

LEGISLATIVE COMMITTEE MINUTES

SB143

Bill as Introduced

SB 143-FN - AS INTRODUCED

2021 SESSION

21-0943
04/10

SENATE BILL

143-FN

AN ACT

adopting omnibus legislation relative to certain agency requests.

SPONSORS:

Sen. Carson, Dist 14

COMMITTEE:

Executive Departments and Administration

ANALYSIS

This bill adopts legislation relative to:

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

Explanation:

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

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

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to certain agency requests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 2 Legislation Enacted. The general court hereby enacts the following legislation:

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PART I

30

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

1 1 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend RSA
2 169-B:7, III to read as follows:

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

14 2 Appointment of Counsel; Waiver of Counsel. Amend 169-B:12, I and I-a to read as follows:

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

24 **I-a. When an attorney is appointed as counsel for a child, representation shall include**
25 **counsel and investigative, expert, and other services, including process to compel the attendance of**
26 **witnesses, as may be necessary to protect the rights of the child. Representation shall include**
27 **representation at related proceedings when such matters are based on the same factual**
28 **circumstances as the petition under this chapter and involvement in the related**
29 **proceeding is necessary to provide effective representation on the petition. Such**
30 **appointment shall remain in effect until the court no longer has jurisdiction over the child**
31 **pursuant to this chapter.**

32 3 Waiver of Counsel. Amend RSA 169-B:12, II-a to read as follows:

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

1 4 New Section; Use of Statement or Confession from a Minor; Appointment of Counsel Required.

2 Amend RSA 169-B by inserting after section 12-a the following new section:

3 169-B:12-b Use of Statement or Confession from a Minor. No statement or confession from a
4 person who was a minor at the time of the statement or confession may be used against the person
5 in any judicial proceeding unless the person was represented by counsel at the time of the statement
6 or confession and had consulted with their counsel prior to the time of the statement or confession.
7 Any law enforcement agency may petition the court for the appointment of counsel for a minor that
8 the agency intends to question. Upon receipt of such a petition, the court shall appoint counsel using
9 the procedure in RSA 169-B:12, and provide notice to the minor and the attorney who is appointed
10 using the procedures in that section.

11 5 Contract Attorneys. Amend RSA 604-A:2-b to read as follows:

12 604-A:2-b Contract Attorneys. The state of New Hampshire, by the judicial council and with the
13 approval of governor and council, may, within the limits of available appropriations, contract with
14 any qualified attorney in the state to provide for the representation of indigents in circumstances
15 where, pursuant to RSA 604-B, the public defender program is unavailable to provide such
16 representation. ***No contract providing for the representation of children in proceedings***
17 ***arising under RSA 169-B shall be based on payment of a predetermined fee per case or***
18 ***other payment structure which creates a financial disincentive for attorneys to provide***
19 ***effective representation in such cases.*** The executive director of the judicial council shall
20 authorize payments to contract attorneys provided for under this section.

21 6 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9,
22 I(a) and (b) to read as follows:

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

28 (b) Upon entering a judgment of conviction [~~or a finding of delinquency~~], and the
29 issuance of sentence or disposition, the court shall enter a separate written order setting forth the
30 reasons for the court's conclusion regarding the financial ability of the defendant [~~or the juvenile,~~
31 ~~including any person liable for the support of the juvenile pursuant to RSA 604-A:2-a,~~] to make
32 payment of counsel fees and expenses, and administrative service assessment. In its discretion, the
33 court may conduct an ability-to-pay hearing to assist in its determination. If the court finds that
34 there is an ability to pay some or all of the counsel fees and expenses and the assessment, either
35 presently or in the future, it shall order payment in such amounts and upon such terms and
36 conditions it finds equitable; any payment obligation shall not commence until the conviction and

1 sentence [~~or the finding of delinquency and disposition~~] has become final. If the court finds that
2 there is no such ability to pay, it shall so order, and any payment obligation shall terminate.

3 7 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9,
4 I(f) to read as follows:

5 (f) The maximum payment amount for counsel fees and expenses shall be according to a
6 schedule established by the administrator of the office of cost containment with the approval of the
7 administrative justices of the courts. Any payment obligation for fees and expenses shall not exceed
8 the amount of the state's flat rate payable to a contract attorney as established pursuant to RSA
9 604-B. The administrative service assessment shall not exceed 10 percent of the counsel fees and
10 expenses. Payment shall be made to the office of cost containment unless the defendant [~~or juvenile~~]
11 is placed on probation or sentenced to a period of conditional discharge, in which case repayment
12 shall be made to the state through the department of corrections. [~~Any payment obligation~~
13 ~~attributable to a juvenile shall terminate when the juvenile reaches the age of majority, except when~~
14 ~~the juvenile has been certified and tried as an adult.~~]

15 8 Development of Performance Standards. Amend RSA 604-A:10, V to read as follows:

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

25 9 Repeal. The following are repealed:

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

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

28 10 Effective Date. Part I of this act shall take effect January 1, 2022.

29
30 PART II

31 Relative to recovery of unauthorized payments by the state.

32 1 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children;
33 Unauthorized Payments; Recovery by State. RSA 167:17-a is repealed and reenacted to read as
34 follows:

35 167:17-a Unauthorized Payments; Recovery by State. Any sums paid to or on behalf of any
36 individual for any public assistance program under the provisions of RSA 167 or RSA 161 as a result
37 of any failure to report collateral resources as described in RSA 167:17, false statement,

1 misrepresentation or concealment of or failure to disclose the receipt of property, wages, income or
2 resources by the individual or by any person legally liable for the individual's support, or with regard
3 to supplemental nutrition assistance program (SNAP) benefits such assistance overpaid without
4 regard to the reason for such overpayment including, but not limited to, errors committed by the
5 department of health and human services, its employees, agents or contractors, may be recovered
6 through administrative or judicial process, in an action brought by the state or the commissioner of
7 the department of health and human services or his or her designee against such individual. This
8 recovery shall be limited by the provisions of RSA 161:10. The commissioner of the department of
9 health and human services shall recover any unauthorized payments by reasonably adjusting
10 current and future grant amounts received by the individual violating the provisions of this section,
11 or through the return of the overpayment through repayment to the department. A person who
12 knowingly, and with malfeasance, assists a recipient or other person in obtaining an overpayment is
13 jointly and severally liable for the overpayment.

14 2 Effective Date. Part II of this act shall take effect upon its passage.

15
16 PART III

17 Relative to alternative dispute resolution.

18 1 New Section; Office of Mediation and Arbitration; Quality Assurance Program. Amend RSA
19 490-E by inserting after section 5 the following new section:

20 490-E:6 Quality Assurance Program.

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

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

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

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

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

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

3 2 Effective Date. Part III of this act shall take effect 60 days after its passage.
4

5 PART IV

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

7 1 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 2 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 3 Effective Date. Part IV of this act shall take effect 60 days after its passage.
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20 PART V

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

22 1 Superior Court; Assignment From Supreme Court. Amend RSA 491:3 and 3-a to read as
23 follows:

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

31 491:3-a Assignment of Judges. After assessing caseload needs and requirements and consulting
32 with the *chief justice of the superior court or* administrative [~~judges~~] *judge of the circuit*
33 *court*, the chief justice of the supreme court may assign any superior court [~~judge~~] *justice* to hear
34 cases in the [~~district~~] *circuit* court.

35 2 Effective Date. Part V of this act shall take effect 60 days after its passage.
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37 PART VI

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

2 1 Termination of Parental Rights; Fees and Court Costs. Amend RSA 170-C:13 to read as
3 follows:

4 170-C:13 Fees and Court Costs.

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

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

17 III. When appointment of counsel is made by the court pursuant to RSA 170-C:10 for a
18 parent determined to be financially unable to employ counsel, the court shall use a financial
19 eligibility guideline established by the office of cost containment to determine if the party is indigent.
20 Upon determination that the party is indigent, the court may appoint counsel, subject to an order of
21 repayment through the office of cost containment. The judicial council shall bear the financial
22 responsibility for the payment of costs for attorneys appointed pursuant to RSA 170-C:10 in
23 accordance with the financial eligibility guideline established by the office of cost containment. The
24 cost of such appointment, including counsel and investigative, expert, or other services and expenses
25 necessary to provide adequate representation, shall be paid from funds appropriated for indigent
26 defense pursuant to RSA 604-A. Counsel shall petition the court for investigative, expert, or other
27 services necessary to provide adequate representation. If the court finds that such services are
28 necessary and that the parent is financially unable to obtain them, the court shall authorize counsel
29 to obtain the necessary services on behalf of the parent. Services authorized under this section shall
30 not include the payment of expenses that are the responsibility of any other agency pursuant to RSA
31 169-C or this chapter.

32 2 Guardians and Conservators; Right to Counsel. Amend RSA 464-A:6, I to read as follows:

33 I. The right to legal counsel for any person for whom a temporary guardian or guardianship
34 of the person and estate, or person, or estate, is sought shall be absolute and unconditional. If the
35 proposed ward does not have his or her own counsel, the court shall appoint counsel for the proposed
36 ward immediately upon the filing of a petition for guardianship of the person and estate, or the
37 person, or estate. The judicial council shall pay the cost of such appointment, including counsel and

1 investigative, expert, or other services and expenses necessary to provide adequate representation,
2 from funds appropriated for indigent defense pursuant to RSA 604-A. Prior to obtaining
3 investigative, expert, and other services necessary to provide adequate representation, counsel shall
4 apply to the court and, upon finding that such services are necessary and that the person is
5 financially unable to obtain them, the court shall authorize counsel to obtain the necessary services
6 on behalf of the person for whom temporary guardian or guardianship of the person and estate, or
7 person or estate, is sought.

8 3 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused
9 Children. Amend RSA 604-A:1-a to read as follows:

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

23 4 Effective Date. Part VI of this act shall take effect 60 days after its passage.

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25 PART VII

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Requiring a penalty assessment on violations.

27 1 Police Standards and Training Council; Penalty Assessment. Amend RSA 106-L:10, I to read
28 as follows:

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

35 2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

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37 PART VIII

1 Relative to cybersecurity incident reporting and
2 recommended cybersecurity standards for political subdivisions.

3 1 New Paragraphs; Department of Information Technology; Duties of Commissioner. Amend
4 RSA 21-R:4 by inserting after paragraph XX the following new paragraphs:

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

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

9 2 New Paragraph; Department of Information Technology; Definitions. Amend RSA 21-R:1 by
10 inserting after paragraph I the following new paragraph:

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

15 3 New Section; Duties of Towns; Cybersecurity. Amend RSA 31 by inserting after section 103-a
16 the following new section:

17 31:103-b Cybersecurity. The governing body, chief administrative officer or the designee of any
18 political subdivision who knows of or suspects a cybersecurity incident within such political
19 subdivision, or within any vendor acting as an agent of the political subdivision, shall immediately
20 report such incident, upon discovery, and shall disclose all known information and interactions to
21 the New Hampshire cyber integration center of the department of information technology.

22 4 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

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PART IX

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Relative to emergency medical and trauma services data.

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

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(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***

1 that the identity of the recipients of emergency medical care are protected from disclosure either
2 directly or indirectly.

3 2 New Subparagraph; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II by
4 inserting after subparagraph (n) the following new subparagraph:

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

11 3 Emergency Medical and Trauma Services; Protected Health Information. Amend RSA 153-
12 A:35 to read as follows:

13 153-A:35 Protected Health Information; Privacy Committee Established.

14 I. All protected health information possessed by the department shall be considered
15 confidential, except that the commissioner, or designee, may provide emergency medical and trauma
16 services record information to ~~[institutions and individuals]~~ **any person or entity** outside of the
17 department who demonstrate a need for such information for the purpose of conducting health-
18 related research **or analysis and other uses for evaluation not provided for under RSA 21-
19 P:12-b, II(g)**. Any such release shall be conditioned upon the understanding that once the health-
20 related research is complete that all information provided shall be returned to the department or be
21 destroyed and no copies shall be kept. All releases of information shall be consistent with the federal
22 Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA) and
23 regulations promulgated thereunder by the United States Department of Health and Human
24 Services 45 C.F.R. part 160 and part 164. This shall include the requirement that all proposed
25 releases of emergency medical and trauma services records information to institutions and
26 individuals outside the department for the purposes of health-related research be reviewed and
27 approved by the privacy committee, established in paragraph II, and the commissioner, under this
28 section before the requested information is released.

29 II. There is hereby established a privacy committee which shall review and approve requests
30 for the use of emergency medical and trauma services records data for the purposes of research **or
31 analysis** and other uses for evaluation not provided for under RSA 21-P:12-b, II(g). The privacy
32 committee shall consist of 7 members who shall include the director, or designee, 4 members of the
33 emergency medical and trauma services coordinating board, appointed by the chair of the board, and
34 2 persons who are not affiliated with the department and who are not part of the immediate family
35 of a person who is affiliated with the department, appointed by the commissioner.

36 III. The committee shall review and approve requests for the use of emergency medical and
37 trauma services records data for the purposes of research **or analysis** and other uses for evaluation

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1 not provided under RSA 21-P:12-b, II(g). Emergency medical and trauma services records data or
2 copies of such records that directly or indirectly identify individuals shall be made available for
3 health-related research purposes upon receipt and approval of a written application to the
4 committee. No emergency medical and trauma services records shall be released until the request
5 has been reviewed and approved by the privacy committee and authorized by the commissioner, or
6 designee.

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

11 4 Effective Date. Part IX of this act shall take effect 60 days after its passage.

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13 PART X

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

15 1 New Paragraph; Victims' Assistance Fund; Claimant Eligibility. Amend RSA 21-M:8-h by
16 inserting after paragraph IV the following new paragraph:

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

22 2 Effective Date. Part X of this act shall take effect 60 days after its passage.

23
24 PART XI

25 Relative to insurance company licenses.

26 1 Insurance Company Licenses. Amend RSA 402:12, I to read as follows:

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

1 2 Insurance Company Licenses; Foreign Insurance Companies and Agents. Amend RSA 405:12,
2 I to read as follows:

3 I. If the foregoing provisions are complied with and the commissioner is satisfied that the
4 company *(a)* has the requisite capital and assets [~~and~~]; *(b)* is a safe, reliable company, entitled to
5 confidence; *and (c) is consistent with the NAIC's Uniform Certificate of Authority*
6 *Application process and standards*, [~~he~~] *the commissioner* shall grant a license to it to do
7 insurance business by authorized agents within the state, subject to the laws of the state, until June
8 14 thereafter. Annually thereafter, on June 14, such license may be renewed so long as the company
9 shall comply with the requirements of the law, *NAIC guidelines*, and the commissioner shall
10 regard it as safe, reliable and entitled to confidence, and so long as the company continues to conduct
11 a meaningful insurance business, as determined by the commissioner, within New Hampshire.

12 3 New Subparagraph; Department of Revenue Administration; Confidentiality of Department
13 Records. Amend RSA 21-J:14, V(d) by inserting after subparagraph (9) the following new
14 subparagraph:

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

27 4 Effective Date. Part XI of this act shall take effect 60 days after its passage.

28

29

PART XII

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

31 1 National Guard Enlistment Incentive Program. The subdivision heading before RSA 160-B:60
32 is repealed and reenacted to read as follows:

33 National Guard Enlistment Incentive Program

34 2 National Guard Enlistment Incentive Program. RSA 110-B:60-62 are repealed and reenacted
35 to read as follows:

36 110-B:60 New Hampshire National Guard Enlistment Incentive Program Established. For the
37 purpose of encouraging enlistment in the national guard there is hereby established a New

SB 143-FN - AS INTRODUCED

- Page 13 -

1 Hampshire national guard enlistment incentive program. This program authorizes a cash incentive
2 up to \$500 to current members of the New Hampshire national guard in the pay grades of E-1 to O-3
3 or any former member of the New Hampshire national guard for each new or prior service recruit
4 that they bring into the New Hampshire national guard.

5 110-B:61 Revenue for Enlistment Incentive Program.

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

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

15 110-B:62 Oversight and Administration. The adjutant general shall adopt rules pursuant to
16 RSA 541-A relative to the administration of the enlistment incentive program and relative to its
17 execution by the New Hampshire Army and Air National Guard recruiting offices in coordination
18 with the department of military affairs and veterans services.

19 3 New Subparagraph; National Guard Enlistment Incentive Program Fund. Amend RSA 6:12,
20 I(b) by inserting after subparagraph (364) the following new subparagraph:

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

23 4 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:55, I to read as
24 follows:

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

31 5 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:29 to read as
32 follows:

33 110-B:29 Use of Armories or Other National Guard Facilities.

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

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

4 6 Repeal. RSA 110-B:63, relative to the national guard scholarship program, is repealed.

5 7 Effective Date. Part XII of this act shall take effect July 1, 2021.

SB 143-FN- FISCAL NOTE
AS INTRODUCED

AN ACT adopting omnibus legislation relative to certain agency requests.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

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

These changes address several findings of the National Juvenile Defender Center’s recent assessment of indigent juvenile representation in New Hampshire. The Council assumes it would be responsible for the costs of legal representation for indigent juveniles. Earlier appointment of counsel would not impact expenditures, and may allow cases to resolve more

expeditiously. It is also assumed that this legislation would significantly decrease the number of juveniles proceeding without counsel. According to information provided by the court, approximately 89 juveniles waived the right to counsel last year. Because the Public Defender is the State's institutional provider of indigent-defense services, it could absorb the increase in the charge level with no change in the cost of its operations. There may be increased costs to the indigent-defense delivery system for new appointments that have to be handled by either the Contract-Attorney System or the Assigned-Counsel System.

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

It is not possible to predict the additional attorney time that representation at related proceedings and police interrogations will require, but it is assumed that the Public Defender would require more attorneys on staff to meet these obligations. The cost for a new attorney, including benefits, is approximately \$95,000. While the time commitment and resources necessary to provide representation until the court no longer has jurisdiction would be case specific, keeping cases open will result in more ethical conflicts of interest that would prevent the Public Defender from accepting new cases. This part of the bill also eliminates the flat-fee reimbursement model for contract attorney representation of juveniles. The assessment found that "flat-fee contracts provide a disincentive for attorneys to spend the requisite time and resources on a case and encourage attorneys to close cases quickly". In FY 2020, contract attorneys were appointed on 165 juvenile matters at an approximate cost of \$44,475. It is assumed that the flat-fee model would be replaced with the assigned counsel model. Assigned counsel cases are reimbursed at \$60/hour with fee caps imposed by court rule. Based on the maximum fees, the cost of representation on juvenile felonies would be \$196,800. The cost of representation on juvenile misdemeanors and similar proceedings would be \$130,200.

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

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

AGENCIES CONTACTED:

Judicial Branch and Judicial Council

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

AGENCIES CONTACTED:

Department of Health and Human Services

PART III: Relative to alternative dispute resolution.

This part has no fiscal impact.

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

This part has no fiscal impact.

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

This part has no fiscal impact.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

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

The Branch reports in FY 2019, there were 968 appointments of attorneys in abuse and neglect cases and 323 appointments of attorneys in termination cases. It is not possible to accurately

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

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

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

AGENCIES CONTACTED:

Judicial Branch and Judicial Council

PART VII: Requiring a penalty assessment on violations.

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

AGENCIES CONTACTED:

Judicial Branch and Department of Safety

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

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

AGENCIES CONTACTED:

Department of Information Technology

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

This part has no fiscal impact.

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

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

Part XI: Relative to insurance company licenses.

This part has no fiscal impact.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

This bill establishes the New Hampshire National Guard Enlistment Incentive Program and the nonlapsing New Hampshire National Guard Enlistment Incentive Program Fund. The Department of Military Affairs and Veterans Services indicates the bill would eliminate the National Guard Scholarship Fund and replace it with a \$500.00 incentive payment to retirees and members of the NHNG who refer someone for enlistment into the guard. If passed, the NH National Guard would execute the incentive program in coordination with the Department. The Department reports, based on projected enlistments, an amount of \$22,500 per year would be

needed for the incentive payments. This would allow for 45 individual incentive payments to eligible recipients. The Department estimates it would incur annual administrative costs of approximately \$2,500 to establish each recipient as a vendor for payment in the State accounting system, to process necessary W-9 and 1099 tax forms, to process the payments, and to comply with year end reporting and program audit requirements.

AGENCIES CONTACTED:

Department of Military Affairs and Veterans Services

SB 143-FN - AS AMENDED BY THE SENATE

03/18/2021 0776s

2021 SESSION

21-0943

04/10

SENATE BILL **143-FN**

AN ACT adopting omnibus legislation relative to certain agency requests.

SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill adopts legislation relative to:

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

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

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to certain agency requests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 2 Legislation Enacted. The general court hereby enacts the following legislation:

28

29

PART I

30

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

1 1 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend RSA
2 169-B:7, III to read as follows:

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

14 2 Appointment of Counsel; Waiver of Counsel. Amend 169-B:12, I and I-a to read as follows:

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

24 I-a. When an attorney is appointed as counsel for a child, representation shall include
25 counsel and investigative, expert, and other services, including process to compel the attendance of
26 witnesses, as may be necessary to protect the rights of the child. **Representation shall include**
27 **representation at related proceedings when such matters are based on the same factual**
28 **circumstances as the petition under this chapter and involvement in the related**
29 **proceeding is necessary to provide effective representation on the petition. Such**
30 **appointment shall remain in effect until the court no longer has jurisdiction over the child**
31 **pursuant to this chapter.**

32 3 Waiver of Counsel. Amend RSA 169-B:12, II-a to read as follows:

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

1 4 New Section; Use of Statement or Confession from a Minor; Appointment of Counsel Required.
2 Amend RSA 169-B by inserting after section 12-a the following new section:

3 169-B:12-b Use of Statement or Confession from a Minor. No statement or confession from a
4 person who was a minor at the time of the statement or confession may be used against the person
5 in any judicial proceeding unless the person was represented by counsel at the time of the statement
6 or confession and had consulted with their counsel prior to the time of the statement or confession.
7 Any law enforcement agency may petition the court for the appointment of counsel for a minor that
8 the agency intends to question. Upon receipt of such a petition, the court shall appoint counsel using
9 the procedure in RSA 169-B:12, and provide notice to the minor and the attorney who is appointed
10 using the procedures in that section.

11 5 Contract Attorneys. Amend RSA 604-A:2-b to read as follows:

12 604-A:2-b Contract Attorneys. The state of New Hampshire, by the judicial council and with the
13 approval of governor and council, may, within the limits of available appropriations, contract with
14 any qualified attorney in the state to provide for the representation of indigents in circumstances
15 where, pursuant to RSA 604-B, the public defender program is unavailable to provide such
16 representation. *No contract providing for the representation of children in proceedings*
17 *arising under RSA 169-B shall be based on payment of a predetermined fee per case or*
18 *other payment structure which creates a financial disincentive for attorneys to provide*
19 *effective representation in such cases.* The executive director of the judicial council shall
20 authorize payments to contract attorneys provided for under this section.

21 6 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9,
22 I(a) and (b) to read as follows:

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

28 (b) Upon entering a judgment of conviction [~~or a finding of delinquency~~], and the
29 issuance of sentence or disposition, the court shall enter a separate written order setting forth the
30 reasons for the court's conclusion regarding the financial ability of the defendant [~~or the juvenile,~~
31 ~~including any person liable for the support of the juvenile pursuant to RSA 604-A:2-a,~~] to make
32 payment of counsel fees and expenses, and administrative service assessment. In its discretion, the
33 court may conduct an ability-to-pay hearing to assist in its determination. If the court finds that
34 there is an ability to pay some or all of the counsel fees and expenses and the assessment, either
35 presently or in the future, it shall order payment in such amounts and upon such terms and
36 conditions it finds equitable; any payment obligation shall not commence until the conviction and

1 sentence [~~or the finding of delinquency and disposition~~] has become final. If the court finds that
2 there is no such ability to pay, it shall so order, and any payment obligation shall terminate.

3 7 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9,
4 I(f) to read as follows:

5 (f) The maximum payment amount for counsel fees and expenses shall be according to a
6 schedule established by the administrator of the office of cost containment with the approval of the
7 administrative justices of the courts. Any payment obligation for fees and expenses shall not exceed
8 the amount of the state's flat rate payable to a contract attorney as established pursuant to RSA
9 604-B. The administrative service assessment shall not exceed 10 percent of the counsel fees and
10 expenses. Payment shall be made to the office of cost containment unless the defendant [~~or juvenile~~]
11 is placed on probation or sentenced to a period of conditional discharge, in which case repayment
12 shall be made to the state through the department of corrections. [~~Any payment obligation~~
13 ~~attributable to a juvenile shall terminate when the juvenile reaches the age of majority, except when~~
14 ~~the juvenile has been certified and tried as an adult.~~]

15 8 Development of Performance Standards. Amend RSA 604-A:10, V to read as follows:

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

25 9 Repeal. The following are repealed:

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

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

28 10 Effective Date. Part I of this act shall take effect January 1, 2022.

29
30 PART II

31 Relative to recovery of unauthorized payments by the state.

32 1 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children;
33 Unauthorized Payments; Recovery by State. RSA 167:17-a is repealed and reenacted to read as
34 follows:

35 167:17-a Unauthorized Payments; Recovery by State. Any sums paid to or on behalf of any
36 person for any public assistance program under the provisions of RSA 167 as a result of any failure
37 to report collateral resources pursuant to each program's requirements, false statement,

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

13 2 Effective Date. Part II of this act shall take effect upon its passage.

14
15 PART III

16 Relative to alternative dispute resolution.

17 1 New Section; Office of Mediation and Arbitration; Quality Assurance Program. Amend RSA
18 490-E by inserting after section 5 the following new section:

19 490-E:6 Quality Assurance Program.

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

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

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

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

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

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

3 2 Effective Date. Part III of this act shall take effect 60 days after its passage.
4

5 PART IV

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

7 1 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 2 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 3 Effective Date. Part IV of this act shall take effect 60 days after its passage.
19

20 PART V

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

22 1 Superior Court; Assignment From Supreme Court. Amend RSA 491:3 and 3-a to read as
23 follows:

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

31 491:3-a Assignment of Judges. After assessing caseload needs and requirements and consulting
32 with the *chief justice of the superior court or administrative [judges] judge of the circuit*
33 *court*, the chief justice of the supreme court may assign any superior court [~~judge~~] *justice* to hear
34 cases in the [~~district~~] *circuit* court.

35 2 Effective Date. Part V of this act shall take effect 60 days after its passage.
36

37 PART VI

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

2 1 Termination of Parental Rights; Fees and Court Costs. Amend RSA 170-C:13 to read as
3 follows:

4 170-C:13 Fees and Court Costs.

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

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

17 III. When appointment of counsel is made by the court pursuant to RSA 170-C:10 for a
18 parent determined to be financially unable to employ counsel, the court shall use a financial
19 eligibility guideline established by the office of cost containment to determine if the party is indigent.
20 Upon determination that the party is indigent, the court may appoint counsel, subject to an order of
21 repayment through the office of cost containment. The judicial council shall bear the financial
22 responsibility for the payment of costs for attorneys appointed pursuant to RSA 170-C:10 in
23 accordance with the financial eligibility guideline established by the office of cost containment. The
24 cost of such appointment, including counsel and investigative, expert, or other services and expenses
25 necessary to provide adequate representation, shall be paid from funds appropriated for indigent
26 defense pursuant to RSA 604-A. Counsel shall petition the court for investigative, expert, or other
27 services necessary to provide adequate representation. If the court finds that such services are
28 necessary and that the parent is financially unable to obtain them, the court shall authorize counsel
29 to obtain the necessary services on behalf of the parent. Services authorized under this section shall
30 not include the payment of expenses that are the responsibility of any other agency pursuant to RSA
31 169-C or this chapter.

32 2 Guardians and Conservators; Right to Counsel. Amend RSA 464-A:6, I to read as follows:

33 I. The right to legal counsel for any person for whom a temporary guardian or guardianship
34 of the person and estate, or person, or estate, is sought shall be absolute and unconditional. If the
35 proposed ward does not have his or her own counsel, the court shall appoint counsel for the proposed
36 ward immediately upon the filing of a petition for guardianship of the person and estate, or the
37 person, or estate. The judicial council shall pay the cost of such appointment, including counsel and

1 investigative, expert, or other services and expenses necessary to provide adequate representation,
2 from funds appropriated for indigent defense pursuant to RSA 604-A. Prior to obtaining
3 investigative, expert, and other services necessary to provide adequate representation, counsel shall
4 apply to the court and, upon finding that such services are necessary and that the person is
5 financially unable to obtain them, the court shall authorize counsel to obtain the necessary services
6 on behalf of the person for whom temporary guardian or guardianship of the person and estate, or
7 person or estate, is sought.

8 3 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused
9 Children. Amend RSA 604-A:1-a to read as follows:

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

23 4 Effective Date. Part VI of this act shall take effect 60 days after its passage.

24
25 PART VII

26 Requiring a penalty assessment on violations.

27 1 Police Standards and Training Council; Penalty Assessment. Amend RSA 106-L:10, I to read
28 as follows:

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

35 2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

36
37 PART VIII

1 Relative to cybersecurity incident reporting and
2 recommended cybersecurity standards for political subdivisions.

3 1 New Paragraphs; Department of Information Technology; Duties of Commissioner. Amend
4 RSA 21-R:4 by inserting after paragraph XX the following new paragraphs:

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

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

9 2 New Paragraph; Department of Information Technology; Definitions. Amend RSA 21-R:1 by
10 inserting after paragraph I the following new paragraph:

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

15 3 New Section; Duties of Towns; Cybersecurity. Amend RSA 31 by inserting after section 103-a
16 the following new section:

17 31:103-b Cybersecurity. The governing body, or chief administrative officer or designee of any
18 political subdivision, who knows of or suspects a cybersecurity incident within such political
19 subdivision, or within any vendor acting as an agent of the political subdivision, shall immediately
20 report such incident, upon discovery, and shall disclose all known information and interactions to
21 the New Hampshire cyber integration center of the department of information technology. The state
22 shall hold harmless a governing body, or chief administrative officer or designee of a political
23 subdivision, for failing to report a cyber security incident because they were unaware such incident
24 had occurred.

25 4 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

26

27

PART IX

28

Relative to emergency medical and trauma services data.

29 1 Department of Safety; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II(g) to
30 read as follows:

31 (g) Establish a data collection and analysis capability that provides for the evaluation of
32 the emergency medical and trauma services system and for modifications to the system based on
33 identified gaps and shortfalls in the delivery of emergency medical and trauma services. ~~[The data
34 and resulting analysis shall be provided to the bodies established under this chapter]~~ *Any
35 emergency medical and trauma services data or analysis collected or maintained by the
36 division may be provided to any state or federal agency or to any third party entity
37 contracted to work on behalf of a federal or state entity, provided that such use does not violate*

1 the confidentiality of recipients of emergency medical care. The provisions of RSA 153-A:35 shall be
2 followed with regard to other uses of this data for research and evaluation purposes, and for
3 protecting the confidentiality of data in those uses. All analyses shall be public documents, provided
4 that the identity of the recipients of emergency medical care are protected from disclosure either
5 directly or indirectly.

6 2 New Subparagraph; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II by
7 inserting after subparagraph (n) the following new subparagraph:

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

14 3 Emergency Medical and Trauma Services; Protected Health Information. Amend RSA 153-
15 A:35 to read as follows:

16 153-A:35 Protected Health Information; Privacy Committee Established.

17 I. All protected health information possessed by the department shall be considered
18 confidential, except that the commissioner, or designee, may provide emergency medical and trauma
19 services record information to ~~[institutions and individuals]~~ **any person or entity** outside of the
20 department who demonstrate a need for such information for the purpose of conducting health-
21 related research **or analysis and other uses for evaluation not provided for under RSA 21-**
22 **P:12-b, II(g)**. Any such release shall be conditioned upon the understanding that once the health-
23 related research is complete that all information provided shall be returned to the department or be
24 destroyed and no copies shall be kept. All releases of information shall be consistent with the federal
25 Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA) and
26 regulations promulgated thereunder by the United States Department of Health and Human
27 Services 45 C.F.R. part 160 and part 164. This shall include the requirement that all proposed
28 releases of emergency medical and trauma services records information to institutions and
29 individuals outside the department for the purposes of health-related research be reviewed and
30 approved by the privacy committee, established in paragraph II, and the commissioner, under this
31 section before the requested information is released.

32 II. There is hereby established a privacy committee which shall review and approve requests
33 for the use of emergency medical and trauma services records data for the purposes of research **or**
34 **analysis** and other uses for evaluation not provided for under RSA 21-P:12-b, II(g). The privacy
35 committee shall consist of 7 members who shall include the director, or designee, 4 members of the
36 emergency medical and trauma services coordinating board, appointed by the chair of the board, and

1 2 persons who are not affiliated with the department and who are not part of the immediate family
2 of a person who is affiliated with the department, appointed by the commissioner.

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

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

15 4 Effective Date. Part IX of this act shall take effect 60 days after its passage.

16
17 PART X

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

19 1 New Paragraph; Victims' Assistance Fund; Claimant Eligibility. Amend RSA 21-M:8-h by
20 inserting after paragraph IV the following new paragraph:

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

26 2 Effective Date. Part X of this act shall take effect 60 days after its passage.

27
28 PART XI

29 Relative to insurance company licenses.

30 1 Insurance Company Licenses. Amend RSA 402:12, I to read as follows:

31 I. On compliance with the foregoing conditions and if the company is found upon
32 examination made by or under the direction of the commissioner to *(a) have complied with the laws*
33 *of the state applicable to it; (b) have been consistent with the NAIC's Uniform Certificate of*
34 *Authority Application process and standards; and (c) have complied with any other terms*
35 *or documentation the commissioner may require*, a license to transact the kind of business
36 specified in the license shall be issued until June 14 thereafter. Annually thereafter, on June 14,
37 such license may be renewed so long as the company shall comply with the requirements of the law

1 and the commissioner shall regard it as safe, reliable, and entitled to confidence, *so long as its*
2 *application is consistent with the standards set forth by state law and NAIC guidelines* and
3 so long as the company continues to conduct a meaningful insurance business, as determined by the
4 commissioner, within New Hampshire.

5 2 Insurance Company Licenses; Foreign Insurance Companies and Agents. Amend RSA 405:12,
6 I to read as follows:

7 I. If the foregoing provisions are complied with and the commissioner is satisfied that the
8 company *(a)* has the requisite capital and assets [~~and~~]; *(b)* is a safe, reliable company, entitled to
9 confidence; *and (c) is consistent with the NAIC's Uniform Certificate of Authority*
10 *Application process and standards*, [~~he~~] *the commissioner* shall grant a license to it to do
11 insurance business by authorized agents within the state, subject to the laws of the state, until June
12 14 thereafter. Annually thereafter, on June 14, such license may be renewed so long as the company
13 shall comply with the requirements of the law, *NAIC guidelines*, and the commissioner shall
14 regard it as safe, reliable and entitled to confidence, and so long as the company continues to conduct
15 a meaningful insurance business, as determined by the commissioner, within New Hampshire.

16 3 New Subparagraph; Department of Revenue Administration; Confidentiality of Department
17 Records. Amend RSA 21-J:14, V(d) by inserting after subparagraph (9) the following new
18 subparagraph:

19 (10) An officer or employee of the insurance department, pursuant to an agreement
20 for exchange of information between the department and the insurance department, for the purposes
21 of sharing information received by the department from insurance companies that claim a business
22 enterprise tax credit, pursuant to RSA 400-A:34-a, and only to the extent necessary, for the
23 administration and collection of tax premiums by the insurance department. The information
24 disclosed pursuant to such exchange agreement shall not include records, files, returns, or
25 information disclosed to officers or employees of the department by any other state, pursuant to a
26 compact for the exchange of information between the department and any other state, unless
27 permitted by such state or compact. Officers or employees of the insurance department, having in
28 their custody or control any confidential taxpayer information obtained from the department
29 pursuant to the exchange agreement authorized under this subparagraph, shall be subject to the
30 provisions of RSA 21-J:14.

31 4 Effective Date. Part XI of this act shall take effect 60 days after its passage.
32

33 PART XII

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

35 1 National Guard Enlistment Incentive Program. The subdivision heading before RSA 160-B:60
36 is repealed and reenacted to read as follows:

37 National Guard Enlistment Incentive Program

1 2 National Guard Enlistment Incentive Program. RSA 110-B:60-62 are repealed and reenacted
2 to read as follows:

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

9 110-B:61 Revenue for Enlistment Incentive Program.

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

15 II. In addition to any moneys appropriated, the New Hampshire national guard enlistment
16 incentive program fund may consist of an annual appropriation, as determined by the general court,
17 to be awarded in accordance with written policies promulgated by the adjutant general under RSA
18 110-B:62.

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

23 3 New Subparagraph; National Guard Enlistment Incentive Program Fund. Amend RSA 6:12,
24 I(b) by inserting after subparagraph (364) the following new subparagraph:

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

27 4 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:55, I to read as
28 follows:

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

35 5 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:29 to read as
36 follows:

37 110-B:29 Use of Armories or Other National Guard Facilities.

SB 143-FN - AS AMENDED BY THE SENATE

- Page 14 -

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

5 [~~II. Rental fees for the use of national guard facilities shall be fixed by the adjutant general
6 and shall be declared as revenue and paid to the adjutant general subject to the provisions of RSA
7 110-B:61.~~]

8 6 Repeal. RSA 110-B:63, relative to the national guard scholarship program, is repealed.

9 7 Effective Date. Part XII of this act shall take effect July 1, 2021.

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

AN ACT adopting omnibus legislation relative to certain agency requests.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

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

These changes address several findings of the National Juvenile Defender Center’s recent assessment of indigent juvenile representation in New Hampshire. The Council assumes it would be responsible for the costs of legal representation for indigent juveniles. Earlier appointment of counsel would not impact expenditures, and may allow cases to resolve more

expeditiously. It is also assumed that this legislation would significantly decrease the number of juveniles proceeding without counsel. According to information provided by the court, approximately 89 juveniles waived the right to counsel last year. Because the Public Defender is the State's institutional provider of indigent-defense services, it could absorb the increase in the charge level with no change in the cost of its operations. There may be increased costs to the indigent-defense delivery system for new appointments that have to be handled by either the Contract-Attorney System or the Assigned-Counsel System.

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

It is not possible to predict the additional attorney time that representation at related proceedings and police interrogations will require, but it is assumed that the Public Defender would require more attorneys on staff to meet these obligations. The cost for a new attorney, including benefits, is approximately \$95,000. While the time commitment and resources necessary to provide representation until the court no longer has jurisdiction would be case specific, keeping cases open will result in more ethical conflicts of interest that would prevent the Public Defender from accepting new cases. This part of the bill also eliminates the flat-fee reimbursement model for contract attorney representation of juveniles. The assessment found that "flat-fee contracts provide a disincentive for attorneys to spend the requisite time and resources on a case and encourage attorneys to close cases quickly". In FY 2020, contract attorneys were appointed on 165 juvenile matters at an approximate cost of \$44,475. It is assumed that the flat-fee model would be replaced with the assigned counsel model. Assigned counsel cases are reimbursed at \$60/hour with fee caps imposed by court rule. Based on the maximum fees, the cost of representation on juvenile felonies would be \$196,800. The cost of representation on juvenile misdemeanors and similar proceedings would be \$130,200.

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

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

AGENCIES CONTACTED:

Judicial Branch and Judicial Council

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

AGENCIES CONTACTED:

Department of Health and Human Services

PART III: Relative to alternative dispute resolution.

This part has no fiscal impact.

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

This part has no fiscal impact.

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

This part has no fiscal impact.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

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

The Branch reports in FY 2019, there were 968 appointments of attorneys in abuse and neglect cases and 323 appointments of attorneys in termination cases. It is not possible to accurately

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

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

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

AGENCIES CONTACTED:

Judicial Branch and Judicial Council

PART VII: Requiring a penalty assessment on violations.

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

AGENCIES CONTACTED:

Judicial Branch and Department of Safety

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

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

AGENCIES CONTACTED:

Department of Information Technology

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

This part has no fiscal impact.

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

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

Part XI: Relative to insurance company licenses.

This part has no fiscal impact.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

This bill establishes the New Hampshire National Guard Enlistment Incentive Program and the nonlapsing New Hampshire National Guard Enlistment Incentive Program Fund. The Department of Military Affairs and Veterans Services indicates the bill would eliminate the National Guard Scholarship Fund and replace it with a \$500.00 incentive payment to retirees and members of the NHNG who refer someone for enlistment into the guard. If passed, the NH National Guard would execute the incentive program in coordination with the Department. The Department reports, based on projected enlistments, an amount of \$22,500 per year would be

needed for the incentive payments. This would allow for 45 individual incentive payments to eligible recipients. The Department estimates it would incur annual administrative costs of approximately \$2,500 to establish each recipient as a vendor for payment in the State accounting system, to process necessary W-9 and 1099 tax forms, to process the payments, and to comply with year end reporting and program audit requirements.

AGENCIES CONTACTED:

Department of Military Affairs and Veterans Services

SB 143-FN - AS AMENDED BY THE HOUSE

03/18/2021 0776s

3Jun2021... 1431h

2021 SESSION

21-0943

04/10

SENATE BILL ***143-FN***

AN ACT adopting omnibus legislation relative to certain agency requests.

SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill adopts legislation relative to:

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

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.

SB 143-FN - AS AMENDED BY THE HOUSE

03/18/2021 0776s
3Jun2021... 1431h

21-0943
04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to certain agency requests.

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

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

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

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

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

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

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

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

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

16 Part VIII: relative to forfeiture of personal property.

17 2 Legislation Enacted. The general court hereby enacts the following legislation:

18

19

PART I.

20

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

21

1 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend RSA
22 169-B:7, III to read as follows:

23

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

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

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

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

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

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

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

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

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

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

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

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

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

6 PART II

7 Relative to alternative dispute resolution.

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

10 490-E:6 Quality Assurance Program.

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

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

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

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

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

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

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

32 PART III

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

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

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

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

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

8 3 Effective Date. Part III of this act shall take effect 60 days after its passage.
9

10 PART IV

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

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

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

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

25 2 Effective Date. Part IV of this act shall take effect 60 days after its passage.
26

27 PART V

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

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

31 170-C:13 Fees and Court Costs.

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

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

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

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

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

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

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

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

14 4 Effective Date. Part V of this act shall take effect 60 days after its passage.
15

PART VI

16 Relative to insurance company licenses.

17
18 1 Insurance Company Licenses. Amend RSA 402:12, I to read as follows:

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

30 2 Insurance Company Licenses; Foreign Insurance Companies and Agents. Amend RSA 405:12,
31 I to read as follows:

32 I. If the foregoing provisions are complied with and the commissioner is satisfied that the
33 company ***(a) has the requisite capital and assets [and]; (b) is a safe, reliable company, entitled to***
34 ***confidence; and (c) is consistent with the NAIC's Uniform Certificate of Authority***
35 ***Application process and standards,* [he] the commissioner shall grant a license to it to do
36 insurance business by authorized agents within the state, subject to the laws of the state, until June
37 14 thereafter. Annually thereafter, on June 14, such license may be renewed so long as the company
38 shall comply with the requirements of the law, ***NAIC guidelines,*** and the commissioner shall**

1 regard it as safe, reliable and entitled to confidence, and so long as the company continues to conduct
2 a meaningful insurance business, as determined by the commissioner, within New Hampshire.

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

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

18 4 Effective Date. Part VI of this act shall take effect 60 days after its passage.

19
20 PART VII

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

22 1 National Guard Enlistment Incentive Program. The subdivision heading before RSA 160-B:60
23 is repealed and reenacted to read as follows:

24 National Guard Enlistment Incentive Program

25 2 National Guard Enlistment Incentive Program. RSA 110-B:60-62 are repealed and reenacted
26 to read as follows:

27 110-B:60 New Hampshire National Guard Enlistment Incentive Program Established. For the
28 purpose of encouraging enlistment in the national guard there is hereby established a New
29 Hampshire national guard enlistment incentive program. This program authorizes a cash incentive
30 up to \$500 to current members of the New Hampshire national guard in the pay grades of E-1 to O-3
31 or any former member of the New Hampshire national guard for each new or prior service recruit
32 that they bring into the New Hampshire national guard.

33 110-B:61 Revenue for Enlistment Incentive Program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35

36

PART VIII

37

Relative to forfeiture of personal property

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

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

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

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

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

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

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

AN ACT adopting omnibus legislation relative to certain agency requests.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

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

These changes address several findings of the National Juvenile Defender Center’s recent assessment of indigent juvenile representation in New Hampshire. The Council assumes it would be responsible for the costs of legal representation for indigent juveniles. Earlier appointment of counsel would not impact expenditures, and may allow cases to resolve more

expeditiously. It is also assumed that this legislation would significantly decrease the number of juveniles proceeding without counsel. According to information provided by the court, approximately 89 juveniles waived the right to counsel last year. Because the Public Defender is the State's institutional provider of indigent-defense services, it could absorb the increase in the charge level with no change in the cost of its operations. There may be increased costs to the indigent-defense delivery system for new appointments that have to be handled by either the Contract-Attorney System or the Assigned-Counsel System.

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

It is not possible to predict the additional attorney time that representation at related proceedings and police interrogations will require, but it is assumed that the Public Defender would require more attorneys on staff to meet these obligations. The cost for a new attorney, including benefits, is approximately \$95,000. While the time commitment and resources necessary to provide representation until the court no longer has jurisdiction would be case specific, keeping cases open will result in more ethical conflicts of interest that would prevent the Public Defender from accepting new cases. This part of the bill also eliminates the flat-fee reimbursement model for contract attorney representation of juveniles. The assessment found that "flat-fee contracts provide a disincentive for attorneys to spend the requisite time and resources on a case and encourage attorneys to close cases quickly". In FY 2020, contract attorneys were appointed on 165 juvenile matters at an approximate cost of \$44,475. It is assumed that the flat-fee model would be replaced with the assigned counsel model. Assigned counsel cases are reimbursed at \$60/hour with fee caps imposed by court rule. Based on the maximum fees, the cost of representation on juvenile felonies would be \$196,800. The cost of representation on juvenile misdemeanors and similar proceedings would be \$130,200.

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

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

AGENCIES CONTACTED:

Judicial Branch and Judicial Council

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

AGENCIES CONTACTED:

Department of Health and Human Services

PART III: Relative to alternative dispute resolution.

This part has no fiscal impact.

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

This part has no fiscal impact.

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

This part has no fiscal impact.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

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

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

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

The Branch reports in FY 2019, there were 968 appointments of attorneys in abuse and neglect cases and 323 appointments of attorneys in termination cases. It is not possible to accurately

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

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

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

AGENCIES CONTACTED:

Judicial Branch and Judicial Council

PART VII: Requiring a penalty assessment on violations.

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

AGENCIES CONTACTED:

Judicial Branch and Department of Safety

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

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

AGENCIES CONTACTED:

Department of Information Technology

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

This part has no fiscal impact.

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

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

Part XI: Relative to insurance company licenses.

This part has no fiscal impact.

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

FISCAL IMPACT: State County Local None

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

METHODOLOGY:

This bill establishes the New Hampshire National Guard Enlistment Incentive Program and the nonlapsing New Hampshire National Guard Enlistment Incentive Program Fund. The Department of Military Affairs and Veterans Services indicates the bill would eliminate the National Guard Scholarship Fund and replace it with a \$500.00 incentive payment to retirees and members of the NHNG who refer someone for enlistment into the guard. If passed, the NH National Guard would execute the incentive program in coordination with the Department. The Department reports, based on projected enlistments, an amount of \$22,500 per year would be

needed for the incentive payments. This would allow for 45 individual incentive payments to eligible recipients. The Department estimates it would incur annual administrative costs of approximately \$2,500 to establish each recipient as a vendor for payment in the State accounting system, to process necessary W-9 and 1099 tax forms, to process the payments, and to comply with year end reporting and program audit requirements.

AGENCIES CONTACTED:

Department of Military Affairs and Veterans Services

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06/24/2021 2069EBA

2021 SESSION

21-0943
04/10

SENATE BILL

143-FN

AN ACT

adopting omnibus legislation relative to certain agency requests.

SPONSORS:

Sen. Carson, Dist 14

COMMITTEE:

Executive Departments and Administration

AMENDED ANALYSIS

This bill adopts legislation relative to:

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

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.

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04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to certain agency requests.

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

1 207:1 Sponsorship. This act consists of the following proposed legislation:

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

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

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

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

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

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

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

16 Part VIII: relative to forfeiture of personal property.

17 207:2 Legislation Enacted. The general court hereby enacts the following legislation:

18 PART I

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

20 207:1 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend
21 RSA 169-B:7, III to read as follows:

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

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1 exception, the department of health and human services shall be responsible for the cost of services
2 provided under this chapter. RSA 186-C regarding children with disabilities grants minors and their
3 parents certain rights to services from school districts at public expense and to appeal school district
4 decisions regarding services to be provided."

5 207:2 Appointment of Counsel; Waiver of Counsel. Amend 169-B:12, I to read as follows:

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

15 207:3 Waiver of Counsel. Amend RSA 169-B:12, II-a to read as follows:

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

20 207:4 Contract Attorneys. Amend RSA 604-A:2-b to read as follows:

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

30 207:5 Development of Performance Standards. Amend RSA 604-A:10, V to read as follows:

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

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

3 207:6 Repeal. RSA 169-B:12, II-b, relative to appointment of counsel, is repealed.

4 207:7 Effective Date. Part I of this act shall take effect January 1, 2022.

PART II

Relative to alternative dispute resolution.

7 207:1 New Section; Office of Mediation and Arbitration; Quality Assurance Program. Amend
8 RSA 490-E by inserting after section 5 the following new section:

9 490-E:6 Quality Assurance Program.

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

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

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

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

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

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

29 207:2 Effective Date. Part II of this act shall take effect 60 days after its passage.

PART III

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

32 207:1 New Paragraph; Judges of Probate; Jurisdiction. Amend RSA 547:3 by inserting after
33 paragraph IV the following new paragraph:

34 V. The administrative judge of the circuit court may appoint one or more referees to any
35 matter which is not contested and to which no objection has been filed, or to which all parties have
36 assented, for any cases arising under subparagraphs I(a), (b), and (g). Any referee so assigned shall
37 act under the direction of a judge of probate as defined in RSA 490-F:6, III. Any party aggrieved by a

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1 decision made by a referee pursuant to this paragraph may file a request for reconsideration within
2 10 days of the clerk's notice of decision, and if such request is filed, the matter shall be reviewed by a
3 judge of probate.

4 207:2 Repeal. RSA 547:3, I(h), relative to the jurisdiction of the probate court over cases
5 involving termination of parental rights, is repealed.

6 207:3 Effective Date. Part III of this act shall take effect 60 days after its passage.

PART IV

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

9 207:1 Superior Court; Assignment From Supreme Court. Amend RSA 491:3 and 3-a to read as
10 follows:

11 491:3 Assignment From Supreme Court. When the business of the superior court *or circuit*
12 *court* requires it, and upon request of the [~~chief or senior associate justice~~] *chief justice of the*
13 *superior court or the administrative judge* of [~~that~~] *the circuit* court, the chief or senior
14 associate justice of the supreme court may, if not inconsistent with the proper advancement of the
15 business of the supreme court, assign himself *or herself* or some other justice of the supreme court
16 to preside and serve in the superior court *or circuit court*. While thus presiding and serving, such
17 supreme court justice shall have all the authority of a superior court justice *or circuit court judge*.

18 491:3-a Assignment of Judges. After assessing caseload needs and requirements and consulting
19 with the *chief justice of the superior court or* administrative [~~judges~~] *judge of the circuit*
20 *court*, the chief justice of the supreme court may assign any superior court [~~judge~~] *justice* to hear
21 cases in the [~~district~~] *circuit* court.

22 207:2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

PART V

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

25 207:1 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*
35 *of such appointment, including counsel and investigative, expert, or other services and*
36 *expenses necessary to provide adequate representation, shall be paid from funds*
37 *appropriated for indigent defense pursuant to RSA 604-A.*

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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*
11 *expenses necessary to provide adequate representation, shall be paid from funds*
12 *appropriated for indigent defense pursuant to RSA 604-A. Counsel shall petition the court*
13 *for investigative, expert, or other services necessary to provide adequate representation. If*
14 *the court finds that such services are necessary and that the parent is financially unable to*
15 *obtain them, the court shall authorize counsel to obtain the necessary services on behalf of*
16 *the parent. Services authorized under this section shall not include the payment of*
17 *expenses that are the responsibility of any other agency pursuant to RSA 169-C or this*
18 *chapter.*

19 207:2 Guardians and Conservators; Right to Counsel. Amend RSA 464-A:6, I to read as follows:

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

33 207:3 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused
34 Children. RSA 604-A:1-a is repealed and reenacted to read as follows:

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

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

13 207:4 Effective Date. Part V of this act shall take effect 60 days after its passage.

14 PART VI

15 Relative to insurance company licenses.

16 207:1 Insurance Company Licenses. Amend RSA 402:12, I to read as follows:

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

28 207:2 Insurance Company Licenses; Foreign Insurance Companies and Agents. Amend RSA
29 405:12, I to read as follows:

30 I. If the foregoing provisions are complied with and the commissioner is satisfied that the
31 company **(a)** has the requisite capital and assets [~~and~~]; **(b)** is a safe, reliable company, entitled to
32 confidence; **and (c) is consistent with the NAIC's Uniform Certificate of Authority**
33 **Application process and standards**, [~~he~~] **the commissioner** shall grant a license to it to do
34 insurance business by authorized agents within the state, subject to the laws of the state, until June
35 14 thereafter. Annually thereafter, on June 14, such license may be renewed so long as the company
36 shall comply with the requirements of the law, **NAIC guidelines**, and the commissioner shall

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1 regard it as safe, reliable and entitled to confidence, and so long as the company continues to conduct
2 a meaningful insurance business, as determined by the commissioner, within New Hampshire.

3 207:3 New Subparagraph; Department of Revenue Administration; Confidentiality of
4 Department Records. Amend RSA 21-J:14, V(d) by inserting after subparagraph (9) the following
5 new subparagraph:

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

18 207:4 Effective Date. Part VI of this act shall take effect 60 days after its passage.

19 **PART VII**

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

21 207:1 National Guard Enlistment Incentive Program. The subdivision heading before RSA 160-
22 B:60 is repealed and reenacted to read as follows:

23 **National Guard Enlistment Incentive Program**

24 207:2 National Guard Enlistment Incentive Program. RSA 110-B:60-62 are repealed and
25 reenacted to read as follows:

26 110-B:60 New Hampshire National Guard Enlistment Incentive Program Established. For the
27 purpose of encouraging enlistment in the national guard there is hereby established a New
28 Hampshire national guard enlistment incentive program. This program authorizes a cash incentive
29 up to \$500 to current members of the New Hampshire national guard in the pay grades of E-1 to O-3
30 or any former member of the New Hampshire national guard for each new or prior service recruit
31 that they bring into the New Hampshire national guard.

32 110-B:61 Revenue for Enlistment Incentive Program.

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

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

5 110-B:62 Oversight and Administration. The adjutant general shall adopt rules pursuant to
6 RSA 541-A relative to the administration of the enlistment incentive program and relative to its
7 execution by the New Hampshire Army and Air National Guard recruiting offices in coordination
8 with the department of military affairs and veterans services.

9 207:3 New Subparagraph; National Guard Enlistment Incentive Program Fund. Amend RSA
10 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

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

13 207:4 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:55, I to read
14 as follows:

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

21 207:5 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:29 to read
22 as follows:

23 110-B:29 Use of Armories or Other National Guard Facilities.

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

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

31 207:6 Repeal. RSA 110-B:63, relative to the national guard scholarship program, is
32 repealed.207:

33 207:7 Effective Date. Part VII of this act shall take effect July 1, 2021.

Approved: August 10, 2021
Effective Date:
Pt. I eff. January 1, 2022
Pt. II eff. October 9, 2021

CHAPTER 207
SB 143-FN - FINAL VERSION
- Page 9 -

Pt. III eff. October 9, 2021
Pt. IV eff. October 9, 2021
Pt. V eff. October 9, 2021
Pt. VI eff. October 9, 2021
Pt. VII eff: July 1, 2021

Amendments

Sen. Carson, Dist 14
February 26, 2021
2021-0520s
0410/

Amendment to SB 143-FN

1 Amend Part VIII of the bill by replacing section 3 with the following:

2

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

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

UNAPPROVED

Sen. Gray, Dist 6
March 3, 2021
2021-0596s
04/06

Amendment to SB 143-FN

1 Amend Part II of the bill by replacing section 1 with the following:

2

3 1 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.

UNAPPROVED

Amendment to SB 143-FN

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20 shall be jointly and severally liable for the overpayment.

21

22 Amend Part VIII of the bill by replacing section 3 with the following:

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24 3 New Section; Duties of Towns; Cybersecurity. Amend RSA 31 by inserting after section 103-a
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26 31:103-b Cybersecurity. The governing body, or chief administrative officer or designee of any
27 political subdivision, who knows of or suspects a cybersecurity incident within such political
28 subdivision, or within any vendor acting as an agent of the political subdivision, shall immediately
29 report such incident, upon discovery, and shall disclose all known information and interactions to
30 the New Hampshire cyber integration center of the department of information technology. The state
31 shall hold harmless a governing body, or chief administrative officer or designee of a political

Amendment to SB 143-FN

- Page 2 -

- 1 subdivision, for failing to report a cyber security incident because they were unaware such incident
- 2 had occurred.

Committee Minutes

SENATE CALENDAR NOTICE
Executive Departments and Administration

Sen Sharon Carson, Chair
Sen John Reagan, Vice Chair
Sen Denise Ricciardi, Member
Sen Kevin Cavanaugh, Member
Sen Suzanne Prentiss, Member

Date: February 11, 2021

HEARINGS

Wednesday	02/17/2021	
(Day)	(Date)	
Executive Departments and Administration	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m. SB 161-FN	relative to non-fraud overpayments for unemployment benefits.	
9:15 a.m. SB 142-FN	adopting omnibus legislation relative to certain study commissions.	
9:45 a.m. SB 143-FN	adopting omnibus legislation relative to certain agency requests.	
10:30 a.m. SB 155-FN	codifying provisions included in select emergency orders issued by the governor in response to the COVID-19 pandemic.	

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/95478571640>
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: +13126266799,,95478571640# or +19292056099,,95478571640#
4. Webinar ID: [954 7857 1640](https://www.zoom.us/j/95478571640)
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtrjRnQdmg-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:

SB 161-FN

Sen. Whitley

Rep. Schultz

SB 142-FN

Sen. Birdsell

SB 143-FN

Sen. Carson

SB 155-FN

Sen. Bradley

Sen. Perkins Kwoka

Rep. McWilliams

Sen. Rosenwald

Sen. Prentiss

Cameron Lapine 271-2104

Sharon M Carson
Chairman

Senate Executive Departments and Administration Committee

Cameron Lapine 271-2104

SB 143-FN, adopting omnibus legislation relative to certain agency requests.

Hearing Date: February 17, 2021

Time Opened: 10:13 a.m.

Time Closed: 11:33 a.m.

Members of the Committee Present: Senators Carson, Reagan, Ricciardi, Cavanaugh and Prentiss

Members of the Committee Absent : None

Bill Analysis: This bill adopts legislation relative to:

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

Sponsors:
Sen. Carson

Who supports the bill: Senator James Gray (Senate District 6), Doug Bartlett (Insurance Department), Heather Silverstein (Insurance Department), Senator Sharon Carson (Senate District 14), David Mikolaities, Senator Jay Kahn (Senate District 10), Senator Suzanne Prentiss (Senate District 5), Dr. Joey Scollan (NH Department of Safety), Michelle Wangerin (New Hampshire Legal Assistance), Richard Head (Judicial Branch), Michael Skibbie (Disability Rights Center), Jeffrey Phillips (Department of Safety), Senator Gary Daniels (Senate District 11), John DeJoie (Waypoint), Moira O'Neill (Office of the Child Advocate), Jeanne Hruska (ACLU-NH), Norma Stallings (Insurance Department), and Marty Mobley (Insurance Department).

Who opposes the bill: None.

Who is neutral on the bill: Lisa Lamphere (Victim's Compensation Program), Sarah Blodgett (Judicial Council), Heather Kulp (Judicial Branch), and Brittany Schute (DOS-DMV).

Summary of Testimony on Part I of SB 143-FN

Senator Sharon Carson

Senate District 14

- Senator Carson said that Part I of SB 143-FN was a re-filed bill from 2020, which was part of an omnibus bill which was vetoed.

Sarah Blodgett

Executive Director, Judicial Council

- Ms. Blodgett said that the Judicial Council does not have a position on Part I of SB 143-FN. She said that the Council did meet in January to discuss the similar HB 188 but did not have a quorum present. She said that a majority of the members present were supportive of HB 188, provided that there was an appropriate fiscal note.
- Ms. Blodgett said that the National Juvenile Defenders Center (NJDC) did an assessment of New Hampshire's system in 2020. She said that Part I of SB 143-FN addresses many of the points raised in that assessment.
- Ms. Blodgett said that the Council believes the public defender program provides a high quality of service in the system that exists, but sees a national trend towards holistic representation for juvenile clients.
- Ms. Blodgett said that there is a significant fiscal impact for Part I of SB 143-FN, largely coming from the elimination of the flat fee reimbursement model. She said that the flat fee reimbursement model is generally disfavored now, although it was seen as a cost-saving

measure. She said that she sees the limitations of it.

- Ms. Blodgett said that Part I of SB 143-FN will allow for representation at interrogations. She said that that is currently not provided; representation begins after being charged. She noted the increased cost of added representation.
- Ms. Blodgett reiterated that the Judicial Council does not have a position on Part I of SB 143-FN but the Council did feel that the similar HB 188 was “appropriate” and was a remedy to some of the concerns raised in the NJDC assessment.

Michelle Wangerin

Attorney, New Hampshire Legal Assistance (NHLA)

- Ms. Wangerin said that she supports Part I of SB 143-FN but deferred her testimony to Michael Skibbie.

Michael Skibbie

Policy Director, Disability Rights Center

- Mr. Skibbie said that he supports Part I of SB 143-FN.
- Ms. Skibbie said that Part I of SB 143-FN addresses the need of making sure that the system works more fairly. He said that Part I of SB 143-FN was triggered by an assessment by the experts at NJDC for a more fair and effective system.
- Mr. Skibbie discussed Part I of SB 143-FN by section:
 - Section 1 provides for lawyers to be appointed immediately upon filing. He said that decisions are made as soon as a judge begins to deal with a case. He said that current practice wouldn't have a lawyer at this stage.
 - Section 2 requires a prompt appointment of a lawyer, who will stay with the case to its completion. He said that there may be proceedings related to the case going on, such as if a child gets into a shoving match at school, leading to both a court charge and school disciplinary hearings. He said that there are also situations where a court order may need to be enhanced or changed for as long as the child is in the court system.
 - Section 3 implements a national standard that wouldn't allow a police officer to ask a child to give up their access to counsel unless they have a chance to speak to counsel in order to understand what that means.
 - Section 4 requires a lawyer to be made available to a child if they are being interrogated.
 - Section 5 deals with the issue of flat fees. He said that if you pay someone a flat fee regardless of how much work they do, you create a disincentive for them to put in their best work.
 - Section 6 eliminated the obligation of paying back attorney's fees to the State. He said that children cannot afford attorney and some families discourage their children from receiving counsel over fears of having to pay them back.
 - Section 7 deals with the same issues as Section 6.
 - Section 8 is an enhancement to the existing statute to set the standards lawyers will follow in terms of training and quality representation.
- Mr. Skibbie said that there are a couple of repeals in Part I of SB 143-FN that are housekeeping in nature.

- Senator Carson asked Mr. Skibbie to speak to the House Bill referenced with regards to Part I of Section 143-FN.
 - Mr. Skibbie said that the two bills are not completely the same. He said that the House Bill gives the Judicial Council more flexibility about how to transition. He said that there were other differences.

Summary of Testimony on Part II of SB 143-FN

Senator James Gray

Senate District 6

- Senator Gray said that Part II of SB 143-FN was filed in 2020 but did not become law due to the COVID-19 pandemic.
- Senator Gray said that RSA 167:17 refers to collateral resources, while RSA 167:17-a leaves out the reference to collateral resources. He said that this has caused some problems for the Department, which wants to correct the disparity.

Francesca Hennessey

Administrator, Fraud, Waste, and Abuse, Department of Health and Human Services (DHHS)

- Ms. Hennessey said that the proposed changes to RSA 161:17-a would allow DHHS to collect overpayments, not just by way of recoupment from future grants but also to allow a recipient to pay back via repayment. She said DHHS is trying to fix the problem.
- Ms. Hennessey said that Part II of SB 143-FN would apply to overpayments caused by an intentional misrepresentation or, in certain cases, agency error. She said that the only case it would apply to agency error is in the case of food stamps, which is a federal program that requires DHHS to recoup overpayments.
- Ms. Hennessey said that failure to report collateral resources is a reason to recoup.
- Ms. Hennessey said that anyone else who assists in frauding can be held liable.

Summary of Testimony on Part III of SB 143-FN

Senator Sharon Carson

Senate District 14

- Senator Carson said that Part III of SB 143-FN was filed in 2020 but died on the table in the House and was not in an omnibus bill.
- Senator Carson said that Part III of SB 143-FN authorizes the establishment of a quality assurance program for the Office of Mediation and Arbitration.

Heather Kulp

Circuit Court Administrator

- Ms. Kulp said that Part III of SB 143-FN addresses quality assurance issues and gives the Judicial Branch the ability to request information that would otherwise be confidential for the purpose of assuring quality.
- Ms. Kulp said that Part III of SB 143-FN gives the explicit permission for the Office of Mediation and Arbitration to investigate complaints which would otherwise be confidential.
- Ms. Kulp said that Part III of SB 143-FN would give notice to parties that bad behavior in mediation can be investigated, as well as helps mediators who may be concerned about sharing otherwise confidential information.

Summary of Testimony on Part IV of SB 143-FN

Senator Sharon Carson

Senate District 14

- Senator Carson said that Part IV of SB 143-FN was filed in 2020 but died on the table in the House and was not in an omnibus bill.
- Senator Carson said that Part IV of SB 143-FN authorizes administrative judges to appoint judicial referees in certain probate matters.

Richard Head

Government Affairs Coordinator, Judicial Branch

- Mr. Head said that Part IV of SB 143-FN would allow judicial referees (judges who have hit the mandatory retirement age but are allowed to continue to offer their experience in select types of cases) to issue orders in non-contested probate matters.
- Mr. Head said that a judicial referee would only be able to act with the consent of all parties, would always act under the supervision of a sitting judge, and would need to go to a sitting judge for a request for reconsideration.

Summary of Testimony on Part V of SB 143-FN

Senator Sharon Carson

Senate District 14

- Senator Carson said that Part V of SB 143-FN died on the table in 2020.
- Senator Carson said that Part V of SB 143-FN would allow a Supreme Court Justice to sit as a Circuit Court Judge.

Richard Head

Government Affairs Coordinator, Judicial Branch

- Mr. Head said that Part V of SB 143-FN would permit a Supreme Court Justice to sit as a Circuit Court Judge, cleaning up the current statute. He said that, currently, a Supreme Court Justice can sit as a Superior Court Judge, and a Superior Court Judge can sit as a Circuit Court Judge. He said that there is no direct path, currently, for a Supreme Court Justice to sit as Circuit Court Judge.

Summary of Testimony on Part VI of SB 143-FN

Senator Sharon Carson

Senate District 14

- Senator Carson said that Part VI of SB 143-FN died on the table in 2020.
- Senator Carson said that Part VI of SB 143-FN deals with the payment of costs for services other than counsel.

Richard Head

Government Affairs Coordinator, Judicial Branch

- Mr. Head said that the version of SB 143-FN he had did not contain any highlighted or bolded text. He said that the changes in existing statute were:
 - Page 7, Line 11 through 14, beginning with “the cost”;
 - Page 7, Line 23 through 31, beginning with “the”;
 - Page 7, Line 37 through Page 8, Line 7, beginning with “the judicial council shall pay”;
 - Page 8, Line 15 through 16, beginning with “including” and ending on “expenses”; and
 - Page 8, Line 17 through 22, beginning with “counsel shall petition”.
- Mr. Head said that Part VI of SB 143-FN was recommended 4-0 Ought to Pass in Senate Judiciary in 2020, as well as 5-0 out of Senate Finance.
- Mr. Head said that this is a clarification of who is responsible for covering certain costs. He said the current statute is ambiguous as to whether the Judicial Branch or the Judicial Council covers certain costs.
- Mr. Head said Sections 1, 2, and 3 of Part VI of SB 143-FN are all relatively similar and deal with investigative, expert, and other costs.
- Mr. Head said that costs are approved through a petition of the court. He said that this language clarifies that the court that approves the costs is not responsible for paying the costs.
- Mr. Head said that where there is ambiguity over who pays for something, the Judicial Branch has to pay.

Sarah Blodgett

Executive Director, Judicial Council

- Ms. Blodgett said that the Judicial Council voted to support the original bill from last session. She said that the language is about clarification. She noted that the fiscal note does

anticipate an increase in costs for services, but added that the cost would increase regardless of who is paying for it. She said that there is a federal push to increase the quality of representation.

- Ms. Blodgett said that the Council has been providing resources such as trainings and involvement with national organizations to increase the number of tools available.
- Ms. Blodgett said that many involved suffer from substance abuse disorders, which involve a lot of expenses.
- Ms. Blodgett said that attorneys are hesitant to request services because of the question over who is going to pay for them.

Summary of Testimony on Part VII of SB 143-FN

Senator Sharon Carson

Senate District 14

- Senator Carson said that Part VII of SB 143-FN died on the table in the House in 2020 and was not in an omnibus bill.
- Senator Carson said that Part VII of SB 143-FN requires a penalty assessment for violation-level offenses.

Richard Head

Government Affairs Coordinator, Judicial Branch

- Mr. Head said that Part VII of SB 143-FN was a bill from 2020 which passed the Senate after a 5-0 favorable vote in Judiciary but died on the table in the House during the COVID-19 pandemic.
- Mr. Head said that Part VII of SB 143-FN clarifies that if the General Court changes a crime from a felony to a misdemeanor, a penalty assessment is allowed. He said that this is clarifying the intent of the statute.
- Mr. Head said that penalty assessments are divided into thirds, with two-thirds going into the general fund and the remaining third is split between the Department of Justice, Victims Assistance, and the Judicial Branch.

Summary of Testimony on Part VIII of SB 143-FN

Senator Cindy Rosenwald

Senate District 13

- Senator Rosenwald said that Part VIII of SB 143-FN addresses cybersecurity incident report and recommended standards. She said it was a request of the Department of Information Technology (DOIT).
- Senator Rosenwald said that the DOIT Commissioner had a proposed amendment, which she supported.

Denis Goulet

Commissioner, DOIT

- Commissioner Goulet said that Part VIII of SB 143-FN was originally conceived of to be much larger in scope, with a very large fiscal note in order to stand DOIT up to comply, with administrative burdens passed on to political subdivisions. He said that all of those issues had been removed.
- Commissioner Goulet said that he worked with the New Hampshire Municipal Association on the language. He said that political subdivisions are victims of cyber incidents that affect services and financial conditions. He said that Part VIII of SB 143-FN should help.
- Commissioner Goulet discussed the three sections of Part VIII of SB 143-FN:
 - Section 1 defines “cyber incident”. He said that DOIT was not concerned with garden variety cyber incidents; they are concerned with incidents with a significant citizen service impact.
 - Section 2 requires political subdivisions to report to the New Hampshire Cyber Integration Center if they have an incident. He said that this is helpful to protect the State network, to provide situational awareness, and for insurance purposes.
 - Commissioner Goulet proposed an amendment to Section 2, on Page 9, Line 21, to insert “if a political subdivision fails to report a cybersecurity incident because they did not realize one occurred the State would hold them harmless”.
 - Section 3 implements recommended cybersecurity standards in an easy to understand manner.
- Commissioner Goulet said that DOIT is seeking a grant from the Department of Homeland Security for a cybersecurity response template to provide to political subdivisions.
- Senator Carson asked Commissioner Goulet to send the language for his amendment to the Committee.

Summary of Testimony on Part IX of SB 143-FN

Senator Suzanne Prentiss

Senate District 5

- Senator Prentiss said that Part IX of SB 143-FN deals with emergency medical services (EMS) and trauma services and is a request of the Department of Safety (DOS).
- Senator Prentiss said that Page 9, Line 28 of SB 143-FN expands the language for what entities DOS can share data with for the purposes of analysis and research.
- Senator Prentiss said that Page 10 of SB 143-FN creates a new paragraph allowing DOS to participate in the National Emergency Medical Services Information System.
- Senator Prentiss said that changes made to RSA 153-a clean up the language to reflect changes made earlier.

Dr. Joey Scollan

Medical Director, New Hampshire Bureau of EMS

- Dr. Scollan said that she supports Part IX of SB 143-FN.

- Dr. Scollan said that data-sharing will enable the EMS community to get a bigger picture with aggregate data, leading to improved quality of care.
- Dr. Scollan said in-depth research will make it easier to find problems and solutions, remove redundancy, and increase the power and numbers of what is being analyzed.
- Dr. Scollan said that she sees the potential for gains in identifying trauma, opioid, or mental health clusters.

Jeffrey Phillips,

Assistant Director, Division of Fire Standards and Training & EMS, DOS

- Mr. Phillips said that, in 2005, New Hampshire was able to implement a comprehensive patient reporting system. He said that there are 2.6 million records in the system, which is extremely important. He said that using New Hampshire-specific data allows both the State and municipalities to make decisions based on the data.
- Mr. Phillips said that the current statute limits the ability of the Division to release the data for research. He said that the Division has been contracted for real-time data analysis on COVID-19 calls. He said that this effort has stalled due to inability to share certain data.

Summary of Testimony on Part X of SB 143-FN

Senator Suzanne Prentiss

Senate District 5, on behalf of Senator Jay Kahn, Senate District 10

- Senator Prentiss said that Part X of SB 143-FN sets up an appeal process if a claim is denied, first to the Attorney General and then to the Supreme Court.

Lisa Lamphere

Victims' Compensation Program

- Ms. Lamphere said that the Victims' Compensation Program pays for crime-related expenses after an individual applies to the program for assistance. She said that the Program can pay for crime-related medical expenses, mental health expenses, and lost wages.
- Ms. Lamphere said that the Commission received 461 claims in 2020. The Commission approved 425 of them, denying 14 (3%).
- Ms. Lamphere said that a claimant can appeal back to the Commission for reversal based on new discovery, and then appeal to the Attorney General, and then to the Supreme Court.
- Ms. Lamphere said that there have been four claims appealed to the Attorney General in the last ten years and two claims appealed to the Supreme Court in the last ten years.

Summary of Testimony on Part XI of SB 143-FN

Senator Gary Daniels

Senate District 11

- Senator Daniels said that Part XI of SB 143-FN updates the statute governing insurance licensing applications for compliance with National Association of Insurance Commissioners (NAIC) uniform standards as well as amends the Department of Revenue Administration (DRA) statute to allow the sharing of information regarding the business enterprise tax (BET) with the New Hampshire Insurance Department (NHID) so as to ensure the proper premium tax is being collected.
- Senator Daniels said that the insurance industry supports Part XI of SB 143-FN.

Doug Bartlett and Heather Silverstein

NHID

- Ms. Silverstein said that the first section of Part XI of SB 143-FN deals with how NHID reviews license applications. The current statute does not include consideration of the NAIC standards. She said that Part XI of SB 143-FN will clean up the statute and make it clear that these national standards are applied in statute, as they are in practice.
- Referring to the second section of Part XI of SB 143-FN, Ms. Silverstein said it is not normal to ask to amend another agency's statute. She said that RSA 21-j:14, V(d) is the DRA confidentiality statute. She said that NHID would like a limited exception, similar to the language for New Hampshire Employment Security, so that DRA can share information related to the BET with NHID through a memorandum of understanding.
- Ms. Silverstein said that their licensees can take credits against their premium tax through the BET. She said a business would report their BET to DRA in 2019, pay it in 2020, and then, if getting a credit, receive the credit in 2021. She said that NHID has no way to check if see if the amount taken for the credit was correct.
- Ms. Silverstein said that NHID may get a "Yes" or "No" from DRA about whether or not the BET was used, but wouldn't get the amount.
- Ms. Silverstein said that she was not aware of any industry opposition.

Summary of Testimony on Part XII of SB 143-FN

Senator Sharon Carson

Senate District 14

- Senator Carson said that Part XII of SB 143-FN repeals the National Guard Scholarship Program and replaces it with the National Guard Enlistment Incentive Program.
- Senator Carson said that Part XII of SB 143-FN provides a \$500 incentive to current members of the National Guard at ranks E1 through O3, as well as any former member, for any new recruit they recommend who enlists.

Major General David Mikolaities

Adjutant General, New Hampshire National Guard

- Major General Mikolaities said that he supports Part XII of SB 143-FN.
- Major General Mikolaities said that the greatest strategic problem is recruiting the next generation, as only 29% of people are eligible for service. He said that the Scholarship Fund

is not as lucrative of a bonus when a Guardsman can get a fee waiver from the University System of New Hampshire or the Community College System of New Hampshire.

- Major General Mikolaities said that Part XII of SB 143-FN is the National Guard's #1 legislative priority.
- Major General Mikolaities said that there are 1,680 soldiers in the Army National Guard, which is .12% of the population of New Hampshire. He said that that is the smallest National Guard per capita in the nation. He said that trying to grow and fill formations is critical.

cml

Date Hearing Report completed: February 23, 2021

Speakers

Name	Title	Representing	Position	Testifying
Gray Senator James	An Elected Official	Senate District 6 Supporting Part II Prime	Support	Yes
Bartlett Doug	State Agency Staff	Insurance Department	Support	Yes
Silverstein Heather	State Agency Staff	Insurance Department	Support	Yes
Carson Sharon	An Elected Official	Senate District 14 Parts III IV V VI VII XII	Support	Yes
Lamphere Lisa	State Agency Staff	Victims' Compensation Program	Neutral	Yes
Mikolaities David	An Elected Official	Myself	Support	Yes
Blodgett Sarah	State Agency Staff	Judicial Council	Neutral	Yes
Kahn Jay	An Elected Official	Senate District 10	Support	Yes
Prentiss Suzanne	An Elected Official	Senate District 5	Support	Yes
Scollan Dr. Joey	State Agency Staff	NH Department of Safety	Support	Yes
Kulp Heather	State Agency Staff	New Hampshire Judicial Branch	Neutral	Yes
Wangerin Michelle	A Lobbyist	New Hampshire Legal Assistance	Support	Yes
Head Richard	State Agency Staff	Judicial Branch	Support	Yes
skibbie michael	A Lobbyist	Disability Rights Center -- NH	Support	Yes
Phillips Jeffrey	State Agency Staff	Department of Safety	Support	Yes
Daniels Senator	An Elected Official	Sponsor Part XI	Support	Yes
SHUTE BRITTANY	State Agency Staff	DOS-DMV	Neutral	No
Dejoie John	A Lobbyist	Waypoint	Support	No
O'Neill Moira	State Agency Staff	NH Office of the Child Advocate	Support	No
Hruska Jeanne	A Lobbyist	ACLU-NH	Support	No
Stallings Norma	State Agency Staff	Insurance Department	Support	No
Mobley Marty	State Agency Staff	Insurance Department	Support	No

Testimony

Cameron Lapine

From: Goulet, Denis <Denis.C.Goulet@doit.nh.gov>
Sent: Wednesday, February 17, 2021 12:04 PM
To: Sharon Carson; Cameron Lapine
Cc: Lynne M. Ober; Cindy Rosenwald
Subject: Cybersecurity SB 143-FN Part 8 - Amendment

Recommended amendment language for SB 143-FN Part 8: inserted at the end of section 31:103-b (page 9 at the end of line 21)

If a political subdivision fails to report a cybersecurity incident because they did not realize that one had occurred, the state shall hold them harmless.

Thank you,

Denis Goulet

Commissioner / Chief Information Officer
NH Department of Information Technology
Office: 603-223-5703
Mobile: 603-545-5988
www.doit.nh.gov



Moira O'Neill
Child Advocate

State of New Hampshire

Office of the Child Advocate



**Testimony of
Moira O'Neill, PhD
The Child Advocate
before**

**The New Hampshire Senate Executive Departments and Administration Committee
February 17, 2021**

Good morning Chair Carson, Vice Chair Reagan, and esteemed members of the Executive Departments and Administration Committee. My name is Moira O'Neill and I am the State Child Advocate. Thank you for the opportunity to share my testimony in support of **Senate Bill 143-FN adopting omnibus legislation relative to certain agency requests.**

SB 143 proposes a number of changes. My testimony is limited to Part I. Appointment of counsel for a minor in a juvenile delinquency proceeding. This bill addresses the gap in representation of children in the juvenile justice system that the Office of the Child Advocate has noted in annual reports and other conversations, namely that children should be appointed counsel at all stages of delinquency proceedings. It further provides that children with identified disabilities may not waive counsel and uncounseled statements or confessions shall not be admissible in any judicial proceeding, and relieves children of the cost of appointed counsel. Finally, the bill provides that the judicial council shall adopt standards relative to the appointment of juvenile counsel.

The United States Supreme Court decision in *In re gault*¹ established that children have a constitutional right to counsel. However, that right is only achieved when children are actually given counsel when needed. Providing representation beginning at the earliest time ensures adequate protection of children's rights.

We know children are more susceptible to influence given their developmental capacity. Absent counsel, they are at greater risk of waiving their rights, agreeing to conditions impinging upon their liberty, or making decisions that significantly impact their future.² We think about children developing as learning from mistakes or listening to what they are told. That is part of it. However, it is actually far more complicated. We now know from very elegant imaging studies and other research that the frontal lobe of the brain, including the prefrontal cortex, is still developing well in the mid-20s. The structure and function of that part of the brain determines a young person's ability to think critically and to reason. The lack of development in that area of the brain is often cited to explain anti-social behavior. Children cannot anticipate consequences. That same underdevelopment of the brain places a child at risk of providing a

¹ *In re Gault*, 387 U.S.1 (1967).

² *Undervalued: An Assessment of Access to and Quality of Juvenile Defense Counsel in New Hampshire*, National Juvenile Defender Center, 18-23, Aug. 19, 2020. <https://njdc.info/wp-content/uploads/NewHampshire-Assessment-Web.pdf>

false statement or confession.³ The child's risk is increased if the child has a developmental disability and does not understand the meaning of waiving counsel.

The importance of counsel for children encountering the juvenile justice system is also elevated because of the nature of their circumstances. Children who come to the attention of law enforcement have exhibited anti-social behavior. The most common charge that the Office of the Child Advocate has encountered among children is simple assault, usually involving a parent. These children are at considerable risk for antagonistic relationships with their parents or caregivers. There is also a large population of children considered "crossover youth" who are actually abused and neglected children whose behavior is a response to their maltreatment. We also know there is an over-representation of children from impoverished circumstances whose parents may encounter barriers to appearing at court or other meetings due to lack of transportation or work obligations. All of these children are highly likely to be navigating legal systems without the support of engaged, protective parents or professional advocates.

The most common complaint we hear from children at the Sununu Youth Services Center or other residential facilities is that no one listens to them. Appointing legal counsel from the very beginning and for the life of a case increases the chances that children will be heard. We routinely find that children make reasonable, often self-preserving suggestions for their care. Consistent legal counsel for the life of a case will ensure they are listened to, and that they receive any necessary treatment and educational services for optimal rehabilitation.

It is important that counsel understand the differences in children's developing brains and the unique circumstances under which many of them come into the juvenile justice system, including trauma experiences in their own home. By developing standards that include training, experience and other qualifications for attorneys to represent minors, New Hampshire will ensure that children's needs are met by appropriately matched representation.

The provisions in this bill were all recommendations in the August 2020 National Juvenile Defender Center's *Assessment of Access to and Quality of Juvenile Defense Counsel in New Hampshire*.⁴

The Office of the Child Advocate urges the Committee to pass SB 143-FN, adopting omnibus legislation relative to certain agency requests.

Thank you very much for taking my testimony. I am unable to attend the hearing but I welcome any questions you may have. I can be reached at 603-271-7773.

³ Owen-Kostelnik, J. & Meyer, J. R., Testimony and Interrogation of Minors: Assumptions about Maturity and Morality, *American Psychologist* 286, 287, May 2006. https://www.researchgate.net/profile/Nicholas_Reppucci/publication/7062342_Testimony_and_Interrogation_of_Minors_Assumptions_About_Maturity_and_Morality/links/0c96052cb0473de0ee000000/Testimony-and-Interrogation-of-Minors-Assumptions-About-Maturity-and-Morality.pdf?origin=publication_detail

⁴ *Undervalued: An Assessment of Access to and Quality of Juvenile Defense Counsel in New Hampshire*, National Juvenile Defender Center, 76-77, Aug. 19, 2020. <https://njdc.info/wp-content/uploads/NewHampshire-Assessment-Web.pdf>

Senate Bill 143-FN, LSR 0943

Wednesday, February 17, 2021

**THE DEPARTMENT OF MILITARY AFFAIRS AND
VETERANS SERVICES**

Members of the Committee; Good afternoon and thank you for the opportunity to speak with you today on SB 143-FN, LSR 0943, specifically Section XII, LSR 1066 reference the NH National Guard Enlistment Incentive Program.

ANALYSIS: This bill repeals the National Guard Scholarship and replaces it with the New Hampshire National Guard (NHNG) Enlistment Incentive Program. This program seeks to motivate Soldiers, Airmen and NHNG retirees to support the New Hampshire National Guard recruitment efforts by using their non-duty hours to recruit new members into the force. It will provide a \$500.00 cash incentive 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 refer to the New Hampshire National Guard who successfully enlists with the organization.

ACCESSING NEW RECRUITS INTO THE NH NATIONAL GUARD: The biggest strategic challenge of an all-volunteer force is filling our formations of the new generation of service members into the New Hampshire National Guard. Today, the NH Army National Guard is the smallest of any state National Guard in the nation per capita of its population. Every year, we must access over 350-soldiers and airmen into both the Army and Air National Guard. When only 29% of today's youth is eligible for military service, the ability to recruit becomes ever more challenging. The military has become a referral business and any incentive to entice our current or retired Service Members to find eligible friends to serve in our formations is needed. We cannot grow our force if we cannot fill our current formations.

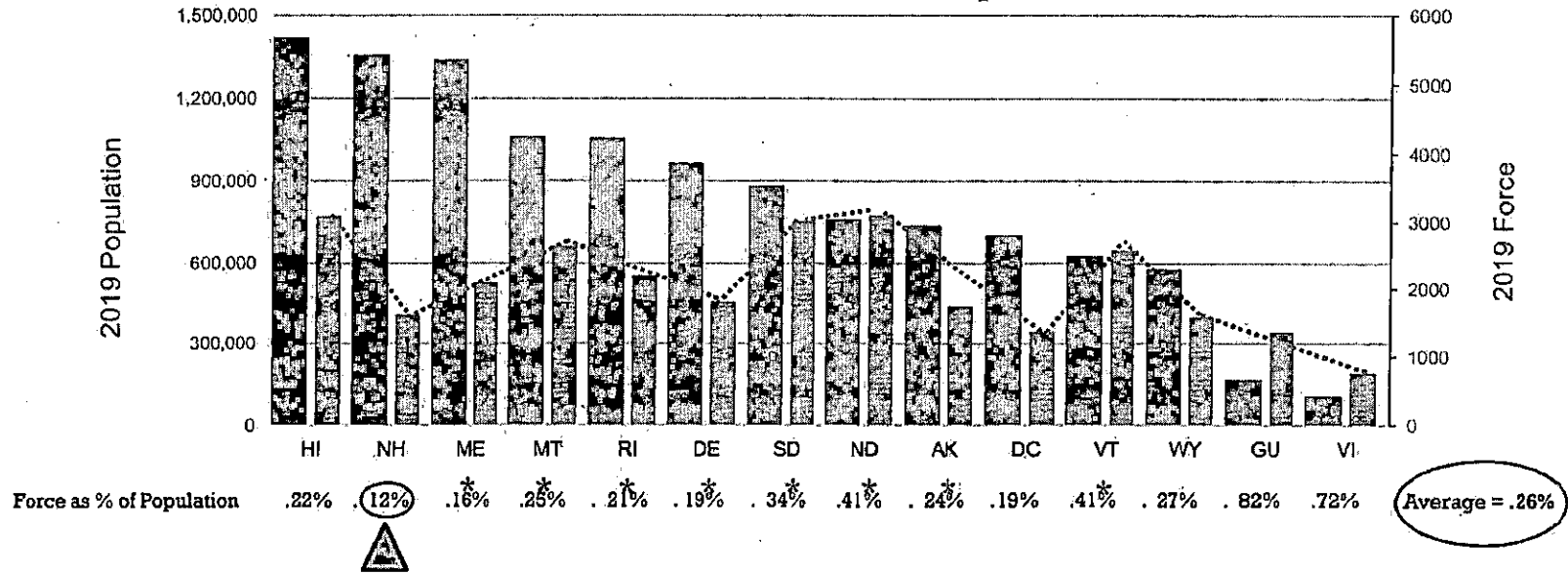
SUMMARY: Our Service men & women continue to answer our Nation's call, both at home and abroad. At home, we have supported the citizens of New Hampshire during localized weather events, numerous search and rescue missions in the White Mountains, COVID-19 pandemic and civil disturbance operations. We continue to support our State's COVID-19 pandemic response efforts and currently have almost 800-soldiers and airmen activated performing duties such as COVID testing, contact mapping and PPE warehouse and distribution operations, as well as operating the state's fixed vaccination sites. Overseas, we continue to deploy around the globe. In closing, I would like to thank you for your continued support of our men and women in uniform. My staff and I are available to answer any questions or provide clarification.



Adjutant General's Key Takeaways (NH is a growth State)

NHARNG FSA is disproportionately small compared to like-sized states.

States/Territories with 2019 Population <1.5 million

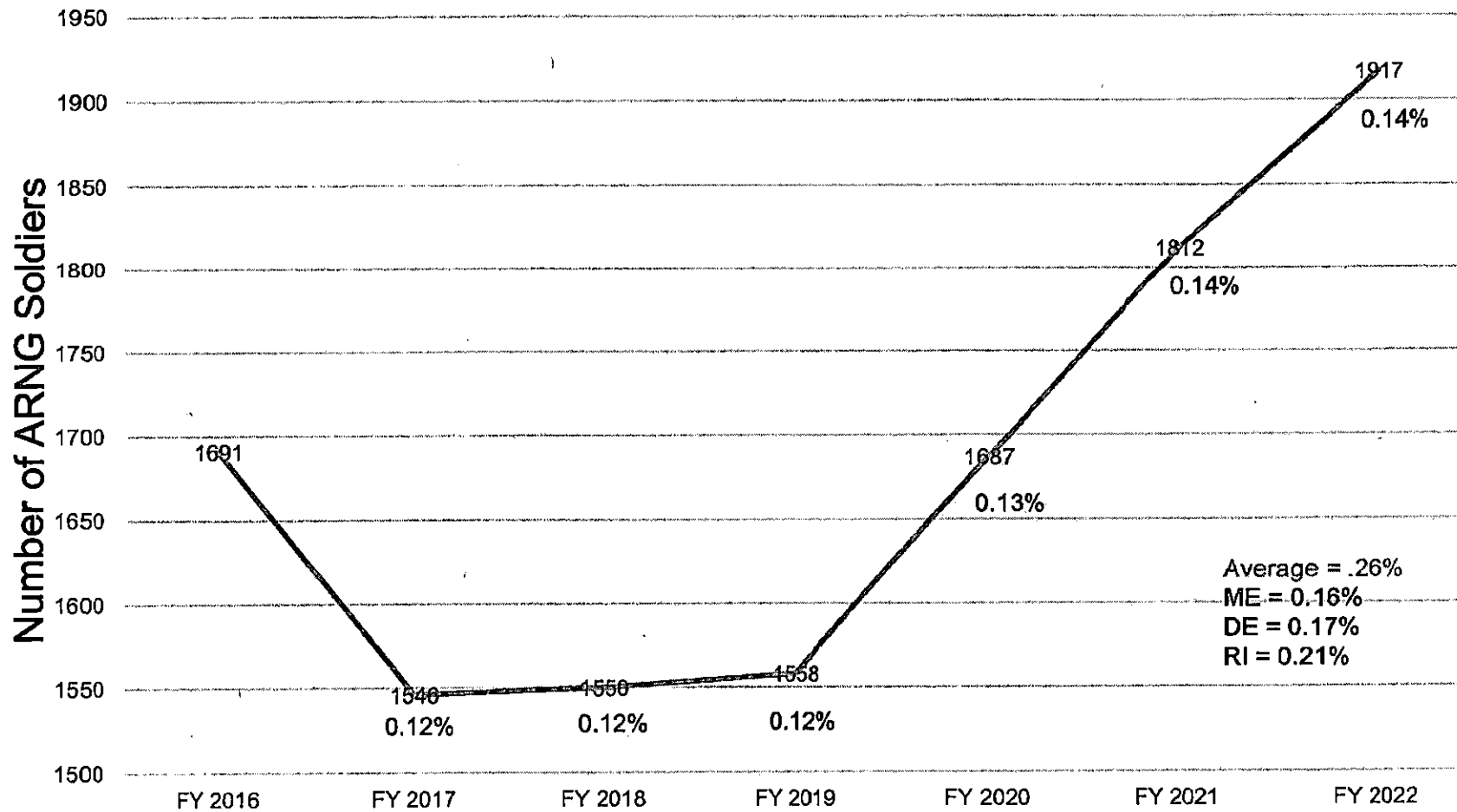


There are 8 states (*) with a smaller population than NH but with a larger NG force structure.

NHARNG has the smallest force as a percent of its state population (.12%) of any like-sized state.



Size of the NH Army National Guard



****Note**** FY 2021 & FY 2022 projected Force Structure, pending MOA approval by NGB.

Voting Sheets

o

**Senate Executive Departments and
Administration Committee
EXECUTIVE SESSION RECORD
2021 Session**

1

Bill # SB 143-FN

Hearing date: 2-17-21

Executive Session date: 3-10-21

Motion of: Amendment 0596s Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Amendment 0520s Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reported out by: _____

Notes: CON'T

**Senate Executive Departments and
Administration Committee**
EXECUTIVE SESSION RECORD 2

2021 Session

CON'T

Bill # <u>SB 143-FN</u>

Hearing date: 2-17-21

Executive Session date: 3-10-21

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Carson

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, March 10, 2021

THE COMMITTEE ON Executive Departments and Administration

to which was referred SB 143-FN

AN ACT

adopting omnibus legislation relative to certain
agency requests.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0776s

Senator Sharon Carson
For the Committee

This bill adopts legislation relative to the appointment of counsel for a minor in a juvenile delinquency proceeding, the recovery of unauthorized payments by the State, as requested by the Department of Health and Human Services, alternative dispute resolution, allowing judicial referees to issue orders in non-contested probate matters, permitting a Supreme Court Justice to sit as a Circuit Court judge, payment of costs for services other than counsel for indigent parties, requiring a penalty assessment on violations, cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions, emergency medical and trauma services data, the appeal of a claim denied by the victims' assistance commission, insurance company licenses, and the New Hampshire National Guard enlistment incentive program. All of the provisions of SB 143-FN were requests by State Agencies or Departments. The Committee Amendment makes two technical changes requested by the Department of Health and Human Services and the Department of Information Technology to better achieve the goals of their parts of this omnibus bill.

Cameron Lapine 271-2104

FOR THE CONSENT CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 143-FN, adopting omnibus legislation relative to certain agency requests.

Ought to Pass with Amendment, Vote 5-0.

Senator Sharon Carson for the committee.

This bill adopts legislation relative to the appointment of counsel for a minor in a juvenile delinquency proceeding, the recovery of unauthorized payments by the State, as requested by the Department of Health and Human Services, alternative dispute resolution, allowing judicial referees to issue orders in non-contested probate matters, permitting a Supreme Court Justice to sit as a Circuit Court judge, payment of costs for services other than counsel for indigent parties, requiring a penalty assessment on violations, cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions, emergency medical and trauma services data, the appeal of a claim denied by the victims' assistance commission, insurance company licenses, and the New Hampshire National Guard enlistment incentive program. All of the provisions of SB 143-FN were requests by State Agencies or Departments. The Committee Amendment makes two technical changes requested by the Department of Health and Human Services and the Department of Information Technology to better achieve the goals of their parts of this omnibus bill.

General Court of New Hampshire - Bill Status System

Docket of SB143

Docket Abbreviations

Bill Title: adopting omnibus legislation relative to certain agency requests.*Official Docket of SB143.:*

Date	Body	Description
2/5/2021	S	Introduced 02/04/2021 and Referred to Executive Departments and Administration; SJ 4
2/11/2021	S	Remote Hearing: 02/17/2021, 09:45 am; Links to join the hearing can be found in the Senate Calendar; SC 11
3/10/2021	S	Committee Report: Ought to Pass with Amendment #2021-0776s , 03/18/2021; Vote 5-0; CC; SC 15
3/18/2021	S	Committee Amendment #2021-0776s , RC 23Y-1N, AA; 03/18/2021; SJ 8
3/18/2021	S	Ought to Pass with Amendment 2021-0776s, RC 23Y-1N, MA; OT3rdg; 03/18/2021; SJ 8
3/31/2021	H	Introduced (in recess of) 02/25/2021 and referred to Judiciary HJ 4 P. 50
4/13/2021	H	Public Hearing: 04/20/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/92977620223 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
4/20/2021	H	Executive Session: 05/04/2021 01:00 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95312058132
5/24/2021	H	Committee Report: Ought to Pass with Amendment #2021-1431h (Vote 21-0; CC) HC 26 P. 9
6/3/2021	H	Amendment #2021-1431h : AA VV 06/03/2021
6/3/2021	H	Ought to Pass with Amendment 2021-1431h: MA VV 06/03/2021
6/10/2021	S	Sen. Carson Moved Nonconcur with the House Amendment; Requests C of C, MA, VV; 06/10/2021; SJ 19
6/10/2021	S	President Appoints: Senators Carson, Reagan, Cavanaugh; 06/10/2021; SJ 19
6/10/2021	H	House Accedes to Senate Request for CofC (Rep. Gordon): MA VV 06/10/2021
6/10/2021	H	Speaker Appoints: Reps. Gordon, Rice, Alexander Jr., M. Smith 06/10/2021
6/11/2021	S	Conferee Change; Senator Prentiss Replaces Senator Cavanaugh; SJ 20
6/11/2021	S	Committee of Conference Meeting: 06/14/2021, 10:30 a.m., Room 100, SH
6/11/2021	S	Conferee Change; Senator Cavanaugh Replaces Senator Prentiss; SJ 20
6/17/2021	H	Conference Committee Report #2021-1958c Filed 06/10/2021; New Amendment
6/24/2021	H	Conference Committee Report 2021-1958c: Adopted, VV 06/24/2021
6/24/2021	S	Conference Committee Report #2021-1958c , Adopted, VV; 06/24/2021; SJ 20
7/15/2021	H	Enrolled Bill Amendment #2021-2069eba : AA VV (in recess of) [&] HJ 11
7/16/2021	S	Enrolled Bill Amendment #2021-2069e Adopted, VV, (In recess of

06/24/2021); **SJ 20**

NH House

NH Senate

Other Referrals

1 Committee of Conference Report on SB 143-FN, adopting omnibus legislation relative to certain
2 agency requests.

3

4 Recommendation:

5

6 That the Senate recede from its position of nonconcurrence with the House amendment, and
7 concur with the House amendment, and

8

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

11

12 Amend Part V of the bill by replacing section 3 with the following:

13

14 3 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused
15 Children. RSA 604-A:1-a is repealed and reenacted to read as follows:

16 604-A:1-a Neglected or Abused Children. In cases involving a neglected or abused child, when a
17 guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such
18 appointment shall be paid from funds appropriated for indigent defense pursuant to this chapter. In
19 cases involving a neglected or abused child, when an expressed interest attorney is appointed for the
20 child as provided in RSA 169-C:10, the cost of such appointment shall be paid from funds
21 appropriated for indigent defense in this chapter. In cases involving a neglected or abused child,
22 when an attorney is appointed to represent a parent determined to be indigent pursuant to RSA 169-
23 C:10, II, at the preliminary hearing or a hearing pursuant to RSA 169-C:6-a, III, whichever occurs
24 earlier, the cost of such appointment, including counsel and investigative, expert, or other services
25 and expenses, shall be paid from funds appropriated for indigent defense pursuant to this chapter.
26 Counsel shall petition the court for investigative, expert, or other services necessary to provide
27 adequate representation. If the court finds that such services are necessary and that the parent is
28 financially unable to obtain them, the court shall authorize counsel to obtain the necessary services
29 on behalf of the parent. Services authorized under this section shall be in addition to payment for
30 expenses provided under RSA 169-C or RSA 170-C.

31

32 Amend the bill by deleting Part VIII.

Committee of Conference Report on SB 143-FN
- Page 2 -

The signatures below attest to the authenticity of this Report on SB 143-FN, adopting omnibus legislation relative to certain agency requests.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Carson, Dist. 14

Rep. Gordon, Graf. 9

Sen. Reagan, Dist. 17

Rep. Rice, Hills. 37

Sen. Cavanaugh, Dist. 16

Rep. Alexander Jr., Hills. 6

Rep. M. Smith, Straf. 6

2021-1958-CofC

AMENDED ANALYSIS

This bill adopts legislation relative to:

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

July 12, 2021
2021-2069-EBA
08/11

Enrolled Bill Amendment to SB 143-FN

The Committee on Enrolled Bills to which was referred SB 143-FN

AN ACT adopting omnibus legislation relative to certain agency requests.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 143-FN

This enrolled bill amendment corrects a formatting error.

Enrolled Bill Amendment to SB 143-FN

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

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

170-C:13 Fees and Court Costs.

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

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

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

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

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

Senate Inventory Checklist for Archives

Bill Number: SB 143 - FN

Senate Committee: ED-A

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):

201 - amendment # 0520s 201 - amendment # 0776s
201 - amendment # 0596s _____ - amendment # _____

- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

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

_____ - amendment # _____ _____ - amendment # _____
_____ - amendment # _____ _____ - amendment # _____

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

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference): 1956
- Enrolled Bill Amendment(s) 2069
- 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:

Cameron M. Jopline
Committee Aide

7/19/21
Date

Senate Clerk's Office AK