System.

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The Judicial Branch believes the fiscal impact of part I would be minimal and anticipates that any costs to the Judicial Branch associated with the changes would be less than \$10,000 per year.

**AGENCIES CONTACTED:**

Judicial Branch and Judicial Council

**PART II: Relative to recovery of unauthorized payments by the state.**

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

Part II of the bill authorizes the Department of Health and Human Services to recover unauthorized payments of public assistance from any legally liable person. Currently, state law allows recovery only from “future grants,” meaning the Department can recover only if the legally responsible party is open for assistance in the future, and then may recover only those future grants. This part will require a recipient of public assistance to pay the Department back directly for unauthorized payments made to that person. The Department will be able to collect funds paid from all public assistance programs in cases in which the recipient misrepresented facts in their case that would have affected benefit amounts. The Department assumes this change will result in an indeterminable increase in state revenue, and further assumes that it will be able to implement the change with existing budgetary resources.

It is assumed any fiscal impact would occur after July 1, 2021.

**AGENCIES CONTACTED:**

Department of Health and Human Services

**PART III: Relative to alternative dispute resolution.**

This part has no fiscal impact.

**Part IV: Allowing judicial referees to issue orders in non-contested probate matters.**

This part has no fiscal impact.

**PART V: Permitting a supreme court justice to sit as a circuit court judge.**

This part has no fiscal impact.

**PART VI: Relative to the payment of costs for services other than counsel for indigent parties.**

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill provides for the apportionment of costs and expenses for legal counsel, investigative, expert, and other necessary services in abuse and neglect, guardianship, and termination of parental rights cases.

The Judicial Branch makes the following assumptions concerning the fiscal impact of this bill:

- The bill would authorize services other than counsel for indigent parties at state expense in certain civil proceedings. This would apply to abuse and neglect, termination of parental rights, and guardianship cases. The services would be at the request of the

parent attorney or guardian. All requests for services must be necessary for adequate representation.

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The Branch reports in FY 2019, there were 968 appointments of attorneys in abuse and neglect cases and 323 appointments of attorneys in termination cases. It is not possible to accurately predict the cost of requested services but several factors indicate that these services would constitute a significant expense. Many parents involved in these cases suffer from complex mental health and/or substance use disorders. In FY 2020, CASA (the provider of most guardian ad litem services in child protection cases), reported an average of 79% of new cases had a known parental substance abuse component. The requested services would likely range from Licensed Drug and Alcohol Counselor evaluations (\$300) to psychological evaluations (\$5,000+). Cases involving allegations of physical harm may require medical experts. The use of investigators (\$80-\$100/hour) would likely be necessary for adequate representation in a number of cases. Litigation services, including depositions and witness fees, would also be utilized. It is not possible, however, to determine what these expenses would be in the future. The Branch anticipates that, if the bill becomes law, there will be an increase in expenditures for indigent parties in these cases.

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It is assumed that any fiscal impact would occur after July 1, 2021.

**AGENCIES CONTACTED:**

Judicial Branch and Judicial Council

**PART VII: Requiring a penalty assessment on violations.**

The Judicial Branch and Department of Safety have indicated this part has no fiscal impact.

**AGENCIES CONTACTED:**

Judicial Branch and Department of Safety

**PART VIII: Relative to cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions**

The Department of Information Technology has indicated this part of the bill has no fiscal impact.

**AGENCIES CONTACTED:**

Department of Information Technology

**PART IX: Relative to emergency medical and trauma services data.**

This part has no fiscal impact.

**PART X: Relative to the appeal of a claim denied by the victims' assistance commission.**

The Department of Justice was originally contacted on January 21, 2021 for a fiscal note worksheet, which they have not provided as of February 3, 2021.

**Part XI: Relative to insurance company licenses.**

This part has no fiscal impact.

**PART XII: Relative to the New Hampshire National Guard enlistment incentive program.**

**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



<b>Expenditures</b>	\$0	\$25,000	\$25,000	\$25,000
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill establishes the New Hampshire National Guard Enlistment Incentive Program and the nonlapsing New Hampshire National Guard Enlistment Incentive Program Fund. The Department of Military Affairs and Veterans Services indicates the bill would eliminate the National Guard Scholarship Fund and replace it with a \$500.00 incentive payment to retirees and members of the NHNG who refer someone for enlistment into the guard. If passed, the NH National Guard would execute the incentive program in coordination with the Department. The Department reports, based on projected enlistments, an amount of \$22,500 per year would be needed for the incentive payments. This would allow for 45 individual incentive payments to eligible recipients. The Department estimates it would incur annual administrative costs of approximately \$2,500 to establish each recipient as a vendor for payment in the State accounting system, to process necessary W-9 and 1099 tax forms, to process the payments, and to comply with year end reporting and program audit requirements.

**AGENCIES CONTACTED:**

Department of Military Affairs and Veterans Services