

LEGISLATIVE COMMITTEE MINUTES

**SB40**

# Bill as Introduced

SB 40 - AS INTRODUCED

2021 SESSION

21-0581  
04/08

SENATE BILL

**40**

AN ACT

relative to informed consent to search a motor vehicle.

SPONSORS:

Sen. French, Dist 7; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Reagan, Dist 17; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Ward, Dist 8

COMMITTEE:

Judiciary

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ANALYSIS

This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator.

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Explanation:

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

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

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

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

AN ACT                   relative to informed consent to search a motor vehicle.

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

1           1 New Section; Search Warrants; Informed Consent Exception for Motor Vehicles. Amend RSA  
2 595-A by inserting after section 9 the following new section:

3           595-A:10 Informed Consent Exception for Motor Vehicles.

4           I. A law enforcement officer may legally conduct a search of a motor vehicle without a  
5 warrant under this chapter if the law enforcement officer expressly informs the operator of the motor  
6 vehicle that:

7                   (a) The operator has the right to refuse to consent to a search;

8                   (b) Any refusal to consent to a search shall not constitute a basis either for probable  
9 cause to arrest the operator or reasonable suspicion to detain the operator;

10                  (c) The operator cannot be charged with any crime or violation for refusing to consent to  
11 a search; and

12                  (d) The operator cannot be further detained for refusing to consent to a search.

13           II. If the operator of a motor vehicle refuses to consent to a search, the law enforcement  
14 officer shall cease any further questioning concerning consent to a search.

15           III. A law enforcement officer shall document any consent to search either by the signature  
16 of the motor vehicle operator on a consent-to-search form providing notice of the provisions of  
17 paragraphs I and II at the time of the consent, or by means of a video and sound recording of the  
18 consent at the time of the consent. Such form or video and sound recording shall be retained until  
19 any criminal charge resulting from the consent to search is fully resolved.

20           IV. Any act of a law enforcement officer which violates a provision of this section shall result  
21 in the inadmissibility in any criminal proceeding of any evidence of obtained by the law enforcement  
22 officer.

23           2 Effective Date. This act shall take effect 60 days after its passage.

SB 40 - AS AMENDED BY THE SENATE

03/18/2021 0757s

2021 SESSION

21-0581

04/08

SENATE BILL **40**

AN ACT relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant.

SPONSORS: Sen. French, Dist 7; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Reagan, Dist 17; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Ward, Dist 8

COMMITTEE: Judiciary

---

AMENDED ANALYSIS

This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator. The bill also amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants.

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6 vehicle that:

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8 (b) Any refusal to consent to a search shall not constitute a basis either for probable  
9 cause to arrest the operator or reasonable suspicion to detain the operator;

10 (c) The operator cannot be charged with any crime or violation for refusing to consent to  
11 a search; and

12 (d) The operator cannot be further detained for refusing to consent to a search.

13 II. If the operator of a motor vehicle refuses to consent to a search, the law enforcement  
14 officer shall cease any further questioning concerning consent to a search.

15 III. A law enforcement officer shall document any consent to search either by the signature  
16 of the motor vehicle operator on a consent-to-search form providing notice of the provisions of  
17 paragraphs I and II at the time of the consent, or by means of a video and sound recording of the  
18 consent at the time of the consent. Such form or video and sound recording shall be retained until  
19 any criminal charge resulting from the consent to search is fully resolved.

20 IV. Any act of a law enforcement officer which violates a provision of this section shall result  
21 in the inadmissibility in any criminal proceeding of any evidence of obtained by the law enforcement  
22 officer.

23 2 Search Warrants; Form of Warrant; Written Statement Under Oath. Amend RSA 595-A:3 and  
24 595-A:4 to read as follows:

25 595-A:3 Form of Warrant. The warrant shall be in substantially the following form:

26 The State of New Hampshire

27 (County), ss. (Name) Court.

28 To the Sheriffs of our several counties, or their deputies, any State Police Officer, or any Constable  
29 or Police Officer of any city or town, within our said State.

1 Proof by [~~affidavit~~] **written statement under oath** (supplemented by oral statements under oath)  
2 having been made this day before (name of person authorized to issue warrant) by (names of person  
3 or persons whose [~~affidavits~~] **written statements under oath** have been taken) that there is  
4 probable cause for believing that (certain property has been stolen, embezzled, or fraudulently  
5 obtained; certain property is intended for use or has been used as the means of committing a crime;  
6 contraband; evidence of the crime to which the probable cause upon which the search warrant is  
7 issued relates.)

8 We therefore command you in the daytime (or at any time of the day or night) to make an immediate  
9 search of (identify premises) (occupied by A.B.) and (of the person of A.B.) and of any person present  
10 who may be found to have such property in his possession or under his control or to whom such  
11 property may have been delivered, for the following property:

12 (description of property)

13 and if you find any such property or any part thereof to bring it and the persons in whose possession  
14 it is found before (name of court and location).

15 Dated at (city or town) this ..... day of ....., 20.....

16 595-A:4 [~~Affidavit~~] **Written Statement Under Oath** in Support of Application for Warrant;  
17 Contents and Form.

18 A person seeking a search warrant shall appear [~~personally~~] before a court or justice authorized to  
19 issue search warrants in criminal cases and shall give [~~an affidavit~~] **a written statement under**  
20 **oath** in substantially the form hereinafter prescribed. Such [~~affidavit~~] **written statement under**  
21 **oath** shall contain facts, information, and circumstances upon which such person relies to establish  
22 probable cause for the issuance of the warrant and such [~~affidavit~~] **written statement under oath**  
23 may be supplemented by oral statements under oath for the establishment of probable cause. The  
24 person issuing the warrant shall retain the [~~affidavit~~] **written statement under oath** and shall  
25 make notes, personally, of the substance, or arrange for a transcript, of any oral statements under  
26 oath supplementing the [~~affidavit~~] **written statement under oath**. The person issuing the search  
27 warrant shall deliver the [~~affidavit~~] **written statement under oath** and the notes or transcript  
28 within 3 days after the issuance of the warrant to the court to which the warrant is returnable.  
29 Upon the return of said warrant, the [~~affidavit~~] **written statement under oath** and the notes or  
30 transcript shall be attached to it and shall be filed therewith, and they shall be a public document  
31 when the warrant is returned, unless otherwise ordered by a court of record.

32 The [~~affidavit~~] **written statement under oath** in support of the application for a search warrant  
33 shall be in substantially the following form:

34 The State of New Hampshire

35 (County), ss. (Name) Court.

36 ....., 20.....

37 I, (name of applicant) being duly sworn, depose and say:

SB 40 - AS AMENDED BY THE SENATE

- Page 3 -

- 1 1. I am (describe position, assignment, office, etc.).
- 2 2. I have information, based upon (describe source, facts indicating reliability of source and nature
- 3 of information; if based on personal knowledge, so state).
- 4 3. Based upon the foregoing reliable information (and upon my personal knowledge) there is
- 5 probable cause to believe that the property hereinafter described (has been stolen, etc.) and may be
- 6 found (in the possession of A.B. or any other person) at premises (identify).
- 7 4. The property for which I seek the issuance of a search warrant is the following: (here describe the
- 8 property as particularly as possible).

9 Wherefore, I request that the court issue a warrant and order of seizure, authorizing the search of  
 10 (identify premises and the persons to be searched) and directing that if such property or evidence or  
 11 any part thereof be found that it be seized and brought before the court; together with such other  
 12 and further relief that the court may deem proper.

.....

Name

15 ~~{Then personally appeared the above named ..... and made oath that the foregoing affidavit by~~  
 16 ~~him subscribed is true.~~

17 ~~Before me this ..... day of ....., 20.....]~~

Return

19 I received the attached search warrant on ....., 20....., and have executed it as follows:  
 20 On ....., 20....., at ..... o'clock ... M, I searched (the person) (the premises) described in the  
 21 warrant and I left a copy of the warrant with (name of person searched or owner) at (the place of  
 22 search) together with a receipt for the items seized.

23 The following is an inventory of property taken pursuant to the warrant:

24 This inventory was made in the presence of ..... and .....

25 I swear that this inventory is a true and detailed account of all the property taken by me on the  
 26 warrant .....

27 ~~{Subscribed and sworn to and returned before me this ..... day of ....., 20.....]~~

.....

[Justice of the Court] Name

30 **Signed under penalty of perjury, the penalty for which may include a fine or imprisonment**  
 31 **or both.**

32 3 Effective Date. This act shall take effect 60 days after its passage.



SB 40 - AS AMENDED BY THE HOUSE

03/18/2021 0757s

3Jun2021... 1357h

2021 SESSION

21-0581

04/08

SENATE BILL **40**

AN ACT relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant.

SPONSORS: Sen. French, Dist 7; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Reagan, Dist 17; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Ward, Dist 8

COMMITTEE: Judiciary

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AMENDED ANALYSIS

This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator. The bill also amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants.

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SB 40 - AS AMENDED BY THE HOUSE

03/18/2021 0757s  
3Jun2021... 1357h

21-0581  
04/08

STATE OF NEW HAMPSHIRE

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1 1 New Section; Search Warrants; Informed Consent Exception for Motor Vehicles. Amend RSA  
2 595-A by inserting after section 9 the following new section:

3 595-A:10 Informed Consent Exception for Motor Vehicles.

4 I. A law enforcement officer may legally conduct a search of a motor vehicle without a  
5 warrant under this chapter if the law enforcement officer expressly informs the operator of the motor  
6 vehicle that:

7 (a) The operator has the right to refuse to consent to a search;

8 (b) Any refusal to consent to a search shall not constitute a basis either for probable  
9 cause to arrest the operator or reasonable suspicion to detain the operator;

10 (c) The operator cannot be charged with any crime or violation for refusing to consent to  
11 a search; and

12 (d) The operator cannot be further detained solely for refusing to consent to a search.

13 II. If the operator of a motor vehicle refuses to consent to a search, the law enforcement  
14 officer shall cease any further questioning concerning consent to a search.

15 III. A law enforcement officer shall document any consent to search either by the signature  
16 of the motor vehicle operator on a consent-to-search form providing notice of the provisions of  
17 paragraphs I and II at the time of the consent, or by means of a video and sound recording of the  
18 consent at the time of the consent. Such form or video and sound recording shall be retained until  
19 any criminal charge resulting from the consent to search is fully resolved.

20 IV. Any act of a law enforcement officer which violates a provision of this section shall result  
21 in the inadmissibility in any criminal proceeding of any evidence of obtained by the law enforcement  
22 officer.

23 2 Search Warrants; Form of Warrant; Written Statement Under Oath. Amend RSA 595-A:3 and  
24 595-A:4 to read as follows:

25 595-A:3 Form of Warrant. The warrant shall be in substantially the following form:

26 The State of New Hampshire

27 (County), ss. (Name) Court.

28 To the Sheriffs of our several counties, or their deputies, any State Police Officer, or any Constable  
29 or Police Officer of any city or town, within our said State.

1 Proof by [~~affidavit~~] **written statement under oath** (supplemented by oral statements under oath)  
2 having been made this day before (name of person authorized to issue warrant) by (names of person  
3 or persons whose [~~affidavits~~] **written statements under oath** have been taken) that there is  
4 probable cause for believing that (certain property has been stolen, embezzled, or fraudulently  
5 obtained; certain property is intended for use or has been used as the means of committing a crime;  
6 contraband; evidence of the crime to which the probable cause upon which the search warrant is  
7 issued relates.)

8 We therefore command you in the daytime (or at any time of the day or night) to make an immediate  
9 search of (identify premises) (occupied by A.B.) and (of the person of A.B.) and of any person present  
10 who may be found to have such property in his possession or under his control or to whom such  
11 property may have been delivered, for the following property:

12 (description of property)

13 and if you find any such property or any part thereof to bring it and the persons in whose possession  
14 it is found before (name of court and location).

15 Dated at (city or town) this ..... day of ....., 20.....

16 595-A:4 [~~Affidavit~~] **Written Statement Under Oath** in Support of Application for Warrant;  
17 Contents and Form.

18 A person seeking a search warrant shall appear [~~personally~~] before a court or justice authorized to  
19 issue search warrants in criminal cases and shall give [~~an affidavit~~] **a written statement under**  
20 **oath** in substantially the form hereinafter prescribed. Such [~~affidavit~~] **written statement under**  
21 **oath** shall contain facts, information, and circumstances upon which such person relies to establish  
22 probable cause for the issuance of the warrant and such [~~affidavit~~] **written statement under oath**  
23 may be supplemented by oral statements under oath for the establishment of probable cause. The  
24 person issuing the warrant shall retain the [~~affidavit~~] **written statement under oath** and shall  
25 make notes, personally, of the substance, or arrange for a transcript, of any oral statements under  
26 oath supplementing the [~~affidavit~~] **written statement under oath**. The person issuing the search  
27 warrant shall deliver the [~~affidavit~~] **written statement under oath** and the notes or transcript  
28 within 3 days after the issuance of the warrant to the court to which the warrant is returnable.  
29 Upon the return of said warrant, the [~~affidavit~~] **written statement under oath** and the notes or  
30 transcript shall be attached to it and shall be filed therewith, and they shall be a public document  
31 when the warrant is returned, unless otherwise ordered by a court of record.

32 The [~~affidavit~~] **written statement under oath** in support of the application for a search warrant  
33 shall be in substantially the following form:

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**SB 40 - AS AMENDED BY THE HOUSE**  
**- Page 3 -**

- 1 1. I am (describe position, assignment, office, etc.).  
2 2. I have information, based upon (describe source, facts indicating reliability of source and nature  
3 of information; if based on personal knowledge, so state).  
4 3. Based upon the foregoing reliable information (and upon my personal knowledge) there is  
5 probable cause to believe that the property hereinafter described (has been stolen, etc.) and may be,  
6 found (in the possession of A.B. or any other person) at premises (identify).  
7 4. The property for which I seek the issuance of a search warrant is the following: (here describe the  
8 property as particularly as possible).

9 Wherefore, I request that the court issue a warrant and order of seizure, authorizing the search of  
10 (identify premises and the persons to be searched) and directing that if such property or evidence or  
11 any part thereof be found that it be seized and brought before the court; together with such other  
12 and further relief that the court may deem proper.

13 .....

14 Name

15 ~~Then personally appeared the above named ..... and made oath that the foregoing affidavit by~~  
16 ~~him subscribed is true.~~

17 ~~Before me this ..... day of ....., 20.....]~~

18 Return

19 I received the attached search warrant on ....., 20....., and have executed it as follows:

20 On ....., 20....., at ..... o'clock ... M, I searched (the person) (the premises) described in the  
21 warrant and I left a copy of the warrant with (name of person searched or owner) at (the place of  
22 search) together with a receipt for the items seized.

23 The following is an inventory of property taken pursuant to the warrant:

24 This inventory was made in the presence of ..... and .....

25 I swear that this inventory is a true and detailed account of all the property taken by me on the  
26 warrant .....

27 ~~[Subscribed and sworn to and returned before me this ..... day of ....., 20.....]~~

28 .....

29 [Justice of the Court] Name

30 **Signed under penalty of perjury, the penalty for which may include a fine or imprisonment**  
31 **or both.**

32 3 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 196  
SB 40 - FINAL VERSION

03/18/2021 0757s  
06/24/2021 1985CofC  
06/24/2021 2077EBA

2021 SESSION

21-0581  
04/08

SENATE BILL **40**

AN ACT relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant.

SPONSORS: Sen. French, Dist 7; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Reagan, Dist 17; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Ward, Dist 8

COMMITTEE: Judiciary

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AMENDED ANALYSIS

This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator. The bill also amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants and requires that any person on the grounds of a department of corrections facility shall be subject to search.

.....

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CHAPTER 196  
SB 40 - FINAL VERSION

03/18/2021 0757s  
06/24/2021 1985CofC  
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21-0581  
04/08

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2 RSA 595-A by inserting after section 9 the following new section:

3 595-A:10 Informed Consent Exception for Motor Vehicles.

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5 warrant under this chapter if the law enforcement officer expressly informs the operator of the motor  
6 vehicle that:

7 (a) The operator has the right to refuse to consent to a search;

8 (b) Any refusal to consent to a search shall not constitute a basis either for probable  
9 cause to arrest the operator or reasonable suspicion to detain the operator;

10 (c) The operator cannot be charged with any crime or violation for refusing to consent to  
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12 (d) The operator cannot be further detained for refusing to consent to a search.

13 II. If the operator of a motor vehicle refuses to consent to a search, the law enforcement  
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17 paragraphs I and II at the time of the consent, or by means of a video and sound recording of the  
18 consent at the time of the consent. Such form or video and sound recording shall be retained until  
19 any criminal charge resulting from the consent to search is fully resolved.

20 IV. Any act of a law enforcement officer which violates a provision of this section shall result  
21 in the inadmissibility in any criminal proceeding of any evidence of obtained by the law enforcement  
22 officer.

23 V. This section shall not preclude searches incident to arrest; searches allowed under the  
24 United States Constitution for officer safety; searches on any grounds, lands, or parking areas of any  
25 state or county correctional facility or transitional housing unit operated by the department of  
26 corrections; or inventory searches of lawfully-seized property, including but not limited to vehicles  
27 towed in conjunction with the arrest of the operator.

28 VI. Any person on prison grounds or in a department of corrections facility, regardless of

CHAPTER 196  
SB 40 - FINAL VERSION  
- Page 2 -

1 whether such person is a resident, visitor, staff, or anyone identified in some other category, shall be  
2 subject to search without warning of their vehicle, possessions, and person pursuant to  
3 administrative rule Cor 306.

4 196:2 Search Warrants; Form of Warrant; Written Statement Under Oath. Amend RSA 595-A:3  
5 and 595-A:4 to read as follows:

6 595-A:3 Form of Warrant. The warrant shall be in substantially the following form:

7 The State of New Hampshire

8 (County), ss. (Name) Court.

9 To the Sheriffs of our several counties, or their deputies, any State Police Officer, or any Constable  
10 or Police Officer of any city or town, within our said State.

11 Proof by [~~affidavit~~] **written statement under oath** (supplemented by oral statements under oath)  
12 having been made this day before (name of person authorized to issue warrant) by (names of person  
13 or persons whose [~~affidavits~~] **written statements under oath** have been taken) that there is  
14 probable cause for believing that (certain property has been stolen, embezzled, or fraudulently  
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21 property may have been delivered, for the following property:

22 (description of property)

23 and if you find any such property or any part thereof to bring it and the persons in whose possession  
24 it is found before (name of court and location).

25 Dated at (city or town) this ..... day of ....., 20.....

26 595-A:4 [~~Affidavit~~] **Written Statement Under Oath** in Support of Application for Warrant;  
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28 A person seeking a search warrant shall appear [~~personally~~] before a court or justice authorized to  
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31 **oath** shall contain facts, information, and circumstances upon which such person relies to establish  
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35 make notes, personally, of the substance, or arrange for a transcript, of any oral statements under  
36 oath supplementing the [~~affidavit~~] **written statement under oath**. The person issuing the search  
37 warrant shall deliver the [~~affidavit~~] **written statement under oath** and the notes or transcript

CHAPTER 196  
SB 40 - FINAL VERSION  
- Page 3 -

1 within 3 days after the issuance of the warrant to the court to which the warrant is returnable.  
2 Upon the return of said warrant, the ~~[affidavit]~~ *written statement under oath* and the notes or  
3 transcript shall be attached to it and shall be filed therewith, and they shall be a public document  
4 when the warrant is returned, unless otherwise ordered by a court of record.

5 The ~~[affidavit]~~ *written statement under oath* in support of the application for a search warrant  
6 shall be in substantially the following form:

7 The State of New Hampshire

8 (County), ss. (Name) Court.

9 ....., 20.....

10 I, (name of applicant) being duly sworn, depose and say:

- 11 1. I am (describe position, assignment, office, etc.).  
12 2. I have information, based upon (describe source, facts indicating reliability of source and nature  
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15 probable cause to believe that the property hereinafter described (has been stolen, etc.) and may be  
16 found (in the possession of A.B. or any other person) at premises (identify).  
17 4. The property for which I seek the issuance of a search warrant is the following: (here describe the  
18 property as particularly as possible).

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20 (identify premises and the persons to be searched) and directing that if such property or evidence or  
21 any part thereof be found that it be seized and brought before the court; together with such other  
22 and further relief that the court may deem proper.

23 .....

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34 This inventory was made in the presence of ..... and .....

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36 warrant .....

37 ~~[Subscribed and sworn to and returned before me this ..... day of ....., 20.....]~~



CHAPTER 196  
SB 40 - FINAL VERSION  
- Page 4 -

1  
2  
3  
4

.....

[Justice of the Court]      *Name*

*Signed under penalty of perjury, the penalty for which may include a fine or imprisonment  
or both.*

196:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 10, 2021  
Effective Date: October 09, 2021

# Amendments

Sen. French, Dist 7  
February 16, 2021  
2021-0393s  
04/08

Amendment to SB 40

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to informed consent to search a motor vehicle and amending the  
4 statutory requirements for a search warrant.  
5

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

7

8 2 Search Warrants; Form of Warrant; Written Statement Under Oath. Amend RSA 595-A:3 and  
9 595-A:4 to read as follows:

10 595-A:3 Form of Warrant. The warrant shall be in substantially the following form:

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13 To the Sheriffs of our several counties, or their deputies, any State Police Officer, or any Constable  
14 or Police Officer of any city or town, within our said State.

15 Proof by [~~affidavit~~] **written statement under oath** (supplemented by oral statements under oath)  
16 having been made this day before (name of person authorized to issue warrant) by (names of person  
17 or persons whose [~~affidavits~~] **written statements under oath** have been taken) that there is  
18 probable cause for believing that (certain property has been stolen, embezzled, or fraudulently  
19 obtained; certain property is intended for use or has been used as the means of committing a crime;  
20 contraband; evidence of the crime to which the probable cause upon which the search warrant is  
21 issued relates.)

22 We therefore command you in the daytime (or at any time of the day or night) to make an immediate  
23 search of (identify premises) (occupied by A.B.) and (of the person of A.B.) and of any person present  
24 who may be found to have such property in his possession or under his control or to whom such  
25 property may have been delivered, for the following property:

26

(description of property)

27 and if you find any such property or any part thereof to bring it and the persons in whose possession  
28 it is found before (name of court and location).

29 Dated at (city or town) this ..... day of ....., 20.....

30

595-A:4 [~~Affidavit~~] **Written Statement Under Oath** in Support of Application for Warrant;

31

Contents and Form.

Amendment to SB 40

- Page 2 -

1 A person seeking a search warrant shall appear ~~[personally]~~ before a court or justice authorized to  
2 issue search warrants in criminal cases and shall give ~~[an affidavit]~~ **a written statement under**  
3 **oath** in substantially the form hereinafter prescribed. Such ~~[affidavit]~~ **written statement under**  
4 **oath** shall contain facts, information, and circumstances upon which such person relies to establish  
5 probable cause for the issuance of the warrant and such ~~[affidavit]~~ **written statement under oath**  
6 may be supplemented by oral statements under oath for the establishment of probable cause. The  
7 person issuing the warrant shall retain the ~~[affidavit]~~ **written statement under oath** and shall  
8 make notes, personally, of the substance, or arrange for a transcript, of any oral statements under  
9 oath supplementing the ~~[affidavit]~~ **written statement under oath**. The person issuing the search  
10 warrant shall deliver the ~~[affidavit]~~ **written statement under oath** and the notes or transcript  
11 within 3 days after the issuance of the warrant to the court to which the warrant is returnable.  
12 Upon the return of said warrant, the ~~[affidavit]~~ **written statement under oath** and the notes or  
13 transcript shall be attached to it and shall be filed therewith, and they shall be a public document  
14 when the warrant is returned, unless otherwise ordered by a court of record.

15 The ~~[affidavit]~~ **written statement under oath** in support of the application for a search warrant  
16 shall be in substantially the following form:

17 The State of New Hampshire

18 (County), ss. (Name) Court.

19 ....., 20.....

20 I, (name of applicant) being duly sworn, depose and say:

21 1. I am (describe position, assignment, office, etc.).

22 2. I have information, based upon (describe source, facts indicating reliability of source and nature  
23 of information; if based on personal knowledge, so state).

24 3. Based upon the foregoing reliable information (and upon my personal knowledge) there is  
25 probable cause to believe that the property hereinafter described (has been stolen, etc.) and may be  
26 found (in the possession of A.B. or any other person) at premises (identify).

27 4. The property for which I seek the issuance of a search warrant is the following: (here describe the  
28 property as particularly as possible).

29 Wherefore, I request that the court issue a warrant and order of seizure, authorizing the search of  
30 (identify premises and the persons to be searched) and directing that if such property or evidence or  
31 any part thereof be found that it be seized and brought before the court; together with such other  
32 and further relief that the court may deem proper.

33 .....

34 Name

35 ~~[Then personally appeared the above named ..... and made oath that the foregoing affidavit by~~  
36 ~~him subscribed is true.~~

37 ~~Before me this ..... day of ....., 20.....]~~

Amendment to SB 40

- Page 3 -

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Return

I received the attached search warrant on ....., 20..., and have executed it as follows:

On ....., 20..., at ..... o'clock ... M, I searched (the person) (the premises) described in the warrant and I left a copy of the warrant with (name of person searched or owner) at (the place of search) together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

This inventory was made in the presence of ..... and .....

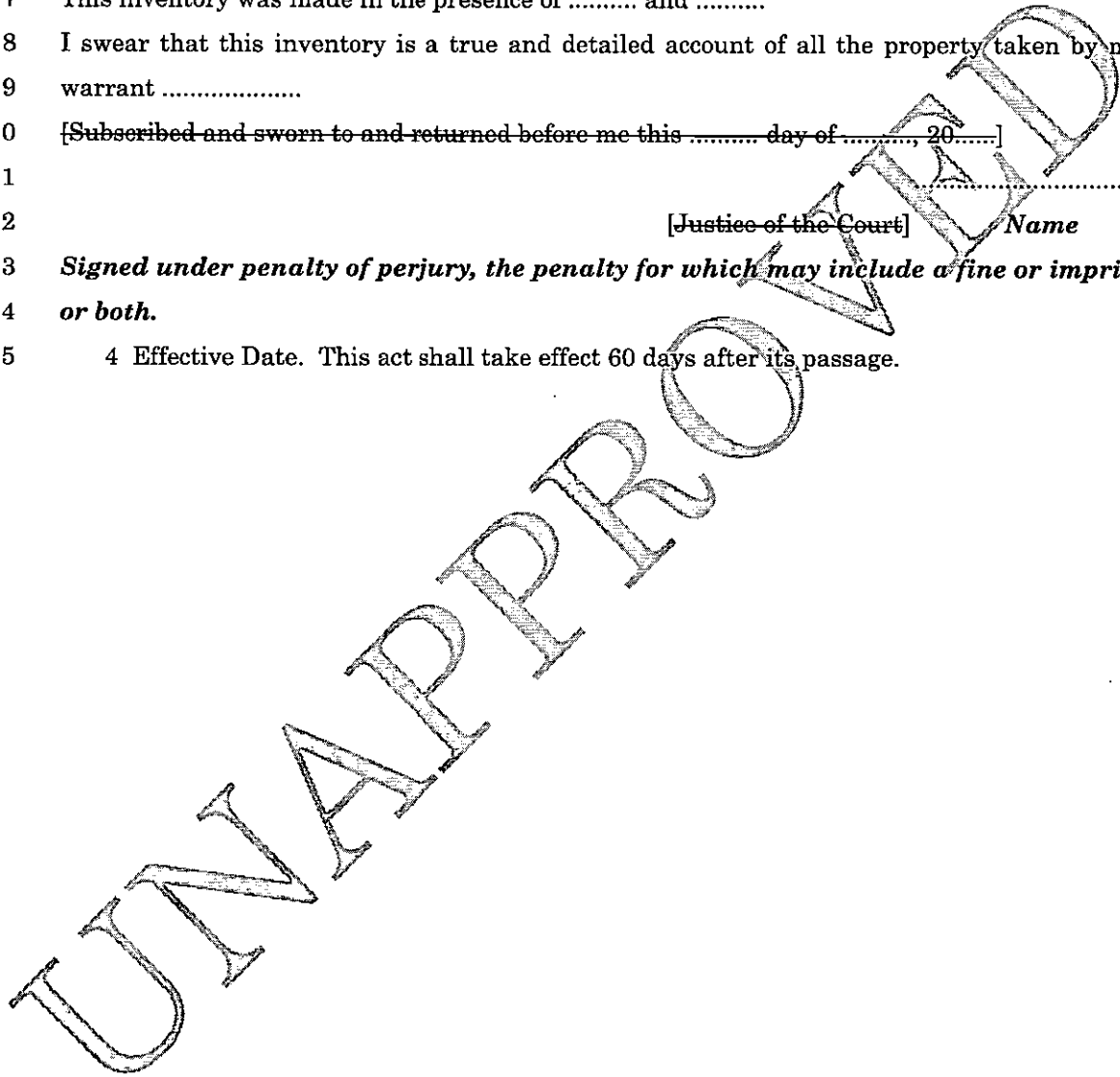
I swear that this inventory is a true and detailed account of all the property taken by me on the warrant .....

~~Subscribed and sworn to and returned before me this ..... day of ....., 20....]~~

[Justice of the Court] Name

**Signed under penalty of perjury, the penalty for which may include a fine or imprisonment or both.**

4 Effective Date. This act shall take effect 60 days after its passage.



2021-0393s

AMENDED ANALYSIS

This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator. The bill also amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants.

UNAPPROVED

Senate Judiciary  
March 10, 2021  
2021-0757s  
04/08

Amendment to SB 40

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to informed consent to search a motor vehicle and amending the  
4 statutory requirements for a search warrant.  
5

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

7

8 2 Search Warrants; Form of Warrant; Written Statement Under Oath. Amend RSA 595-A:3 and  
9 595-A:4 to read as follows:

10 595-A:3 Form of Warrant. The warrant shall be in substantially the following form:

11

The State of New Hampshire

12 (County), ss. (Name) Court.

13 To the Sheriffs of our several counties, or their deputies, any State Police Officer, or any Constable  
14 or Police Officer of any city or town, within our said State.

15 Proof by [~~affidavit~~] **written statement under oath** (supplemented by oral statements under oath)  
16 having been made this day before (name of person authorized to issue warrant) by (names of person  
17 or persons whose [~~affidavits~~] **written statements under oath** have been taken) that there is  
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19 obtained; certain property is intended for use or has been used as the means of committing a crime;  
20 contraband; evidence of the crime to which the probable cause upon which the search warrant is  
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23 search of (identify premises) (occupied by A.B.) and (of the person of A.B.) and of any person present  
24 who may be found to have such property in his possession or under his control or to whom such  
25 property may have been delivered, for the following property:

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(description of property)

27 and if you find any such property or any part thereof to bring it and the persons in whose possession  
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29 Dated at (city or town) this ..... day of ....., 20.....

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Amendment to SB 40

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14 when the warrant is returned, unless otherwise ordered by a court of record.

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16 shall be in substantially the following form:

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The State of New Hampshire

18 (County), ss. (Name) Court.

19 ....., 20.....

20 I, (name of applicant) being duly sworn, depose and say:

- 21 1. I am (describe position, assignment, office, etc.).
- 22 2. I have information, based upon (describe source, facts indicating reliability of source and nature  
23 of information; if based on personal knowledge, so state).
- 24 3. Based upon the foregoing reliable information (and upon my personal knowledge) there is  
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30 (identify premises and the persons to be searched) and directing that if such property or evidence or  
31 any part thereof be found that it be seized and brought before the court; together with such other  
32 and further relief that the court may deem proper.

33

.....

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Name

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36 ~~him subscribed is true.~~

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Amendment to SB 40

- Page 3 -

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The following is an inventory of property taken pursuant to the warrant:

This inventory was made in the presence of ..... and .....

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant .....

~~[Subscribed and sworn to and returned before me this ..... day of ....., 20.....]~~

.....

[Justice of the Court]                      *Name*

***Signed under penalty of perjury, the penalty for which may include a fine or imprisonment or both.***

3 Effective Date. This act shall take effect 60 days after its passage.

**Amendment to SB 40**

**- Page 4 -**

2021-0757s

**AMENDED ANALYSIS**

This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator. The bill also amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants.

# Committee Minutes

**AMENDED  
SENATE CALENDAR NOTICE  
Judiciary**

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

Date: January 13, 2021

**HEARINGS**

Tuesday	01/19/2021	
(Day)	(Date)	
Judiciary	REMOTE	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m. <b>SB 40</b>	relative to informed consent to search a motor vehicle.	
1:15 p.m. <b>SB 41</b>	relative to police disciplinary hearings.	
1:30 p.m. <b>SB 39</b>	exempting information and records contained in law enforcement personnel files from disclosure under the right-to-know law.	
1:45 p.m. <b>CACR 12</b>	relating to the retirement age for judges. Providing that the mandatory retirement age for judges is repealed.	

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/95984454365>
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,,95984454365# or +16465588656,,95984454365#
4. Webinar ID: 959 8445 4365
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](mailto:remotesenate@leg.state.nh.us) or call (603-271-6931).

**EXECUTIVE SESSION MAY FOLLOW**

**Sponsors:**

**SB 40**

Sen. French

Sen. Avard

Sen. Gannon

Sen. Reagan

Sen. Rosenwald

**SB 41**

Sen. French

**SB 39**

Sen. Carson

**CACR 12**

Sen. D'Allesandro

Sen. Soucy

Sen. D'Allesandro

Sen. Reagan

Sen. Prentiss

Sen. Sherman

Sen. Ward

Sen. Kahn

Sen. Cavanaugh

Jennifer Horgan 271-7875

Sharon M Carson  
Chairman

# Senate Judiciary Committee

*Jennifer Horgan 271-7875*

SB 40, relative to informed consent to search a motor vehicle.

**Hearing Date:** January 19, 2021

**Time Opened:** 1:04 p.m.

**Time Closed:** 2:04 p.m.

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

**Members of the Committee Absent :** None

**Bill Analysis:** This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator.

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**Sponsors:**

Sen. French

Sen. Avard

Sen. Gannon

Sen. Reagan

Sen. Rosenwald

Sen. D'Allesandro

Sen. Ward

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**Who supports the bill:** Senator Ward; Senator French; Senator Reagan; Senator Rosenwald; Senator Avard; Senator Gannon; Rep Tony Labranche; Rep. Andrew Bouldin; Albert Scherr; Melissa Davis, NH Association of Criminal Defense Lawyers; Alex Rhodes; Josie Pinto; Alvin See; Elliot Axelman; Hayden Smith; Holly Beene; Asma Elhuni, Rights and Democracy NH; Penny Dean; Jennifer Punsalang-Cloutier; Catherine Corkery; Katherine Cooper, NH Association of Criminal Defense Lawyers; Wanda Duryea; Rhys Lossman; Elijah Parsons; Linds Jakows; Elizabeth D'Amours; Makena Kimball; Sandra M; Joseph Lascaze, American Civil Liberties Union;

**Who opposes the bill:** David Goldstein, NH Assn. of Chiefs of Police; Mark Morrison, NHPA; Trent Larrabee; Kristen Millett

**Who is neutral on the bill:** Marc Beaudoin, NH Troopers Association; Joseph Ebert, State Police

**Summary of testimony presented in support:**

**Senator French**

- This bill is to codify what is already state law.
- Section 1 states: A law enforcement officer may legally conduct a search of a motor vehicle without a warrant under this chapter if the law enforcement officer expressly informs the operator of the motor vehicle.

- The bill codifies that any refusal to consent to a search shall not constitute a basis either for probable cause to arrest the operator or reasonable suspicion to detain the operator; that the operator cannot be charged with any crime or violation for refusing to consent to a search; and that the operator cannot be further detained for refusing to consent to a search.
- This is already part of the law, as an individual has the right to refuse to consent to a warrantless search.
- Feels that often when people are stopped and asked to allow to have their vehicle searched, they do not realize that they have the right to refuse if there is no warrant.
- This bill is just to ensure that people are informed of their rights in these situations.
- Senator Kahn asked if this deviates at all from the NH Law Enforcement Accountability Commission's (LEACT) recommendations.
  - Does not know why it would. This is strictly to inform people of their rights.
- Senator Kahn asked if this was a part of the LEACT Commission's recommendations.
  - No.
- Senator Whitley asked if this creates any new rights.
  - This codifies what is already the law. The only thing this changes is that an individual must be informed of their rights should a search be requested by an officer.
- Senator Carson asked about the language regarding the operator not being further detained and whether that is existing law.
  - Would assume that as existing. Doesn't see any laws we currently have that would allow someone to be detained for refusing to consent to a search, which is a constitutional right.
- Senator Carson raised the concern that if someone is suspected of criminal activity and they say no to a search, then would the police just have to let them go under this law. Questioned about working on allowing officers to detain individuals for a certain time period so that they can obtain a warrant.
  - Thinks that would be a possibility. Knows of constituents who have been stopped, detained for a great period of time, and then finally released without the officer searching the car because the never consented. We do not want fishing expeditions or for people to feel like they have to allow these searches.
- Senator Carson asked if it would appropriate to require an officer to have some kind of probable cause to detain someone for a small period of time.
  - Can understand that.
- Senator Kahn raised the potential of an emergency situation where an officer can be given a certain privilege, like if someone was experiencing a seizure there may be a benefit for an officer to search a vehicle to inform medical procedures.

- Thinks that would be a possibility that could be addressed.
- Senator Whitley asked if this requirement only applies to situations where there is no probable cause.
  - Correct.

**Joseph Lascaze (ACLU) (submitted written testimony)**

- This bill does not create a new right, it only informs individuals of a pre-existing right that many people are not aware of.
- Shared his personal experience of being pulled over by law enforcement.
- As a person of color, he and many people of color who have had negative interactions with law enforcement, can experience terror not knowing how that situation is going to end.
- For people of color in this state there is a power dynamic with officers where they often feel that they have to comply with every request that is being made.
- If there is probable cause, officers are able under the law to expand the scope of their stops.
- This bill would remove that intimidation or fear factor for individuals who feel like they need to just do exactly what they are told.
- People in the community have stated that being able to be informed of their rights during these situations will help them make better, more informed decisions rather than making a decision from a position of intimidation or fear.
- Senator Carson asked if he believes having individuals sign a form saying they have been informed of these rights and whether they are consenting or refusing a search would be appropriate. Therefore, there would be a record for both parties.
  - Anything that shows a record of what an individual was thinking at the time of their interaction would be beneficial. Thinks that would help. Can't speak for every community member on that, but for the ones he has spoken to, being informed of this right is important, as it is not something they necessarily even knew existed.
  - Senator French stated that the form requirement is in Section 3 of the bill.
- Senator Carson asked if he would prefer the creation of this form be done statutorily or through JLCAR.
  - Senator French answered he is fine either way, but probably would prefer JLCAR.

**Albert Scherr (submitted written testimony)**

- Currently is a professor of law and practiced as a public defender for 13 years before that.
- What happens is, when someone is stopped for a reason other than to search their car, like speeding, and at some point, the officer takes a shot and asks if the person will consent to have their car searched.



- At that point, if the officer has probable cause of something illegal in the car, one, they will then have probable cause for a search warrant and two, they will have probable cause to arrest that person.
- This enables officers to detain a person while they get a search warrant.
- Perhaps Section D can be improved but believes that is the state of the law in this area.
- If there is an emergency, then an officer will have probable cause to try to help resolve the emergency under the Exigent Circumstances Doctrine/Community Caretaking Doctrine.
- There are other states that do this where their supreme courts have found that individuals must be informed of their right to refuse: Arkansas, Mississippi, Washington, New Jersey, and Hawaii.
- Colorado also has a statute that captures a version of this bill.
- There are a number of municipalities across the country that has some form of this as well, including Wentworth, NH.
- Wentworth has a consent to search form, which virtually every police department already has that includes the right to refuse a search.
- There was a NH Supreme Court case in 2006 involving the Bureau of Highway Patrol Enforcement. The case involved an officer who was informing the person of their right to refuse.
- The Attorney General's Law Enforcement Manual effectively recommends this as good idea.
- This protects police officers from being accused of forcing someone to consent.
- This bill simply involves rewriting this form that all police departments have and including the language in paragraph 1.
- Senator Kahn asked if including the Exigent Circumstances Doctrine/Community Caretaking Doctrine in this statute would be of value.
  - Tends to be a minimalist when it comes to statutes. The Community Caretaking Doctrine allows the police to act more expeditiously if there is an emergency unfolding. Therefore, this is existing whether it is in this statute or not. The Exigent Circumstances Doctrine does essentially the same thing. Is not opposed to helping the Committee to work on language that would more clearly state that.
- Senator Whitley asked that because this is already included in the Attorney General's Law Enforcement Manual than this bill would not be particularly burdensome for officers.
  - Does not think it would be burdensome at all. It is simply a matter of changing forms. Either the state creates one to be used by every police department or each department creates their own. This form would essentially just say what someone's rights are.
- Senator Carson asked about the Supreme Court decision he referenced.
  - Would be happy to provide that to the Committee, but that decision doesn't deal with this issue directly. In the description of what happened

in the case it states it that the bureau officer informed the person that they have a right refuse to consent to search, later the individual did consent.

**Melissa Davis** (NH Association of Criminal Defense Lawyers) (submitted written testimony)

- When individuals are pulled over, they begin to be questioned by officers and it can turn to questions that have nothing to do with the reason they were stopped.
- At this point the driver begins to feel that the officer believes the driver has done something wrong more than a traffic violation and they feel like they must do everything the officer asks.
- There is a higher level of fear for individuals of color when they are pulled over.
- Some people begin to feel in these situations that waiving constitutional rights are necessary and not a choice.
- When people refuse, they can be repeatedly interrogated by police, in the police's effort to obtain verbal consent to search.
- Even if these individuals are told that have the right to refuse, they are not often told that that decision cannot be used against them.
- In her experience the majority of people sign the form waiving those rights after being advised of those rights; it is then a knowing decision rather than one coerced based off of intimidation or fear.
- If a person consents, then absent any coercive efforts by police, then any evidence found can be used against the driver.
- Senator Gannon asked without a video of an interaction, how can someone know if the inherent coercion exists or not.
  - Thinks that is where the language saying it will not be held against you is important in that form, just as it is in the Miranda form. Obviously, greater circumstances are covered by body cameras, but we have for a long time relied simply on a signature on the Miranda form.

**Representative Leah Cushman**

- In medicine and health care we make sure patients have full informed consent of what their rights are so that we can be sure that they are respected.
- This bill ensures individual's rights are respected during their interactions with police.

**Asma Elhuni** (Rights and Democracy)

- It is imperative to pass commonsense bills.
- Most people in NH aren't aware of their rights.
- It is vital to send a message that abuse of any kind by law enforcement will not be tolerated.
- Statistics show that police are searching vehicles from people of color at a much higher rate than others.
- People have a right to push back against this.
- Her son, who is a Black man, experienced this.

- She was stopped for turning right on a red light and the officer asked where she was going and why was she out late at night. To be questioned like this is scary for people.
- Senator Whitley asked if this bill is part of larger effort to dismantle systemic racism in our country.
  - Absolutely. Has some reluctance about having people sign a document under this. There are immigrants in the state who do not speak English and advises them not to sign anything for their protection. Making sure police are following procedures and having an interpreter present during interactions is important.

### **Penny Dean**

- In between Captain Ebert's words is the problem and why we need this bill.
- Captain Ebert says that they just want to be able to ask questions, that is called interrogation.
- We don't teach social studies and basic civic rights in our schools anymore.
- It is crucial that people are informed of their rights.
- Saying this 'closes down' an avenue for further discussion is risible.
- Police want to be able to question people on the side of the road.
- Police don't just give people the Miranda waiver information, they also use a lot of scare tactics like telling the person that if they sign it then have to get an attorney and the police can no longer help them.
- This will give a few people the opportunity to save themselves and not be further harassed.
- There is still going to be coercion by a great number of police without body cams.
- This will give the public, the poor, and the uneducated the opportunity to have a chance at a fair trial.

### **Summary of testimony presented in opposition:**

#### **Chief David Goldstein (NH Association of Chiefs of Police)**

- Does not necessarily take an oppositional position on the bill, just some language changes.
- Under Section (d) would suggest adding "detained solely for refusing".
- Have been functioning under these rules already for decades and does not know of a police department that does not have a consent form.
- There is the court system available if officers do something that is considered incorrect or appealable.
- Did a quick online search and found 30 decisions alone that address these issues. So, this is nothing new to the court system.
- Senator Kahn asked if he would want a statewide form that would go through JLCAR.
  - Would be amenable to that. The Attorney General's Law Enforcement Manual has made these suggestions and we have put them on paper. If there was a unified form, certain they would accept that.

## **Neutral Information Presented:**

### **Captain Joseph Ebert (State Police)**

- Currently taking no position but thinks there is a good chance they could get to a position of support.
- Is concerned about having Section (d) spelled out a little more clearly.
- If an officer is seeking a search warrant, especially of a person, there would be the necessity to detain that person.
- Section II states that “If the operator of a motor vehicle refuses to consent to a search, the law enforcement officer shall cease any further questioning concerning consent to a search.”
- Is concerned that that closes down an avenue of discussion the driver may have.
- During these encounters after someone is advised of their rights and the individual says ‘no’, he would inform then inform them that he was going to seize their vehicle and apply for a search warrant. Often times the individual would then say they are okay with the vehicle being searched, even though he explained that saying he as seizing the vehicle was not meant to be coercive.
- This seems to restrict the ability of that conversation from taking place for the driver.
- Senator Whitley stated the language in Section II references ‘questioning’ not any conversation about the situation where the driver may have questions or if the officer has more information they want to provide.
  - It is very hard to engage in a conversation when at no point you can ask a question. Understands that the language still allows a driver to converse with the officer, but it becomes a very one-sided conversation if you are not able to ask any questions in return. If that is a protection that is being sought, State Police is not going to staunchly oppose that.

### **Marc Beaudoin (NH Troopers Association)**

- The Troopers do have a consent to search form that they use when asking to search a vehicle.
- Section (c) states “The operator cannot be charged with any crime or violation for refusing to consent to a search”.
- Reads that to mean an individual cannot be charged for refusing, however they can still be charged for the underlying offense of why the driver was stopped.
- Shares Capt. Ebert’s concerns on Section (d).
- A lot of times when attempting to get search warrant an officer will seize the vehicle but immediately let the person go, unless the officer is concerned about something being on the driver’s person; that is a different issue than consent to search a motor vehicle.

jch

Date Hearing Report completed: January 22, 2021

# Speakers

**Judiciary Committee Testify List for Bill SB40 on 2021-01-19**

**Support: 29 Oppose: 4 Neutral: 2 Total to Testify: 11**

<b>Name</b>	<b>Title</b>	<b>Representing</b>	<b>Position</b>	<b>Testifying</b>	<b>Signed Up</b>
Scherr Albert	A Member of the Public	Myself	Support	Yes	1/18/2021 15:29
Davis Melissa	A Member of the Public	NH Association of Criminal Defense Lawyers	Support	Yes	1/18/2021 19:12
Axelman Elliot	A Member of the Public	Myself	Support	Yes	1/19/2021 12:30
Ebert Joseph	State Agency Staff	State Police	Neutral	Yes	1/19/2021 12:33
French Senator Harold	An Elected Official	Myself	Support	Yes	1/14/2021 7:45
Goldstein David	A Member of the Public	NH Assn. of Chiefs of Police	Oppose	Yes	1/19/2021 12:00
Beaudoin Marc	A Member of the Public	NH Troopers Association	Neutral	Yes	1/19/2021 12:07
Elhuni Asm	A Lobbyist	Rights and Democracy NH	Support	Yes	1/19/2021 12:56
Dean Penny	A Member of the Public	Myself	Support	Yes	1/19/2021 13:00
Morrison Mark	A Member of the Public	NHPA	Oppose	Yes	1/19/2021 13:03
Larrabee Trent	A Member of the Public	Myself	Oppose	No	1/19/2021 13:17
Punsalang-Cloutier Jennifer	A Member of the Public	Myself	Support	No	1/19/2021 13:27
Corkery Catherine	A Member of the Public	Myself	Support	No	1/19/2021 13:36
Cooper Katherine	A Lobbyist	NH Association of Criminal Defense Lawyers	Support	No	1/19/2021 13:38
Duryea Wanda	A Member of the Public	Myself	Support	No	1/19/2021 13:47
Lossman Rhys	A Member of the Public	Myself	Support	No	1/19/2021 14:05
Bouldin Andrew	An Elected Official	Hillsborough 12	Support	No	1/19/2021 14:27
Parsons Elijah	A Member of the Public	Myself	Support	No	1/19/2021 14:29
Jakows Linds	A Member of the Public	Myself	Support	No	1/19/2021 14:38
D&#39;Amours Elizabeth	A Member of the Public	Myself	Support	No	1/19/2021 15:02
Kimball Makena	A Member of the Public	Myself	Support	No	1/19/2021 15:29
Millett Kristen	A Member of the Public	Myself	Oppose	No	1/19/2021 16:39
See Alvin	A Member of the Public	Myself	Support	No	1/19/2021 12:08
Labranche Rep Tony	An Elected Official	Myself	Support	No	1/19/2021 22:30
Beene Holly	A Member of the Public	Myself	Support	No	1/19/2021 12:56
Reagan Senator John	An Elected Official	Myself	Support	No	1/14/2021 7:48
Rosenwald Cindy	An Elected Official	SD 13	Support	No	1/14/2021 10:38
Smith Hayden	A Member of the Public	Myself	Support	No	1/19/2021 12:39
M Sandra	A Member of the Public	Myself	Support	No	1/19/2021 18:17
Ward Senator Ruth	An Elected Official	Senate District 6	Support	No	1/14/2021 7:35
Rhodes Alex	A Member of the Public	Myself	Support	No	1/19/2021 8:52

Avard Senator Kevin	An Elected Official	SD #12	Support	No	1/19/2021 10:04
Gannon Senator Bill	An Elected Official	SD #23	Support	No	1/19/2021 10:07
Pinto Josie	A Member of the Public	Myself	Support	No	1/19/2021 11:36
Lascaze Joseph	A Lobbyist	American Civil Liberties Union	Support	Yes	1/15/2021 11:36

# Testimony



## Jennifer Horgan

---

**From:** Leah Cushman <leah4nh@gmail.com>  
**Sent:** Tuesday, January 19, 2021 1:49 PM  
**To:** Jennifer Horgan; Becky Whitley; William Gannon; Sharon Carson; Harold French; Jay Kahn  
**Subject:** following up on SB 40

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello,

I gave testimony today in favor of SB 40. Please add my information and testimony to the record.

Sincerely,

Representative Leah Cushman, RN BSN  
Weare, NH  
03281

Representing myself.

(603) 851 7890

# New Hampshire Association of Criminal Defense Lawyers

January 19, 2021

To: Senate Judicial Committee  
From: Melissa Lynn Davis, Board Member  
RE: SB 40

Dear Committee Members,

My name is Melissa Davis and I am here to testify on behalf the Board of Directors for the New Hampshire Association of Criminal Defense Lawyers in support of SB 40. I have practiced criminal law in New Hampshire for over 15 years, first as a public defender and now as Director of the Criminal Practice Clinic and UNH Franklin Pierce School of Law. I make this statement in my individual capacity and as Board Member for NHACDL. The opinions I am expressing are solely mine and are not those of either UNH Franklin Pierce School of Law or of the University of New Hampshire."

I am in support of SB 40 as it allows citizens the time and information necessary to make the important decision of whether or not to waive their constitutional right to require a warrant for searches of their cars after being stopped by police.

As described to me many times over my career by individuals who have been stopped by police and asked for consent to search their vehicle, here is the general situation this bill aims to address. An person is pulled over by a police officer for a motor vehicle offense. Usually something like speeding or failure to use a turn signal. The officer approaches the vehicle and asks maybe one or two questions relevant to the reason why he stopped the vehicle. Questions such as, "do you know why I pulled you over?" and "can I have your license and registration?"

However, questioning by the police officer soon turns to other topics totally irrelevant to the reason for the vehicle being stopped. "Where are you coming from?" "Where are you headed?" "What have you been doing this evening?" It's at this point where a driver, who is already feeling the normal human reactions of fear and nervousness at being pulled over by a police officer, begins to feel as though this officer already believes that they have done something wrong. Something more than not using their turn signal or speeding.

It's at this moment, that the driver begins to feel like they have to do everything the officer asks them, or they will be subject to further investigation, further detention, possibly arrest. This feeling has been described to me by clients who have done nothing wrong, by friends, even by other attorneys. I have felt it myself. But, my feelings in that moment do not compare to those of people of color who are stopped at disproportionately

higher rates in this State, and for whom a police encounter brings an entirely new level of fear and anxiety. For these individuals, appearing cooperative and compliant by consenting to waive constitutional rights may seem necessary and not a choice.

Over and over, I have been told, and even witnessed through recorded body cameras, how people who initially try to assert their constitutional right to a warrant for a search of their vehicle are repeatedly interrogated by police in their efforts to obtain a verbal consent to search. They are often not informed of their right to refuse, and even when they are, they are not told that their refusal will not be held against them in some way or somehow be used to charge or arrest them.

This bill does not change the law. It does not give anyone more constitutional protections than they already have. This bill requires police to tell people what the law is and that if they choose to exercise their constitutional rights it cannot be used against them.

This should sound familiar. The constitution already requires individuals to be informed of their right to remain silent, their right to an attorney, and their rights not to have those choices used against them. And, I can tell you that in my experience the majority of people sign the form waiving those rights. After being advised of their rights, and told that exercising them will not be used against them, they still choose to do so. It is a knowing decision, rather than one coerced by the very nature of relationship between investigating officer and individual.

The decision drivers are forced to make right now is coercive by its very nature. It occurs on the side of the road between individual and police officer. After a routine traffic stop has turned into a lengthy detention because a police officer has asked to search someone's constitutionally protected private space for whatever contraband this officer thinks he may find. This Bill helps to change the nature of that encounter into one where the individual can make an informed choice. Should they refuse to grant consent, the officer is free to seize the vehicle and seek a warrant. Should they sign the form and agree, then, absent the presence of other coercive tactics, any incriminating evidence can be used against them without argument that their consent was forced. This bill protects both individuals and our society's interest in fair prosecution. As such, I offer my support.



**Statement by Joseph Lascaze, ACLU-NH**  
**Senate Judiciary Committee**  
**Senate Bill 40**  
**January 19, 2021**

I submit this testimony on behalf of the American Civil Liberties Union of New Hampshire (ACLU)—a non-profit organization working to protect civil liberties throughout New Hampshire for over fifty years. I appreciate the opportunity to testify today in support of SB40, which requires law enforcement, when they ask a driver if they can search their car, to inform the driver that they have a right to say “no.” In other words, this bill will ensure that if a driver consents to a search by police, the driver is giving informed consent and is not just doing so out of fear or uncertainty about the law. For the following reasons, I respectfully urge the members of this committee to vote *ought to pass* on SB40.

**This bill requires police to inform drivers of a pre-existing right.** This bill does not create a new right, but rather requires that police inform drivers of an existing right. While drivers are well informed about speed limits, they are likely less knowledgeable about constitutional law. They may not know they can decline a warrant-less search or may believe that if they decline to give consent, they risk being arrested or detained further. This bill plugs this information gap. Under this bill, police who ask if they can search a car without a warrant would also inform the driver that they can decline consent and that doing so will not result in arrest or prolonged detention. This does not pressure the driver one way or the other. It simply informs the driver. Most importantly, this means that when a driver does give consent, they are giving informed consent.

**This bill is particularly relevant for drivers of color, who experience interactions with law enforcement differently than white drivers.** When people interact with law enforcement, there is an undeniable power dynamic at play regardless of the race of the driver. Police officers are armed and have authority and powers that community members do not have. For people of color, this unequal power dynamic is exacerbated by the history of police violence against the Black community. The NH Supreme Court acknowledged that race factors into how a driver experiences an encounter with law enforcement in *State v. Jones*.<sup>1</sup>

I testify today as a Black community member who has been pulled over by law enforcement in this state and has experienced the fear that comes with that encounter and not knowing how it would end. I personally know the fear and uncertainty that can arise from interacting with law enforcement. I know how, in that moment, it’s terrifying to figure out when you are allowed to say “no,” when police ask you a question. As a Black man, one of my biggest fears when it comes to interacting with law enforcement is that my exercising my constitutional right will be

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<sup>1</sup> “Although we reach our conclusion irrespective of the defendant’s race, we observe that race is an appropriate circumstance to consider in conducting the totality of the circumstances seizure analysis.” *State v. Jones* (2017)

interpreted as defiance and resisting law enforcement. What will the officer do if I don't give consent? Will I be arrested? These questions could easily be the reason that I or another driver give consent to a search, rather than a genuine willingness to have my car searched.

This heightened fear makes me even more supportive of this legislation. As I noted before, this legislation does not give me a right that I don't already have, but it will make sure that I know of that right when I decide whether to consent to a search or not. In a fear-driven moment, this bill will ensure that I know or remember my right and am able to take that into consideration when deciding whether to consent.

For these reasons, the ACLU-NH respectfully urges the members of this committee to vote *ought to pass* on SB40.

Testimony

Senate Judiciary Committee

09January2021

SB 40 - Relative to informed consent to search a motor vehicle

Dear Madam Chair and Members of the Committee:

My name is David Goldstein; I am the Police Chief in Franklin, NH, and I have been a police officer for 41 years. This afternoon I am here to testify on SB 40, on behalf of the NH Association of Chiefs of Police.

The Association appreciates sincerely the intent of the bill, but we have concerns about the language as drafted.

First and foremost, we would suggest adding the word, "solely" in para I(d). As you can see, this refers to the issue that, "The operator cannot be further detained [*solely*] for refusing to consent to a search.

There are circumstances in which a law enforcement officer would not be doing their job if they did not detain the operator. If something else is observed, we certainly do not want to shut the door on any further questioning, e.g., illegal drugs in a vehicle, blood dripping from a trunk, etc.

Strike II. "If the operator of a motor vehicle refuses to consent to a search, the law enforcement officer shall cease any further questioning concerning consent to a search".

There is no case law pertaining to this per se. There are protections against law enforcement "pestering" someone into involuntarily allowing a "consent" search. The courts look unfavorably upon such actions and we would expect, at the very least, suppression of any "fruits of the poisonous tree".

It is worth noting we have decades of legal decisions between the state and federal courts about how to resolve situation(s) should evidence be lost or destroyed. We feel it is best left to the discretion of the courts to ensure fairness/due process/etc. This process has worked for many years, and we see no basis for believing that the Courts cannot or do not appropriately resolve these problems.

We ask that you allow us to work with the Committee to amend the bill's language.

Thank you.

**STATEMENT BY ALBERT SCHERR**  
**PROFESSOR OF LAW, UNH FRANKLIN PIERCE SCHOOL OF LAW**  
**SENATE JUDICIARY COMMITTEE**  
**SENATE BILL 40**  
**JANUARY 19, 2021**

I have been on the faculty at UNH Law for over 26 years and, prior to that, I was a public defender in New Hampshire for 13 years. I teach, write and lecture about privacy issues in the criminal justice system. I have been involved in the criminal legal system in New Hampshire for almost 39 years and have worked closely and on a bipartisan basis with many legislators on criminal justice reform issues. I talk regularly with judges, prosecutors and criminal defense lawyers about criminal justice issues in New Hampshire.

I make this statement in my individual capacity, and the opinions I am expressing are solely mine and are not those of either UNH Franklin Pierce School of Law or of the University of New Hampshire. I appreciate the opportunity to testify before this committee and ask you to vote *ought to pass* on SB 40.

SB 40 is common-sense informed consent legislation. It simply requires the police who want to search someone's car without a warrant to inform them that they have a constitutional right to refuse that request. It also requires the officer's notice to the individual of their right to refuse be documented either through a signed form or through a video and/or audio recording.

SB 40 does not create any new rights. It requires only that an officer inform the individual of a right that they already have but of which most people are unaware. It is a low-impact version of a kind of *Miranda* warning. It informs the driver of their choices under existing law. It operates as informed consent that requires an officer to be open with the individual about their choices rather than hiding them and taking advantage of a lack of knowledge or a misunderstanding.

SB 40 captures a procedure that is used in several other states. The supreme courts in Mississippi, Arkansas, Hawaii, New Jersey and Washington have all adopted some version of a requirement that an officer inform someone from whom they seek a consent to search that they have a right to refuse. Colorado has passed a statute capturing a version of that requirement.

A number of cities around the country have also either passed ordinances implementing the requirement or have police departments that do so as a matter of policy. They include Durham, NC; Chattanooga, TN; Louisville, KY; West Memphis, TN; New Orleans, LA; Austin, TX; Fayetteville, NC; Greensboro, NC; Chicago, IL and New York City.

In New Hampshire, Wentworth, NH has notice of the right-to-refuse embedded in their written consent to search form. And, others in NH law enforcement are providing notice of the right to refuse. In *State v. Livingston* (2006), an officer from the New Hampshire Bureau of Highway Patrol Enforcement had stopped a truck for a routine commercial vehicle inspection. He informed the driver that he wanted to search the truck and asked for his consent, telling him that he had a right to refuse, apparently a common practice for the Bureau.

Even more notably, the NH Attorney General's Law Enforcement Manual effectively recommends the practice of notifying someone of their right to refuse. It says:

Police officers are not obligated to inform people that they have a right to refuse consent. However, the New Hampshire Supreme Court has stated that it is good policy to do so and, in some situations, such as a "knock and talk procedure," the Court has considered requiring it as a prerequisite to valid consent. That a person was informed of the right to refuse before giving consent would be an important factor in favor of a finding of voluntariness.<sup>1</sup>

SB 40 helps to protect individuals from making a decision in response to fear or intimidation from law enforcement. It also helps law enforcement by protecting officers and investigations from accusations of overbearing or intimidating conduct in obtaining a consent to search.

Some may say that it will inhibit an officer's ability to do an investigation. The available data contradicts that proposition. A study of Austin, TX's implementation of the notice-of-a-right-to-refuse requirement showed that there was a negligible impact on the number of productive searches and the crime rate did not change. Another study of the two years after Fayetteville, NC implemented the requirement showed that there was no discernable increase in the crime rate. A third study using a hypothetical situation showed that people's willingness to consent to a search of their cellphone did not change when informed of their right to refuse.

SB 40 does not prevent an officer who has probable cause to believe there is something illegal in the car from seizing the car in order to buy time to obtain a search warrant. It only prevents the officer without the requisite justification from asking for consent without informing the person of their right to refuse consent.

SB 40 makes good sense because it relieves drivers of having to make a choice whether to consent to having their car searched without critical information – that they have a constitutional right to refuse to consent. This bill will help ensure that if a driver consents to a search, they are providing informed consent. I encourage the Committee to vote *ought to pass* on SB 40.

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<sup>1</sup> <https://www.doj.nh.gov/criminal/documents/law-enforcement-manual.pdf> at 87 - 88.



# Voting Sheets

**Senate Judiciary Committee**  
**EXECUTIVE SESSION RECORD**  
*2021-2022 Session*

Bill # **SB40**

Hearing date: \_\_\_\_\_

Executive Session date: \_\_\_\_\_

Motion of: **0393** Vote: **5-0**

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

Motion of: **OTPA** Vote: **5-0**

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

Motion of: **Consent** Vote: **5-0**

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

Reported out by: **French**

Notes: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Thursday, March 11, 2021

THE COMMITTEE ON Judiciary

to which was referred SB 40

AN ACT relative to informed consent to search a motor vehicle.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 2021-0757s

Senator Harold French  
For the Committee

As amended, this bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator and amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants. This bill simply codifies what is already state law and ensures that individuals are informed of their rights.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

**JUDICIARY**

**SB 40**, relative to informed consent to search a motor vehicle.

Ought to Pass with Amendment, Vote 5-0.

Senator Harold French for the committee.

As amended, this bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator and amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants. This bill simply codifies what is already state law and ensures that individuals are informed of their rights.

## General Court of New Hampshire - Bill Status System

**Docket of SB40**

Docket Abbreviations

**Bill Title:** (New Title) relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant.

*Official Docket of SB40.:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/12/2021	S	<b>Introduced</b> 01/06/2021 and Referred to Judiciary; <b>SJ 3</b>
1/14/2021	S	Remote <b>Hearing:</b> 01/19/2021, 01:00 pm; Links to join the hearing can be found in the Senate Calendar; <b>SC 7</b>
3/11/2021	S	Committee Report: Ought to Pass with Amendment <b>#2021-0757s</b> , 03/18/2021; Vote 5-0; CC; <b>SC 15</b>
3/18/2021	S	Committee Amendment <b>#2021-0757s</b> , RC 23Y-1N, AA; 03/18/2021; <b>SJ 8</b>
3/18/2021	S	<b>Ought to Pass with Amendment</b> 2021-0757s, RC 23Y-1N, MA; OT3rdg; 03/18/2021; <b>SJ 8</b>
3/31/2021	H	Introduced (in recess of) 02/25/2021 and referred to Criminal Justice and Public Safety <b>HJ 4 P. 50</b>
4/14/2021	H	Public Hearing: 04/21/2021 09:00 am Members of the public may attend using the following link: To join the webinar: <a href="https://www.zoom.us/j/93366148832">https://www.zoom.us/j/93366148832</a> / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/10/2021	H	Executive Session: 05/10/2021 09:00 am Members of the public may attend using the following link: To join the webinar: <a href="https://www.zoom.us/j/97305033264">https://www.zoom.us/j/97305033264</a>
5/27/2021	H	Committee Report: Ought to Pass with Amendment <b>#2021-1357h</b> (Vote 18-3; CC) <b>HC 26 P. 5</b>
6/3/2021	H	Amendment <b>#2021-1357h</b> : AA VV 06/03/2021 <b>HJ 8 P. 5</b>
6/3/2021	H	<b>Ought to Pass with Amendment</b> 2021-1357h: MA VV 06/03/2021 <b>HJ 8 P. 5</b>
6/10/2021	S	Sen. Carson Moved Nonconcur with the House Amendment; Requests C of C, MA, VV; 06/10/2021; <b>SJ 19</b>
6/10/2021	S	President Appoints: Senators Carson, French, Kahn; 06/10/2021; <b>SJ 19</b>
6/10/2021	H	House Accedes to Senate Request for CofC (Rep. Abbas): MA VV 06/10/2021 <b>HJ 10 P. 15</b>
6/10/2021	H	Speaker Appoints: Reps. Abbas, Roy, Wallace, Harriott-Gathright 06/10/2021 <b>HJ 10 P. 15</b>
6/14/2021	H	Conferee Change: Rep. Welch Replaces Rep. Abbas 06/10/2021 <b>HJ 10 P. 22</b>
6/15/2021	S	Committee of Conference Meeting: 06/15/2021, 09:00 am, Room 100, SH
6/17/2021	H	Conference Committee Report <b>#2021-1985c</b> Filed 06/10/2021; As Amended by the Senate
6/24/2021	H	Conference Committee Report 2021-1985c: Adopted, VV 06/24/2021
6/24/2021	S	Conference Committee Report <b>#2021-1985c</b> , Adopted, VV; 06/24/2021; <b>SJ 20</b>

7/20/2021	H	Enrolled Bill Amendment #2021-2077e: AA VV (in recess of) 06/24/2021
7/21/2021	S	Enrolled Bill Amendment #2021-2077e Adopted, VV, (In recess of 06/24/2021); <b>SJ 20</b>
7/28/2021	H	Enrolled (in recess of) 06/24/2021
7/28/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); <b>SJ 20</b>
8/16/2021	S	Signed by the Governor on 08/10/2021; Chapter 0196; Effective 10/09/2021

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NH House

NH Senate

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# Other Referrals



1 Committee of Conference Report on SB 40, relative to informed consent to search a motor vehicle  
2 and amending the statutory requirements for a search warrant.

3

4 Recommendation:

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

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

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

9

10 Amend RSA 595-A:10 as inserted by section 1 of the bill by inserting after paragraph IV the  
11 following new paragraphs:

12

13 V. This section shall not preclude searches incident to arrest; searches allowed under the  
14 United States Constitution for officer safety; searches on any grounds, lands, or parking areas of any  
15 state or county correctional facility or transitional housing unit operated by the department of  
16 corrections; or inventory searches of lawfully-seized property, including but not limited to vehicles  
17 towed in conjunction with the arrest of the operator.

18 VI. Any person on prison grounds or in a department of corrections facility, regardless of  
19 whether such person is a resident, visitor, staff, or anyone identified in some other category, shall be  
20 subject to search without warning of their vehicle, possessions, and person pursuant to Cor 306.

**Committee of Conference Report on SB 40**

**- Page 2 -**

The signatures below attest to the authenticity of this Report on SB 40, relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant.

Conferees on the Part of the Senate

Conferees on the Part of the House

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Sen. Carson, Dist. 14

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Rep. Welch, Rock. 13

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Sen. French, Dist. 7

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Rep. Roy, Rock. 32

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Sen. Kahn, Dist. 10

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Rep. Wallace, Rock. 12

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Rep. Harriott-Gathright, Hills. 36

**Committee of Conference Report on SB 40**  
**- Page 3 -**

2021-1985-CofC

**AMENDED ANALYSIS**

This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator. The bill also amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants and requires that any person on the grounds of a department of corrections facility shall be subject to search.

July 15, 2021  
2021-2077-EBA  
05/10

Enrolled Bill Amendment to SB 40

The Committee on Enrolled Bills to which was referred SB 40

AN ACT                   relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant.

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

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Explanation to Enrolled Bill Amendment to SB 40

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to SB 40

Amend RSA 595-A:10, VI as inserted by section 1 of the bill by replacing line 3 with the following:

subject to search without warning of their vehicle, possessions, and person pursuant to administrative rule Cor 306.

# Senate Inventory Checklist for Archives

Bill Number: SB40

Senate Committee: Jud

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

Final docket found on Bill Status

### Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

### Committee Action Documents: {Legislative Aides}

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

- amendment # 0393s      \_\_\_ - amendment # \_\_\_\_\_
- amendment # 0757s      \_\_\_ - amendment # \_\_\_\_\_
- Executive Session Sheet
- Committee Report

### Floor Action Documents: {Clerk's Office}

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

- \_\_\_ - amendment # \_\_\_\_\_      \_\_\_ - amendment # \_\_\_\_\_
- \_\_\_ - amendment # \_\_\_\_\_      \_\_\_ - amendment # \_\_\_\_\_

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

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s) 2077
- \_\_\_ 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

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8/12/21  
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