

Bill as
Introduced

HB 566 - AS INTRODUCED

2021 SESSION

21-0239
04/08

HOUSE BILL **566**

AN ACT relative to sealing records in nonpublic session under the right-to-know law.

SPONSORS: Rep. Yokela, Rock. 33; Rep. Yakubovich, Merr. 24

COMMITTEE: Judiciary

ANALYSIS

This bill requires that sealed minutes in nonpublic sessions under the right-to-know law may be unsealed if in the opinion of a majority of members voting in nonpublic session determine that circumstances have changed. The minutes sealed pursuant to RSA 91-A:3, II(d) would become public after one year.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to sealing records in nonpublic session under the right-to-know law.

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

1 1 New Subparagraph; Right-to-Know-Law; Nonpublic Sessions. Amend RSA 91-A:3, II by
2 inserting after subparagraph (l) the following new subparagraph:

3 (m) Consideration of whether to unseal minutes after one year due to a change in
4 circumstances under paragraph III.

5 2 Right-to-Know Law; Nonpublic Minutes. Amend RSA 91-A:3, III to read as follows:

6 III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall
7 be promptly made available for public inspection, except as provided in this section. Minutes of such
8 sessions shall record all actions in such a manner that the vote of each member is ascertained and
9 recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72
10 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session,
11 it is determined that divulgence of the information likely would affect adversely the reputation of
12 any person other than a member of the public body itself, or render the proposed action ineffective,
13 or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying
14 out of all emergency functions, developed by local or state safety officials that are directly intended
15 to thwart a deliberate act that is intended to result in widespread or severe damage to property or
16 widespread injury or loss of life. This shall include training to carry out such functions. In the event
17 of such circumstances, information may be withheld until, in the opinion of a majority of members
18 ***voting in nonpublic session***, the aforesaid circumstances no longer apply. ***An exception shall***
19 ***apply to those minutes generated from subparagraph II(d), which may be unsealed at any***
20 ***time but which will automatically be unsealed after one year unless a majority of the***
21 ***members vote that the minutes should remain sealed.***

22 3 Effective Date. This act shall take effect January 1, 2022.

HB 566 - AS AMENDED BY THE SENATE

9Apr2021... 0425h
05/27/2021 1710s
05/27/2021 1784s

2021 SESSION

21-0239
04/08

HOUSE BILL **566**

AN ACT relative to the discussion of disclosure of the minutes from a nonpublic session under the right-to-know law.

SPONSORS: Rep. Yokela, Rock. 33; Rep. Yakubovich, Merr. 24

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

I. Requires that sealed minutes in nonpublic sessions under the right-to-know law may be unsealed if in the opinion of a majority of members voting in nonpublic session determine that circumstances have changed. The minutes sealed pursuant to RSA 91-A:3, II(d) would become public after one year.

II. Provides for the appointment of counsel for a minor in a juvenile delinquency proceeding.

III. Provides for recovery of unauthorized payments by the state, as requested by the department of health and human services.

IV. Provides for alternative dispute resolution.

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

VI. Permits a supreme court justice to sit as a circuit court judge.

VII. Provides for payment of costs for services other than counsel for indigent parties.

VIII. Requires a penalty assessment on violations.

IX. Provides for cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions.

X. Provides for emergency medical and trauma services data.

XI. Provides for the appeal of a claim denied by the victims' assistance commission.

XII. Provides for insurance company licenses.

XIII. Establishes the New Hampshire National Guard enlistment incentive program.

Explanation: Matter added to current law appears in *bold italics*.

HB 566 - AS AMENDED BY THE SENATE

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

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

HB 566 - AS AMENDED BY THE SENATE

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the discussion of disclosure of the minutes from a nonpublic session
under the right-to-know law.

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

1 1 New Subparagraph; Right-to-Know-Law; Nonpublic Sessions. Amend RSA 91-A:3, II by
2 inserting after subparagraph (l) the following new subparagraph:

3 (m) Consideration of whether to disclose minutes of a nonpublic session due to a change
4 in circumstances under paragraph III. However, any vote on whether to disclose minutes shall take
5 place in public session.

6 2 Effective Date. This act shall take effect January 1, 2022.

7 3 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend RSA
8 169-B:7, III to read as follows:

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

20 4 Appointment of Counsel; Waiver of Counsel. Amend 169-B:12, I and I-a to read as follows:

21 I. Absent a valid waiver, the court shall appoint counsel ~~[at the time of arraignment of an~~
22 ~~indigent minor, provided that an indigent minor detained pursuant to RSA 169-B:11, III, shall have~~
23 ~~counsel appointed upon the issuance of the detention order]~~ *for an indigent minor pursuant to*
24 *RSA 169-B:7, III.* For purposes of ~~[the appointment of counsel under]~~ this section, an indigent
25 minor shall be a minor who satisfies the court, after appropriate inquiry, that the minor is
26 financially unable to independently obtain counsel. If the court has received information indicating
27 that the minor ~~[has]~~ *may have* an intellectual, cognitive, emotional, learning, or sensory disability,
28 the court shall ~~[require the minor to consult with]~~ *not permit the minor to waive the right to*
29 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.***

5 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].~~

6 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.

7 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.

8 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

1 state for counsel fees and expenses paid by the state on behalf of the defendant [~~or juvenile~~], and
2 regarding payment of an administrative service assessment. Any payment obligation shall apply
3 only to a defendant who has been convicted [~~or a juvenile who has been found delinquent~~].

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

15 9 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9,
16 I(f) to read as follows:

17 (f) The maximum payment amount for counsel fees and expenses shall be according to a
18 schedule established by the administrator of the office of cost containment with the approval of the
19 administrative justices of the courts. Any payment obligation for fees and expenses shall not exceed
20 the amount of the state's flat rate payable to a contract attorney as established pursuant to RSA
21 604-B. The administrative service assessment shall not exceed 10 percent of the counsel fees and
22 expenses. Payment shall be made to the office of cost containment unless the defendant [~~or juvenile~~]
23 is placed on probation or sentenced to a period of conditional discharge, in which case repayment
24 shall be made to the state through the department of corrections. [~~Any payment obligation~~
25 ~~attributable to a juvenile shall terminate when the juvenile reaches the age of majority, except when~~
26 ~~the juvenile has been certified and tried as an adult.~~]

27 10 Development of Performance Standards. Amend RSA 604-A:10, V to read as follows:

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

37 11 Repeal. The following are repealed:

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

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

3 12 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children;
4 Unauthorized Payments; Recovery by State. RSA 167:17-a is repealed and reenacted to read as
5 follows:

6 167:17-a Unauthorized Payments; Recovery by State. Any sums paid to or on behalf of any
7 person for any public assistance program under the provisions of RSA 167 as a result of any failure
8 to report collateral resources pursuant to each program's requirements, false statement,
9 misrepresentation or concealment of or failure to disclose the receipt of property, wages, income, or
10 resources by such person, or by any person legally liable for such person's support, or in the case of
11 supplemental nutrition assistance program (SNAP) benefits overpaid in error, without regard to the
12 reason for such SNAP benefit overpayment, if required by federal law, may be recovered through
13 administrative or judicial process, in an action brought by the state or the commissioner of the
14 department of health or human services, or his or her designee, against such individual. This
15 recovery shall be limited by the provisions of RSA 161:10. The commissioner of the department of
16 health and human services shall recover any unauthorized payments by reasonably adjusting
17 current and future grant amounts received by the person violating the provisions of this section, or
18 through the return of the overpayment through repayment to the department. A person who
19 knowingly, and with malfeasance, assists a recipient or other person in obtaining an overpayment
20 shall be jointly and severally liable for the overpayment.

21 13 New Section; Office of Mediation and Arbitration; Quality Assurance Program. Amend RSA
22 490-E by inserting after section 5 the following new section:

23 490-E:6 Quality Assurance Program.

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

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

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

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

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

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

7 14 New Paragraph; Judges of Probate; Jurisdiction. Amend RSA 547:3 by inserting after
8 paragraph IV the following new paragraph:

9 V. The administrative judge of the circuit court may appoint one or more referees to any
10 matter which is not contested and to which no objection has been filed, or to which all parties have
11 assented, for any cases arising under subparagraphs I(a), (b), and (g). Any referee so assigned shall
12 act under the direction of a judge of probate as defined in RSA 490-F:6, III. Any party aggrieved by a
13 decision made by a referee pursuant to this paragraph may file a request for reconsideration within
14 10 days of the clerk's notice of decision, and if such request is filed, the matter shall be reviewed by a
15 judge of probate.

16 15 Repeal. RSA 547:3, I(h), relative to the jurisdiction of the probate court over cases involving
17 termination of parental rights, is repealed.

18 16 Superior Court; Assignment From Supreme Court. Amend RSA 491:3 and 3-a to read as
19 follows:

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

27 491:3-a Assignment of Judges. After assessing caseload needs and requirements and consulting
28 with the *chief justice of the superior court or* administrative ~~[judges]~~ *judge of the circuit*
29 *court*, the chief justice of the supreme court may assign any superior court ~~[judge]~~ *justice* to hear
30 cases in the ~~[district]~~ *circuit* court.

31 17 Termination of Parental Rights; Fees and Court Costs. Amend RSA 170-C:13 to read as
32 follows:

33 170-C:13 Fees and Court Costs.

34 I. The petitioner shall pay all entry fees and court costs including costs of giving notice, costs
35 of advertising, and court-appointed guardian ad litem fees. The court, however, may waive entry
36 fees and court costs where payment would work a hardship on the petitioner. Where the court
37 waives payment by the petitioner, the state, through the court system, shall pay court costs. The

1 judicial council shall pay the cost of a CASA guardian ad litem appointed for the child or other
2 guardian ad litem in cases arising from an underlying abuse and neglect proceeding when the state
3 is the moving party or in cases where payment would work a hardship on the petitioner. The cost of
4 such appointment, including counsel and investigative, expert, or other services and expenses
5 necessary to provide adequate representation, shall be paid from funds appropriated for indigent
6 defense pursuant to RSA 604-A.

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

9 III. When appointment of counsel is made by the court pursuant to RSA 170-C:10 for a
10 parent determined to be financially unable to employ counsel, the court shall use a financial
11 eligibility guideline established by the office of cost containment to determine if the party is indigent.
12 Upon determination that the party is indigent, the court may appoint counsel, subject to an order of
13 repayment through the office of cost containment. The judicial council shall bear the financial
14 responsibility for the payment of costs for attorneys appointed pursuant to RSA 170-C:10 in
15 accordance with the financial eligibility guideline established by the office of cost containment. The
16 cost of such appointment, including counsel and investigative, expert, or other services and expenses
17 necessary to provide adequate representation, shall be paid from funds appropriated for indigent
18 defense pursuant to RSA 604-A. Counsel shall petition the court for investigative, expert, or other
19 services necessary to provide adequate representation. If the court finds that such services are
20 necessary and that the parent is financially unable to obtain them, the court shall authorize counsel
21 to obtain the necessary services on behalf of the parent. Services authorized under this section shall
22 not include the payment of expenses that are the responsibility of any other agency pursuant to RSA
23 169-C or this chapter.

24 18 Guardians and Conservators; Right to Counsel. Amend RSA 464-A:6, I to read as follows:

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

1 19 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused
2 Children. Amend RSA 604-A:1-a to read as follows:

3 604-A:1-a Neglected or Abused Children. In cases involving a neglected or abused child, when a
4 guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such
5 appointment shall be paid from funds appropriated for indigent defense pursuant to this chapter. In
6 cases involving a neglected or abused child, when an attorney is appointed to represent a parent
7 determined to be indigent pursuant to RSA 169-C:10, II, at the preliminary hearing or a hearing
8 pursuant to RSA 169-C:6-a, III, whichever occurs earlier, the cost of such appointment, including
9 counsel and investigative, expert, or other services and expenses, shall be paid from funds
10 appropriated for indigent defense pursuant to this chapter. Counsel shall petition the court for
11 investigative, expert, or other services necessary to provide adequate representation. If the court
12 finds that such services are necessary and that the parent is financially unable to obtain them, the
13 court shall authorize counsel to obtain the necessary services on behalf of the parent. Services
14 authorized under this section shall be in addition to payment for expenses provided under RSA 169-
15 C or RSA 170-C.

16 20 Police Standards and Training Council; Penalty Assessment. Amend RSA 106-L:10, I to read
17 as follows:

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

24 21 New Paragraphs; Department of Information Technology; Duties of Commissioner. Amend
25 RSA 21-R:4 by inserting after paragraph XX the following new paragraphs:

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

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

30 22 New Paragraph; Department of Information Technology; Definitions. Amend RSA 21-R:1 by
31 inserting after paragraph I the following new paragraph:

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

36 23 New Section; Duties of Towns; Cybersecurity. Amend RSA 31 by inserting after section 103-
37 a the following new section:

1 31:103-b Cybersecurity. The governing body, or chief administrative officer or designee of any
2 political subdivision, who knows of or suspects a cybersecurity incident within such political
3 subdivision, or within any vendor acting as an agent of the political subdivision, shall immediately
4 report such incident, upon discovery, and shall disclose all known information and interactions to
5 the New Hampshire cyber integration center of the department of information technology. The state
6 shall hold harmless a governing body, or chief administrative officer or designee of a political
7 subdivision, for failing to report a cyber security incident because they were unaware such incident
8 had occurred.

9 24 Department of Safety; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II(g)
10 to read as follows:

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

23 25 New Subparagraph; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II by
24 inserting after subparagraph (n) the following new subparagraph:

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

31 26 Emergency Medical and Trauma Services; Protected Health Information. Amend RSA 153-
32 A:35 to read as follows:

33 153-A:35 Protected Health Information; Privacy Committee Established.

34 I. All protected health information possessed by the department shall be considered
35 confidential, except that the commissioner, or designee, may provide emergency medical and trauma
36 services record information to ~~[institutions and individuals]~~ *any person or entity* outside of the
37 department who demonstrate a need for such information for the purpose of conducting health-

1 related research *or analysis and other uses for evaluation not provided for under RSA 21-*
2 *P:12-b, II(g)*. Any such release shall be conditioned upon the understanding that once the health-
3 related research is complete that all information provided shall be returned to the department or be
4 destroyed and no copies shall be kept. All releases of information shall be consistent with the federal
5 Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA) and
6 regulations promulgated thereunder by the United States Department of Health and Human
7 Services 45 C.F.R. part 160 and part 164. This shall include the requirement that all proposed
8 releases of emergency medical and trauma services records information to institutions and
9 individuals outside the department for the purposes of health-related research be reviewed and
10 approved by the privacy committee, established in paragraph II, and the commissioner, under this
11 section before the requested information is released.

12 II. There is hereby established a privacy committee which shall review and approve requests
13 for the use of emergency medical and trauma services records data for the purposes of research *or*
14 *analysis* and other uses for evaluation not provided for under RSA 21-P:12-b, II(g). The privacy
15 committee shall consist of 7 members who shall include the director, or designee, 4 members of the
16 emergency medical and trauma services coordinating board, appointed by the chair of the board, and
17 2 persons who are not affiliated with the department and who are not part of the immediate family
18 of a person who is affiliated with the department, appointed by the commissioner.

19 III. The committee shall review and approve requests for the use of emergency medical and
20 trauma services records data for the purposes of research *or analysis* and other uses for evaluation
21 not provided under RSA 21-P:12-b, II(g). Emergency medical and trauma services records data or
22 copies of such records that directly or indirectly identify individuals shall be made available for
23 health-related research purposes upon receipt and approval of a written application to the
24 committee. No emergency medical and trauma services records shall be released until the request
25 has been reviewed and approved by the privacy committee and authorized by the commissioner, or
26 designee.

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

31 27 New Paragraph; Victims' Assistance Fund; Claimant Eligibility. Amend RSA 21-M:8-h by
32 inserting after paragraph IV the following new paragraph:

33 IV-a. If the commission determines the claimant is ineligible for compensation, in whole or
34 in part, the claimant may petition the attorney general for a rehearing pursuant to RSA 541:3. The
35 attorney general, or designee, shall review the complete record before the commission and may
36 affirm or reverse, in whole or in part, the commission's decision. An appeal of the attorney general's
37 decision may be taken directly to the supreme court pursuant to RSA 541:6.

28 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.

29 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.

30 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.

31 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

32 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.

33 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.

34 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

HB 566 - AS AMENDED BY THE SENATE

- Page 12 -

1 founded upon torts. ~~[Fines shall be paid over to the state treasurer and credited to the New~~
2 ~~Hampshire national guard recruitment and retention scholarship fund under RSA 110-B:60.]~~

3 35 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:29 to read as
4 follows:

5 110-B:29 Use of Armories or Other National Guard Facilities.

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

10 ~~[II. Rental fees for the use of national guard facilities shall be fixed by the adjutant general~~
11 ~~and shall be declared as revenue and paid to the adjutant general subject to the provisions of RSA~~
12 ~~110-B:61.]~~

13 36 Repeal. RSA 110-B:63, relative to the national guard scholarship program, is repealed.

14 37 Effective Date.

15 I. Sections 1-11 of this act shall take effect January 1, 2022.

16 II. Sections 13-30 of this act shall take effect 60 days after its passage.

17 III. Sections 31-36 of this act shall take effect July 1, 2021.

18 IV. The remainder of this act shall take effect upon its passage.

CHAPTER 172
HB 566 - FINAL VERSION

9Apr2021... 0425h
24Jun2021... 1972CofC

2021 SESSION

21-0239
04/08

HOUSE BILL **566**

AN ACT relative to the discussion and disclosure of minutes from a nonpublic session
 under the right-to-know law.

SPONSORS: Rep. Yokela, Rock. 33; Rep. Yakubovich, Merr. 24

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill allows discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session, provided the vote on disclosure takes place in public session.

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

CHAPTER 172
HB 566 - FINAL VERSION

9Apr2021... 0425h
24Jun2021... 1972CofC

21-0239
04/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the discussion and disclosure of minutes from a nonpublic session
under the right-to-know law.

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

- 1 172:1 New Subparagraph; Right-to-Know-Law; Nonpublic Sessions. Amend RSA 91-A:3, II by
2 inserting after subparagraph (l) the following new subparagraph:
3 (m) Consideration of whether to disclose minutes of a nonpublic session due to a change
4 in circumstances under paragraph III. However, any vote on whether to disclose minutes shall take
5 place in public session.

172:2 Effective Date. This act shall take effect January 1, 2022.

Approved: July 30, 2021
Effective Date: January 01, 2022

Amendments

Floor Amendment to HB 566

1 Amend the bill by replacing all after section 2 with the following:

2
3 3 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend RSA
4 169-B:7, III to read as follows:

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

16 4 Appointment of Counsel; Waiver of Counsel. Amend 169-B:12, I and I-a to read as follows:

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

26 I-a. When an attorney is appointed as counsel for a child, representation shall include
27 counsel and investigative, expert, and other services, including process to compel the attendance of
28 witnesses, as may be necessary to protect the rights of the child. **Representation shall include**
29 **representation at related proceedings when such matters are based on the same factual**
30 **circumstances as the petition under this chapter and involvement in the related**
31 **proceeding is necessary to provide effective representation on the petition. Such**

1 *appointment shall remain in effect until the court no longer has jurisdiction over the child*
2 *pursuant to this chapter.*

3 5 Waiver of Counsel. Amend RSA 169-B:12, II-a to read as follows:

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

8 6 New Section; Use of Statement or Confession from a Minor; Appointment of Counsel Required.
9 Amend RSA 169-B by inserting after section 12-a the following new section:

10 169-B:12-b Use of Statement or Confession from a Minor. No statement or confession from a
11 person who was a minor at the time of the statement or confession may be used against the person
12 in any judicial proceeding unless the person was represented by counsel at the time of the statement
13 or confession and had consulted with their counsel prior to the time of the statement or confession.
14 Any law enforcement agency may petition the court for the appointment of counsel for a minor that
15 the agency intends to question. Upon receipt of such a petition, the court shall appoint counsel using
16 the procedure in RSA 169-B:12, and provide notice to the minor and the attorney who is appointed
17 using the procedures in that section.

18 7 Contract Attorneys. Amend RSA 604-A:2-b to read as follows:

19 604-A:2-b Contract Attorneys. The state of New Hampshire, by the judicial council and with the
20 approval of governor and council, may, within the limits of available appropriations, contract with
21 any qualified attorney in the state to provide for the representation of indigents in circumstances
22 where, pursuant to RSA 604-B, the public defender program is unavailable to provide such
23 representation. ***No contract providing for the representation of children in proceedings***
24 ***arising under RSA 169-B shall be based on payment of a predetermined fee per case or***
25 ***other payment structure which creates a financial disincentive for attorneys to provide***
26 ***effective representation in such cases.*** The executive director of the judicial council shall
27 authorize payments to contract attorneys provided for under this section.

28 8 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9,
29 I(a) and (b) to read as follows:

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

35 (b) Upon entering a judgment of conviction ~~[or a finding of delinquency]~~, and the
36 issuance of sentence or disposition, the court shall enter a separate written order setting forth the
37 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.

9 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.]

10 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.*

11 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.

12 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:

1 167:17-a Unauthorized Payments; Recovery by State. Any sums paid to or on behalf of any
2 person for any public assistance program under the provisions of RSA 167 as a result of any failure
3 to report collateral resources pursuant to each program's requirements, false statement,
4 misrepresentation or concealment of or failure to disclose the receipt of property, wages, income, or
5 resources by such person, or by any person legally liable for such person's support, or in the case of
6 supplemental nutrition assistance program (SNAP) benefits overpaid in error, without regard to the
7 reason for such SNAP benefit overpayment, if required by federal law, may be recovered through
8 administrative or judicial process, in an action brought by the state or the commissioner of the
9 department of health or human services, or his or her designee, against such individual. This
10 recovery shall be limited by the provisions of RSA 161:10. The commissioner of the department of
11 health and human services shall recover any unauthorized payments by reasonably adjusting
12 current and future grant amounts received by the person violating the provisions of this section, or
13 through the return of the overpayment through repayment to the department. A person who
14 knowingly, and with malfeasance, assists a recipient or other person in obtaining an overpayment
15 shall be jointly and severally liable for the overpayment.

16 13 New Section; Office of Mediation and Arbitration; Quality Assurance Program. Amend RSA
17 490-E by inserting after section 5 the following new section:

18 490-E:6 Quality Assurance Program.

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

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

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

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

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

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

1 - 14 New Paragraph; Judges of Probate; Jurisdiction. Amend RSA 547:3 by inserting after
2 paragraph IV the following new paragraph:

3 V. The administrative judge of the circuit court may appoint one or more referees to any
4 matter which is not contested and to which no objection has been filed, or to which all parties have
5 assented, for any cases arising under subparagraphs I(a), (b), and (g). Any referee so assigned shall
6 act under the direction of a judge of probate as defined in RSA 490-F:6, III. Any party aggrieved by a
7 decision made by a referee pursuant to this paragraph may file a request for reconsideration within
8 10 days of the clerk's notice of decision, and if such request is filed, the matter shall be reviewed by a
9 judge of probate.

10 15 Repeal. RSA 547:3, I(h), relative to the jurisdiction of the probate court over cases involving
11 termination of parental rights, is repealed.

12 16 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 17 Termination of Parental Rights; Fees and Court Costs. Amend RSA 170-C:13 to read as
26 follows:

27 170-C:13 Fees and Court Costs.

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

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

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

18 18 Guardians and Conservators; Right to Counsel. Amend RSA 464-A:6, I to read as follows:

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

31 19 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused
32 Children. Amend RSA 604-A:1-a to read as follows:

33 604-A:1-a Neglected or Abused Children. In cases involving a neglected or abused child, when a
34 guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such
35 appointment shall be paid from funds appropriated for indigent defense pursuant to this chapter. In
36 cases involving a neglected or abused child, when an attorney is appointed to represent a parent
37 determined to be indigent pursuant to RSA 169-C:10, II, at the preliminary hearing or a hearing

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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.

20 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.

21 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.

22 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.

23 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, or chief administrative officer or 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. 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.

24 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.

25 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.

26 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

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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~~].

27 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.

28 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.

29 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.

30 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.

31 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

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

Floor Amendment to HB 566

- Page 11 -

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

7 110-B:61 Revenue for Enlistment Incentive Program.

8 I. There is hereby established a fund to be known as national guard enlistment incentive
9 program fund. Any appropriations received shall be deposited in the fund. Moneys in the fund and
10 any interest earned on the fund shall be used for the purpose of encouraging enlistment in the
11 national guard and shall not be used for any other purpose. The adjutant general shall oversee
12 expenditures from the fund. The moneys in the fund shall be nonlapsing.

13 II. In addition to any moneys appropriated, the New Hampshire national guard enlistment
14 incentive program fund may consist of an annual appropriation, as determined by the general court,
15 to be awarded in accordance with written policies promulgated by the adjutant general under RSA
16 110-B:62.

17 110-B:62 Oversight and Administration. The adjutant general shall adopt rules pursuant to
18 RSA 541-A relative to the administration of the enlistment incentive program and relative to its
19 execution by the New Hampshire Army and Air National Guard recruiting offices in coordination
20 with the department of military affairs and veterans services.

21 33 New Subparagraph; National Guard Enlistment Incentive Program Fund. Amend RSA 6:12,
22 I(b) by inserting after subparagraph (364) the following new subparagraph:

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

25 34 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:55, I to read as
26 follows:

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

33 35 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:29 to read as
34 follows:

35 110-B:29 Use of Armories or Other National Guard Facilities.

36 [F-] All New Hampshire national guard facilities shall be primarily for the military duty,
37 instruction, and training of the national and state guard and for the storage and maintenance of

Floor Amendment to HB 566

- Page 12 -

1 military property. Other use of national guard facilities may be authorized by the adjutant general
2 and shall be governed by rules and regulations promulgated under this section.

3 ~~[II. Rental fees for the use of national guard facilities shall be fixed by the adjutant general~~
4 ~~and shall be declared as revenue and paid to the adjutant general subject to the provisions of RSA~~
5 ~~110-B:61.]~~

6 36 Repeal. RSA 110-B:63, relative to the national guard scholarship program, is repealed.

7 37 Effective Date.

8 I. Sections 1-11 of this act shall take effect January 1, 2022.

9 II. Sections 13-30 of this act shall take effect 60 days after its passage.

10 III. Sections 31-36 of this act shall take effect July 1, 2021.

11 IV. The remainder of this act shall take effect upon its passage.

2021-1784s

AMENDED ANALYSIS

This bill:

I. Requires that sealed minutes in nonpublic sessions under the right-to-know law may be unsealed if in the opinion of a majority of members voting in nonpublic session determine that circumstances have changed. The minutes sealed pursuant to RSA 91-A:3, II(d) would become public after one year.

II. Provides for the appointment of counsel for a minor in a juvenile delinquency proceeding.

III. Provides for recovery of unauthorized payments by the state, as requested by the department of health and human services.

IV. Provides for alternative dispute resolution.

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

VI. Permits a supreme court justice to sit as a circuit court judge.

VII. Provides for payment of costs for services other than counsel for indigent parties.

VIII. Requires a penalty assessment on violations.

IX. Provides for cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions.

X. Provides for emergency medical and trauma services data.

XI. Provides for the appeal of a claim denied by the victims' assistance commission.

XII. Provides for insurance company licenses.

XIII. Establishes the New Hampshire National Guard enlistment incentive program.

Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: May 6, 2021

HEARINGS

Tuesday		05/11/2021
(Day)		(Date)
Judiciary	REMOTE	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m. HB 539	relative to records of communications common carriers.	
1:15 p.m. HB 566	relative to the discussion and disclosure of minutes from a nonpublic session under the right-to-know law.	
1:30 p.m. HB 232	relative to nonpublic sessions under the right to know law.	
1:45 p.m. HB 236	creating a statute of limitation on civil actions relative to damage caused by perfluoroalkyl and polyfluoroalkyl substances.	
2:00 p.m. HB 440	prohibiting the suspension of civil liberties during a state of emergency.	
2:15 p.m. HB 542	relative to the protection of religious liberty.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/92583269385>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: +13017158592,,92583269385# or +13126266799,,92583269385#
4. Webinar ID: [925 8326 9385](https://www.zoom.us/j/92583269385)
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: <http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 539

Rep. Yokela

HB 566

Rep. Yokela

HB 232

Rep. Hough

Rep. Johnson

Rep. Trottier

HB 236

Rep. Vail

Rep. Mooney

Sen. Perkins Kwoka

HB 440

Rep. Kofalt

Rep. Homola

HB 542

Rep. Ammon

Rep. Yakubovich

Rep. Comtois

Rep. Bordes

Rep. Mullen

Rep. Labranche

Rep. Ammon

Rep. Kofalt

Rep. O'Hara

Rep. Baldasaro

Rep. M. Murray

Rep. Healey

Rep. Nunez

Rep. O'Hara

Rep. Binford

Rep. Sylvia

Rep. Chase

Rep. Meuse

Sen. Avar

Jennifer Horgan 271-7875

Sharon M Carson

Chairman

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 566, relative to the discussion and disclosure of minutes from a nonpublic session under the right-to-know law.

Hearing Date: May 11, 2021

Time Opened: 1:29 p.m.

Time Closed: 1:37 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill allows discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session, provided the vote on disclosure takes place in public session. The bill also requires that sealed minutes of a nonpublic session related to the acquisition, sale, or lease of real or personal property be released once the transaction closes or the public body decides not to proceed.

Sponsors:

Rep. Yokela

Rep. Yakubovich

Who supports the bill: Representative Yokela; Natch Greyes, New Hampshire Municipal Association; Deborah Sumner; David Saad, RTKNH; Alexandra Mennella; Alvin See; Nicholas Thomas

Who opposes the bill: Barrett Christina, NH School Boards Association

Summary of testimony presented in support:

Representative Yokela

- There are specific reasons why public bodies can go into nonpublic session and keep those minutes private.
- Those minutes are not always gone back to, even when the reasons to keep them nonpublic are no longer applicable.
- This bill encourages bodies to go back and discuss nonpublic meeting minutes, adds the consideration of disclosure of nonpublic minutes as a reason to go into nonpublic, and allows for meeting minutes relative to the sell, lease, or purchase of property to automatically be disclosed after the close of the sale.
- The reason to keep them from the public initially, is so that the state is not put at a disadvantage when making or accepting an offer.

- Senator Kahn shared that he experienced instances where the public body in nonpublic receives authorization to offer up to a certain amount; often the board will negotiate for less than that. Asked if the disclosure of the difference might embarrass a private citizen.
 - Is not sure how it would embarrass a private citizen. Once the sale is closed, there is not legitimate reason for not disclosing it. There is a counterbalance of openness of government and the public's right to know. During a negotiation there is arguably a strong reason to keep that private, so that the negotiations can happen in good faith and the body is not at a disadvantage to other bidders.

Natch Greyes (NH Municipal Association)

- This clarifies that the discussion of previously sealed minutes can occur in nonpublic session.
- This also ensures public bodies can go back to discuss sealed minutes and determine whether it is appropriate to release them.
- The bill also changes the sealing period for real estate transactions.
- There is no reason for the minutes to remain sealed as long as it is an ordinary transaction after the transaction closes.
- The law states currently that minutes can only remain sealed as long as there a reason for them to be sealed.
- If there is a situation where there is some sort of embarrassment that could occur, the board could go back and vote to keep the minutes sealed if necessary.

Summary of testimony presented in opposition:

None

jch

Date Hearing Report completed: May 19, 2021

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB566 on 2021-05-11

Support: 7 Oppose: 1 Neutral: 0 Total to Testify: 2

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Greyes, Natch	ngreyes@nhmunicipal.org	Not Given	A Lobbyist	New Hampshire Municipal Association	Support	Yes	5/7/2021 2:04 PM
Yokela, Josh	josh.yokela@leg.state.nh.us	603-722-0501	An Elected Official	Rockingham 33	Support	Yes	5/11/2021 11:51 AM
Sumner, Deborah	dsumner@myfairpoint.net	Not Given	A Member of the Public	Myself	Support	No	5/11/2021 10:17 AM
saad, david	david1@infonetics-usa.com	508.641.7351	A Member of the Public	RTKNH	Support	No	5/10/2021 12:33 PM
Mennella, Alexandra	am88@fastmail.com	646.610.9858	A Member of the Public	Myself	Support	No	5/10/2021 5:14 PM
Christina, Barrett M.	Not Given	Not Given	A Lobbyist	New Hampshire School Boards Association	Oppose	No	5/10/2021 9:35 PM
See, Alvin	absee@4Liberty.net	Not Given	A Member of the Public	Myself	Support	No	5/10/2021 10:52 PM
Thomas, Nicholas	nicholas.w.thomas@uconn.edu	Not Given	A Member of the Public	Myself	Support	No	5/11/2021 2:51 AM

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB 566

Hearing date: _____

Executive Session date: _____

Motion of: ITL Vote: Withdrawn

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: Comm amend Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Consent French/Kahn 5-0

Reported out by: Gannon

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Tuesday, May 25, 2021

THE COMMITTEE ON Judiciary

to which was referred **HB 566**

AN ACT

relative to the discussion and disclosure of minutes
from a nonpublic session under the right-to-know
law.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 2021-1710s

Senator Bill Gannon
For the Committee

As amended, this bill adds the discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session as additional exemption to RSA 91-A, provided that the vote on disclosure takes place in public session. This is an important step to provide public bodies increased opportunities to disclose nonpublic minutes and therefore, the Committee asks for your support on this bill.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

JUDICIARY

HB 566, relative to the discussion and disclosure of minutes from a nonpublic session under the right-to-know law.

Ought to Pass with Amendment, Vote 5-0.

Senator Bill Gannon for the committee.

As amended, this bill adds the discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session as additional exemption to RSA 91-A, provided that the vote on disclosure takes place in public session. This is an important step to provide public bodies increased opportunities to disclose nonpublic minutes and therefore, the Committee asks for your support on this bill.

General Court of New Hampshire - Bill Status System

Docket of HB566

Docket Abbreviations

Bill Title: (Second New Title) relative to the discussion of disclosure of the minutes from a nonpublic session under the right-to-know law.

Official Docket of HB566.:

Date	Body	Description
1/12/2021	H	Introduced (in recess of) 01/06/2021 and referred to Judiciary HJ 2 P. 54
1/21/2021	H	Public Hearing: 01/26/2021 02:45 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/94597513398 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/2/2021	H	==CANCELLED== Executive Session: 03/02/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95501229688
3/10/2021	H	Executive Session: 03/10/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95164452682
3/22/2021	H	Majority Committee Report: Ought to Pass with Amendment #2021-0425h (Vote 11-10; RC) HC 18 P. 54
3/22/2021	H	Minority Committee Report: Inexpedient to Legislate
4/9/2021	H	Amendment #2021-0425h : AA DV 179-165 04/09/2021 HJ 7 P. 15
4/9/2021	H	Ought to Pass with Amendment 2021-0425h: MA RC 201-178 04/09/2021 HJ 7 P. 15
4/13/2021	S	Introduced 04/08/2021 and Referred to Judiciary; SJ 12
5/6/2021	S	Remote Hearing : 05/11/2021, 01:15 pm; Links to join the hearing can be found in the Senate Calendar; SC 23
5/25/2021	S	Committee Report: Ought to Pass with Amendment #2021-1710s , 05/27/2021; Vote 5-0; CC; SC 25A
5/27/2021	S	Sen. Carson Moved to Remove HB 566 from the Consent Calendar; 05/27/2021; SJ 17
5/27/2021	S	Committee Amendment #2021-1710s , AA, VV; 05/27/2021; SJ 17
5/27/2021	S	Sen. Carson Floor Amendment #2021-1784s , AA, VV; 05/27/2021; SJ 17
5/27/2021	S	Ought to Pass with Amendments 2021-1710s and 2021-1784s, MA, VV; OT3rdg; 05/27/2021; SJ 17
6/7/2021	H	House Non-Concurs with Senate Amendment 2021-1710s and 2021-1784s and Requests CofC (Reps. Gordon, Alexander Jr., McLean, Wuelper): MA VV 06/04/2021 HJ 9 P. 51
6/10/2021	S	Sen. Carson Accedes to House Request for Committee of Conference, MA, VV; 06/10/2021; SJ 19
6/10/2021	S	President Appoints: Senators Carson, Gannon, Whitley; 06/10/2021; SJ 19
6/14/2021	H	Conference Committee Meeting: 06/14/2021 04:00 pm LOB 206-208
6/17/2021	S	Conference Committee Report Filed, #2021-1972c ; 06/24/2021
6/24/2021	S	Conference Committee Report #2021-1972c , Adopted, VV; 06/24/2021; SJ 20

6/24/2021	H	Conference Committee Report 2021-1972c: Adopted, RC 219-158 06/24/2021
7/15/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
7/15/2021	H	Enrolled (in recess of) 06/24/2021
8/3/2021	H	Signed by Governor Sununu 07/30/2021; Chapter 172; Eff: 01/01/2022

NH HouseNH Senate

Other Referrals

June 15, 2021
2021-1972-CofC
04/10

1 Committee of Conference Report on HB 566, relative to the discussion and disclosure of minutes
2 from a nonpublic session under the right-to-know law.

3
4 Recommendation:

5 That the House recede from its position of nonconcurrence with the Senate amendment, and

6 That the Senate recede from its position in adopting its amendment to the bill, and

7 That the Senate and House adopt the following new amendment to the bill as amended by the
8 House, and pass the bill as so amended:

9
10 Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

Committee of Conference Report on HB 566

- Page 2 -

The signatures below attest to the authenticity of this Report on HB 566, relative to the discussion and disclosure of minutes from a nonpublic session under the right-to-know law.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Carson, Dist. 14

Rep. Gordon, Graf. 9

Sen. Gannon, Dist. 23

Rep. Alexander Jr., Hills. 6

Sen. Whitley, Dist. 15

Rep. McLean, Hills. 44

Rep. Wuelper, Straf. 3

Committee of Conference Report on HB 566
- Page 3 -

2021-1972-CofC

AMENDED ANALYSIS

This bill allows discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session, provided the vote on disclosure takes place in public session.

Senate Inventory Checklist for Archives

Bill Number: HBS66

Senate Committee: Jud

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

☒ Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

☒ Bill version as it came to the committee

☒ All Calendar Notices

☒ Hearing Sign-up sheet(s)

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

☒ Hearing Report

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

Committee Action Documents: {Legislative Aides}

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

☐ - amendment # ☐ - amendment # ☐

☐ - amendment # ☐ - amendment # ☐

☒ Executive Session Sheet

☒ Committee Report

Floor Action Documents: {Clerk's Office}

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

☒ - amendment # 1784 ☐ - amendment # ☐

☐ - amendment # ☐ ☐ - amendment # ☐

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

☒ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference): 1972

☐ Enrolled Bill Amendment(s)

☐ Governor's Veto Message

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

☒ as amended by the senate ☐ as amended by the house

☒ final version

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

Jennifer Horgan
Committee Aide

8/16/21
Date

Senate Clerk's Office AK