

LEGISLATIVE COMMITTEE MINUTES

# **HB1311**

# Bill as Introduced

HB 1311 - AS AMENDED BY THE HOUSE

16Feb2022... 0201h

2022 SESSION

22-2605

10/04

HOUSE BILL **1311**

AN ACT prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials.

SPONSORS: Rep. Mullen, Hills. 7; Rep. Tanner, Sull. 9; Rep. Rombeau, Hills. 7

COMMITTEE: Education

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AMENDED ANALYSIS

This bill adds the prohibition of persons convicted of first degree assault or possession of a controlled drug with the intent to sell from employment in a public school and from being granted a teaching credential.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

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

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

1 1 School Employee and Designated School Volunteer Criminal History Records Check;  
2 Violations Added. Amend RSA 189:13-a, V to read as follows:

3 V. Any person who has been charged pending disposition for or convicted of any violation or  
4 attempted violation of ***RSA 318-B:2 for possession of a controlled drug with the intent to sell;***  
5 RSA 630:1; 630:1-a; 630:1-b; 630:2; ***631:1;*** 632-A:2; 632-A:3; 632-A:4; 633:1; 633:7; 639:2; 639:3;  
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8 state, or under any statute prohibiting the same conduct in another state, territory, or possession of  
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19 2 Credentialing Applicant and Candidate Criminal History Records Check; Violations Added..  
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28 clearance.

29 3 Effective Date. This act shall take effect January 1, 2023.

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**HB 1311 - AS AMENDED BY THE SENATE**

**- Page 2 -**

1        3 Effective Date. This act shall take effect January 1, 2023.

CHAPTER 259  
HB 1311 - FINAL VERSION

16Feb2022... 0201h  
05/05/2022 1834s  
26May2022... 2103EBA

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2 department nor shall candidates be granted clearance.

259:3 Effective Date. This act shall take effect January 1, 2023.

Approved: June 24, 2022  
Effective Date: January 01, 2023

# Amendments

Amendment to HB 1311

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

2

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**Amendment to HB 1311**  
**- Page 2 -**

2022-1834s

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This bill adds the prohibition of persons convicted of first degree assault or possession of a controlled drug with the intent to sell at a felony level within the last 10 years from employment in a public school and from being granted a teaching credential.

# Committee Minutes

**SENATE CALENDAR NOTICE**  
**Education**

Sen Ruth Ward, Chair  
Sen Erin Hennessey, Vice Chair  
Sen Denise Ricciardi, Member  
Sen Jay Kahn, Member  
Sen Suzanne Prentiss, Member

Date: March 8, 2022

**HEARINGS**

Tuesday	03/22/2022
(Day)	(Date)
Education	Legislative Office Building 101 9:00 a.m.
(Name of Committee)	(Place) (Time)
9:00 a.m.	Presentation by the Community College System of New Hampshire
9:30 a.m. <b>HB 1398</b>	establishing a committee to study the feasibility of centralized criminal history records checks in education.
9:45 a.m. <b>HB 1234</b>	relative to criminal background checks for an applicant for a teaching credential.
10:00 a.m. <b>HB 1311</b>	prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials.

**EXECUTIVE SESSION MAY FOLLOW**

**Sponsors:**

**HB 1398**

Rep. McGuire

Rep. Allard

Sen. Reagan

**HB 1234**

Rep. Mullen

Rep. Cornell

Rep. Allard

Rep. Woodcock

**HB 1311**

Rep. Mullen

Rep. Tanner

Rep. Rombeau

Ava Hawkes 271-3266

Ruth Ward  
Chairman

# Senate Education Committee

*Ava Hawkes 271-3266*

**HB 1311**, prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials.

**Hearing Date:** March 22, 2022

**Time Opened:** 10:00 a.m.

**Time Closed:** 10:32 a.m.

**Members of the Committee Present:** Senators Ward, Hennessey, Ricciardi, Kahn and Prentiss

**Members of the Committee Absent :** None

**Bill Analysis:** This bill adds the prohibition of persons convicted of first degree assault or possession of a controlled drug with the intent to sell from employment in a public school and from being granted a teaching credential.

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**Sponsors:**

Rep. Mullen

Rep. Tanner

Rep. Rombeau

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**Who supports the bill:** Representative Sue Mullen, Representative Catherine Rombeau, Brian Hawkins (NEA-NH), Megan Tuttle (NEA-NH), Glenn Brackett (NH AFL-CIO), Pamela Keilig (NH Coalition Against Domestic and Sexual Violence)

**Who opposes the bill:** None

**Who is neutral on the bill:** None

**Summary of testimony presented:**

**Representative Sue Mullen – Hillsborough, District 7**

- Representative Mullen introduced HB 1311.
- This bill seeks to add felony convictions of first-degree assault and possession of a controlled drug with the intent to sell to RSA 189:13-a violations.
- First-degree assault is not a school yard fight. This is when someone knowingly and willingly intends to cause significant harm to an individual.
- The drug violation conviction is not a 17-year-old with a joint in the glove compartment. It is when they have a drug, intend to sell the drug and they've been found guilty.
- This would prevent someone from being credentialed to teach in NH.



- Senator Ward thanked Representative Mullen for bringing this bill forward.
- Senator Kahn asked Representative Mullen what the sentence is for intent to sell.
  - She is not familiar with the sentence, but someone in the room could probably answer that question.
- Senator Kahn asked Representative Mullen if she believes that there are drug related charges from the past, that society looks at differently today, that may not necessitate as harsh of a punishment. People can reform, this does not recognize that.
  - Representative Mullen said she does recognize that. She supports rehabilitation efforts and re-entry programs. Behaviors have consequences.
  - This is not just about possession, but the intent for sale to another individual.

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- This should exclude those folks from being employed as teachers.
- Senator Kahn asked Representative Mullen if this bill would impact other personnel, not just teachers seeking credentials.
  - Representative Mullen said she would believe DOE would take a look at those subclasses. She finds it hard to think where in a school day it would be okay for a person to be working with kids with either of these felonies.
  - She recognizes that people rehabilitate.
  - She cannot imagine asking a parent if they are okay with their child being around a convicted felon. How could we justify that, especially when drug issues are so significant in NH.

**Diana Fenton – Attorney, NH Department of Education**

- Made herself available for questions.
- It jumped out to her that there are no drug offenses on the list of section five violations.
- We are hiring folks to be around children which is a high-risk population.
- Custodians, who may not have direct access to children, are the personnel she thought of following Senator Kahn's question of Representative Mullen.
- It is not just plain possession but intent to sell at hand here.
- Senator Kahn asked Attorney Fenton about the various levels of DUI offenses not being included in this bill. He wonders if this is one drug versus another drug and if everything is being treated equally.
  - Attorney Fenton said the law, as it currently stands, allows school districts to look at DUI offenses.
- Senator Hennessey asked Attorney Fenton if the credentialing process occurs when folks need to renew or upon initial licensure.
  - Attorney Fenton said only for initial licensure, not upon renewal.

- DOE is not asking for that with this bill.
- The department already went through that analysis and decided no for folks who are grandfathered in.
- Initial application only and not upon renewal.
- Senator Hennessey asked Attorney Fenton about the time between the initial certification and a renewal. Would an individual convicted of child pornography possession charges be denied renewal.
  - Attorney Fenton said no, the department would not deny such a renewal.
  - However, the department could seek recourse under the code of conduct.
- Senator Prentiss asked Attorney Fenton why such a charge (child pornography) would not come up automatically in their checks. She also asked if NH is a “wrap-back” state.
  - Attorney Fenton said no, we are not a “wrap-back” state.
  - In Pennsylvania over the weekends, their state police checks PA’s arrest logs to see if there is an educator caught for one of those offenses. If so, state police would notify their DOE. NH is not one of those states.
- Attorney Fenton to speak for a second time to answer Senator Ward’s question related to folks convicted of drug possession charges during Attorney O’Neill’s testimony.
  - If you are already working and licensed, the department does not and would not do a check upon renewal.
  - If an individual were to leave the school district where they are employed and go to another district, that is when the conviction would come to light.
  - Districts have asked for statutory permission to run routine checks. DOE would not bring that forward, school districts would need to bring that forward.
  - Those convictions would come to light as a matter of employment.

**Christine Shea – Supervisor, Criminal Records Unit, NH Department of Safety**

- With regard to the wrap-back state question, DOS would need to get back to the Committee. There is a sergeant at the department looking into NH becoming a wrap-back state.
- Senator Prentiss asked Ms. Shea for confirmation of Attorney Fenton’s testimony on the wrap-back process.
  - Ms. Shea said Attorney Fenton accurately depicted the wrap-back process.
  - This is something we are hoping to work towards. There are rules and regulations that they need to look at.

- Senator Kahn shared his concerns about the turnaround times on criminal records checks with Ms. Shea. These checks are not just for education credentialing but nursing, etc. as well. He asked where the department is today on managing the flow of applications.
  - Ms. Shea said their team has worked tremendously hard to get through the backlog.
  - They are one day out on NH criminal history checks and five business days out on FBI checks. They are also working to expedite certain applications.
  - They are training members in other units on fingerprint checks as well to allow for a bigger pool to address these checks.

**Jesse O'Neill – Senior Assistant Attorney General, NH Attorney General's Office**

- He has prosecuted primarily drug crimes since 2014.
- Senator Hennessey asked Attorney O'Neill about the intent to sell conviction and what that entails.
  - Attorney O'Neill said contrary to most criminal statutes, it means what it stands for.
    - Possession is possession.
    - Possession with intent to sell is having the drugs with that extra mental state intending to actually sell those drugs to someone else.
    - Under NH law, a sale does not mean a transaction for money. A sale could even be giving someone drugs, any transfer from one person to another.
    - As intent is an element of the crime, that means that the state has the burden to prove that upon a reasonable doubt.
    - A conviction means that there was a guilty plea or the state found the person guilty.
- Senator Hennessey asked Mr. O'Neill about the kinds of drugs and quantity included under this statute and if marijuana is included.
  - Attorney O'Neill said yes, marijuana is included. All controlled drugs are.
  - Any quantity could be possession with the intent to sell.
  - Drug users typically do not stockpile. Large quantity of drugs infers that there is an intent to sell.
  - For instance, one to two grams of fentanyl would be seen as personal use as opposed to 10-50 grams of fentanyl would be seen as a distributable amount.
  - Implements of distribution such as digital scales, packaging for drug sales, ledgers, etc. can be used as an indication of drug sales, not just quantity.

- A history of sales to confidential informants or undercover police officers could also aid an intent to sell conviction.
  - Small quantity alone would not typically be indicative of intent to sell.
- Senator Kahn asked Attorney O'Neill about possible recidivism and if prohibition for life from this profession is warranted in comparison to other crimes on the section five violation list.
  - Attorney O'Neill said he does not have statistics, but there are folks who are caught once and never offend again. There are also repeat offenders.
  - The type of drug, the quantity of the drug and any prior convictions are taken into consideration.
  - It is very common to charge someone with possession with intent to sell, then see them do the same thing. He has seen this for folks who even have done a lot of prison time.
  - Complete rehabilitation does not happen in every case.
- Senator Kahn asked Attorney O'Neill what the degrees of sentencing are.
  - Attorney O'Neill said the lowest possible sentence for possession with intent to sell is for less than one ounce of marijuana or hashish in a quantity of less than five grams is a maximum sentence of 1.5-3 years in the state prison.
  - NH state judges have lots of discretion. There are very few mandatory minimum sentences. None of the possession sentences have a mandatory minimums.
  - Even though the maximum sentence is 1.5-3 years, a NH judge could sentence someone to probation instead.
  - If there is a prior offense, it doubles to a maximum sentence of 3-6 years.
  - The highest end of the scale, depending on the type of drug (fentanyl is one they hear about every day), for more than five grams of fentanyl with no prior offenses is a maximum sentence of 15-30 years. With one prior offense, it is a maximum sentence of life in prison.
- Senator Kahn asked Attorney O'Neill if all of the sentences he referenced are covered in RSA 318-B:2.
  - Attorney O'Neill said yes, however, RSA 381-B:26 covers the penalties.
  - RSA 318-B:2 does not break down quantity or drug type, only references controlled drugs generally. RSA 318-B:26 breaks it down by type, quantity, and prior conviction.
- Senator Ward asked Attorney O'Neill what would happen if someone, who already works in a school, gets caught for a drug charge. She asked what is done with that information.
  - He would defer to Attorney Fenton on that question.

# Speakers

# Senate Education Committee

## SIGN-IN SHEET

Date: 03/22/2022      Time: 10:00 a.m.

**HB 1311**      AN ACT prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials.

Name/Representing (please print neatly)

✓	Sue Muller	Support <input checked="" type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
✓	Cathie Rombau	Support <input checked="" type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
✓	Brian Hawkins	Support <input checked="" type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Support <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking? <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>



## Senate Remote Testify

Education Committee Testify List for Bill HB1311 on 2022-03-22

Support: 3 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Tuttle, Megan	A Lobbyist	NEA-NH	Support
Brackett, Glenn	A Lobbyist	The NH AFL-CIO	Support
Keilig, Pamela	A Lobbyist	New Hampshire a Coalition Against Domestic and Sexual Violence	Support

# Testimony



## HB 1311 Introduction

Thank You, Madame Chair and Members of Senate Education, for hearing me the morning.

For the record: my name is Sue Mullen and I represent Hillsborough County District 7, the town of Bedford.

HB 1311 seeks to add felony convictions of first degree assault and possession of a controlled drug *with the intent to sell*, to the list of RSA 189:13-a, section V offenses that prohibit employment in a school administrative unit, school district, chartered public school, or public academy. As amended, these offenses would also be added to RSA 189:13-c to prevent credentialing, as well.

For the purpose of explanation, I have distributed a list of the current offenses that we commonly and collectively refer to as "Section V Offenses," and I will remind members that last year, at this time, we added human trafficking to the list. That change was the result of conversation precipitated by information shared by DOE Attorney, Diana Fenton, regarding questions about why a substantial number of people get credentialed in NH, but never actually teach here. Evidently the reciprocity aspect with other states is attractive to lots of folks. We all agreed that we did not want folks found guilty of human trafficking in NH schools.

The conversation has continued, and this session I am bringing forward HB 1311 to prohibit people convicted of first degree assault and people found guilty of possession of a controlled drug *with the intent to distribute* it from being credentialed or employed in schools, as well.

Please understand that the criminal offenses I reference are felonies. We are not talking about a schoolyard fist fight. If you take a look at Chapter 631:1, which I have distributed to you all, you will see the we are talking about **purposely** causing serious bodily injury. We are talking about **purposely or knowingly** causing injury with a deadly weapon, **purposely or knowingly** causing injury that results in a miscarriage or stillbirth, or **knowingly or recklessly** causing seriously bodily injury to a person under the age of 13.

Neither are we are talking about an 18 year old getting caught with a joint in the glove compartment. We are talking about someone who is found guilty of the felony conviction of manufacturing, selling, or purchasing/transporting or

possessing with the intent to sell **controlled** substances that they are not authorized to have.

While I understand that there are times when an individual makes a mistake and times when somebody turns their life around, I also recognize that there are consequences for an individual's actions and that sometimes those consequences may prevent someone from doing what they want to do.

I know both Attorney Fenton and the Department of Safety are with us this morning and that they have a wealth of knowledge and examples to share with you, if you have specific questions regarding the importance of this proposed legislation or the legal aspects.

- I, too, am happy to answer any questions that you may have at this time, if I am able!

sm

**631:1 First Degree Assault. –**

I. A person is guilty of a class A felony if he:

- (a) Purposely causes serious bodily injury to another; or
- (b) Purposely or knowingly causes bodily injury to another by means of a deadly weapon, except that if the deadly weapon is a firearm, he shall be sentenced in accordance with RSA 651:2, II-g; or
- (c) Purposely or knowingly causes injury to another resulting in miscarriage or stillbirth; or
- (d) Knowingly or recklessly causes serious bodily injury to a person under 13 years of age.

II. In this section:

- (a) "Miscarriage" means the interruption of the normal development of the fetus other than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of a fetus; and
- (b) "Stillbirth" means the death of a fetus prior to complete expulsion or extraction and not an induced abortion.

III. (a) Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "first degree assault-domestic violence."

(b) In addition to any other penalty authorized by law, the court shall levy a fine of \$50 for each conviction recorded as "first degree assault-domestic violence" under this paragraph. The court shall not reduce or suspend any sentence or the payment of any fine imposed under this paragraph and no fine imposed under this paragraph shall be subject to an additional penalty assessment. If the court determines that the defendant is unable to pay the fine on the date imposed, the court may defer payment or order periodic payments thereof. The clerk shall forward all fines collected under this paragraph to the department of health and human services for the purposes of RSA 173-B:15. The provisions of RSA 618:8 and RSA 618:9 shall not apply to a fine imposed under this paragraph.

**Crimes Which Bar Employment in Education**  
**RSA 189:13-a, V**

RSA 630:1—Capitol Murder  
RSA 630:1-a—First Degree Murder  
RSA 630:1-b—Second Degree Murder  
RSA 630:2—Manslaughter  
RSA 632-A:2—Aggravated Felonious Sexual Assault  
RSA 632-A:3—Felonious Sexual Assault  
RSA 632-A:4—Sexual Assault (misdemeanor level)  
RSA 633:1—Kidnapping  
RSA 633:7—Trafficking in Persons (Human Trafficking)  
RSA 639:2—Incest  
RSA 639:3—Endangering the Welfare of Child or Incompetent  
RSA 645:1, II or III—Indecent Exposure and Lewdness  
RSA 645:2—Prostitution and Related Offenses  
RSA 649-A:3—Possession of Child Sexual Abuse Images  
RSA 649-A:3-a—Distribution of Child Sexual Abuse Images  
RSA 649-A:3-b—Manufacture of Child Sexual Abuse Images  
RSA 649-B:3—Computer Pornography and Child Exploitation Prevention  
RSA 649-B:4—Certain Uses of Computer Services Prohibited  
RSA 650:2—Obscene Matter Offenses

## Ava Hawkes

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**From:** Fenton, Diana <Diana.E.Fenton@doe.nh.gov>  
**Sent:** Sunday, April 24, 2022 3:44 PM  
**To:** ruthward@myfairpoint.net; Ruth Ward  
**Cc:** Ava Hawkes; Sue Mullen; Erin Hennessey; Jay Kahn; Brennan, Christine  
**Subject:** HB1311  
**Attachments:** possession controlled drug-felony.docx; possession controlled drug ten years.docx

Good afternoon—

Attached are two proposed amendments for HB 1311, to address the committee's concern as it pertains to the drug possession issue.

The first proposed amendment is to limit the offense of possession with intent to distribute to only felony level offenses—this will exclude marijuana offenses.

The other proposed amendment would put a time limit on the offense—as written it is “within the past ten years.” Obviously, that can be amended as the committee decides is appropriate.

The other suggestion I would have it to send the issue to a study committee, so perhaps see if HB 1398 can be amended to include this issue?

Thank you for your consideration on this important issue.

diana

~~~~~  
Diana E. Fenton, Esq.  
Chief, Governance Unit  
New Hampshire Department of Education  
Office of the Commissioner  
101 Pleasant Street  
Concord, NH 03301  
Diana.fenton@doe.nh.gov  
(603) 271-3189

1 School Employee and Designated School Volunteer Criminal History Records Check;

Violations Added. Amend RSA 189:13-a, V to read as follows:

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of ***RSA 318-B:2 for possession of a controlled drug with the intent to sell, felony level***; RSA 630:1; 630:1-a; 630:1-b; 630:2; ***631:1***; 632-A:2; 632-A:3; 632-A:4; 633:1; 633:7; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene; in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be hired by a school administrative unit, school district, chartered public school, or public academy. The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy may deny a selected applicant a final offer of employment if such person has been convicted of any crime, misdemeanor or felony, in addition to those listed above. The governing body of a school district, chartered public school, or public academy shall adopt a policy relative to hiring practices based on the results of the criminal history records check and report of misdemeanors and felonies received under paragraph II. Such policy may include language stating that any person who has been convicted of any misdemeanor, or any of a list of misdemeanors, may not be hired. Such policy may also include language stating that any person who has been convicted of any felony, or any of a list of felonies, shall not be hired.

2 Credentialing Applicant and Candidate Criminal History Records Check; Violations Added..

Amend RSA 189:13-c, V to read as follows:

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of ***RSA 318-B:2 possession of a controlled drug with the intent to sell, felony level***; RSA 630:1; 630:1-a; 630:1-b; 630:2; ***631:1***; 632-A:2; 632-A:3; 632-A:4; 633:1; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be granted a teaching credential by the department nor shall candidates be granted clearance.

3 Effective Date. This act shall take effect January 1, 2023.

1 School Employee and Designated School Volunteer Criminal History Records Check;

Violations Added. Amend RSA 189:13-a, V to read as follows:

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of ***RSA 318-B:2 for possession of a controlled drug with the intent to sell, within the last ten years***; RSA 630:1; 630:1-a; 630:1-b; 630:2; ***631:1***; 632-A:2; 632-A:3; 632-A:4; 633:1; 633:7; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene; in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be hired by a school administrative unit, school district, chartered public school, or public academy. The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy may deny a selected applicant a final offer of employment if such person has been convicted of any crime, misdemeanor or felony, in addition to those listed above. The governing body of a school district, chartered public school, or public academy shall adopt a policy relative to hiring practices based on the results of the criminal history records check and report of misdemeanors and felonies received under paragraph II. Such policy may include language stating that any person who has been convicted of any misdemeanor, or any of a list of misdemeanors, may not be hired. Such policy may also include language stating that any person who has been convicted of any felony, or any of a list of felonies, shall not be hired.

2 Credentialing Applicant and Candidate Criminal History Records Check; Violations Added..

Amend RSA 189:13-c, V to read as follows:

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of ***RSA 318-B:2 possession of a controlled drug with the intent to sell, within the last ten years***; RSA 630:1; 630:1-a; 630:1-b; 630:2; ***631:1***; 632-A:2; 632-A:3; 632-A:4; 633:1; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be granted a teaching credential by the department nor shall candidates be granted clearance.

3 Effective Date. This act shall take effect January 1, 2023.

# Voting Sheets



P. 1 of 2

# Senate Education Committee EXECUTIVE SESSION RECORD 2022-2023 Session

Bill # HB 1311

Hearing date: 3/22/22

Executive Session date: 4/26/22

Motion of: OTP Vote: \_\_\_\_\_

| Committee Member   | Present                             | Made by                             | Second                              | Yes                      | No                       |
|--------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Sen. Ward, Chair   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Hennessey, VC | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Ricciardi     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Kahn          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Prentiss      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |

Motion of: Comm. amendment: merge (2) DOE suggestions Vote: 5-0

| Committee Member   | Present                             | Made by                             | Second                              | Yes                                 | No                       |
|--------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Sen. Ward, Chair   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Hennessey, VC | <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. Kahn          | <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: OTPIA Vote: 5-0

| Committee Member   | Present                             | Made by                             | Second                              | Yes                                 | No                       |
|--------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Sen. Ward, Chair   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Hennessey, VC | <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. Kahn          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input checked="" 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"/> |

Reported out by: Sen. Ricciardi

Notes:

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P. 2 of 2

# Senate Education Committee EXECUTIVE SESSION RECORD 2022-2023 Session

Bill # HB 1311

Hearing date: 3/22/22

Executive Session date: 4/26/22

Motion of: Consent Vote: 5-0

| Committee Member   | Present                             | Made by                             | Second                              | Yes                                 | No                       |
|--------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Sen. Ward, Chair   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Hennessey, VC | <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. Kahn          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input checked="" 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: \_\_\_\_\_ Vote: \_\_\_\_\_

| Committee Member   | Present                  | Made by                  | Second                   | Yes                      | No                       |
|--------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Sen. Ward, Chair   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Hennessey, VC | <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. Kahn          | <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. Ward, Chair   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sen. Hennessey, VC | <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. Kahn          | <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. Ricciardi

Notes:

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# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Wednesday, April 27, 2022

THE COMMITTEE ON Education

to which was referred **HB 1311**

AN ACT

prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials.

Having considered the same, the committee recommends that the Bill

ought to pass with amendment

by a vote of: 5-0

Amendment # 1834s

Senator Denise Ricciardi  
For the Committee

This bill adds the prohibition of persons convicted of first degree assault or possession of a controlled drug with the intent to sell from employment in a public school and from being granted a teaching credential. The Committee heard testimony on how striking it is that these convictions do not already bar an individual from becoming a teacher in NH. The Committee unanimously adopted an amendment to require that the possession of a controlled drug with the intent to sell conviction be at the felony level and within the last ten years.

Ava Hawkes 271-3266

FOR THE CONSENT CALENDAR

**EDUCATION**

**HB 1311**, prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials. Ought to Pass with Amendment, Vote 5-0.  
Senator Denise Ricciardi for the committee.

This bill adds the prohibition of persons convicted of first degree assault or possession of a controlled drug with the intent to sell from employment in a public school and from being granted a teaching credential. The Committee heard testimony on how striking it is that these convictions do not already bar an individual from becoming a teacher in NH. The Committee unanimously adopted an amendment to require that the possession of a controlled drug with the intent to sell conviction be at the felony level and within the last ten years.

| Docket of hb1311 |   |                                                                                              |
|------------------|---|----------------------------------------------------------------------------------------------|
| 11/20/2021       | H | Introduced 01/05/2022 and referred to Education                                              |
| 01/09/2022       | H | Public Hearing: 01/19/2022 10:30 am LOB 205-207                                              |
| 01/25/2022       | H | Executive Session: 01/25/2022 08:00 am LOB 205-207                                           |
| 02/03/2022       | H | Committee Report: Ought to Pass with Amendment # 2022-0201h (NT) (Vote 19-0; CC)             |
| 02/16/2022       | H | Ought to Pass with Amendment 2022-0201h : MA VV 02/16/2022 HJ 3                              |
| 02/23/2022       | H | Amendment # 2022-0201h: AA VV 02/16/2022 HJ 3                                                |
| 03/01/2022       | S | Introduced 02/24/2022 and Referred to Education; SJ 5                                        |
| 03/09/2022       | S | Hearing: 03/22/2022, Room 101, LOB, 10:00 am; SC 11                                          |
| 04/27/2022       | S | Committee Report: Ought to Pass with Amendment # 2022-1834s, 05/05/2022; Vote 5-0; CC; SC 18 |
| 05/05/2022       | S | Committee Amendment # 2022-1834s, AA, VV; 05/05/2022; SJ 11                                  |
| 05/05/2022       | S | Ought to Pass with Amendment 2022-1834s, MA, VV; OT3rdg; 05/05/2022; SC 19                   |
| 05/13/2022       | H | House Concurs with Senate Amendment (Rep. Ladd): MA VV 05/12/2022 HJ 13                      |
| 06/09/2022       | S | Enrolled Bill Amendment # 2022-2103e Adopted, VV, (In recess of 05/26/2022); SJ 13           |
| 06/09/2022       | H | Enrolled Bill Amendment # 2022-2103-EBA: AA VV (in recess of) 05/26/2022                     |
| 06/15/2022       | S | Enrolled Adopted, VV, (In recess 05/26/2022); SJ 13                                          |
| 06/15/2022       | H | Enrolled (in recess of) 05/26/2022 HJ 14                                                     |
| 06/29/2022       | H | Signed by Governor Sununu 06/24/2022; Chapter 259; 01/01/2023 HJ 14                          |



# Other Referrals

June 3, 2022  
2022-2103-EBA  
05/08

Enrolled Bill Amendment to HB 1311

The Committee on Enrolled Bills to which was referred HB 1311

AN ACT prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials.

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 HB 1311

This enrolled bill amendment makes a grammatical correction and incorporates a statutory change made by HB 1234 (2022,36).

Enrolled Bill Amendment to HB 1311

Amend RSA 189:13-c, V as inserted by section 2 of the bill by replacing lines 2-4 with the following:

attempted violation of *RSA 318-B:2 for possession of a controlled drug with the intent to sell, felony level, within the last 10 years*, RSA 630:1; 630:1-a; 630:1-b; 630:2; **631:1**; 632-A:2; 632-A:3; 632-A:4; 633:1; 633:7; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-

**Senate Inventory Checklist for Archives**

Bill Number: HB 1311

Senate Committee: EDU

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

NIA 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 # 18345      \_\_\_\_\_ - amendment # \_\_\_\_\_

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

Executive Session Sheet

Committee Report

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

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

\_\_\_\_\_ - amendment # \_\_\_\_\_      \_\_\_\_\_ - 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) 2103E

\_\_\_\_\_ 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:

[Signature]  
Committee Aide

9/28/22  
Date

Senate Clerk's Office AK