

LEGISLATIVE COMMITTEE MINUTES

HB1493

Bill as Introduced

HB 1493 - AS AMENDED BY THE HOUSE

16Feb2022... 0085h

2022 SESSION

22-2503
08/04

HOUSE BILL **1493**

AN ACT relative to the drug forfeiture fund.

SPONSORS: Rep. Sylvia, Belk. 6

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill requires the attorney general to include the drug forfeiture fund in an annual report.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the drug forfeiture fund.

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

1 1 Drug Forfeiture Fund. Amend RSA 318-B:17-c, II-III to read as follows:

2 II. Law enforcement agencies may apply to the department of justice for grants from the
3 forfeiture fund. Such grants shall be utilized exclusively for meeting expenses associated with drug
4 related investigations. The attorney general shall report 60 days after the close of each fiscal year to
5 the governor and council and to the fiscal committee of the general court a detailed accounting of the
6 grants provided to law enforcement agencies under this paragraph by agency, including the
7 department of safety, and the amount forwarded to the department of health and human services,
8 bureau of drug and alcohol services, for the preceding fiscal year. ~~[The attorney general's report~~
9 ~~shall also include a detailed accounting of the costs of investigations, enforcement programs, and~~
10 ~~prosecutions paid under paragraph I.]~~

11 III. *The attorney general shall report the receipts, expenditures, and balances and*
12 *all other reporting elements of the drug forfeiture fund in the report on forfeiture activity*
13 *required by RSA 617:12. The attorney general may exclude any information which would*
14 *reveal the identity of an informant or compromise an ongoing investigation.*

15 IV. The attorney general ~~[shall]~~ *may* adopt rules, pursuant to RSA 541-A, relative to:

16 (a) The administration of the drug forfeiture fund.

17 (b) The grant application procedures and forms to be used by law enforcement agencies.

18 2 Report; Forfeitures of Personal Property. Amend RSA 617:12, I to read as follows:

19 I. The attorney general, no later than 120 days after the close of the fiscal year, shall post a
20 report on the department of justice website detailing state forfeiture activity, for the preceding fiscal
21 year, including the type, approximate value, and disposition of ~~[the]~~ *each* property seized, and the
22 amount of any proceeds received or expended at the state and local levels. The report shall provide a
23 categorized accounting of all proceeds expended. ~~[Summary]~~ Data on seizures, forfeitures, and
24 expenditures of forfeiture proceeds shall be provided by the law enforcement agency in disaggregated
25 form to the attorney general.

26 3 Repeal. RSA 318-B:17-f, relative to forfeiture reports, is repealed.

27 4 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 118
HB 1493 - FINAL VERSION

16Feb2022... 0085h

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22-2503
08/04

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21 year, including the type, approximate value, and disposition of ~~[the]~~ ***each*** property seized, and the
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23 categorized accounting of all proceeds expended. ~~[Summary]~~ Data on seizures, forfeitures, and
24 expenditures of forfeiture proceeds shall be provided by the law enforcement agency in disaggregated
25 form to the attorney general.

26 118:3 Repeal. RSA 318-B:17-f, relative to forfeiture reports, is repealed.

 118:4 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 27, 2022
Effective Date: July 26, 2022

Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

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

Date: April 13, 2022

HEARINGS

Tuesday

04/19/2022

(Day)

(Date)

Judiciary

State House 100

1:00 p.m.

(Name of Committee)

(Place)

(Time)

1:00 p.m.	HB 408	relative to employment restrictions for registered sex offenders.
1:15 p.m.	HB 1101	relative to a forfeiture of personal property.
1:30 p.m.	HB 1493	relative to the drug forfeiture fund.
1:45 p.m.	HB 1103	relative to certain assets in a divorce proceeding.
2:00 p.m.	HB 1266	relative to restrictions on enforcement of federal immigration laws.
2:15 p.m.	HB 1178	prohibiting the state from enforcing any federal statute, regulation, or Presidential Executive Order that restricts or regulates the right of the people to keep and bear arms.
2:30 p.m.	HB 1625	repealing the prohibition on entering or remaining on a public way or sidewalk adjacent to a reproductive health care facility.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 408

Rep. Verville

Rep. Baldasaro

Sen. Reagan

HB 1101

Rep. Sylvia

Rep. Bernardy

Rep. Spillane

Rep. J. Smith

Rep. Silber

Rep. T. Lekas

Rep. Post

HB 1493

Rep. Sylvia

HB 1103

Rep. Spillane

Rep. DiLorenzo

Rep. Bershtein

Sen. Reagan

HB 1266

Rep. Piemonte

Rep. Torosian

Rep. Potucek

HB 1178

Rep. Burt

Rep. Stapleton

Rep. Hopper

Rep. Silber

Rep. Nunez

Rep. True

Rep. Hill

Rep. Kelsey

Rep. Folsom

Rep. Kofalt

Sen. Avar

Sen. Ricciardi

HB 1625

Rep. Kelsey

Rep. Nunez

Rep. Baxter

Rep. Gould

Rep. Stapleton
Rep. Sheehan

Rep. Mooney
Sen. Ricciardi

Rep. Natter
Sen. Daniels

Rep. M. Pearson
Sen. Avar

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee
Jennifer Horgan 271-7875

HB 1493, relative to the drug forfeiture fund.

Hearing Date: April 19, 2022

Time Opened: 1:52 p.m.

Time Closed: 1:59 p.m.

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

Members of the Committee Absent : Senator Kahn

Bill Analysis: This bill requires the attorney general to include the drug forfeiture fund in an annual report.

Sponsors:
Rep. Sylvia

Who supports the bill: Representative Sylvia; Ross Connolly, Americans for Prosperity; Kathy Sanchez, Institute for Justice; Erik Granger; Margery Phillips; Phil Hatcher

Who opposes the bill: No one

Summary of testimony presented in support:

Representative Sylvia (provided written testimony)

- In 2018 through SB498, the Legislature sought to create transparency regarding seizures in NH.
- In seeking information regarding due process rights, often told there is no problem, but it is difficult to evaluate an issue if there is little data.
- This bill will deliver the necessary data that has been kept from public view.
- In 2020, visited the Department of Justice website after SB498 was law. Expected to find the reports ordered under RSA 617:12 but found nothing on the website.
- Contacted the DOJ and was directed to the report produced under RSA 318-B:17-c, III.
- That report provides information about the status of the drug forfeiture funds, not the information required by RSA 617:12.
- Made another request for the proper report, but there was no reply.
- This bill consolidates reporting under RSA 617:12 adding a pointer in RSA 318-B:17-c, III and removes a duplication in reporting by repealing RSA 318-B:17-f.
- This bill will give the public the transparency required by law.

Ross Connolly (Americans for Prosperity)

- This bill just provides more transparency in the details of how forfeitures are gained and dived out across the State.
- This makes it a little clearer about what is to be provided, specifically adding the work 'each' on line 21 instead of 'the'.
- This will provide more detail regarding each property without divulging sensitive information like informants.
- This will increase transparency for the public and for the Legislature.
- NH does not have a strong record in transparency, but this bill will be a slight step forward in improving that.

Kathy Sanchez (Institute of Justice)

- The Institute collects a lot of forfeiture data and records.
- This bill is focused on the exact areas that need improvement.
- The Attorney General has not complied with the law.
- The specific amendments in this bill are very tailored to the issues.
- The Attorney General is currently reporting only on monies.
- This bill reinforces the requirements of reporting that are less about the money and more about what happened to the property itself.
- This will help answer questions about the efficacy of forfeiture and what was seized or forfeited, and it will provide more detail for the public and the General Court about whether this is working.

Summary of testimony presented in opposition:

None

jch'

Date Hearing Report completed: April 22, 2022

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB1493 on 2022-04-19

Support: 2 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Phillips, Margery	A Member of the Public	Myself	Support
Hatcher, Phil	A Member of the Public	Myself	Support

Testimony

April 19, 2022

Rep. Mike Sylvia
Belknap 6
Belmont

Senate Judiciary Committee
Re: HB1493

Chairwoman Carson and committee members,

In 2018 through an amendment made here in the senate to SB498 sought to bring transparency to seizure and forfeiture activity in New Hampshire. In seeking protections of due process rights, we are often told that there is no problem. It is difficult to evaluate an issue where there is little data available to make a proper judgment. HB1493 will deliver necessary data which has been kept from public view.

In the fall of 2020 in preparation for my 2021 bill HB331, I wanted to get supporting information for my testimony. Knowing that SB498 had been made law, I went to the DOJ website where I expected to find the reports ordered under RSA 617:12. I found nothing on the website. I contacted DOJ in an email and was directed to the report produced under RSA 318-B:17-c, II. That report provides information about the status of the drug forfeiture fund, not the information required by RSA 617:12. Another request was made for the proper report. No reply ever arrived.

HB1493 does two simple things. First it consolidates reporting under RSA 617:12, adding a pointer in RSA 318-B:17-c, III. Second, it removes what would otherwise be a duplication in reporting by repealing RSA 318-B:17-f. With these changes our constitution's directive under Part I, Article 8 will give the people of New Hampshire the transparency required by law.

Respectfully,
Rep. Mike Sylvia

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # 1493

Hearing date: _____

Executive Session date: _____

Motion of: DTP Vote: 5-0

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

Motion of: 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"/>

Motion of: _____ Vote: _____

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

Reported out by: 5-0

Notes: Transparency
appropriate
in a report

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, April 20, 2022

THE COMMITTEE ON Judiciary

to which was referred **HB 1493**

AN ACT relative to the drug forfeiture fund.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Sharon Carson
For the Committee

This bill will require that the Attorney General include the drug forfeiture fund in an annual report. Transparency is essential to trust in government and law enforcement, and to the civil functioning of our society. Enacting this clarification to the statute will require the Department of Justice to publicly disclose data regarding forfeitures, while protecting sensitive information within that data that would endanger informants or investigations.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

JUDICIARY

HB 1493, relative to the drug forfeiture fund.

Ought to Pass, Vote 5-0.

Senator Sharon Carson for the committee.

This bill will require that the Attorney General include the drug forfeiture fund in an annual report. Transparency is essential to trust in government and law enforcement, and to the civil functioning of our society. Enacting this clarification to the statute will require the Department of Justice to publicly disclose data regarding forfeitures, while protecting sensitive information within that data that would endanger informants or investigations.

HB1493

Bill Details

Title: relative to the drug forfeiture fund.

Sponsors: (Prime) Sylvia (R)

LSR Number: **22-2503**

General Status: **SIGNED BY GOVERNOR**

Chapter Number: **118**

House:

Committee: Criminal Justice and Public Safety

Due Out: 3/10/2022

Status: PASSED/ADOPTED WITH AMENDMENT

Senate:

Committee: Judiciary

Floor Date: 4/28/2022

Status: PASSED/ADOPTED

Bill Docket

Body	Description
H	Introduced 01/05/2022 and referred to Criminal Justice and Public Safety
H	Public Hearing: 01/12/2022 11:30 pm LOB 202-204
H	Executive Session: 01/12/2022 01:00 pm LOB 205-207
H	Committee Report: Ought to Pass with Amendment # 2022-0085h <u>(Vote: 20-0)</u>
H	Ought to Pass with Amendment 2022-0085h: MA VV 02/16/2022 <u>HJ 3</u>
H	Amendment # 2022-0085h: AA VV 02/16/2022 <u>HJ 3</u>
S	Introduced 02/24/2022 and Referred to Judiciary: <u>SJ 5</u>
S	Hearing: 04/19/2022, Room 100, SH, 01:30 pm; <u>SC 16</u>
S	Committee Report: Ought to Pass, 04/28/2022; Vote 5-0; CC; <u>SC 17</u>
S	Ought to Pass: MA, VV; OT3rdg; 04/28/2022; <u>SJ 10</u>
S	Enrolled Adopted, VV, (In recess 05/12/2022); <u>SJ 13</u>
H	Enrolled (in recess of) 05/12/2022
H	Signed by Governor Sununu 05/27/2022; Chapter 118; 07/26/2022

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB1493

Senate Committee: Judiciary

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

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

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

Hearing Report

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

Committee Action Documents: (Legislative Aides)

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

___ - amendment # ___ ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Executive Session Sheet

Committee Report

Floor Action Documents: (Clerk's Office)

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

___ - amendment # ___ ___ - 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)

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:


Committee Aide

8/12/22
Date

Senate Clerk's Office AK