

LEGISLATIVE COMMITTEE MINUTES

**HB1677**

# Bill as Introduced

HB 1677-FN - AS AMENDED BY THE HOUSE

16Mar2022... 0956h

2022 SESSION

22-3122  
04/10

HOUSE BILL **1677**

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

SPONSORS: Rep. Umberger, Carr. 2; Rep. Wallner, Merr. 10; Rep. Rice, Hills. 37; Rep. Long, Hills. 10; Sen. Bradley, Dist 3

COMMITTEE: Finance

---

AMENDED ANALYSIS

This bill:

I. Establishes a procedure for the administration and resolution of claims of abuse which may have occurred at the youth development center.

II. Creates the youth development center (YDC) settlement fund and makes an appropriation to the fund for the settlement of founded abuse claims.

III. Creates an exemption from the right-to-know law for all records related to the administration and settlement of abuse claims at the youth development center.

---

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

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

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

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

1           1 Statement of Purpose. The general court hereby finds that the attorney general's  
2 investigation into abuse at New Hampshire's youth development center in prior decades has  
3 identified a population of New Hampshire citizens with potential claims against the state. The state  
4 wishes to acknowledge those claims and the suffering which has been endured by the victims of  
5 abuse by establishing a trauma-informed, victim-centered alternative to litigation for the efficient  
6 and fair resolution of those claims.

7           2 New Section; Department of Justice; Youth Development Center Claims Administration and  
8 Settlement Fund. Amend RSA 21-M by inserting after section 11 the following new section:

9           21-M:11-a Youth Development Center Claims Administration and Settlement Fund.

10           I. In this section:

11                   (a) "Administrator" means an independent, neutral attorney admitted to the practice of  
12 law in New Hampshire, chosen in the manner set forth in paragraph III to administer youth  
13 development center claims pursuant to this section. The administrator shall have all of the duties  
14 and authority granted pursuant to RSA 542, except as otherwise provided in this section.

15                   (b) "AG designee" means one or more individuals within the attorney general's office  
16 designated by the attorney general.

17                   (c) "Claim" means a request for compensation related to one or more incidents of sexual  
18 abuse and/or physical abuse perpetrated upon a former YDC resident by or at the behest of a  
19 member of the YDC staff.

20                   (d) "Claimant" means an individual who has filed a claim.

21                   (e) "Former YDC resident" means an individual who resided at the YDC at any time.

22                   (f) "Fund" means the YDC settlement fund established in this section.

23                   (g) "Investigator" means one or more individuals assigned by the administrator to  
24 independently investigate a claim.

25                   (h) "Physical abuse" means an incident of conduct that would constitute an offense  
26 under RSA 631:1, RSA 631:2, or RSA 631:2-a, and that is not justified under RSA 627:6, or a  
27 common law cause of action for assault or battery.

28                   (i) "Sexual abuse" means an incident of conduct which would constitute an offense under  
29 RSA 632-A:2, RSA 632-A:3, or RSA 632-A:4, or a common law cause of action for assault or battery  
30 that involves sexual contact or sexual penetration as defined by RSA 632-A:1.

1 (j) "Unlawful confinement" means placement in isolation as discipline without such  
 2 process as was due under the circumstances or under conditions of confinement that were grossly out  
 3 of proportion to the severity of the conduct giving rise to the discipline, or not as punishment, and  
 4 not for another legitimate penological goal or purpose such as the safety or security of the resident or  
 5 others.

6 (k) "Youth development center" or "YDC" means the youth development center as  
 7 identified in RSA 621, or its renamed or successor entity, and any predecessor entity performing the  
 8 function of housing adjudicated delinquent or pre-adjudication detained youth, including the State  
 9 Industrial School, the Philbrook School, the Tobey Special Education School and the Youth Services  
 10 Center.

11 These definitions shall be applicable to claimants, claims, the claims process, and the fund  
 12 governed by this section. This section is not intended in any way to expand or limit the rights of  
 13 individuals or the state under any other state statutory or common law.

14 II. There is hereby established in the state treasury the YDC settlement fund which shall be  
 15 kept distinct and separate from all other funds. The fund shall be administered by the attorney  
 16 general, who shall use the funds for the purpose of administering claims of former YDC residents as  
 17 defined in this section. The fund shall be nonlapsing and continually appropriated to the  
 18 department of justice until June 30, 2032, after which date the fund shall lapse to the revenue  
 19 stabilization reserve account established in RSA 9:13-e, II, unless earlier discontinued by the  
 20 attorney general, in consultation with the administrator, or as otherwise provided by law.  
 21 Settlement amounts paid to former YDC residents shall be as determined by the process outlined in  
 22 this chapter. The attorney general may enter into memoranda of understanding with the judicial  
 23 branch or any state agency as necessary to compensate them for services performed in furtherance of  
 24 this chapter.

25 III. There is further established in the judicial branch a temporary full-time or part-time  
 26 position known as the youth development center claims administrator, to be appointed by the  
 27 supreme court. A part-time administrator may maintain a private, unrelated mediation or legal  
 28 practice apart from the duties as administrator notwithstanding any other provision of rule or law to  
 29 the contrary. The supreme court shall appoint an administrator agreed to by the attorney general  
 30 and counsel for claimants. If the attorney general and counsel for claimants are unable to agree  
 31 upon an administrator, the supreme court shall select the administrator from the candidates  
 32 submitted to the court by the attorney general and counsel for claimants, not later than 30 days  
 33 following the court's receipt of the candidates. The attorney general and counsel for claimants shall  
 34 each submit two candidates, not later than 30 days following the joint fiscal committee's approval of  
 35 the claim process and guidelines as provided in paragraph IV. The administrator shall receive  
 36 compensation at no more than the rate of salary of an active superior court justice and shall, if  
 37 working full-time, receive the same benefits as other non-judicial employees of the judicial branch.

1 If working part-time, the administrator shall receive compensation at no more than the equivalent  
 2 per diem rate of an active superior court justice, provided that in any calendar year, the  
 3 administrator shall not receive more in total compensation than that received by an active superior  
 4 court justice. The judicial branch shall provide the administrator and any necessary support staff  
 5 with office space. The salary, benefits, and expenses of the administrator, and any necessary  
 6 support staff, shall be paid from the fund. The administrator shall report to the chief justice of the  
 7 supreme court or the chief justice's designee for employment-related purposes, but the supreme  
 8 court shall have no authority to review the administrator's decisions. At such time as the  
 9 administrator's duties are concluded, or at such time as full-time service by the administrator is no  
 10 longer needed to carry out the administrator's duties, the supreme court shall either eliminate the  
 11 administrator's position or reduce it from a full-time to a part-time position as may be appropriate.  
 12 The supreme court may remove the administrator if, after a request for removal received from the  
 13 attorney general or claimants' counsel, or upon the court's own motion, the court determines that  
 14 good cause for removal exists. Once appointed, the administrator shall process claims as provided  
 15 herein and may settle claims at such amounts as may be agreed upon between the AG designee and  
 16 each claimant, or at amounts which are determined by the administrator, giving due consideration  
 17 to the guidelines adopted by the joint fiscal committee as provided in paragraph IV.

18 IV.(a) As soon as practical following the effective date of this section, the attorney general,  
 19 after making good faith efforts to reach agreements with claimants' counsel, and with input from the  
 20 attorney general's victim/witness advocates, shall develop and present to the joint fiscal committee a  
 21 claims process consistent with this section including the development of claim forms, identification  
 22 of necessary or helpful documentation, and guidelines for valuing claims for settlement purposes  
 23 which take into consideration the following factors:

- 24 (1) The nature and character of the acts of physical abuse and sexual abuse.  
 25 (2) The frequency and duration of those acts.  
 26 (3) Aggravating and mitigating factors such as whether the acts were also  
 27 accompanied by unlawful confinement, the impact on the claimant relative to others similarly  
 28 situated, the applicable statute of limitations and other potentially available legal defenses if the  
 29 claims were pursued as litigation, the legal standards in effect at the time of the acts, whether the  
 30 acts were previously reported to persons in a position of authority, whether the acts can be  
 31 corroborated through contemporaneous reports by the claimant to others.

- 32 (4) Any other factor that may be relevant.  
 33 (b) The guidelines may group similar claims by type and suggest a value or range of  
 34 values for each type of claim. The goal of the guidelines shall be to ensure the fair and uniform  
 35 valuation of claims so that the claims of similarly situated claimants are valued similarly. The joint  
 36 fiscal committee shall review and vote to either approve or object to the proposed claims process and  
 37 guidelines within 30 days of receipt. If the joint fiscal committee votes to object to the proposed

1 claims process and guidelines, the joint fiscal committee shall articulate its reasons for objection in  
2 writing and claimants' counsel and the attorney general shall present for approval a revised version  
3 of the proposed claims process and guidelines that addresses the joint fiscal committee's concerns.  
4 The joint fiscal committee shall approve a claims process and guidelines prior to appointment of an  
5 administrator as set forth in paragraph III. Once approved, the guidelines shall be binding on the  
6 AG designee and the administrator. The claims process and guidelines may be revised periodically  
7 as deemed necessary by the administrator, again with input from claimants' counsel and the  
8 attorney general, and with the approval of the joint fiscal committee.

9 V. For all claims involving both sexual and physical abuse or sexual abuse only, no  
10 individual claimant shall be paid more than \$1,500,000 in settlement of all claims in the aggregate.  
11 For all claims involving physical abuse only, no individual claimant shall be paid more than  
12 \$150,000 in settlement of all physical abuse claims in the aggregate.

13 VI. Beginning not later than November 1, 2022, the administrator shall publish notice to the  
14 public of the establishment of the YDC settlement fund and the opportunity for former YDC  
15 residents to file claims. Such notice shall be published in a newspaper of general circulation in every  
16 county in the state, at least once a week for at least 2 consecutive weeks. Such notice shall also be  
17 published at least once in a newspaper of national circulation. Such notice shall also be published on  
18 such social media platforms as are appropriate in the discretion of the administrator for at least 6  
19 consecutive weeks. Additionally, such notice shall be published to the current residents of all New  
20 Hampshire correctional facilities by means of posting or other customary means for such facility,  
21 shall be made available by the attorney general via press release, and shall be posted on the attorney  
22 general's public website. The publication shall constitute conclusive proof in judicial proceedings of  
23 the latest date by which all persons, in the exercise of reasonable diligence, could have discovered  
24 both their injuries and the causal relationship of their injuries to the acts or omissions of any  
25 employees or agents of the state regarding any incident which might have been the subject of a  
26 claim, whether or not such a claim was filed.

27 VII.(a) Any former YDC resident may file a claim. A claim subject to the procedure  
28 established in this section may be filed only by the former YDC resident who was personally subject  
29 to sexual abuse or physical abuse. No claim shall be filed for collateral injuries or damages suffered  
30 by any other person resulting from sexual abuse or physical abuse of the former YDC resident,  
31 including claims for loss of consortium or emotional distress suffered by relatives of the former YDC  
32 resident. No claim shall be filed by the executor or administrator of a deceased former YDC  
33 resident, but a claim may be filed by the guardian or conservator of a living former YDC resident  
34 who is incapacitated. Once a claim has been properly filed by a living former YDC resident, the  
35 subsequent death of that claimant shall not extinguish the claim.

36 (b) Claims may be filed beginning January 1, 2023. Claims shall not be accepted after  
37 December 31, 2024.

1 (c) A former YDC resident's participation in this claims process is voluntary. A former  
 2 YDC resident who elects not to participate in the claims process retains the right to pursue a claim  
 3 in a judicial or other forum. A former YDC resident is entitled to consult with counsel before  
 4 deciding whether to participate in the claims process. The administrator shall identify and publish  
 5 the names of attorneys willing to consult with former YDC residents concerning their decision to file  
 6 a claim.

7 (d) This section constitutes the state's offer to resolve completely and finally all of the  
 8 former YDC resident's claims through the claims process established. By filing a claim, the claimant  
 9 agrees that he or she will participate in the claims process, and, if the claimant requests that the  
 10 administrator decide the claim, agrees to accept the determination of the administrator as final and  
 11 binding, even if the claimant does not receive any payment from the fund. The submission of a claim  
 12 shall constitute an agreement in writing to submit the claim to arbitration as provided in RSA 542:1.

13 (e) By filing a claim, a claimant waives his or her right to simultaneously seek other or  
 14 additional monetary relief in any forum from the state of New Hampshire or any of its agents or  
 15 employees, or from any of its political subdivisions or their agents or employees arising out of or  
 16 relating to any incidents which are or could have been the subject of a claim, except that the  
 17 claimant does not waive his or her right to seek or continue to seek relief in any forum from an  
 18 individual whose direct, personal actions constitute sexual abuse or physical abuse, even if said  
 19 individual was a state employee at the time of the acts. The administrator shall require a claimant  
 20 to execute appropriate agreements or motions to stay any pending proceedings as a condition to  
 21 processing claims provided that such documents expressly preserve the right to pursue claims  
 22 against individual perpetrators as described.

23 (f) Claims shall be submitted under oath. Claimants shall be entitled to be treated with  
 24 respect and dignity in the presentment of their claims. Claimants who are believed by the  
 25 administrator to have deliberately submitted false claims may be referred to an appropriate law  
 26 enforcement agency. Perpetrators of sexual abuse or physical abuse identified by claimants may be  
 27 referred to an appropriate law enforcement agency by the administrator, but only with the consent  
 28 and cooperation of the claimant. A claimant shall not be required to cooperate in a criminal  
 29 investigation as a condition of participating in the claim process.

30 (g) Claims and all documents and information created in connection with claims shall be  
 31 confidential, except that matter which was not previously confidential shall not become so by virtue  
 32 of being submitted in connection with a claim, or except as otherwise provided in this section or in  
 33 RSA 91-A. This confidentiality is provided in order to protect the privacy of the claimant, and only  
 34 for that reason. The claimant shall not be bound by this obligation of confidentiality and may waive  
 35 it at any time.

36 VIII.(a) Within 30 days of receipt of a claim, the administrator shall acknowledge its receipt  
 37 in writing and provide a copy to the AG designee.



1 (b) Within 60 days of receipt of a claim, the administrator shall review the claim, and  
2 indicate whether the claim is considered complete as submitted, or if not, what additional  
3 information is required. If the administrator requires additional information, the claimant shall  
4 provide that information within 90 days of being notified that additional information is needed, or  
5 the claim may be denied as incomplete, provided, that the administrator may grant the claimant an  
6 extension of time for good cause shown. The administrator shall also provide any additional  
7 documentation received to the AG designee.

8 (c) Once a claim is considered complete, the AG designee shall have 30 days to indicate  
9 to the claimant and the administrator its position regarding the claim. The AG designee may agree  
10 or disagree with the claim in whole or in part, and shall indicate whether he or she believes the  
11 claim should be referred to an investigator. The administrator may grant the AG designee an  
12 extension of time to indicate its position for good cause shown.

13 (d) Following receipt of the AG designee's position, the administrator may refer a claim  
14 to an investigator if, in the administrator's independent judgment, an investigation is needed. The  
15 administrator shall direct the investigator as to any particular aspects of the claimant's claim for  
16 which the administrator seeks further information or verification, and in such case, the investigation  
17 shall be limited to that scope. If the administrator elects not to refer a claim to an investigator, then  
18 the administrator shall so notify the AG designee and the claimant, and advise the claimant in  
19 writing regarding his or her options: to accept the AG designee's position, to request the  
20 administrator decide the claim, or to withdraw his or her claim from further processing. Within 30  
21 days of receiving the position of the AG designee, the claimant shall indicate to the administrator  
22 and the AG designee whether he or she agrees with the AG designee's position, whether he or she  
23 wishes for the administrator to decide the claim, or whether he or she wishes to withdraw his or her  
24 claim from further processing. In the absence of an indication from the claimant, the administrator  
25 may assume that the claimant is in agreement with the position of the AG designee.

26 (e) The purpose of an investigation shall be to verify a claim, as submitted, if possible.  
27 The investigation shall, to the greatest extent possible, be conducted in a trauma-informed,  
28 respectful, and dignified manner. The investigation may include an interview of the claimant, which  
29 may be conducted under oath and recorded. The investigator may also request to review additional  
30 records related to the claim. The claimant shall be entitled to the assistance of an advocate in  
31 connection with the investigation process who shall be allowed to accompany the claimant during  
32 any interview. The claimant shall execute such documents or authorizations as may be necessary to  
33 permit the investigator to access records. If the claimant is represented by counsel, counsel shall  
34 also be allowed to attend any interview of the claimant. A claim may be denied if a claimant refuses  
35 to cooperate with the investigation. Except in extraordinary circumstances, investigations should be  
36 completed within 90 days of referral.

1 (f) The investigator shall present a report to the administrator of his or her findings,  
2 which shall include a summary of any interviews conducted or records gathered, a copy of any such  
3 supporting documentation, records and recordings. The administrator shall provide a copy of the  
4 investigator's report and supporting documentation to the claimant and the AG designee once  
5 received.

6 (g) Within 30 days of receiving the investigation report, the AG designee shall indicate  
7 to the claimant and the administrator its updated position regarding the claim, and the  
8 administrator shall advise the claimant in writing regarding his or her options: to accept the AG  
9 designee's position, to request the administrator decide the claim, or to withdraw his or her claim  
10 from further processing.

11 (h) Within 30 days of receiving the updated position of the AG designee, the claimant  
12 shall indicate to the administrator and the AG designee whether he or she agrees with the AG  
13 designee's position, whether he or she wishes for the administrator to decide the claim, or whether  
14 he or she wishes to withdraw the claim from further processing. In the absence of an indication from  
15 the claimant, the administrator may assume that the claimant is in agreement with the position of  
16 the AG designee. If the claimant and the AG designee are in agreement regarding the disposition of  
17 the claim, the administrator shall make an award consistent with the parties' agreement.

18 (i) The AG designee and the claimant or claimant's counsel may also engage in  
19 discussion separate and apart from their stated claim positions in an effort to resolve their  
20 disagreements regarding a claim. Such discussions shall be treated in like fashion to settlement  
21 discussions conducted under New Hampshire rules of evidence 408, and the administrator shall not  
22 be apprised of efforts to compromise in the event that the claim proceeds to a resolution proceeding.

23 IX.(a) When a claimant requests that the administrator decide the claim, the administrator  
24 shall schedule the claim for a resolution proceeding according to the procedures approved by the  
25 joint fiscal committee. All resolution proceedings shall take place in the state of New Hampshire,  
26 although parties and witnesses may attend by telephone or video conference in the discretion of the  
27 administrator. To the greatest extent possible, claims shall be scheduled for resolution in the order  
28 that they are received and determined to be complete, except that the administrator may also give  
29 consideration to the time for which litigation may have been pending prior to the filing of a claim.  
30 By requesting a resolution proceeding, a claimant fully waives his or her right to seek other or  
31 additional monetary relief in any forum from the state of New Hampshire or any of its agents or  
32 employees, or from any of its political subdivisions or their agents or employees arising out of or  
33 relating to any incidents which are or could have been the subject of a claim, except that the  
34 claimant does not waive his or her right to seek or continue to seek relief in any forum from an  
35 individual whose direct, personal actions constitute sexual abuse or physical abuse, even if said  
36 individual was a state employee at the time of the acts. The administrator shall require a claimant  
37 to execute appropriate dismissals, waivers, releases, or other documents as a condition of scheduling

1 a resolution proceeding, provided that such documents expressly preserve the right to pursue claims  
2 against individual perpetrators as described.

3 (b) The administrator may require such submissions by the parties as the administrator  
4 determines, may consider such information as the administrator deems appropriate, and shall  
5 resolve claims based upon written submission, through conciliation, by conducting a hearing, or on  
6 any other basis determined by the administrator. The claimant shall be entitled to the assistance of  
7 an advocate in connection with the resolution process who shall be allowed to accompany the  
8 claimant during any hearing or meeting.

9 (c) Any hearing conducted by the administrator shall be scheduled for not more than 3  
10 hours unless good cause is shown regarding the need for more time and shall be conducted in a  
11 victim-centered, trauma informed way, to the greatest extent possible. If the claimant is  
12 represented by counsel, counsel shall also be allowed to attend and participate in any hearing.

13 (d) At any hearing, any witnesses who testify shall be sworn.

14 (e) The administrator shall issue a written decision to the parties within 30 days of the  
15 conclusion of the resolution process. The administrator's decision regarding the claim shall be final  
16 and non-appealable, and the provisions of RSA 542:8, RSA 542:9, and RSA 542:10 shall not apply,  
17 provided, however, that either the claimant or the AG designee may request the administrator to  
18 reconsider a decision on grounds that it contains mathematical mistakes or miscalculations.

19 X. Upon the rendering of any final decision to approve payment of any part of a claim,  
20 whether made by the administrator pursuant to the agreement of the claimant and the AG designee  
21 or pursuant to a determination by the administrator following a resolution proceeding, the payment  
22 shall be made from the YDC settlement fund established in paragraph II. In addition, the claimant  
23 may request, and the administrator shall hold a face-to-face meeting with the claimant where the  
24 claimant may speak with the administrator without the AG designee present. The conduct of such a  
25 meeting shall not be considered a part of a resolution process and shall be not be available if a  
26 resolution process is requested until after it is completed.

27 XI. Any agreement between the claimant and the AG designee and any determination by the  
28 administrator may include a determination that a claim should be paid in annual installments over  
29 a period of up to 10 years. A claimant may indicate that he or she does not wish to receive  
30 installment payments, and the administrator shall honor the claimant's wishes in this regard.  
31 Additionally, a claimant may request that he or she receive the award in the form of periodic  
32 payments under a structured settlement that (i) is the subject of a qualified assignment that  
33 satisfies the conditions of Internal Revenue Code Section 130 and releases the fund from any  
34 liability for the periodic payments; and (ii) is funded by an annuity contract issued by a life  
35 insurance company domiciled in the United States, licensed in New Hampshire and rated A or better  
36 by A.M. Best. Upon receipt of such a request, the administrator shall accommodate the processing of  
37 an award in said fashion. Additionally, the administrator may maintain and provide to claimants a

1 list of licensed structured settlement specialists who have indicated a desire to assist in establishing  
2 periodic payments to meet a claimant's anticipated needs.

3 XII. If the administrator determines that a shortfall in the YDC settlement fund is likely to  
4 occur, the administrator, in consultation with the attorney general, shall request additional funds  
5 from the legislature.

6 XIII. The costs of administration of the fund and any costs of the attorney general which are  
7 outside of the ordinary operational expenses of the department of justice shall be paid from the fund.

8 XIV. The administrator may approve all fees and costs of attorneys who represent claimants  
9 in proceedings before the administrator. The administrator shall not approve any request of an  
10 attorney for fees or costs which are not reasonable. The administrator shall not approve an  
11 attorney's fee in excess of 33 1/3 percent of the amount of the award. All costs and attorney's fees  
12 paid to a claimant's attorney shall be paid from the amount awarded to the claimant.

13 XV. The administrator, in consultation with the attorney general, shall quarterly submit a  
14 report to the speaker of the house of representatives, the president of the senate, the joint fiscal  
15 committee and the governor providing information as to the number and nature of claims made and  
16 settled, the amounts requested and paid in settlement to date, the claim amounts pending, an  
17 estimate of the likely amounts which will be approved and paid, the administrative costs which have  
18 been paid, and an estimate of future administrative costs to be paid. The report shall be structured  
19 to protect the privacy and anonymity of the claimants. The attorney general shall also post the  
20 report on the department of justice's public website.

21 3 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-  
22 A:5 by inserting after paragraph XII the following new paragraph:

23 XIII. Records of the youth development center claims administration and the YDC  
24 settlement fund pursuant to RSA 21-M:11-a, with the exception of settlement agreements, which  
25 shall remain subject to RSA 91-A:4, VI, and, after a claim has been finally resolved, such other  
26 records the release of which would not constitute a violation of other provisions of law or an  
27 unwarranted invasion of a claimant's privacy.

28 4 Appropriation. Notwithstanding RSA 9:13-e, the sum of \$100,000,000 for the biennium ending  
29 June 30, 2023, is hereby appropriated from the revenue stabilization reserve account to the YDC  
30 settlement fund established in RSA 21-M:11-a, II for the purpose of administering and settling  
31 claims as provided in RSA 21-M:11-a. The appropriation shall be nonlapsing, provided that any  
32 moneys in the YDC settlement fund not expended as of June 30, 2032 shall lapse to the revenue  
33 stabilization reserve account, unless the fund is earlier terminated by the attorney general, in  
34 consultation with the administrator, or as otherwise provided by law.

35 5 Effective Date. This act shall take effect upon its passage.

**HB 1677-FN- FISCAL NOTE  
 AS INTRODUCED**

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

FISCAL IMPACT:  State  County  Local  None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$100,000,000	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

The Department of Justice was contacted for a fiscal note worksheet on December 22, 2021, which it has not provided as of January 19, 2022.

**METHODOLOGY:**

This bill creates a dedicated, non-lapsing fund, administered by the New Hampshire Department of Justice (DOJ), to address claims of abuse at the youth development center from 1980 to the present. The bill directs the DOJ to manage the voluntary claims settlement process and pay for the administration of this process from the dedicated fund. All claims must be filed between October 1, 2022 and September 30, 2023. In order to pay for the administration and settlement of claims, the bill makes a non-lapsing general fund appropriation of \$100 million for the biennium ending June 30, 2023.

The Department of Health and Human Services (DHHS) notes that since the DOJ has complete authority over the settlement process, there is no fiscal impact to DHHS as a result of the administration of the fund or the payout of settlement. However, as the bill proposes a relatively short time line for investigation and resolution of the potentially hundreds of claims that may be filed, DHHS anticipates that the fiscal impact on the agency's Division for Children, Youth and Families (DCYF) will be substantial. Specifically, by stipulating that investigations be completed within 90 days, the bill may require significant DCYF staff time to do the following: (1) participate in investigations, (2) produce electronic and paper records, (3) and prepare for and participate in interviews and hearings. DHHS assumes that this process will result in the need for additional

staff, but that the number of such staff is indeterminable because the Department is unable to predict either the number of former youth who will file claims or the complexity of said claims.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Department of Justice

HB 1677-FN - AS AMENDED BY THE HOUSE

16Mar2022... 0956h

2022 SESSION

22-3122  
04/10

HOUSE BILL **1677**

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

SPONSORS: Rep. Umberger, Carr. 2; Rep. Wallner, Merr. 10; Rep. Rice, Hills. 37; Rep. Long, Hills. 10; Sen. Bradley, Dist 3

*HOUSE* COMMITTEE: Finance *QTP/A 19-1*  
*SENATE JUDICIARY: QTP 5-0*

AMENDED ANALYSIS

This bill:

I. Establishes a procedure for the administration and resolution of claims of abuse which may have occurred at the youth development center.

II. Creates the youth development center (YDC) settlement fund and makes an appropriation to the fund for the settlement of founded abuse claims.

III. Creates an exemption from the right-to-know law for all records related to the administration and settlement of abuse claims at the youth development center.

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

STATE OF NEW HAMPSHIRE

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

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

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

1       1 Statement of Purpose. The general court hereby finds that the attorney general's  
2 investigation into abuse at New Hampshire's youth development center in prior decades has  
3 identified a population of New Hampshire citizens with potential claims against the state. The state  
4 wishes to acknowledge those claims and the suffering which has been endured by the victims of  
5 abuse by establishing a trauma-informed, victim-centered alternative to litigation for the efficient  
6 and fair resolution of those claims.

7       2 New Section; Department of Justice; Youth Development Center Claims Administration and  
8 Settlement Fund. Amend RSA 21-M by inserting after section 11 the following new section:

9       21-M:11-a Youth Development Center Claims Administration and Settlement Fund.

10       I. In this section:

11           (a) "Administrator" means an independent, neutral attorney admitted to the practice of  
12 law in New Hampshire, chosen in the manner set forth in paragraph III to administer youth  
13 development center claims pursuant to this section. The administrator shall have all of the duties  
14 and authority granted pursuant to RSA 542, except as otherwise provided in this section.

15           (b) "AG designee" means one or more individuals within the attorney general's office  
16 designated by the attorney general.

17           (c) "Claim" means a request for compensation related to one or more incidents of sexual  
18 abuse and/or physical abuse perpetrated upon a former YDC resident by or at the behest of a  
19 member of the YDC staff.

20           (d) "Claimant" means an individual who has filed a claim.

21           (e) "Former YDC resident" means an individual who resided at the YDC at any time.

22           (f) "Fund" means the YDC settlement fund established in this section.

23           (g) "Investigator" means one or more individuals assigned by the administrator to  
24 independently investigate a claim.

25           (h) "Physical abuse" means an incident of conduct that would constitute an offense  
26 under RSA 631:1, RSA 631:2, or RSA 631:2-a, and that is not justified under RSA 627:6, or a  
27 common law cause of action for assault or battery.

28           (i) "Sexual abuse" means an incident of conduct which would constitute an offense under  
29 RSA 632-A:2, RSA 632-A:3, or RSA 632-A:4, or a common law cause of action for assault or battery  
30 that involves sexual contact or sexual penetration as defined by RSA 632-A:1.



1 (j) "Unlawful confinement" means placement in isolation as discipline without such  
2 process as was due under the circumstances or under conditions of confinement that were grossly out  
3 of proportion to the severity of the conduct giving rise to the discipline, or not as punishment, and  
4 not for another legitimate penological goal or purpose such as the safety or security of the resident or  
5 others.

6 (k) "Youth development center" or "YDC" means the youth development center as  
7 identified in RSA 621, or its renamed or successor entity, and any predecessor entity performing the  
8 function of housing adjudicated delinquent or pre-adjudication detained youth, including the State  
9 Industrial School, the Philbrook School, the Tobey Special Education School and the Youth Services  
10 Center.

11 These definitions shall be applicable to claimants, claims, the claims process, and the fund  
12 governed by this section. This section is not intended in any way to expand or limit the rights of  
13 individuals or the state under any other state statutory or common law.

14 II. There is hereby established in the state treasury the YDC settlement fund which shall be  
15 kept distinct and separate from all other funds. The fund shall be administered by the attorney  
16 general, who shall use the funds for the purpose of administering claims of former YDC residents as  
17 defined in this section. The fund shall be nonlapsing and continually appropriated to the  
18 department of justice until June 30, 2032, after which date the fund shall lapse to the revenue  
19 stabilization reserve account established in RSA 9:13-e, II, unless earlier discontinued by the  
20 attorney general, in consultation with the administrator, or as otherwise provided by law.  
21 Settlement amounts paid to former YDC residents shall be as determined by the process outlined in  
22 this chapter. The attorney general may enter into memoranda of understanding with the judicial  
23 branch or any state agency as necessary to compensate them for services performed in furtherance of  
24 this chapter.

25 III. There is further established in the judicial branch a temporary full-time or part-time  
26 position known as the youth development center claims administrator, to be appointed by the  
27 supreme court. A part-time administrator may maintain a private, unrelated mediation or legal  
28 practice apart from the duties as administrator notwithstanding any other provision of rule or law to  
29 the contrary. The supreme court shall appoint an administrator agreed to by the attorney general  
30 and counsel for claimants. If the attorney general and counsel for claimants are unable to agree  
31 upon an administrator, the supreme court shall select the administrator from the candidates  
32 submitted to the court by the attorney general and counsel for claimants, not later than 30 days  
33 following the court's receipt of the candidates. The attorney general and counsel for claimants shall  
34 each submit two candidates, not later than 30 days following the joint fiscal committee's approval of  
35 the claim process and guidelines as provided in paragraph IV. The administrator shall receive  
36 compensation at no more than the rate of salary of an active superior court justice and shall, if  
37 working full-time, receive the same benefits as other non-judicial employees of the judicial branch.

**HB 1677-FN - AS AMENDED BY THE HOUSE**

**- Page 3 -**

1 If working part-time, the administrator shall receive compensation at no more than the equivalent  
2 per diem rate of an active superior court justice, provided that in any calendar year, the  
3 administrator shall not receive more in total compensation than that received by an active superior  
4 court justice. The judicial branch shall provide the administrator and any necessary support staff  
5 with office space. The salary, benefits, and expenses of the administrator, and any necessary  
6 support staff, shall be paid from the fund. The administrator shall report to the chief justice of the  
7 supreme court or the chief justice's designee for employment-related purposes, but the supreme  
8 court shall have no authority to review the administrator's decisions. At such time as the  
9 administrator's duties are concluded, or at such time as full-time service by the administrator is no  
10 longer needed to carry out the administrator's duties, the supreme court shall either eliminate the  
11 administrator's position or reduce it from a full-time to a part-time position as may be appropriate.  
12 The supreme court may remove the administrator if, after a request for removal received from the  
13 attorney general or claimants' counsel, or upon the court's own motion, the court determines that  
14 good cause for removal exists. Once appointed, the administrator shall process claims as provided  
15 herein and may settle claims at such amounts as may be agreed upon between the AG designee and  
16 each claimant, or at amounts which are determined by the administrator, giving due consideration  
17 to the guidelines adopted by the joint fiscal committee as provided in paragraph IV.

18 IV.(a) As soon as practical following the effective date of this section, the attorney general,  
19 after making good faith efforts to reach agreements with claimants' counsel, and with input from the  
20 attorney general's victim/witness advocates, shall develop and present to the joint fiscal committee a  
21 claims process consistent with this section including the development of claim forms, identification  
22 of necessary or helpful documentation, and guidelines for valuing claims for settlement purposes  
23 which take into consideration the following factors:

- 24 (1) The nature and character of the acts of physical abuse and sexual abuse.  
25 (2) The frequency and duration of those acts.  
26 (3) Aggravating and mitigating factors such as whether the acts were also  
27 accompanied by unlawful confinement, the impact on the claimant relative to others similarly  
28 situated, the applicable statute of limitations and other potentially available legal defenses if the  
29 claims were pursued as litigation, the legal standards in effect at the time of the acts, whether the  
30 acts were previously reported to persons in a position of authority, whether the acts can be  
31 corroborated through contemporaneous reports by the claimant to others.  
32 (4) Any other factor that may be relevant.

33 (b) The guidelines may group similar claims by type and suggest a value or range of  
34 values for each type of claim. The goal of the guidelines shall be to ensure the fair and uniform  
35 valuation of claims so that the claims of similarly situated claimants are valued similarly. The joint  
36 fiscal committee shall review and vote to either approve or object to the proposed claims process and  
37 guidelines within 30 days of receipt. If the joint fiscal committee votes to object to the proposed

1 claims process and guidelines, the joint fiscal committee shall articulate its reasons for objection in  
2 writing and claimants' counsel and the attorney general shall present for approval a revised version  
3 of the proposed claims process and guidelines that addresses the joint fiscal committee's concerns.  
4 The joint fiscal committee shall approve a claims process and guidelines prior to appointment of an  
5 administrator as set forth in paragraph III. Once approved, the guidelines shall be binding on the  
6 AG designee and the administrator. The claims process and guidelines may be revised periodically  
7 as deemed necessary by the administrator, again with input from claimants' counsel and the  
8 attorney general, and with the approval of the joint fiscal committee.

9 V. For all claims involving both sexual and physical abuse or sexual abuse only, no  
10 individual claimant shall be paid more than \$1,500,000 in settlement of all claims in the aggregate.  
11 For all claims involving physical abuse only, no individual claimant shall be paid more than  
12 \$150,000 in settlement of all physical abuse claims in the aggregate.

13 VI. Beginning not later than November 1, 2022, the administrator shall publish notice to the  
14 public of the establishment of the YDC settlement fund and the opportunity for former YDC  
15 residents to file claims. Such notice shall be published in a newspaper of general circulation in every  
16 county in the state, at least once a week for at least 2 consecutive weeks. Such notice shall also be  
17 published at least once in a newspaper of national circulation. Such notice shall also be published on  
18 such social media platforms as are appropriate in the discretion of the administrator for at least 6  
19 consecutive weeks. Additionally, such notice shall be published to the current residents of all New  
20 Hampshire correctional facilities by means of posting or other customary means for such facility,  
21 shall be made available by the attorney general via press release, and shall be posted on the attorney  
22 general's public website. The publication shall constitute conclusive proof in judicial proceedings of  
23 the latest date by which all persons, in the exercise of reasonable diligence, could have discovered  
24 both their injuries and the causal relationship of their injuries to the acts or omissions of any  
25 employees or agents of the state regarding any incident which might have been the subject of a  
26 claim, whether or not such a claim was filed.

27 VII.(a) Any former YDC resident may file a claim. A claim subject to the procedure  
28 established in this section may be filed only by the former YDC resident who was personally subject  
29 to sexual abuse or physical abuse. No claim shall be filed for collateral injuries or damages suffered  
30 by any other person resulting from sexual abuse or physical abuse of the former YDC resident,  
31 including claims for loss of consortium or emotional distress suffered by relatives of the former YDC  
32 resident. No claim shall be filed by the executor or administrator of a deceased former YDC  
33 resident, but a claim may be filed by the guardian or conservator of a living former YDC resident  
34 who is incapacitated. Once a claim has been properly filed by a living former YDC resident, the  
35 subsequent death of that claimant shall not extinguish the claim.

36 (b) Claims may be filed beginning January 1, 2023. Claims shall not be accepted after  
37 December 31, 2024.

1 (c) A former YDC resident's participation in this claims process is voluntary. A former  
2 YDC resident who elects not to participate in the claims process retains the right to pursue a claim  
3 in a judicial or other forum. A former YDC resident is entitled to consult with counsel before  
4 deciding whether to participate in the claims process. The administrator shall identify and publish  
5 the names of attorneys willing to consult with former YDC residents concerning their decision to file  
6 a claim.

7 (d) This section constitutes the state's offer to resolve completely and finally all of the  
8 former YDC resident's claims through the claims process established. By filing a claim, the claimant  
9 agrees that he or she will participate in the claims process, and, if the claimant requests that the  
10 administrator decide the claim, agrees to accept the determination of the administrator as final and  
11 binding, even if the claimant does not receive any payment from the fund. The submission of a claim  
12 shall constitute an agreement in writing to submit the claim to arbitration as provided in RSA 542:1.

13 (e) By filing a claim, a claimant waives his or her right to simultaneously seek other or  
14 additional monetary relief in any forum from the state of New Hampshire or any of its agents or  
15 employees, or from any of its political subdivisions or their agents or employees arising out of or  
16 relating to any incidents which are or could have been the subject of a claim, except that the  
17 claimant does not waive his or her right to seek or continue to seek relief in any forum from an  
18 individual whose direct, personal actions constitute sexual abuse or physical abuse, even if said  
19 individual was a state employee at the time of the acts. The administrator shall require a claimant  
20 to execute appropriate agreements or motions to stay any pending proceedings as a condition to  
21 processing claims provided that such documents expressly preserve the right to pursue claims  
22 against individual perpetrators as described.

23 (f) Claims shall be submitted under oath. Claimants shall be entitled to be treated with  
24 respect and dignity in the presentment of their claims. Claimants who are believed by the  
25 administrator to have deliberately submitted false claims may be referred to an appropriate law  
26 enforcement agency. Perpetrators of sexual abuse or physical abuse identified by claimants may be  
27 referred to an appropriate law enforcement agency by the administrator, but only with the consent  
28 and cooperation of the claimant. A claimant shall not be required to cooperate in a criminal  
29 investigation as a condition of participating in the claim process.

30 (g) Claims and all documents and information created in connection with claims shall be  
31 confidential, except that matter which was not previously confidential shall not become so by virtue  
32 of being submitted in connection with a claim, or except as otherwise provided in this section or in  
33 RSA 91-A. This confidentiality is provided in order to protect the privacy of the claimant, and only  
34 for that reason. The claimant shall not be bound by this obligation of confidentiality and may waive  
35 it at any time.

36 VIII.(a) Within 30 days of receipt of a claim, the administrator shall acknowledge its receipt  
37 in writing and provide a copy to the AG designee.

1 (b) Within 60 days of receipt of a claim, the administrator shall review the claim, and  
2 indicate whether the claim is considered complete as submitted, or if not, what additional  
3 information is required. If the administrator requires additional information, the claimant shall  
4 provide that information within 90 days of being notified that additional information is needed, or  
5 the claim may be denied as incomplete, provided, that the administrator may grant the claimant an  
6 extension of time for good cause shown. The administrator shall also provide any additional  
7 documentation received to the AG designee.

8 (c) Once a claim is considered complete, the AG designee shall have 30 days to indicate  
9 to the claimant and the administrator its position regarding the claim. The AG designee may agree  
10 or disagree with the claim in whole or in part, and shall indicate whether he or she believes the  
11 claim should be referred to an investigator. The administrator may grant the AG designee an  
12 extension of time to indicate its position for good cause shown.

13 (d) Following receipt of the AG designee's position, the administrator may refer a claim  
14 to an investigator if, in the administrator's independent judgment, an investigation is needed. The  
15 administrator shall direct the investigator as to any particular aspects of the claimant's claim for  
16 which the administrator seeks further information or verification, and in such case, the investigation  
17 shall be limited to that scope. If the administrator elects not to refer a claim to an investigator, then  
18 the administrator shall so notify the AG designee and the claimant, and advise the claimant in  
19 writing regarding his or her options: to accept the AG designee's position, to request the  
20 administrator decide the claim, or to withdraw his or her claim from further processing. Within 30  
21 days of receiving the position of the AG designee, the claimant shall indicate to the administrator  
22 and the AG designee whether he or she agrees with the AG designee's position, whether he or she  
23 wishes for the administrator to decide the claim, or whether he or she wishes to withdraw his or her  
24 claim from further processing. In the absence of an indication from the claimant, the administrator  
25 may assume that the claimant is in agreement with the position of the AG designee.

26 (e) The purpose of an investigation shall be to verify a claim, as submitted, if possible.  
27 The investigation shall, to the greatest extent possible, be conducted in a trauma-informed,  
28 respectful, and dignified manner. The investigation may include an interview of the claimant, which  
29 may be conducted under oath and recorded. The investigator may also request to review additional  
30 records related to the claim. The claimant shall be entitled to the assistance of an advocate in  
31 connection with the investigation process who shall be allowed to accompany the claimant during  
32 any interview. The claimant shall execute such documents or authorizations as may be necessary to  
33 permit the investigator to access records. If the claimant is represented by counsel, counsel shall  
34 also be allowed to attend any interview of the claimant. A claim may be denied if a claimant refuses  
35 to cooperate with the investigation. Except in extraordinary circumstances, investigations should be  
36 completed within 90 days of referral.

1 (f) The investigator shall present a report to the administrator of his or her findings,  
2 which shall include a summary of any interviews conducted or records gathered, a copy of any such  
3 supporting documentation, records and recordings. The administrator shall provide a copy of the  
4 investigator's report and supporting documentation to the claimant and the AG designee once  
5 received.

6 (g) Within 30 days of receiving the investigation report, the AG designee shall indicate  
7 to the claimant and the administrator its updated position regarding the claim, and the  
8 administrator shall advise the claimant in writing regarding his or her options: to accept the AG  
9 designee's position, to request the administrator decide the claim, or to withdraw his or her claim  
10 from further processing.

11 (h) Within 30 days of receiving the updated position of the AG designee, the claimant  
12 shall indicate to the administrator and the AG designee whether he or she agrees with the AG  
13 designee's position, whether he or she wishes for the administrator to decide the claim, or whether  
14 he or she wishes to withdraw the claim from further processing. In the absence of an indication from  
15 the claimant, the administrator may assume that the claimant is in agreement with the position of  
16 the AG designee. If the claimant and the AG designee are in agreement regarding the disposition of  
17 the claim, the administrator shall make an award consistent with the parties' agreement.

18 (i) The AG designee and the claimant or claimant's counsel may also engage in  
19 discussion separate and apart from their stated claim positions in an effort to resolve their  
20 disagreements regarding a claim. Such discussions shall be treated in like fashion to settlement  
21 discussions conducted under New Hampshire rules of evidence 408, and the administrator shall not  
22 be apprised of efforts to compromise in the event that the claim proceeds to a resolution proceeding.

23 IX.(a) When a claimant requests that the administrator decide the claim, the administrator  
24 shall schedule the claim for a resolution proceeding according to the procedures approved by the  
25 joint fiscal committee. All resolution proceedings shall take place in the state of New Hampshire,  
26 although parties and witnesses may attend by telephone or video conference in the discretion of the  
27 administrator. To the greatest extent possible, claims shall be scheduled for resolution in the order  
28 that they are received and determined to be complete, except that the administrator may also give  
29 consideration to the time for which litigation may have been pending prior to the filing of a claim.  
30 By requesting a resolution proceeding, a claimant fully waives his or her right to seek other or  
31 additional monetary relief in any forum from the state of New Hampshire or any of its agents or  
32 employees, or from any of its political subdivisions or their agents or employees arising out of or  
33 relating to any incidents which are or could have been the subject of a claim, except that the  
34 claimant does not waive his or her right to seek or continue to seek relief in any forum from an  
35 individual whose direct, personal actions constitute sexual abuse or physical abuse, even if said  
36 individual was a state employee at the time of the acts. The administrator shall require a claimant  
37 to execute appropriate dismissals, waivers, releases, or other documents as a condition of scheduling

1 a resolution proceeding, provided that such documents expressly preserve the right to pursue claims  
2 against individual perpetrators as described.

3 (b) The administrator may require such submissions by the parties as the administrator  
4 determines, may consider such information as the administrator deems appropriate, and shall  
5 resolve claims based upon written submission, through conciliation, by conducting a hearing, or on  
6 any other basis determined by the administrator. The claimant shall be entitled to the assistance of  
7 an advocate in connection with the resolution process who shall be allowed to accompany the  
8 claimant during any hearing or meeting.

9 (c) Any hearing conducted by the administrator shall be scheduled for not more than 3  
10 hours unless good cause is shown regarding the need for more time and shall be conducted in a  
11 victim-centered, trauma informed way, to the greatest extent possible. If the claimant is  
12 represented by counsel, counsel shall also be allowed to attend and participate in any hearing.

13 (d) At any hearing, any witnesses who testify shall be sworn.

14 (e) The administrator shall issue a written decision to the parties within 30 days of the  
15 conclusion of the resolution process. The administrator's decision regarding the claim shall be final  
16 and non-appealable, and the provisions of RSA 542:8, RSA 542:9, and RSA 542:10 shall not apply,  
17 provided, however, that either the claimant or the AG designee may request the administrator to  
18 reconsider a decision on grounds that it contains mathematical mistakes or miscalculations.

19 X. Upon the rendering of any final decision to approve payment of any part of a claim,  
20 whether made by the administrator pursuant to the agreement of the claimant and the AG designee  
21 or pursuant to a determination by the administrator following a resolution proceeding, the payment  
22 shall be made from the YDC settlement fund established in paragraph II. In addition, the claimant  
23 may request, and the administrator shall hold a face-to-face meeting with the claimant where the  
24 claimant may speak with the administrator without the AG designee present. The conduct of such a  
25 meeting shall not be considered a part of a resolution process and shall be not be available if a  
26 resolution process is requested until after it is completed.

27 XI. Any agreement between the claimant and the AG designee and any determination by the  
28 administrator may include a determination that a claim should be paid in annual installments over  
29 a period of up to 10 years. A claimant may indicate that he or she does not wish to receive  
30 installment payments, and the administrator shall honor the claimant's wishes in this regard.  
31 Additionally, a claimant may request that he or she receive the award in the form of periodic  
32 payments under a structured settlement that (i) is the subject of a qualified assignment that  
33 satisfies the conditions of Internal Revenue Code Section 130 and releases the fund from any  
34 liability for the periodic payments; and (ii) is funded by an annuity contract issued by a life  
35 insurance company domiciled in the United States, licensed in New Hampshire and rated A or better  
36 by A.M. Best. Upon receipt of such a request, the administrator shall accommodate the processing of  
37 an award in said fashion. Additionally, the administrator may maintain and provide to claimants a

**HB 1677-FN - AS AMENDED BY THE HOUSE**

**- Page 9 -**

1 list of licensed structured settlement specialists who have indicated a desire to assist in establishing  
2 periodic payments to meet a claimant's anticipated needs.

3 XII. If the administrator determines that a shortfall in the YDC settlement fund is likely to  
4 occur, the administrator, in consultation with the attorney general, shall request additional funds  
5 from the legislature.

6 XIII. The costs of administration of the fund and any costs of the attorney general which are  
7 outside of the ordinary operational expenses of the department of justice shall be paid from the fund.

8 XIV. The administrator may approve all fees and costs of attorneys who represent claimants  
9 in proceedings before the administrator. The administrator shall not approve any request of an  
10 attorney for fees or costs which are not reasonable. The administrator shall not approve an  
11 attorney's fee in excess of 33 1/3 percent of the amount of the award. All costs and attorney's fees  
12 paid to a claimant's attorney shall be paid from the amount awarded to the claimant.

13 XV. The administrator, in consultation with the attorney general, shall quarterly submit a  
14 report to the speaker of the house of representatives, the president of the senate, the joint fiscal  
15 committee and the governor providing information as to the number and nature of claims made and  
16 settled, the amounts requested and paid in settlement to date, the claim amounts pending, an  
17 estimate of the likely amounts which will be approved and paid, the administrative costs which have  
18 been paid, and an estimate of future administrative costs to be paid. The report shall be structured  
19 to protect the privacy and anonymity of the claimants. The attorney general shall also post the  
20 report on the department of justice's public website.

21 3 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-  
22 A:5 by inserting after paragraph XII the following new paragraph:

23 XIII. Records of the youth development center claims administration and the YDC  
24 settlement fund pursuant to RSA 21-M:11-a, with the exception of settlement agreements, which  
25 shall remain subject to RSA 91-A:4, VI, and, after a claim has been finally resolved, such other  
26 records the release of which would not constitute a violation of other provisions of law or an  
27 unwarranted invasion of a claimant's privacy.

28 4 Appropriation. Notwithstanding RSA 9:13-e, the sum of \$100,000,000 for the biennium ending  
29 June 30, 2023, is hereby appropriated from the revenue stabilization reserve account to the YDC  
30 settlement fund established in RSA 21-M:11-a, II for the purpose of administering and settling  
31 claims as provided in RSA 21-M:11-a. The appropriation shall be nonlapsing, provided that any  
32 moneys in the YDC settlement fund not expended as of June 30, 2032 shall lapse to the revenue  
33 stabilization reserve account, unless the fund is earlier terminated by the attorney general, in  
34 consultation with the administrator, or as otherwise provided by law.

35 5 Effective Date. This act shall take effect upon its passage.



**HB 1677-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$100,000,000	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

The Department of Justice was contacted for a fiscal note worksheet on December 22, 2021, which it has not provided as of January 19, 2022.

**METHODOLOGY:**

This bill creates a dedicated, non-lapsing fund, administered by the New Hampshire Department of Justice (DOJ), to address claims of abuse at the youth development center from 1980 to the present. The bill directs the DOJ to manage the voluntary claims settlement process and pay for the administration of this process from the dedicated fund. All claims must be filed between October 1, 2022 and September 30, 2023. In order to pay for the administration and settlement of claims, the bill makes a non-lapsing general fund appropriation of \$100 million for the biennium ending June 30, 2023.

The Department of Health and Human Services (DHHS) notes that since the DOJ has complete authority over the settlement process, there is no fiscal impact to DHHS as a result of the administration of the fund or the payout of settlement. However, as the bill proposes a relatively short time line for investigation and resolution of the potentially hundreds of claims that may be filed, DHHS anticipates that the fiscal impact on the agency's Division for Children, Youth and Families (DCYF) will be substantial. Specifically, by stipulating that investigations be completed within 90 days, the bill may require significant DCYF staff time to do the following: (1) participate in investigations, (2) produce electronic and paper records, (3) and prepare for and participate in interviews and hearings. DHHS assumes that this process will result in the need for additional

staff, but that the number of such staff is indeterminable because the Department is unable to predict either the number of former youth who will file claims or the complexity of said claims.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Department of Justice

LBA  
 22-3122  
 Amended 5/3/22

**HB 1677-FN FISCAL NOTE  
 AS AMENDED BY THE HOUSE (Amendment #2022-0956h)**

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

FISCAL IMPACT:     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other Revenue Stabilization Reserve Account, aka "Rainy Day Fund"			

The Department of Justice was contacted for a fiscal note worksheet on December 22, 2021 and again on March 25, 2022, which it has not provided as of May 2, 2022.

**METHODOLOGY:**

This bill creates a dedicated, non-lapsing fund, administered by the New Hampshire Department of Justice (DOJ), to address claims of abuse at the youth development center. Although the settlement process itself will be handled by the Judicial Branch, the bill directs the DOJ to make payments and pay for the administration of the process from the dedicated fund. The bill further authorizes the DOJ to enter into memoranda of understanding with the Judicial Branch or any other state agency as needed to compensate them for services performed in furtherance of the bill's objectives. In order to pay for the administration and settlement of claims, the bill makes a non-lapsing appropriation of \$100 million for the biennium ending June 30, 2023, to come from the revenue stabilization reserve account, also known as the "rainy day fund."

The Judicial Branch notes that the bill creates a claims administer position within the Branch, to be paid no more than the salary of an active Superior Court justice (approximately 165,000 as of May 2022). Consistent with the text of the bill, the Branch assumes that the salary and benefits of this position, as well as those of any necessary support staff, will come from the settlement fund described above.

The Department of Health and Human Services (DHHS) notes that since the Judicial Branch and the DOJ have complete authority over the settlement and payment processes, respectively, there is no fiscal impact to DHHS as a result of the administration of the fund or the payout of settlements. However, as the bill will result in the need for investigation and resolution of the potentially hundreds of claims that may be filed, DHHS anticipates a fiscal impact to the agency's Division for Children, Youth and Families (DCYF). Specifically, the bill may require additional DCYF staff time to do the following: (1) participate in investigations, (2) produce electronic and paper records, (3) and prepare for and participate in interviews and hearings. DHHS assumes that this process will result in the need for additional staff, but that the number of such staff is indeterminable because the Department is unable to predict either the number of former youth who will file claims or the complexity of said claims.

**AGENCIES CONTACTED:**

Department of Health and Human Services, Judicial Branch, and Department of Justice

**HB 1677-FN FISCAL NOTE**  
**AS AMENDED BY THE HOUSE (Amendment #2022-0956h)**

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

FISCAL IMPACT:     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Revenue Stabilization Reserve Account, aka "Rainy Day Fund"			

The Department of Justice was contacted for a fiscal note worksheet on December 22, 2021 and again on March 25, 2022, which it has not provided as of May 2, 2022.

**METHODOLOGY:**

This bill creates a dedicated, non-lapsing fund, administered by the New Hampshire Department of Justice (DOJ), to address claims of abuse at the youth development center. Although the settlement process itself will be handled by the Judicial Branch, the bill directs the DOJ to make payments and pay for the administration of the process from the dedicated fund. The bill further authorizes the DOJ to enter into memoranda of understanding with the Judicial Branch or any other state agency as needed to compensate them for services performed in furtherance of the bill's objectives. In order to pay for the administration and settlement of claims, the bill makes a non-lapsing appropriation of \$100 million for the biennium ending June 30, 2023, to come from the revenue stabilization reserve account, also known as the "rainy day fund."

The Judicial Branch notes that the bill creates a claims administer position within the Branch, to be paid no more than the salary of an active Superior Court justice (approximately 165,000 as of May 2022). Consistent with the text of the bill, the Branch assumes that the salary and benefits of this position, as well as those of any necessary support staff, will come from the settlement fund described above.

The Department of Health and Human Services (DHHS) notes that since the Judicial Branch and the DOJ have complete authority over the settlement and payment processes, respectively, there is no fiscal impact to DHHS as a result of the administration of the fund or the payout of settlements. However, as the bill will result in the need for investigation and resolution of the potentially hundreds of claims that may be filed, DHHS anticipates a fiscal impact to the agency's Division for Children, Youth and Families (DCYF). Specifically, the bill may require additional DCYF staff time to do the following: (1) participate in investigations, (2) produce electronic and paper records, (3) and prepare for and participate in interviews and hearings. DHHS assumes that this process will result in the need for additional staff, but that the number of such staff is indeterminable because the Department is unable to predict either the number of former youth who will file claims or the complexity of said claims.

**AGENCIES CONTACTED:**

Department of Health and Human Services, Judicial Branch, and Department of Justice

CHAPTER 122  
HB 1677-FN - FINAL VERSION

16Mar2022... 0956h

2022 SESSION

22-3122  
04/10

HOUSE BILL

**1677**

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

SPONSORS: Rep. Umberger, Carr. 2; Rep. Wallner, Merr. 10; Rep. Rice, Hills. 37; Rep. Long, Hills. 10; Sen. Bradley, Dist 3

COMMITTEE: Finance

---

AMENDED ANALYSIS

This bill:

I. Establishes a procedure for the administration and resolution of claims of abuse which may have occurred at the youth development center.

II. Creates the youth development center (YDC) settlement fund and makes an appropriation to the fund for the settlement of founded abuse claims.

III. Creates an exemption from the right-to-know law for all records related to the administration and settlement of abuse claims at the youth development center.

-----

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

CHAPTER 122  
HB 1677-FN - FINAL VERSION

16Mar2022... 0956h

22-3122  
04/10

STATE OF NEW HAMPSHIRE

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

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

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

1 122:1 Statement of Purpose. The general court hereby finds that the attorney general's investigation  
2 into abuse at New Hampshire's youth development center in prior decades has identified a population of  
3 New Hampshire citizens with potential claims against the state. The state wishes to acknowledge those  
4 claims and the suffering which has been endured by the victims of abuse by establishing a trauma-  
5 informed, victim-centered alternative to litigation for the efficient and fair resolution of those claims.

6 122:2 New Section; Department of Justice; Youth Development Center Claims Administration and  
7 Settlement Fund. Amend RSA 21-M by inserting after section 11 the following new section:

8 21-M:11-a Youth Development Center Claims Administration and Settlement Fund.

9 I. In this section:

10 (a) "Administrator" means an independent, neutral attorney admitted to the practice of law in  
11 New Hampshire, chosen in the manner set forth in paragraph III to administer youth development center  
12 claims pursuant to this section. The administrator shall have all of the duties and authority granted  
13 pursuant to RSA 542, except as otherwise provided in this section.

14 (b) "AG designee" means one or more individuals within the attorney general's office  
15 designated by the attorney general.

16 (c) "Claim" means a request for compensation related to one or more incidents of sexual  
17 abuse and/or physical abuse perpetrated upon a former YDC resident by or at the behest of a member of  
18 the YDC staff.

19 (d) "Claimant" means an individual who has filed a claim.

20 (e) "Former YDC resident" means an individual who resided at the YDC at any time.

21 (f) "Fund" means the YDC settlement fund established in this section.

22 (g) "Investigator" means one or more individuals assigned by the administrator to  
23 independently investigate a claim.

24 (h) "Physical abuse" means an incident of conduct that would constitute an offense under  
25 RSA 631:1, RSA 631:2, or RSA 631:2-a, and that is not justified under RSA 627:6, or a common law  
26 cause of action for assault or battery.

27 (i) "Sexual abuse" means an incident of conduct which would constitute an offense under  
28 RSA 632-A:2, RSA 632-A:3, or RSA 632-A:4, or a common law cause of action for assault or battery that  
29 involves sexual contact or sexual penetration as defined by RSA 632-A:1.

30 (j) "Unlawful confinement" means placement in isolation as discipline without such process  
31 as was due under the circumstances or under conditions of confinement that were grossly out of



**CHAPTER 122**  
**HB 1677-FN - FINAL VERSION**  
**- Page 2 -**

1 proportion to the severity of the conduct giving rise to the discipline, or not as punishment, and not for  
2 another legitimate penological goal or purpose such as the safety or security of the resident or others.

3 (k) "Youth development center" or "YDC" means the youth development center as identified  
4 in RSA 621, or its renamed or successor entity, and any predecessor entity performing the function of  
5 housing adjudicated delinquent or pre-adjudication detained youth, including the State Industrial School,  
6 the Philbrook School, the Tobey Special Education School and the Youth Services Center.

7 These definitions shall be applicable to claimants, claims, the claims process, and the fund governed  
8 by this section. This section is not intended in any way to expand or limit the rights of individuals or the  
9 state under any other state statutory or common law.

10 II. There is hereby established in the state treasury the YDC settlement fund which shall be kept  
11 distinct and separate from all other funds. The fund shall be administered by the attorney general, who  
12 shall use the funds for the purpose of administering claims of former YDC residents as defined in this  
13 section. The fund shall be nonlapsing and continually appropriated to the department of justice until June  
14 30, 2032, after which date the fund shall lapse to the revenue stabilization reserve account established in  
15 RSA 9:13-e, II, unless earlier discontinued by the attorney general, in consultation with the administrator,  
16 or as otherwise provided by law. Settlement amounts paid to former YDC residents shall be as  
17 determined by the process outlined in this chapter. The attorney general may enter into memoranda of  
18 understanding with the judicial branch or any state agency as necessary to compensate them for services  
19 performed in furtherance of this chapter.

20 III. There is further established in the judicial branch a temporary full-time or part-time position  
21 known as the youth development center claims administrator, to be appointed by the supreme court. A  
22 part-time administrator may maintain a private, unrelated mediation or legal practice apart from the duties  
23 as administrator notwithstanding any other provision of rule or law to the contrary. The supreme court  
24 shall appoint an administrator agreed to by the attorney general and counsel for claimants. If the attorney  
25 general and counsel for claimants are unable to agree upon an administrator, the supreme court shall  
26 select the administrator from the candidates submitted to the court by the attorney general and counsel for  
27 claimants, not later than 30 days following the court's receipt of the candidates. The attorney general and  
28 counsel for claimants shall each submit two candidates, not later than 30 days following the joint fiscal  
29 committee's approval of the claim process and guidelines as provided in paragraph IV. The administrator  
30 shall receive compensation at no more than the rate of salary of an active superior court justice and shall,  
31 if working full-time, receive the same benefits as other non-judicial employees of the judicial branch. If  
32 working part-time, the administrator shall receive compensation at no more than the equivalent per diem  
33 rate of an active superior court justice, provided that in any calendar year, the administrator shall not  
34 receive more in total compensation than that received by an active superior court justice. The judicial  
35 branch shall provide the administrator and any necessary support staff with office space. The salary,  
36 benefits, and expenses of the administrator, and any necessary support staff, shall be paid from the fund.  
37 The administrator shall report to the chief justice of the supreme court or the chief justice's designee for  
38 employment-related purposes, but the supreme court shall have no authority to review the administrator's  
39 decisions. At such time as the administrator's duties are concluded, or at such time as full-time service by

**CHAPTER 122**  
**HB 1677-FN - FINAL VERSION**  
**- Page 3 -**

1 the administrator is no longer needed to carry out the administrator's duties, the supreme court shall either  
2 eliminate the administrator's position or reduce it from a full-time to a part-time position as may be  
3 appropriate. The supreme court may remove the administrator if, after a request for removal received  
4 from the attorney general or claimants' counsel, or upon the court's own motion, the court determines that  
5 good cause for removal exists. Once appointed, the administrator shall process claims as provided herein  
6 and may settle claims at such amounts as may be agreed upon between the AG designee and each  
7 claimant, or at amounts which are determined by the administrator, giving due consideration to the  
8 guidelines adopted by the joint fiscal committee as provided in paragraph IV.

9 IV.(a) As soon as practical following the effective date of this section, the attorney general, after  
10 making good faith efforts to reach agreements with claimants' counsel, and with input from the attorney  
11 general's victim/witness advocates, shall develop and present to the joint fiscal committee a claims  
12 process consistent with this section including the development of claim forms, identification of necessary  
13 or helpful documentation, and guidelines for valuing claims for settlement purposes which take into  
14 consideration the following factors:

15 (1) The nature and character of the acts of physical abuse and sexual abuse.

16 (2) The frequency and duration of those acts.

17 (3) Aggravating and mitigating factors such as whether the acts were also accompanied  
18 by unlawful confinement, the impact on the claimant relative to others similarly situated, the applicable  
19 statute of limitations and other potentially available legal defenses if the claims were pursued as litigation,  
20 the legal standards in effect at the time of the acts, whether the acts were previously reported to persons  
21 in a position of authority, whether the acts can be corroborated through contemporaneous reports by the  
22 claimant to others.

23 (4) Any other factor that may be relevant.

24 (b) The guidelines may group similar claims by type and suggest a value or range of values  
25 for each type of claim. The goal of the guidelines shall be to ensure the fair and uniform valuation of  
26 claims so that the claims of similarly situated claimants are valued similarly. The joint fiscal committee  
27 shall review and vote to either approve or object to the proposed claims process and guidelines within 30  
28 days of receipt. If the joint fiscal committee votes to object to the proposed claims process and  
29 guidelines, the joint fiscal committee shall articulate its reasons for objection in writing and claimants'  
30 counsel and the attorney general shall present for approval a revised version of the proposed claims  
31 process and guidelines that addresses the joint fiscal committee's concerns. The joint fiscal committee  
32 shall approve a claims process and guidelines prior to appointment of an administrator as set forth in  
33 paragraph III. Once approved, the guidelines shall be binding on the AG designee and the administrator.  
34 The claims process and guidelines may be revised periodically as deemed necessary by the  
35 administrator, again with input from claimants' counsel and the attorney general, and with the approval of  
36 the joint fiscal committee.

37 V. For all claims involving both sexual and physical abuse or sexual abuse only, no individual  
38 claimant shall be paid more than \$1,500,000 in settlement of all claims in the aggregate. For all claims

**CHAPTER 122**  
**HB 1677-FN - FINAL VERSION**  
**- Page 4 -**

1 involving physical abuse only, no individual claimant shall be paid more than \$150,000 in settlement of all  
2 physical abuse claims in the aggregate.

3 VI. Beginning not later than November 1, 2022, the administrator shall publish notice to the public  
4 of the establishment of the YDC settlement fund and the opportunity for former YDC residents to file  
5 claims. Such notice shall be published in a newspaper of general circulation in every county in the state,  
6 at least once a week for at least 2 consecutive weeks. Such notice shall also be published at least once  
7 in a newspaper of national circulation. Such notice shall also be published on such social media platforms  
8 as are appropriate in the discretion of the administrator for at least 6 consecutive weeks. Additionally,  
9 such notice shall be published to the current residents of all New Hampshire correctional facilities by  
10 means of posting or other customary means for such facility, shall be made available by the attorney  
11 general via press release, and shall be posted on the attorney general's public website. The publication  
12 shall constitute conclusive proof in judicial proceedings of the latest date by which all persons, in the  
13 exercise of reasonable diligence, could have discovered both their injuries and the causal relationship of  
14 their injuries to the acts or omissions of any employees or agents of the state regarding any incident which  
15 might have been the subject of a claim, whether or not such a claim was filed.

16 VII.(a) Any former YDC resident may file a claim. A claim subject to the procedure established in  
17 this section may be filed only by the former YDC resident who was personally subject to sexual abuse or  
18 physical abuse. No claim shall be filed for collateral injuries or damages suffered by any other person  
19 resulting from sexual abuse or physical abuse of the former YDC resident, including claims for loss of  
20 consortium or emotional distress suffered by relatives of the former YDC resident. No claim shall be filed  
21 by the executor or administrator of a deceased former YDC resident, but a claim may be filed by the  
22 guardian or conservator of a living former YDC resident who is incapacitated. Once a claim has been  
23 properly filed by a living former YDC resident, the subsequent death of that claimant shall not extinguish  
24 the claim.

25 (b) Claims may be filed beginning January 1, 2023. Claims shall not be accepted after  
26 December 31, 2024.

27 (c) A former YDC resident's participation in this claims process is voluntary. A former YDC  
28 resident who elects not to participate in the claims process retains the right to pursue a claim in a judicial  
29 or other forum. A former YDC resident is entitled to consult with counsel before deciding whether to  
30 participate in the claims process. The administrator shall identify and publish the names of attorneys  
31 willing to consult with former YDC residents concerning their decision to file a claim.

32 (d) This section constitutes the state's offer to resolve completely and finally all of the former  
33 YDC resident's claims through the claims process established. By filing a claim, the claimant agrees that  
34 he or she will participate in the claims process, and, if the claimant requests that the administrator decide  
35 the claim, agrees to accept the determination of the administrator as final and binding, even if the claimant  
36 does not receive any payment from the fund. The submission of a claim shall constitute an agreement in  
37 writing to submit the claim to arbitration as provided in RSA 542:1.

38 (e) By filing a claim, a claimant waives his or her right to simultaneously seek other or  
39 additional monetary relief in any forum from the state of New Hampshire or any of its agents or

**CHAPTER 122**  
**HB 1677-FN - FINAL VERSION**  
**- Page 5 -**

1 employees, or from any of its political subdivisions or their agents or employees arising out of or relating  
2 to any incidents which are or could have been the subject of a claim, except that the claimant does not  
3 waive his or her right to seek or continue to seek relief in any forum from an individual whose direct,  
4 personal actions constitute sexual abuse or physical abuse, even if said individual was a state employee  
5 at the time of the acts. The administrator shall require a claimant to execute appropriate agreements or  
6 motions to stay any pending proceedings as a condition to processing claims provided that such  
7 documents expressly preserve the right to pursue claims against individual perpetrators as described.

8 (f) Claims shall be submitted under oath. Claimants shall be entitled to be treated with  
9 respect and dignity in the presentment of their claims. Claimants who are believed by the administrator to  
10 have deliberately submitted false claims may be referred to an appropriate law enforcement agency.  
11 Perpetrators of sexual abuse or physical abuse identified by claimants may be referred to an appropriate  
12 law enforcement agency by the administrator, but only with the consent and cooperation of the claimant.  
13 A claimant shall not be required to cooperate in a criminal investigation as a condition of participating in  
14 the claim process.

15 (g) Claims and all documents and information created in connection with claims shall be  
16 confidential, except that matter which was not previously confidential shall not become so by virtue of  
17 being submitted in connection with a claim, or except as otherwise provided in this section or in RSA 91-  
18 A. This confidentiality is provided in order to protect the privacy of the claimant, and only for that reason.  
19 The claimant shall not be bound by this obligation of confidentiality and may waive it at any time.

20 VIII.(a) Within 30 days of receipt of a claim, the administrator shall acknowledge its receipt in  
21 writing and provide a copy to the AG designee.

22 (b) Within 60 days of receipt of a claim, the administrator shall review the claim, and indicate  
23 whether the claim is considered complete as submitted, or if not, what additional information is required.  
24 If the administrator requires additional information, the claimant shall provide that information within 90  
25 days of being notified that additional information is needed, or the claim may be denied as incomplete,  
26 provided, that the administrator may grant the claimant an extension of time for good cause shown. The  
27 administrator shall also provide any additional documentation received to the AG designee.

28 (c) Once a claim is considered complete, the AG designee shall have 30 days to indicate to  
29 the claimant and the administrator its position regarding the claim. The AG designee may agree or  
30 disagree with the claim in whole or in part, and shall indicate whether he or she believes the claim should  
31 be referred to an investigator. The administrator may grant the AG designee an extension of time to  
32 indicate its position for good cause shown.

33 (d) Following receipt of the AG designee's position, the administrator may refer a claim to an  
34 investigator if, in the administrator's independent judgment, an investigation is needed. The administrator  
35 shall direct the investigator as to any particular aspects of the claimant's claim for which the administrator  
36 seeks further information or verification, and in such case, the investigation shall be limited to that scope.  
37 If the administrator elects not to refer a claim to an investigator, then the administrator shall so notify the  
38 AG designee and the claimant, and advise the claimant in writing regarding his or her options: to accept  
39 the AG designee's position, to request the administrator decide the claim, or to withdraw his or her claim

**CHAPTER 122**  
**HB 1677-FN - FINAL VERSION**  
**- Page 6 -**

1 from further processing. Within 30 days of receiving the position of the AG designee, the claimant shall  
2 indicate to the administrator and the AG designee whether he or she agrees with the AG designee's  
3 position, whether he or she wishes for the administrator to decide the claim, or whether he or she wishes  
4 to withdraw his or her claim from further processing. In the absence of an indication from the claimant,  
5 the administrator may assume that the claimant is in agreement with the position of the AG designee.

6 (e) The purpose of an investigation shall be to verify a claim, as submitted, if possible. The  
7 investigation shall, to the greatest extent possible, be conducted in a trauma-informed, respectful, and  
8 dignified manner. The investigation may include an interview of the claimant, which may be conducted  
9 under oath and recorded. The investigator may also request to review additional records related to the  
10 claim. The claimant shall be entitled to the assistance of an advocate in connection with the investigation  
11 process who shall be allowed to accompany the claimant during any interview. The claimant shall  
12 execute such documents or authorizations as may be necessary to permit the investigator to access  
13 records. If the claimant is represented by counsel, counsel shall also be allowed to attend any interview  
14 of the claimant. A claim may be denied if a claimant refuses to cooperate with the investigation. Except  
15 in extraordinary circumstances, investigations should be completed within 90 days of referral.

16 (f) The investigator shall present a report to the administrator of his or her findings, which  
17 shall include a summary of any interviews conducted or records gathered, a copy of any such supporting  
18 documentation, records and recordings. The administrator shall provide a copy of the investigator's report  
19 and supporting documentation to the claimant and the AG designee once received.

20 (g) Within 30 days of receiving the investigation report, the AG designee shall indicate to the  
21 claimant and the administrator its updated position regarding the claim, and the administrator shall advise  
22 the claimant in writing regarding his or her options: to accept the AG designee's position, to request the  
23 administrator decide the claim, or to withdraw his or her claim from further processing.

24 (h) Within 30 days of receiving the updated position of the AG designee, the claimant shall  
25 indicate to the administrator and the AG designee whether he or she agrees with the AG designee's  
26 position, whether he or she wishes for the administrator to decide the claim, or whether he or she wishes  
27 to withdraw the claim from further processing. In the absence of an indication from the claimant, the  
28 administrator may assume that the claimant is in agreement with the position of the AG designee. If the  
29 claimant and the AG designee are in agreement regarding the disposition of the claim, the administrator  
30 shall make an award consistent with the parties' agreement.

31 (i) The AG designee and the claimant or claimant's counsel may also engage in discussion  
32 separate and apart from their stated claim positions in an effort to resolve their disagreements regarding a  
33 claim. Such discussions shall be treated in like fashion to settlement discussions conducted under New  
34 Hampshire rules of evidence 408, and the administrator shall not be apprised of efforts to compromise in  
35 the event that the claim proceeds to a resolution proceeding.

36 IX.(a) When a claimant requests that the administrator decide the claim, the administrator shall  
37 schedule the claim for a resolution proceeding according to the procedures approved by the joint fiscal  
38 committee. All resolution proceedings shall take place in the state of New Hampshire, although parties  
39 and witnesses may attend by telephone or video conference in the discretion of the administrator. To the

**CHAPTER 122**  
**HB 1677-FN - FINAL VERSION**  
**- Page 7 -**

1 greatest extent possible, claims shall be scheduled for resolution in the order that they are received and  
2 determined to be complete, except that the administrator may also give consideration to the time for which  
3 litigation may have been pending prior to the filing of a claim. By requesting a resolution proceeding, a  
4 claimant fully waives his or her right to seek other or additional monetary relief in any forum from the state  
5 of New Hampshire or any of its agents or employees, or from any of its political subdivisions or their  
6 agents or employees arising out of or relating to any incidents which are or could have been the subject of  
7 a claim, except that the claimant does not waive his or her right to seek or continue to seek relief in any  
8 forum from an individual whose direct, personal actions constitute sexual abuse or physical abuse, even if  
9 said individual was a state employee at the time of the acts. The administrator shall require a claimant to  
10 execute appropriate dismissals, waivers, releases, or other documents as a condition of scheduling a  
11 resolution proceeding, provided that such documents expressly preserve the right to pursue claims  
12 against individual perpetrators as described.

13 (b) The administrator may require such submissions by the parties as the administrator  
14 determines, may consider such information as the administrator deems appropriate, and shall resolve  
15 claims based upon written submission, through conciliation, by conducting a hearing, or on any other  
16 basis determined by the administrator. The claimant shall be entitled to the assistance of an advocate in  
17 connection with the resolution process who shall be allowed to accompany the claimant during any  
18 hearing or meeting.

19 (c) Any hearing conducted by the administrator shall be scheduled for not more than 3 hours  
20 unless good cause is shown regarding the need for more time and shall be conducted in a victim-  
21 centered, trauma informed way, to the greatest extent possible. If the claimant is represented by counsel,  
22 counsel shall also be allowed to attend and participate in any hearing.

23 (d) At any hearing, any witnesses who testify shall be sworn.

24 (e) The administrator shall issue a written decision to the parties within 30 days of the  
25 conclusion of the resolution process. The administrator's decision regarding the claim shall be final and  
26 non-appealable, and the provisions of RSA 542:8, RSA 542:9, and RSA 542:10 shall not apply, provided,  
27 however, that either the claimant or the AG designee may request the administrator to reconsider a  
28 decision on grounds that it contains mathematical mistakes or miscalculations.

29 X. Upon the rendering of any final decision to approve payment of any part of a claim, whether  
30 made by the administrator pursuant to the agreement of the claimant and the AG designee or pursuant to  
31 a determination by the administrator following a resolution proceeding, the payment shall be made from  
32 the YDC settlement fund established in paragraph li. In addition, the claimant may request, and the  
33 administrator shall hold a face-to-face meeting with the claimant where the claimant may speak with the  
34 administrator without the AG designee present. The conduct of such a meeting shall not be considered a  
35 part of a resolution process and shall be not be available if a resolution process is requested until after it is  
36 completed.

37 XI. Any agreement between the claimant and the AG designee and any determination by the  
38 administrator may include a determination that a claim should be paid in annual installments over a period  
39 of up to 10 years. A claimant may indicate that he or she does not wish to receive installment payments,

**CHAPTER 122**  
**HB 1677-FN - FINAL VERSION**  
**- Page 8 -**

1 and the administrator shall honor the claimant's wishes in this regard. Additionally, a claimant may  
2 request that he or she receive the award in the form of periodic payments under a structured settlement  
3 that (i) is the subject of a qualified assignment that satisfies the conditions of Internal Revenue Code  
4 Section 130 and releases the fund from any liability for the periodic payments; and (ii) is funded by an  
5 annuity contract issued by a life insurance company domiciled in the United States, licensed in New  
6 Hampshire and rated A or better by A.M. Best. Upon receipt of such a request, the administrator shall  
7 accommodate the processing of an award in said fashion. Additionally, the administrator may maintain  
8 and provide to claimants a list of licensed structured settlement specialists who have indicated a desire to  
9 assist in establishing periodic payments to meet a claimant's anticipated needs.

10 XII. If the administrator determines that a shortfall in the YDC settlement fund is likely to occur,  
11 the administrator, in consultation with the attorney general, shall request additional funds from the  
12 legislature.

13 XIII. The costs of administration of the fund and any costs of the attorney general which are  
14 outside of the ordinary operational expenses of the department of justice shall be paid from the fund.

15 XIV. The administrator may approve all fees and costs of attorneys who represent claimants in  
16 proceedings before the administrator. The administrator shall not approve any request of an attorney for  
17 fees or costs which are not reasonable. The administrator shall not approve an attorney's fee in excess of  
18 33 1/3 percent of the amount of the award. All costs and attorney's fees paid to a claimant's attorney shall  
19 be paid from the amount awarded to the claimant.

20 XV. The administrator, in consultation with the attorney general, shall quarterly submit a report to  
21 the speaker of the house of representatives, the president of the senate, the joint fiscal committee and the  
22 governor providing information as to the number and nature of claims made and settled, the amounts  
23 requested and paid in settlement to date, the claim amounts pending, an estimate of the likely amounts  
24 which will be approved and paid, the administrative costs which have been paid, and an estimate of future  
25 administrative costs to be paid. The report shall be structured to protect the privacy and anonymity of the  
26 claimants. The attorney general shall also post the report on the department of justice's public website.

27 122:3 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA  
28 91-A:5 by inserting after paragraph XII the following new paragraph:

29 XIII. Records of the youth development center claims administration and the YDC settlement  
30 fund pursuant to RSA 21-M:11-a, with the exception of settlement agreements, which shall remain subject  
31 to RSA 91-A:4, VI, and, after a claim has been finally resolved, such other records the release of which  
32 would not constitute a violation of other provisions of law or an unwarranted invasion of a claimant's  
33 privacy.

34 122:4 Appropriation. Notwithstanding RSA 9:13-e, the sum of \$100,000,000 for the biennium ending  
35 June 30, 2023, is hereby appropriated from the revenue stabilization reserve account to the YDC  
36 settlement fund established in RSA 21-M:11-a, II for the purpose of administering and settling claims as  
37 provided in RSA 21-M:11-a. The appropriation shall be nonlapsing, provided that any moneys in the YDC  
38 settlement fund not expended as of June 30, 2032 shall lapse to the revenue stabilization reserve

**CHAPTER 122**  
**HB 1677-FN - FINAL VERSION**  
**- Page 9 -**

- 1 account, unless the fund is earlier terminated by the attorney general, in consultation with the
- 2 administrator, or as otherwise provided by law.
- 3 122:5 Effective Date. This act shall take effect upon its passage.

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



# Amendments

Amendment to HB 1677-FN

1 Amend RSA 21-M:11-a, I(c) as inserted by section 2 of the bill by replacing it with the following:

2

3 (c) "Claim" means a request for recovery in the form of money damages related to one or  
4 more incidents of sexual abuse and/or physical abuse perpetrated upon a former YDC resident by or  
5 at the behest of a member of the YDC staff.

6

7 Amend RSA 21-M:11-a, I(i) as inserted by section 2 of the bill by replacing it with the following:

8

9 (i) "Sexual abuse" means an incident of conduct which would constitute an offense under  
10 RSA 632-A:2, RSA 632-A:3, RSA 632-A:4, RSA 644:9, or RSA 645:1, or a common law cause of action  
11 for assault or battery that involves sexual contact or sexual penetration as defined by RSA 632-A:1.

12

13 Amend RSA 21-M:11-a, XI as inserted by section 2 of the bill by replacing it with the following:

14

15 XI. Any agreement between the claimant and the AG designee and any determination by the  
16 administrator may include a determination that a claim should be paid in annual installments over  
17 a period of up to 10 years. A claimant may indicate that he or she does not wish to receive  
18 installment payments, and the administrator shall honor the claimant's wishes in this regard.  
19 Additionally, a claimant may request that he or she receive the award in the form of periodic  
20 payments under a structured settlement that (i) is the subject of a qualified assignment that  
21 satisfies the conditions of Internal Revenue Code Section 130 and releases the fund from any  
22 liability for the periodic payments; and (ii) is funded by an annuity contract issued by a life  
23 insurance company domiciled in the United States, licensed in New Hampshire and rated A or better  
24 by A.M. Best. Upon receipt of such a request, the administrator shall accommodate the processing of  
25 an award in said fashion. Additionally, the administrator may maintain and provide to claimants a  
26 list of licensed structured settlement specialists who have indicated a desire to assist in establishing  
27 periodic payments to meet a claimant's anticipated needs. Any such determination shall take into  
28 account the time-value of money paid in installments as compared to a single payment in the  
29 present.

Sen. Rosenwald, Dist 13  
Sen. D'Allesandro, Dist 20  
May 2, 2022  
2022-1910s  
04/10

Amendment to HB 1677-FN

1 Amend RSA 21-M:11-a, I(i) as inserted by section 2 of the bill by replacing it with the following:

2

3 (i) "Sexual abuse" means an incident of sexually explicit conduct as defined in RSA 649-  
4 A:2, III, conduct which would constitute an offense under RSA 632-A:2, RSA 632-A:3, RSA 632-A:4,  
5 RSA 644:9, or RSA 645:1, or a common law cause of action for emotional abuse, assault, or battery  
6 that involves sexual contact or sexual penetration as defined by RSA 632-A:1.

7

8 Amend RSA 21-M:11-a, V as inserted by section 2 of the bill by replacing it with the following:

9

10 V. For all claims involving both sexual and physical abuse or sexual abuse only, no  
11 individual claimant shall be paid more than \$2,000,000 in settlement of all claims in the aggregate.  
12 For all claims involving physical abuse only, no individual claimant shall be paid more than  
13 \$200,000 in settlement of all physical abuse claims in the aggregate.

14

15 Amend RSA 21-M:11-a, VII(e):(g) as inserted by section 2 of the bill by replacing them with the  
16 following:

17

18 (e) Claims shall be submitted under oath. Claimants shall be entitled to be treated with  
19 respect and dignity in the presentment of their claims. Perpetrators of sexual abuse or physical  
20 abuse identified by claimants may be referred to an appropriate law enforcement agency by the  
21 administrator, but only with the consent and cooperation of the claimant. A claimant shall not be  
22 required to cooperate in a criminal investigation as a condition of participating in the claim process.

23

24 (f) Claims and all documents and information created in connection with claims shall be  
25 confidential, except that matter which was not previously confidential shall not become so by virtue  
26 of being submitted in connection with a claim, or except as otherwise provided in this section or in  
27 RSA 91-A. This confidentiality is provided in order to protect the privacy of the claimant, and only  
28 for that reason. The claimant shall not be bound by this obligation of confidentiality and may waive  
29 it at any time.

29

30 Amend RSA 21-M:11-a, IX(a) as inserted by section 2 of the bill by replacing it with the following:

**Amendment to HB 1677-FN**

**- Page 2 -**

1 IX.(a) When a claimant requests that the administrator decide the claim, the administrator  
2 shall schedule the claim for a resolution proceeding according to the procedures approved by the  
3 joint fiscal committee. All resolution proceedings shall take place in the state of New Hampshire,  
4 although parties and witnesses may attend by telephone or video conference in the discretion of the  
5 administrator. To the greatest extent possible, claims shall be scheduled for resolution in the order  
6 that they are received and determined to be complete, except that the administrator may also give  
7 consideration to the time for which litigation may have been pending prior to the filing of a claim.

Sen. Rosenwald, Dist 13  
Sen. D'Allesandro, Dist 20  
May 3, 2022  
2022-1921s  
04/05

Amendment to HB 1677-FN

1 Amend the bill by replacing section 4 with the following:

2

3       4 Appropriation. The sum of \$100,000,000 for the biennium ending June 30, 2023 is hereby  
4 appropriated to the YDC settlement fund established in RSA 21-M:11-a, II for the purpose of  
5 administering and settling claims as provided in RSA 21-M:11-a. The governor is authorized to draw  
6 a warrant for said sum out of any money in the treasury not otherwise appropriated. If there is  
7 insufficient money in the treasury not otherwise appropriated, and notwithstanding RSA 9:13-e, any  
8 remaining amount of the appropriation is hereby appropriated from the revenue stabilization  
9 reserve account established in RSA 9:13-e. The appropriation shall be nonlapsing, provided that any  
10 moneys in the YDC settlement fund not expended as of June 30, 2032 shall lapse to the revenue  
11 stabilization reserve account, unless the fund is earlier terminated by the attorney general, in  
12 consultation with the administrator, or as otherwise provided by law.

DRAFT

Sen. D'Allesandro, Dist 20  
Sen. Rosenwald, Dist 13  
May 4, 2022  
2022-1961s  
04/10

Floor Amendment to HB 1677-FN

1 Amend RSA 21-M:11-a, I(i) as inserted by section 2 of the bill by replacing it with the following:

2

3 (i) "Sexual abuse" means an incident of sexually explicit conduct as defined in RSA 649-  
4 A:2, III, conduct which would constitute an offense under RSA 632-A:2, RSA 632-A:3, RSA 632-A:4,  
5 RSA 644:9, or RSA 645:1, or a common law cause of action for emotional abuse, assault, or battery  
6 that involves sexual contact or sexual penetration as defined by RSA 632-A:1.

7

8 Amend RSA 21-M:11-a, V as inserted by section 2 of the bill by replacing it with the following:

9

10 V. For all claims involving both sexual and physical abuse or sexual abuse only, no  
11 individual claimant shall be paid more than \$2,000,000 in settlement of all claims in the aggregate.  
12 For all claims involving physical abuse only, no individual claimant shall be paid more than  
13 \$200,000 in settlement of all physical abuse claims in the aggregate.

14

15 Amend RSA 21-M:11-a, VII(e)-(g) as inserted by section 2 of the bill by replacing them with the  
16 following:

17

18 (e) Claims shall be submitted under oath. Claimants shall be entitled to be treated with  
19 respect and dignity in the presentment of their claims. Perpetrators of sexual abuse or physical  
20 abuse identified by claimants may be referred to an appropriate law enforcement agency by the  
21 administrator, but only with the consent and cooperation of the claimant. A claimant shall not be  
22 required to cooperate in a criminal investigation as a condition of participating in the claim process.

23

24 (f) Claims and all documents and information created in connection with claims shall be  
25 confidential, except that matter which was not previously confidential shall not become so by virtue  
26 of being submitted in connection with a claim, or except as otherwise provided in this section or in  
27 RSA 91-A. This confidentiality is provided in order to protect the privacy of the claimant, and only  
28 for that reason. The claimant shall not be bound by this obligation of confidentiality and may waive  
29 it at any time.

29

30 Amend RSA 21-M:11-a, IX(a) as inserted by section 2 of the bill by replacing it with the following:

**Floor Amendment to HB 1677-FN**

**- Page 2 -**

1           IX.(a) When a claimant requests that the administrator decide the claim, the administrator  
2 shall schedule the claim for a resolution proceeding according to the procedures approved by the  
3 joint fiscal committee. All resolution proceedings shall take place in the state of New Hampshire,  
4 although parties and witnesses may attend by telephone or video conference in the discretion of the  
5 administrator. To the greatest extent possible, claims shall be scheduled for resolution in the order  
6 that they are received and determined to be complete, except that the administrator may also give  
7 consideration to the time for which litigation may have been pending prior to the filing of a claim.

Sen. D'Allesandro, Dist 20  
Sen. Rosenwald, Dist 13  
May 5, 2022  
2022-1967s  
04/08

Floor Amendment to HB 1677-FN

1 Amend the bill by replacing section 4 with the following:

2

3       4 Appropriation. The sum of \$100,000,000 for the biennium ending June 30, 2023 is hereby  
4 appropriated to the YDC settlement fund established in RSA 21-M:11-a, II for the purpose of  
5 administering and settling claims as provided in RSA 21-M:11-a. The governor is authorized to draw  
6 a warrant for said sum out of any money in the treasury not otherwise appropriated. The  
7 appropriation shall be nonlapsing, provided that any moneys in the YDC settlement fund not  
8 expended as of June 30, 2032 shall lapse to the revenue stabilization reserve account, unless the  
9 fund is earlier terminated by the attorney general, in consultation with the administrator, or as  
10 otherwise provided by law.



# 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: March 30, 2022

### HEARINGS

Thursday

04/07/2022

	(Day)		(Date)	
Judiciary		State House 100		9:00 a.m.
(Name of Committee)		(Place)		(Time)
9:00 a.m.	<b>HB 629-FN</b>			relative to the home cultivation of cannabis plants and the possession of certain cannabis-infused products.
9:30 a.m.	<b>HB 1677-FN</b>			relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.
10:00 a.m.	<b>HB 1673-FN</b>			relative to the scope of the fetal life protection act.
1:00 p.m.	<b>HB 1346</b>			establishing a commission to study the New Hampshire family court system.
1:15 p.m.	<b>HB 1325</b>			relative to release of confidential records of a person appointed a guardian.
1:30 p.m.	<b>HB 1515</b>			relative to the guardian ad litem report requirements.
1:45 p.m.	<b>HB 1520</b>			relative to procedures for guardians ad litem.
2:00 p.m.	<b>HB 254</b>			relative to the placement of minors in secure settings.
2:15 p.m.	<b>HB 1265</b>			relative to the waiver of rules in family court proceedings and requiring the establishment of a family division rule waiver database.

### EXECUTIVE SESSION MAY FOLLOW

**Sponsors:**

**HB 629-FN**

Rep. McGuire  
 Rep. Sylvia

Rep. True  
 Rep. McWilliams

Rep. Verville

Rep. T. Lekas

**HB 1677-FN**

Rep. Umberger  
 Sen. Bradley

Rep. Wallner

Rep. Rice

Rep. Long

**HB 1673-FN**

Rep. M. Smith  
 Rep. Kenney  
 Sen. Rosenwald

Rep. Simpson  
 Rep. Amanda Bouldin  
 Sen. Whitley

Rep. Altschiller  
 Rep. Rogers  
 Sen. Sherman

Rep. Toll  
 Rep. K. Murray

**HB 1346**

Rep. Gay  
 Rep. Harley  
 Rep. Homola

Rep. Stapleton  
 Rep. Bernardy  
 Rep. Woods

Rep. Rung  
 Rep. Wuelper

Rep. McWilliams  
 Rep. Greeson

**HB 1325**

Rep. P. Schmidt

**HB 1515**

Rep. Gay

Rep. Kofalt

Rep. Post

**HB 1520**

Rep. Belanger

Rep. Andrew Bouldin

Rep. B. Boyd

Sen. Bradley

**HB 254**

Rep. Rice

Sen. Carson

**HB 1265**

Rep. Gay

Rep. Bernardy

Rep. DiLorenzo

Rep. Stapleton

Rep. Cali-Pitts

Rep. Long

Rep. Moran

Rep. Prout

Rep. Long

Sen. Hennessey

Rep. Stapleton

Rep. Greeson

Rep. Post

Rep. Langley

Rep. Bernardy

Rep. M. Pearson

Rep. McGuire

Sen. Gannon

Rep. Wallner

Sen. Rosenwald

Rep. Rung

Rep. Langley

Sen. Reagan

Rep. Booras

Rep. McWilliams

Rep. Amanda Bouldin

Rep. Johnson

Sen. Watters

Rep. M. Smith

Rep. Harley

Rep. Kofalt

Jennifer Horgan 271-7875

Sharon M Carson  
Chairman

# Senate Judiciary Committee

*Sonja Caldwell 271-2117*

**HB 1677-FN**, relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

**Hearing Date:** April 7, 2022

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

**Members of the Committee Absent :** None

**Bill Analysis:** This bill:

I. Establishes a procedure for the administration and resolution of claims of abuse which may have occurred at the youth development center.

II. Creates the youth development center (YDC) settlement fund and makes an appropriation to the fund for the settlement of founded abuse claims.

III. Creates an exemption from the right-to-know law for all records related to the administration and settlement of abuse claims at the youth development center.

---

**Sponsors:**

Rep. Umberger

Rep. Wallner

Rep. Rice

Rep. Long

Sen. Bradley

---

**Who supports the bill:** Rep. Pat Long, John DeJoie, Dan McGuire (Granite State Taxpayers), Jennifer Ramsey, Kathy Aman, Rep. Karen Umberger, Attorney General John Formella, David Vicinanza (victims of abuse), Rep. Mary Jane Wallner, Sen. Bradley, Cora Quisumbing-King, Julie S.

**Who opposes the bill:** Eric Pauer

**Who is neutral on the bill:** Marissa Chase (NHAJ), Monica Mezzapelle (State Treasury)

**Summary of testimony presented:**

**Rep. Umberger**

- They worked on this for over a month trying to craft this process.
- They worked with the Attorney General (AG), people that are representing some of the victims, and anyone else that wanted a say in how this bill was framed.

- The AG has been conducting an investigation into the abuse at the Youth Detention Center (YDC). YDC is an overall term that includes a number of names that the Youth Detention Center has gone through. It is not limited to just what one would think of as YDC.
- This bill provides a trauma-informed, victim-centered alternative to litigation through the court system. They expect that this alternative will provide for efficient and fair resolutions of those claims.
- The process starts with the AG in conjunction with the claimants' counsel with input from victims witnesses in developing a claims process, including claim forms.
- It will also identify guidelines for valuing claims for settlement purposes. The goal of the guidelines is to ensure fair and uniform valuation of claims. The guidelines are on a very tight schedule.
- Claims can be filed starting January 1, 2023. The guidelines, claim forms, and everything else in this process needs to be completed by then.
- Participation in this process is entirely voluntary. They don't have to come through this alternative claims process.
- This process will work a lot faster than trying to take each of these cases through the court system.
- They placed a cap of \$1.5 million for sexual abuse claims. There is a \$150,000 cap for physical abuse claims. If a person was both sexually and physically abused, the cap remains at \$1.5 million.
- The way the system will work is the claimant will come in with the AG designee and based on the guidelines, the AG designee will provide an award. If the claimant doesn't agree with it, they can either drop out and go to court, or they can go to the administrator that will be appointed by the Supreme Court.
- No one is forcing victims into the system.
- A \$100 million fund is established and will be used to pay for this. The bill gives the AG and the administrator the authority to come back to the legislature if \$100 million does not cover the cost of claims.
- Claimants can take the money, or have annual installments over ten years, or they can choose a structured settlement option. She thinks these three opportunities are an effective way to make sure we pay the claimants. One of the concerns the claimants have is that the state will run out of money and won't pay them.
- She expressed that hopefully we have developed a fair and equitable process for the children who were sexually and physically abused.

**Sen. Whitley** said this issue has been something that has haunted so many for a long time. This issue is not new. This happened in state custody. She asked if the amount we're considering is enough. If it is not, she asked if the victims will be able to get what they need in way that does not retraumatize them.

**Rep. Umberger** said the victim can opt out and go to court if they don't think the \$1.5 million cap is sufficient to take care of their trauma.

**Sen. Whitley** asked if she thinks the \$100 million is enough to cover all claims.

**Rep. Umberger** said yes, she hopes. She noted that the bill will allow the AG to ask for additional dollars.

**Sen. Kahn** asked about the revenue stabilization fund as the source of the funding for the settlements and asked what the balance is.

**Rep. Umberger** said \$276 million. She noted that we are not taking money out of the revenue stabilization account. It only comes out as cases are settled. Based on where revenues are now and what is anticipated for next year, there will probably more than \$100 million that lapses into the revenue stabilization account at the end of FY23.

**Sen. Kahn** asked if we have set aside dollars for this type of settlement previously.

**Rep. Umberger** said not that she was aware of.

#### **Rep. Pat Long**

- Due diligence went into this bill.
- It is important for the public and victims to see the general court recognizing those who suffered at the hands of the state.
- He asked that the committee consider adding emotional abuse to the abuses that were perpetrated.

**Sen. Whitley** asked if there were conversations in the House about adding emotional abuse.

**Rep. Long** said yes, an amendment got voted down in the House.

**Sen. Whitley** asked why.

**Rep. Long** did not know.

**Sen. Whitley** asked if it was a matter of cost.

**Rep. Long** was not sure about the cost. If the idea is to get everyone to go through this process, he thinks adding emotional abuse could save the state money.

**Sen. Kahn** asked if he believed the term “other abuse” was not sufficient to cover his concern.

**Rep. Long** said that was correct. He believes its sexual and physical abuse only.

**Sen. Kahn** said it also says, “and other abuse.”

**Rep. Long** said it should specify emotional abuse.

#### **Attorney General John Formella**

- This is a difficult, emotional, complex issue. It is difficult to comprehend what some of these victims went through. He applauds their courage in coming forward and seeking justice. He hopes this bill can be way to begin or continue the healing process.
- As AG he plays a dual role, both as the state’s chief prosecutor responsible for prosecuting those who may be responsible for the abuse, and he is also responsible for defending the state against civil claims that may arise from the same abuse.
- There may be certain questions he cannot answer.
- Since 2019, the Department of Justice (DOJ) has been conducting a criminal investigation into allegations of abuse at YDC. To date, they have indicted 11 individuals for acts of abuse against 20 victims. This is an ongoing investigation that they expect will continue for years.
- Over 400 individuals have come forward. It is hard to say what the total impact of these various forms of abuse have had and what the whole scope is.
- Many of these individuals are also pursuing civil claims against the state. To this date they have received over 450 individual lawsuits against the state. These lawsuits allege various forms of abuse.
- DOJ felt they needed to propose designing an alternative process to traditional litigation, which can be difficult for victims of abuse.
- This bill is not designed to be an exclusive option and is not designed to cut someone off from pursuing traditional litigation. It is intended to be a victim-centered, trauma-informed, gentler alternative.

- This is not designed to cover every potential class of victim who may have been a resident of YDC.
- As the bill reads now, it covers physical and sexual abuse.
- There are other categories of instances that it does not cover.
- The balance they are trying to maintain is to not be overly invasive and not have unnecessary scrutiny. That involves a level of trade-off with some categories of abuse.
- With emotional abuse, it is difficult to go back many years and distinguish between what might have been emotional abuse versus what might have been just the type of speech or conduct or communication toward a resident that while not nice, it is an incarceration facility. That is the reason the draft doesn't include emotional abuse. They are trying to design a process where they do have some verification of claims. If they were going to try to determine emotional abuse versus just yelling at a resident that would require deeper factual analysis.
- At the beginning of the process in the House, he made clear that he and his team were willing to engage in conversations with plaintiff's counsel. They are willing to discuss areas to potentially amend the bill to close the gap and design a system that brings justice and compensation to victims with enough verification and stewardship of public dollars.
- They made some major changes to the bill in the House process and that included expanding the scope of the bill to cover physical abuse claims in addition to sexual abuse claims and to have it so that solitary confinement is an aggregating factor. If one's only claim is solitary confinement, it is not covered by the bill.
- They tried to enhance the independence of the administrator by making them an employee of the Judicial Branch. The person will be jointly selected by claimants' counsel and the AG. If they can't agree, the person will be selected from a list submitted to the Supreme Court.
- They expanded the roll of plaintiffs' counsel in the development of the claims process and guidelines. As it reads now, the AG is obligated to make good faith efforts to come to an agreement with plaintiffs' counsel and stakeholders on guidelines.
- The House made the decision to make the AG ultimately responsible for presenting something to the fiscal committee out of concern that if there wasn't 100% agreement on the guidelines, the process wouldn't move forward. They will make every effort to design a process that has agreement on all components. They have incentive to do that because they don't want to design it in a way such that no one would participate.
- The bill expands the window to file claims from one year to two years.
- This version increases the transparency of the records that would be available to the public. The records of this process would be made public with appropriate redactions to protect the identity of victims and to comply with existing laws regarding confidentiality of records related to minors. It does not prevent an individual victim from making their records public if they want to. They tried to have a better balance between the need for transparency and the need for privacy of victims.
- Passing this bill in some form is the right thing to do for victims and the state. This bill reflects what the state's policy should be, which is that it is better to direct resources toward compensation and healing than toward expensive litigation.
- If enacted, his office will make every effort to design this process in a way that is fair and addresses as many concerns as possible to bring compensation to victims of these crimes.

**Sen. French** asked how many claimants there are.

**AG Formella** said around 446.

**Sen. French** asked when the two-year period to file begins and ends and how many more claimants will come forward.

**AG Formella** said it begins on January 1, 2023 and ends on December 31, 2024. It is difficult to say how many in addition to the 446 will come forward. Some of the 446 who have filed lawsuits may elect not to use this process and to continue in court.

**Sen. French** asked of the people who committed these crimes if everyone has been arrested and prosecuted.

**AG Formella** said they have arrested 11 individuals, all of them are in process, the trials are getting scheduled, none have been resolved. They may arrest additional individuals. Many of the allegations that are made concern the same individuals.

**Sen. Gannon** said that as AG he is chief prosecutor and one of his main roles is bringing the abusers to justice. He asked if when he does that, he would set up a cause of action. He also has to defend the state's interest. He asked if that is a conflict of interest. He asked if he had Chinese walls set up in his office with regard to the prosecutorial part and the defending the state part.

**AG Formella** said yes, they have strict walls between criminal process, which is the prosecution team, and the civil side of the house. There are three components of this: the YDC task force set up to investigate and prosecute these crimes, part of their civil bureau is helping HHS collect documents to respond to the criminal investigation, and the civil defense team. It is his responsibility to supervise both sides and his teams don't talk to each other beyond coordination.

**Sen. Whitley** asked if it is necessary to have the additional step of approval of the fiscal committee. She asked if we are creating a political layer that could interfere with the process or be traumatizing or unnecessary.

**AG Formella** said the fiscal committee involvement was for transparency. As drafted, they would just give an up or down. They cannot amend the guidelines. Ultimately, the reason to have fiscal approve is this is a lot of money and unique in that a lot of money is being authorized all at once. The benefits to having it out in the open, having a backstop, and also giving someone who might not agree with the guidelines the ability to advocate to the fiscal committee outweigh the concern of this being politicized. While there may be disagreements on the scope or what the cap should be, he has not detected any politicizing of this bill.

**Sen. Kahn** said there was a suggestion about the definition of emotional abuse. The suggestion that someone provided to them was that "other abuse" should be defined. He read a suggested definition. Some are more serious than others. He asked how many of the complaints don't allege physical or sexual abuse but do claim false imprisonment or emotional abuse. He asked to what extent this bill will be a diversion for how many cases we anticipate.

**AG Formella** said that as to how many claims may be false imprisonment is difficult to answer. This was originally filed as a class action suit, which included many of the claimants all in one, so it was very broad. The trial court decided this could not be brought as a class action suit. A lot of the complaints are very broad, and they expect amended complaints to be filed. His sense is many of the claims encompass physical and sexual abuse. There are just certain categories of abuse that while we would never condone them, from a soft verification effort, it is difficult to go back many years and distinguish between solitary confinement that was an accepted practice at the time versus rising to the level of abuse. They will cover the vast majority of individuals who bring claims just by covering physical and sexual abuse.

**Sen. Kahn** asked if all 446 are mentioned in the class action suit.

**AG Formella** said it was dismissed.



**Sen. Kahn** asked if those claims that fall outside of physical and sexual abuse will have to go through traditional litigation.

**AG Formella** said yes, not through this process which is meant to be more streamlined.

#### **David Vicinanza - Nixon Peabody**

- He represents about 500 child victims of abuse at YDC over several decades and has experience in this area. Historical child sexual abuse is a category all by itself. He was a federal prosecutor with the US attorney's office. He helped to develop a trauma-informed and victim-friendly model for institutions throughout New England in dealing with historical institutional violations of children. He has represented many institutions that have had to deal with this horrible problem.
- He respects what the House has done with this bill and respects the AG and the work he has done, but he disagrees that we have come far enough with the bill. It is not yet a trauma-informed or victim-friendly bill. The ultimate measure of the success of this bill will be whether or not victims will use it and in what percentages. There are a lot of models available for how to do settlement processes.
- He submitted edits to the bill to the committee and with a couple significant alterations, the bill could be victim-friendly and trauma-informed. As it is now, he would not recommend it to his clients and doubts many of them would take this option. With a few tweaks he thinks they can get a 95% participation rate from his clients and within a year and a half, the state could put this in the rear-view mirror and repair the damage to its reputation and integrity.
- They submitted an edited version of the bill and a summary of the changes they would like to see and an explanation of why they think they are appropriate and reflect best practices. He also submitted a letter filed yesterday by Child USA. They analyzed this bill and provided a good analysis and critique that could help the Senate and ultimately entice his clients to participate in this process.
- One of the points is that giving up judicial rights as the price of admission to the administrative process should not be done.
- The latest research suggests that emotional harm and trauma to children represented by extended periods of solitary confinement inflict greater, longer term traumatic harm than physical or sexual abuse. There were instances of kids being held in a cell in their underwear for up to a year. The emotional damage to those kids is incalculable. Often solitary is combined with physical or sexual abuse but it ought to be a category all by itself. Excluding them is a form of revictimization.
- The so-called caps are artificially low in their view. It is not the right thing to do for the state to have allowed the abuse of these kids for so long and not step up and do right by these kids.
- The state is losing luster in the area of moral leadership because of what happened at YDC.
- He has seen the AG's preliminary work and commissioned an analysis of that work. They analyzed 5,000 claims of physical and sexual abuse of children nationally. Their work is not finished but the numbers will be significantly larger in average settlement than what is currently represented in the AG's chart.
- He interviewed a new client victim yesterday who went into YDC at age 11 and came out at age 17 and said he estimated he was beaten 25 times a year. That is not a \$150,000 case. There is no way he would recommend this process to that client when the state is trying to low-ball and devalue his claim. Just because it happened in the 1970s and 1980s does not mean it did not happen. The caps should be raised. They suggest the caps should be raised to the level this legislature has already established. There are already statutory caps. Based on

the national settlement figures in these cases, if the state used the caps it already has, it would be getting a bargain. It is negative publicity for the state every time a case is litigated.

**Sen. Gannon** asked about his three suggestions and where they went in the House.

**Attorney Vicinanza** said Rep. Rogers made the amendments and his understanding is the House did not think you could value PTSD, so they decided not to on a close vote.

**Sen. French** asked if these claims are from the 1970s and 1980s and if there were any prior to that time.

**Attorney Vicinanza** said they have some as early as 1963. Most are since 1980 and the decade that is the most prolific is the 1990s.

**Sen. French** said the average age of claimants would be in their 40s, 50s, and 60s.

**Attorney Vicinanza** said he hadn't done the math but that sounded like a good estimate.

**Sen. Kahn** asked if a certain document he had that said NP Reilly on it was from him.

**Attorney Vicinanza** said yes that is them. It is a markup of the bill.

**Sen. Whitley** asked what his involvement was in the negotiation process in the House and with the AG. She asked if it is ongoing.

**Attorney Vicinanza** said he was involved in those discussions and testified with the House and met with the AG and this is where we are. His position is laid out in the documents he provided. He said they're not that far apart. He thinks the changes are minimal but consequential.

**Sen. Gannon** asked what the difference in the cap would be if we went with his suggestion.

**Attorney Vicinanza** said the individual incident cap is \$425,000 and the aggregate cap is \$4.5 million.

**Sen. Gannon** said the amount would be triple what is in the bill.

**Attorney Vicinanza** said the guidelines are important and married up to the caps. They are the unilateral recommendation of the AG and that's not how mediation settlements are done nationally. People won't enter into this if they don't trust the process.

**Sen. Gannon** asked if he would not endorse this as is.

**Attorney Vicinanza** said he would explain all the options, but he views this as a bit of a trap, and he would not recommend it.

**Sen. Kahn** asked for the statutory reference for the settlement caps.

#### **Dan McGuire – Granite State Taxpayers**

- They reluctantly support the bill.
- It is wise to pursue settlements rather than go to court on 500 individual cases.
- He disagrees with the claim by previous speakers that the abuse occurred at the hands of the state. It occurred at the hands of a dozen or so criminal pedophiles who were trusted by the state and who abused that trust.
- Taxpayers are forced to cough up money because of those dozen or so individuals. He would not blame the residents of the state as if they are criminals.
- Page 9, line 8 puts limits on attorney's fees. It says that if you go through this process, attorney's fees will be no more than one-third of the total amount given as compensation. That means, if the total amount is \$100 million, and we just heard its more likely closer to \$300 million, then attorney fees would be \$33 million or possibly \$100 million. Those seem

like excessive numbers to them. It would be worth a discussion to see what is common in other similar cases elsewhere. It might be possible to put a steeper restriction on attorney's fees both in cases of settlement and non-settlement in such a way that gets more than two-thirds the amount the taxpayers are going to pay into the hands of actual victims.

#### **Marissa Chase – NH Association for Justice**

- Statewide association of plaintiffs' attorneys.
- They appreciate this bill being brought forward. This is a unique bill but not a unique process. Aside from the 9-11 victims' compensation fund passed by Congress, every similar mass settlement fund that has been created has been created by case law. It is created by all parties entering into an agreement.
- This is a unique opportunity for NH to set a precedent that the rest of the country can follow.
- NHAJ believes this bill is close to something they could endorse. They share the same concerns as Attorney Vicinanza.
- Page 4 line 18, the way the damages matrix is set up is weighted heavily toward the state.
- If we're hiring an administrator, they should be the ones to mediate.
- They believe the cap should be higher based on verdicts in similar cases, probably closer to 4.5 million dollars. If one of these cases were brought in federal court where the verdicts are typically higher than in state court and we have a large verdict that comes in favor of one of these plaintiffs, there will be no incentive for victims to enter into this process.
- The definition of sexual abuse should be expanded to instances that don't include a physical component, such as children being forced to watch guards masturbate.
- NHAJ is willing to work with all stakeholders.
- Two other issues have to do with how the money awards and making sure it goes to victims. The first is working on the definition of recovery vs. compensation. Compensation can be taxed while recovery is not. The second is some insertion of a line understanding the time value of money. If claimants opt for one of the three options for getting an award that is ten-year installments, the claimants should get any interest generated from that money otherwise it would be as if state were profiting from victims.

#### **John DeJoie**

- Here on behalf of Rep. Kathy Rogers.
- She received letters from victims of this abuse. She asked him to read from one particular letter.
- The victim thinks the state is making light of the situation and the abuse.
- No money can take away the pain and damage, but after years of suffering, the State of NH should take responsibility.
- While his physical wounds have healed, he has mental and emotional scars and wounds. He said all the abuse hurt equally. He has traumatic PTSD, depression, and anxiety. He said abuse is not temporary; the effects are forever.
- He is a 31-year-old and is an inmate at the Northern Correctional Facility.
- Mr. DeJoie added that we cannot allow ourselves to forget what we're talking about. This entire incident is wrong.

# Speakers





# Senate Remote Testify

Judiciary Committee Testify List for Bill HB1677 on 2022-04-07

Support: 3 Oppose: 1

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
QUISUMBING-KING, Cora	A Member of the Public	Myself	Support
Bradley, Jeb	An Elected Official	SD3	Support
Mezzapelle, Monica	State Agency Staff	State Treasury	Neutral
S, Julie	A Member of the Public	Myself	Support
Pauer, Eric	A Member of the Public	Myself	Oppose

# Testimony



Dear Katherine,

March 18<sup>th</sup> 2022

My name is Andrew Greene. I am writing to you because I am a survivor and victim of the YOC / state run facility abuse scandal / case. I am in contact with my attorneys and I try to stay as up to date about this case as often as possible. I wanted you to know that I am very appreciative of the support and your willingness to speak on all of our behalf's. I feel the state of New Hampshire is trying to take away from the fact that we are the victims, and take away the severity of the abuse's and in a sense make light of a situation that I personally had to endure, years of abuse and torture Sexually, Physically, Mentally and Emotionally at multiple state run facilities, not just YOC. Although no amount of money can take away the everlasting pain, turmoil, and damage that the abuse I suffered has caused, but I'd like to think that after years of suffering silently, in secret, self-medicating myself and becoming an addict, that now after hiding in the dark with my secrets about my childhood I am speaking out and voicing what happened to me and still affects my life to this day, that the state of New Hampshire would take responsibility and try to provide adequate relief or Compensation for what us children had to endure personally but also hear and see happen and keep silent about it, to our peers. My physical wounds have healed, The pain from the beatings and rapes have healed physically,



2.

but something that has never gone away is the everlasting emotional and mental scars and wounds that have remained with me since I was a kid. I truly appreciate the point you made about the bill not having anything in it for the emotional / mental abuse I / we went through. I guess for me, all the abuse hurt equally, and did its damage fully, but all of them had one thing in common, they all caused tremendous amounts of stress, anxiety, flashbacks, depression, shame, fear, terror and hopelessness. Most of these things have affected my life and still do to this day, I have been diagnosed with traumatic PTSD, chronic depression, anxiety, and all of this stems from abuse. I feel it is very important for the representatives of New Hampshire to understand that this abuse isn't temporary, and that the effects are for forever, mentally, emotionally, physically, financially, this traumatic multitude of abuses I have suffered has taken away pieces of me I can never get back, I can never fully accept or heal from, and that have negatively impacted my ability to live a normal life. so basically I appreciate you and the fact you have spoken out on our behalf. You are appreciated.

I give you full permission to share this letter and its contents enclosed with anyone & everyone.

Sincerely, Andrew

Greene Age 31



Testimony of Amanda Grady Sexton, Director of Public Affairs  
NH Coalition Against Domestic and Sexual Violence  
Senate Judiciary Committee  
April 7, 2022; 9:30am

**HB1677, relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor**

My name is Amanda Grady Sexton, and I am the Director of Public Affairs for the New Hampshire Coalition Against Domestic and Sexual Violence. The Coalition is the umbrella organization for 12 community-based crisis centers who provide free and confidential services to nearly 15,000 survivors of sexual and domestic violence annually.

The Coalition supports all efforts of the state to rectify the appalling degree of harm committed against the young people detained at the State's youth detention center (YDC). The State of New Hampshire has an opportunity to set a powerful precedent in establishing a model settlement process that can be adopted by other states that exemplifies what it means to hold institutions accountable and demonstrate unwavering support for victims. This bill has improved considerably since it was first introduced in the House, however we feel that a slight adjustment to the definition of sexual abuse must be made to ensure that survivors who experienced any form of sexual abuse in these facilities are eligible to participate in this settlement process.

**RSA 645:1 and RSA 633:7 should be included under the definition of "Sexual Abuse"**

Currently HB1677 defines "sexual abuse" under Section 2, Paragraph I(i) as "an incident of conduct which would constitute an offense under RSA 632-A:2, RSA 632-A:3, or RSA 632-A:4, or a common law cause of action for assault or battery that involves sexual contact or sexual penetration as defined by RSA 632-A:1". **The current definition of sexual abuse would not cover incidents of sexual abuse where there was no sexual contact or penetration.**

Most victims who have reached out to the Coalition for information or support shared that they were subjected to horrific acts of felonious sexual assault while detained at YDC/The Sununu Center. However, not all victims experienced acts of sexual abuse that involved physical contact. For instance, we heard from victims who were subjected to acts of sexual harassment, human trafficking, lewdness, and indecent exposure. For example, victims shared with us that employees of YDC/Sununu Center would expose their genitals in front of them and threaten

sexual abuse. Children at YDC/Sununu Center were also forced to watch employees masturbate. Further, victims reported instances where they were forced to undress or shower with other children for the purpose of sexual gratification of an employee. Although these crimes do not involve sexual penetration or touching, they are egregious crimes that constitute sexual abuse. However, these acts do not currently fall under the definition of "sexual abuse" as written within HB1677 and, therefore, may preclude these types of victims from participating in this settlement process.

By amending the definition of "sexual abuse" under this section to include RSA 645:1, Lewdness and Indecent Exposure, and RSA 633:7, Trafficking in Persons, the definition would align with our understanding of the intent of the bill -- to ensure that a survivor who experienced any type of sexual trauma and abuse at YDC/Sununu Center will be included in this process. **We respectfully ask the Senate Judiciary committee to consider making this amendment to this legislation.**

#### **HB1677 Can Serve as an Important Pathway to Justice for Survivors**

The settlement process established through HB1677 can play an integral role in ensuring that survivors are provided with the opportunity to seek accountability and justice through a trauma-informed process. A settlement process allows survivors of sexual assault to avoid a prolonged and adversarial civil legal battle that can lead to additional trauma. The State of New Hampshire miserably failed to protect the children in its care at YDC/Sununu Center. Although there is no way to adequately compensate a victim for the life-long social, health, and economic impacts of the sexual abuse they endured while under the care of the State, the settlement process established under HB1677 may help survivors begin the healing process. HB1677 will allow victims to use a process that will ensure their experiences will be heard and validated, and to hold the State and the individuals who harmed them accountable. The State of New Hampshire cannot erase the horrendous abuse that occurred at their facilities, but the creation of a trauma-informed settlement process is an important step toward acknowledging the extraordinary harm inflicted on youth under the State's care.

#### **Childhood Abuse & Vulnerabilities of Youth in State Facilities/Institutional Abuse**

The unbelievable levels of abuse experienced by young people in New Hampshire's youth detention centers for decades is harrowing. Children who enter youth detention centers are particularly vulnerable to abuse given their background; the very factors that likely contributed to their detention is also what makes them particularly vulnerable to abuse inside the facility. Youth in detention centers are frequently viewed as problematic, challenging, difficult or troublesome, and too often do not have a network of adults in their lives to offer support or advocate for their needs. These characterizations of "problematic" and "troubled" youth contribute to the perception that they lack credibility and are deceptive. This means that youth in detention centers who have experienced or witnessed abuse may fear disclosure because they feel they won't be believed and that their credibility could come into question. Moreover, often adults in charge of their care may use this characterization to justify the use of

harsh disciplinary tactics as necessary to maintain control. Adults who are charged with the care of minor children should not be abusing their position of authority to exploit and harm youth in detention centers. Adults who committed these terrible acts of sexual violence specifically leveraged these vulnerabilities to not only abuse the youth in their care, but to cover up the extent of their abuse.

We know that social factors impact a victim's capacity to come forward and report abuse. This is particularly true in child abuse cases, where an adult utilizes their position of authority over a victim to maintain power and control to silence the victim and conceal the abuse. Offenders may use coercion, threats, or guilt tactics to prevent a victim from reporting. In a detention center, the youth there are essentially powerless and may not have a trusted adult they can go to and report abuse. They also may fear retaliation for speaking out, such as further abuse, harsher punishments, or being placed in isolation.

Outside of detention centers, children face barriers to disclosure and are retraumatized by the systems they interact with. Inside detention centers, children experience heightened trauma and the barriers to seeking help are magnified. Such responses include disbelief, blame or accusations that the victim was lying, in addition to ignoring or minimizing the disclosure. Victims who face threats from their abusers and who are not believed by adults entrusted with their care are less likely to report their experiences and get the help they need in the immediate aftermath of their abuse. This not only hinders a victim from coming forward but could discourage them from coming forward at all. In fact, the average age of disclosure of child abuse victim is 52 years.

### Impact of Trauma on Victims

The impact of trauma can prevent victims from coming forward and disclosing their abuse for years, even decades, after the abuse occurs. The trauma experienced by a victim goes far beyond the pain and fear they experience in one isolated incident. When victims don't receive the critical support they need, especially as children, the long-term implications are chilling. While we may not be able to outwardly see the effects of trauma, it is very real and can have devastating consequences. Left untreated, trauma will manifest in various ways, including chronic pain, depression, and mental health challenges, substance use disorders, difficulty maintaining employment, trouble interacting and socializing with others, and increases the likelihood of adult incarceration.

The effects of sexual violence and other forms of abuse have tremendous negative impacts on New Hampshire communities, families, businesses, healthcare system, and our economy. As a state, we are using many resources to address the symptoms of trauma, but not the cause. The establishment of a thoughtfully developed settlement fund to address the wrongs committed against youth in the state's care is the result of decades of unresolved trauma and abuse.

Hundreds of research studies have shown conclusively that sexual abuse can alter a child's physical, emotional, cognitive, and social development and impact their physical and mental health throughout their lifetime. A few of the many aftereffects of sexual assault include depression and anxiety, substance abuse, an inability to perform everyday tasks and ongoing fear. For some survivors, these impacts manifest far down the road. This settlement fund has the potential to be a major step towards righting the wrongs that were committed in these facilities and signaling to survivors that the State of New Hampshire stands with them and takes seriously the crimes that were committed in the youth detention center.

In conclusion, the Coalition strongly urges the Committee to consider amending HB1677 to broaden the definition of sexual abuse to ensure that no act of sexual violence is excluded from this process. This is critical to ensure that victims who experienced any form of sexual abuse are not turned away from participating in this process and can access the justice that they deserve.

New Hampshire Coalition Against Domestic & Sexual Violence • PO Box 353 • Concord, NH 03302 • 603.224.8893

**NHCADSV.ORG**

2022 SESSION

22-3122  
04/10

HOUSE BILL **1677**

AN ACT relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

SPONSORS: Rep. Umberger, Carr. 2; Rep. Wallner, Merr. 10; Rep. Rice, Hills. 37; Rep. Long, Hills. 10; Sen. Bradley, Dist 3

COMMITTEE: Finance

---

ANALYSIS

This bill:

I. Establishes a procedure for the administration and resolution of claims of abuse which may have occurred at the youth development center.

II. Creates the youth development center (YDC) settlement fund and makes an appropriation to the fund for the settlement of founded abuse claims.

III. Creates an exemption from the right-to-know law for all records related to the administration and settlement of abuse claims at the youth development center except for settlement agreements.

---

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.

0  
1  
2  
3  
4  
5  
6  
7  
8  
9

STATE OF NEW HAMPSHIRE

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

AN ACT

relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

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

1 Statement of Purpose. The general court hereby finds that the attorney general's investigation into abuse at New Hampshire's youth development center in prior decades has identified a population of New Hampshire citizens with potential claims against the state. The state wishes to acknowledge those claims and the suffering which has been endured by the victims of abuse by establishing a trauma-informed, victim-centered alternative to litigation for the efficient and fair settlement process for the resolution of those claims.

2 New Section; Department of Justice; Youth Development Center Claims Administration and Settlement Fund. Amend RSA 21-M by inserting after section 11 the following new section:

21-M:11-a Youth Development Center Claims Administration and Settlement Fund.

I. In this section:

(a) "Administrator" means an independent, neutral attorney admitted to the practice of law in New Hampshire, chosen in the manner set forth in paragraph III to administer youth development center claims pursuant to this section. ~~The administrator shall have all of the duties and authority granted pursuant to RSA 542, except as otherwise provided in this section.~~

(b) "AG designee" means one or more individuals within the attorney general's office designated by the attorney general.

(c) "Claim" means a request for compensation related to one or more incidents of physical abuse, sexual abuse and/or physical ~~other~~ abuse perpetrated upon a former YDC resident by or at the behest of a member of the YDC staff.

(d) "Claimant" means an individual who has filed a claim.

(e) "Former YDC resident" means an individual who resided at the YDC at any time.

(f) "Fund" means the YDC settlement fund established in this section.

34

~~(g) "Investigator" means one or more individuals assigned by the administrator to independently investigate a claim.~~

Other abuse" means an incident of conduct which would constitute a common law cause of action for emotional abuse, child endangerment, false imprisonment, unlawful confinement, child exploitation, or deprivation of educational rights.



0 (h) "Physical abuse" means an incident of conduct that would constitute an offense  
1 under RSA 631:1, RSA 631:2, or RSA 631:2-a, and that is not justified under RSA 627:6, or a common  
2 law cause of action for assault or battery.

3 (i) "Sexual abuse" means an incident of conduct which would constitute an offense under  
4 RSA 632-A:2, RSA 632-A:3, or RSA 632-A:4, or a common law cause of action for assault or battery  
5 that involves sexual contact or sexual penetration as defined by RSA 632-A:1.

6 (j) "Unlawful confinement" means placement in isolation as discipline without such  
7 process as was due under the circumstances or under conditions of confinement or for durations that  
8 were grossly out of proportion to the severity of the conduct giving rise to the discipline, or not as  
9 punishment, and not for another legitimate penological goal or purpose such as the safety or security  
10 of the resident or others.

11 (k) "Youth development center" or "YDC" means the youth development center as  
12 identified in RSA 621, or its renamed or successor entity, and any predecessor entity performing the  
13 function of housing adjudicated delinquent or pre-adjudication detained youth, including the State  
14 Industrial School, the Philbrook School, the Tobey Special Education School and the Youth Services  
15 Center.

16 These definitions shall be applicable to claimants, claims, the claims settlement process, and the fund  
17 governed by this section. This section is not intended in any way to expand or limit the rights of  
18 individuals or the state under any other state statutory or common law.

19 II. There is hereby established in the state treasury the YDC settlement fund which shall be  
20 kept distinct and separate from all other funds. The fund shall be administered by the attorney  
21 general, who shall use the funds for the purpose of administering ~~addressing~~ claims of former YDC  
22 residents ~~as defined in this section~~. The fund shall be nonlapsing and continually appropriated to  
23 the department of justice until June 30, 2032, after which date the fund shall lapse to the revenue  
24 stabilization reserve account established in RSA 9:13-e, II, unless earlier discontinued by the  
25 attorney general, in consultation with the administrator, if and when all filed claims have been  
26 resolved, or as otherwise provided by law. Settlement amounts paid to former YDC residents shall  
27 be as determined by the process outlined in this ~~chapter~~ section. The attorney general may enter into  
28 memoranda of understanding with the judicial branch or any state agency as necessary to  
29 compensate them for services performed in furtherance of this ~~chapter~~ section.

30 III. There is further established in the judicial branch a temporary full-time or part-time  
31 position known as the youth development center claims administrator, to be appointed by the  
32 supreme court as soon as practical following the effective date of this section. A part-time  
33 administrator may maintain a private, unrelated mediation or legal practice apart from the duties as  
34 administrator notwithstanding any other provision of rule or law to the contrary. The supreme court  
35 shall appoint an administrator agreed to by the attorney general and counsel for claimants. If the  
36 attorney general and counsel for claimants are unable to agree upon an administrator, the supreme

0 court shall select the administrator from the candidates submitted to the court by the attorney  
1 general and counsel for claimants, not later than 30 days following the court's receipt of the  
2 candidates. The attorney general and counsel for claimants shall each submit two candidates, ~~not~~  
3 ~~later than 30 days following the joint fiscal committee's approval of the claim process and guidelines~~  
4 ~~as provided in paragraph IV.~~ The administrator shall receive compensation at no more than the rate  
5 ~~of salary of an active superior court justice and shall, if working full-time, receive the same benefits~~  
6 ~~as other non-judicial employees of the judicial branch. If working part-time, the administrator shall~~  
7 ~~receive compensation at no more than the equivalent per diem rate of an active superior court~~  
8 ~~justice, provided that in any calendar year, the administrator shall not receive more in total~~  
9 ~~compensation than that received by an active superior court justice~~ determined by the chief justice of  
10 the supreme court. The judicial branch shall provide the administrator and any necessary support  
11 staff with office space. The salary, benefits, and expenses of the administrator, and any necessary  
12 support staff, shall be paid from the fund. The administrator shall report to the chief justice of the  
13 supreme court or the chief justice's designee for employment-related purposes, but the supreme  
14 court shall have no authority to review participate in the administrator's decisions settlement process.  
15 At such time as the administrator's duties are concluded, or at such time as full-time service by the  
16 administrator is no longer needed to carry out the administrator's duties, the supreme court shall  
17 either eliminate the administrator's position or reduce it from a full-time to a part-time position as  
18 may be appropriate. The supreme court may remove the administrator if, after a request for  
19 removal received from the attorney general or claimants' counsel, or upon the court's own motion,  
20 the court determines that good cause for removal exists. ~~Once appointed, the administrator shall~~  
21 ~~process claims as provided herein and may settle claims at such amounts as may be agreed upon~~  
22 ~~between the AG designee and each claimant, or at amounts which are determined by the~~  
23 ~~administrator, giving due consideration to the guidelines adopted by the joint fiscal committee as~~  
24 ~~provided in paragraph IV.~~

25 IV.(a) As soon as practical following the effective date of this section, the attorney  
26 general administrator, after making good faith efforts to reach agreements with claimants' counsel,  
27 ~~and with input from the attorney general's victim/witness advocates~~ and claimants' counsel, shall  
28 ~~develop and present to the joint fiscal committee a claims process consistent with this section~~  
29 ~~including the development of claim forms, identification of necessary or helpful documentation, and~~  
30 ~~guidelines for valuing claims for settlement purposes which take into consideration the following~~  
31 ~~factors:~~

32 (1) The nature and character of the acts of physical abuse ~~and~~, sexual abuse or other  
33 abuse.

34 (2) The frequency and duration of those acts.

35

0           (3) ~~Aggravating and mitigating factors such as whether the acts were also~~  
1 ~~accompanied by unlawful confinement, the impact on the claimant relative to others similarly~~  
2 ~~situated, the applicable statute of limitations and other potentially available legal defenses if the~~  
3 ~~claims were pursued as litigation, the legal standards in effect at the time of the acts, whether the~~  
4 ~~acts were previously reported to persons in a position of authority, whether the acts can be~~  
5 ~~exonerated through contemporaneous reports by the claimant to others~~identified by the attorney  
6 general or claimants' counsel.

7           (4) Any other factor that may be relevant.

8           (b) The guidelines may group similar claims by type and suggest a value or range of  
9 values for each type of claim. The guidelines shall neither factor in nor separately compensate a  
10 claimant for any attorney's fees payable by the claimant. The goal of the guidelines shall be to  
11 ensure the fair and uniform valuation of claims so that the claims of similarly situated claimants are  
12 valued similarly. ~~The joint fiscal committee shall review and vote to either approve or object to the~~  
13 ~~proposed claims process and guidelines within 30 days of receipt. If the joint fiscal committee votes~~  
14 ~~to object to the proposed claims process and guidelines, the joint fiscal committee shall articulate its~~  
15 ~~reasons for objection in writing and claimants' counsel and the attorney general shall present for~~  
16 ~~approval a revised version of the proposed claims process and guidelines that addresses the joint~~  
17 ~~fiscal committee's concerns. The joint fiscal committee shall approve a claims process and guidelines~~  
18 ~~prior to appointment of an administrator as set forth in paragraph III. Once approved~~agreed upon,  
19 the guidelines shall be binding ~~on~~unless the administrator, the AG designee and the  
20 administrator claimant agree to deviations relating to a particular claim. The claims settlement  
21 process and guidelines may be revised periodically as deemed necessary by the administrator, again  
22 with input from claimants' counsel and the attorney general,~~and with the approval of the joint fiscal~~  
23 committee.

24

25           V. ~~For all claims involving both sexual and physical abuse or sexual abuse only, no~~  
26 ~~individual claimant shall be paid more than \$1,500,000 in settlement of all claims in the aggregate.~~  
27 As soon as practical following the effective date of this section, the administrator, after input from  
28 the attorney general's victim/witness advocates, the attorney general, claimants' counsel, and any  
29 qualified process expert selected by the administrator, shall develop a settlement process, including  
30 protocols, and claims and settlement forms. The settlement process will include, without limitation,  
31 the following requirements:

32           (a) All claimants will be treated with respect, dignity and fairness.

33           (b) The claimant will be afforded a voluntary opportunity to be heard by the  
34 administrator during the settlement period, including by a face-to-face or telephonic meeting with  
35 the administrator, without the AG designee present.

0 (c) The attorney general shall be obligated to provide the administrator and the  
1 claimant with all evidence and information that may be relevant to the claim for which the state has  
2 possession, custody, or control, including all evidence and information that either corroborates or  
3 contradicts the claim.

4 (d) The administrator will consider all appropriate factors and information, including  
5 the verbal and written statements of claimants, parents, friends or others, the level of  
6 documentation, corroboration, or other circumstantial evidence regarding the nature, frequency,  
7 time, and other details of the abuse. Such information includes medical or counseling records  
8 relevant to the abuse and contemporaneous notification of the abuse by the claimant to parents,  
9 friends or others, and whether the alleged abuse is consistent with the abuse alleged by other  
10 claimants, including if the alleged abuse involves the same perpetrator.

11 (e) After reviewing all of the information submitted and the facts and circumstances of  
12 each claim, the administrator will determine, in his or her sole discretion, whether the allegations  
13 are credible, sufficiently corroborated, and likely to have occurred, and prepare a proposed  
14 settlement agreement conforming to the guidelines as contemplated by subparagraph (c) of  
15 paragraph VIII.

16 (f) If a claimant decides to accept a proposed settlement agreement, the claimant will  
17 sign a release of all past and future claims relating to the abuse covered by this section. Before  
18 signing a proposed settlement agreement, the claimant will be required to consult with an attorney.  
19 If the claimant has not retained an attorney, the claimant will be required to consult with the  
20 administrator.

21 VI. For all claims involving physical abuse-only, sexual abuse or other abuse, no individual  
22 claimant shall be paid more than \$150,000~~4,500,000~~ in settlement of all ~~physical abuse~~ claims in the  
23 aggregate, unless the joint fiscal committee approves a higher amount.

24

25 VII. Beginning not later than November 1, 2022, the administrator shall publish notice to  
26 the public of the establishment of the YDC settlement fund and the opportunity for former YDC  
27 residents to file claims. Such notice shall be published in a newspaper of general circulation in every  
28 county in the state, at least once a week for at least 26 consecutive weeks. Such notice shall also be  
29 published at least once in a newspaper of national circulation. Such notice shall also be published on  
30 such social media platforms as are appropriate in the discretion of the administrator for at least 6  
31 consecutive weeks. Additionally, such notice shall be published to the current residents of all New  
32 Hampshire correctional facilities by means of posting or other customary means for such facility,  
33 shall be made available by the attorney general via press release, and shall be posted on the attorney  
34 general's public website. Upon request of claimants' counsel, the attorney general and the  
35 administrator will provide information and cooperation necessary to facilitate claimants' counsel in  
36 making additional notice. The publication shall constitute conclusive proof in judicial proceedings of

0the latest date by which all persons, in the exercise of reasonable diligence, could have discovered  
1both their injuries and the causal relationship of their injuries to the acts or omissions of any  
2employees or agents of the state regarding any incident which might have been the subject of a  
3claim, whether or not such a claim was filed.

4 ~~VH VIII.~~(a) ~~Any~~Beginning November 1, 2022, any former YDC resident may file a claim.  
5Claimants shall sign claim forms at the time of submission, stating that the claimant certifies, under  
6oath, that the information provided in the claim form is true and accurate to the best of the  
7claimant's knowledge. A claim subject to the procedure established in this section may be filed only  
8by the former YDC resident who was personally subject to physical abuse, sexual abuse or  
9physical~~other~~ abuse. No claim shall be filed for collateral injuries or damages suffered by any other  
10person resulting from physical abuse, sexual abuse or physical~~other~~ abuse ~~of the former YDC~~  
11~~resident,~~ including claims for loss of consortium or emotional distress suffered by relatives of the  
12former YDC resident. No claim shall be filed by the executor or administrator of a deceased former  
13YDC resident, but a claim may be filed by the guardian or conservator of a living former YDC  
14resident who is incapacitated. Once a claim has been properly filed by a living former YDC resident,  
15the subsequent death of that claimant shall not extinguish the claim.

16

17 (b) ~~Claims may be filed beginning January 1, 2023. Claims shall not be accepted after~~  
18~~December 31, 2024.~~

19 (e) ~~A former YDC resident's participation in this claims process is voluntary. A former~~  
20~~YDC resident who elects not to participate in the claims process retains the right to pursue a claim~~  
21~~in a judicial or other forum. A former YDC resident is entitled to consult with counsel before~~  
22~~deciding whether to participate in the claims process. The administrator shall identify and publish~~  
23~~the names of attorneys willing to consult with former YDC residents concerning their decision to file~~  
24~~a claim.~~

25 (d) ~~This section constitutes the state's offer to resolve completely and finally all of the~~  
26~~former YDC resident's claims through the claims process established. By filing a claim, the claimant~~  
27~~agrees that he or she will participate in the claims process, and, if the claimant requests that the~~  
28~~administrator decide the claim, agrees to accept the determination of the administrator as final and~~  
29~~binding, even if the claimant does not receive any payment from the fund. The submission of a claim~~  
30~~shall constitute an agreement in writing to submit the claim to arbitration as provided in RSA 542:1.~~

31 (e) ~~By filing a claim, a claimant waives his or her right to simultaneously seek other or~~  
32~~additional monetary relief in any forum from the state of New Hampshire or any of its agents or~~  
33~~employees, or from any of its political subdivisions or their agents or employees arising out of or~~  
34~~relating to any incidents which are or could have been the subject of a claim, except that the~~  
35~~claimant does not waive his or her right to seek or continue to seek relief in any forum from an~~  
36~~individual whose direct, personal actions constitute sexual abuse or physical abuse, even if said~~

~~0 individual was a state employee at the time of the acts. The administrator shall require a claimant  
1 to execute appropriate agreements or motions to stay any pending proceedings as a condition to  
2 processing claims provided that such documents expressly preserve the right to pursue claims  
3 against individual perpetrators as described.~~

4           ~~(f) Claims shall be submitted under oath. Claimants shall be entitled to be treated with  
5 respect and dignity in the presentment of their claims. Claimants who are believed by the  
6 administrator to have deliberately submitted false claims may be referred to an appropriate law  
7 enforcement agency. Perpetrators of sexual abuse or physical abuse identified by claimants may be  
8 referred to an appropriate law enforcement agency by the administrator, but only with the consent  
9 and cooperation of the claimant. A claimant shall not be required to cooperate in a criminal  
10 investigation as a condition of participating in the claim process.~~

11           ~~(g) To the greatest extent possible, the administrator shall schedule claims for  
12 settlement in the order that they are received, except that the administrator may also give  
13 consideration to the time for which litigation may have been pending prior to the filing of a claim.  
14 The administrator shall have a period of 90 days after the administrator notifies the claimant and  
15 the AG designee of the commencement of consideration of a claim, or such longer period agreed upon  
16 by the claimant and the AG designee, to address each claim with the claimant, his legal counsel, and  
17 the AG designee through the process established under subparagraph V. Upon demand by the AG  
18 designee, the claimant shall execute appropriate agreements or motions to stay any pending  
19 proceedings during such period. The AG designee and the claimant or claimant's counsel may also  
20 engage in discussion separate and apart from their stated claim positions in an effort to resolve their  
21 disagreements regarding a claim. Such discussions shall be treated in like fashion to settlement  
22 discussions conducted under New Hampshire rules of evidence 408.~~

23           ~~(c) Upon or before the expiration of the settlement period, the administrator shall issue  
24 a report setting forth the administrator's findings regarding the nature, extent and frequency of the  
25 abuse, aggravating or mitigating circumstances, the valuation of the claim by application of the  
26 guidelines without regard to any limit set forth in paragraph VI, and the basis for valuation,  
27 together with a settlement agreement contemplating payment of the lesser of the valuation and any  
28 limit set forth in paragraph VI, other relevant terms and conditions of the settlement process, and  
29 mutual releases with respect to the claims subject to settlement under this section. The denial of a  
30 claim in full or proposed settlement payment of zero value by the administrator shall be deemed a  
31 withdrawal of the claim without further action by the claimant. The proposed settlement agreement  
32 shall be binding on the state upon acceptance by the claimant. Neither the attorney general nor the  
33 AG designee shall have the right to reject or alter the proposed settlement agreement, except upon  
34 agreement of the claimant.~~

35           ~~(d) Within 30 days after receiving the proposed settlement agreement, the claimant  
36 shall indicate to the administrator and the AG designee whether he or she agrees to the proposed~~

0settlement agreement or whether he or she wishes to withdraw the claim. In the absence of an  
1indication from the claimant within such 30-day period, the claimant shall be deemed to have  
2accepted the proposed settlement agreement. Upon withdrawal of claim, whether during the  
3settlement period or within such 30-day period, the state shall execute appropriate agreements or  
4motions to remove any stay of proceedings.

5           (e) Upon acceptance of a proposed settlement agreement, the payment of the  
6valuation shall be made from the YDC settlement fund.

7           IX. Claims and all documents and information created in connection with claims shall be  
8confidential, except that matter which was not previously confidential shall not become so by virtue  
9of being submitted in connection with a claim, or except as otherwise provided in this section or in  
10RSA 91-A. This confidentiality is provided in order to protect the privacy of the claimant, and only  
11for that reason. The claimant shall not be bound by this obligation of confidentiality and may waive  
12it at any time.

13

14           ~~VIII.(a) Within 30 days of receipt of a claim, the administrator shall acknowledge its receipt~~  
15~~in writing and provide a copy to the AG designee.~~

16           ~~(b) Within 60 days of receipt of a claim, the administrator shall review the claim, and~~  
17~~indicate whether the claim is considered complete as submitted, or if not, what additional~~  
18~~information is required. If the administrator requires additional information, the claimant shall~~  
19~~provide that information within 90 days of being notified that additional information is needed, or~~  
20~~the claim may be denied as incomplete, provided, that the administrator may grant the claimant an~~  
21~~extension of time for good cause shown. The administrator shall also provide any additional~~  
22~~documentation received to the AG designee.~~

23           ~~(c) Once a claim is considered complete, the AG designee shall have 30 days to indicate~~  
24~~to the claimant and the administrator its position regarding the claim. The AG designee may agree~~  
25~~or disagree with the claim in whole or in part, and shall indicate whether he or she believes the~~  
26~~claim should be referred to an investigator. The administrator may grant the AG designee an~~  
27~~extension of time to indicate its position for good cause shown.~~

28           ~~(d) Following receipt of the AG designee's position, the administrator may refer a~~  
29~~claim to an investigator if, in the administrator's independent judgment, an investigation is needed.~~  
30~~The administrator shall direct the investigator as to any particular aspects of the claimant's claim~~  
31~~for which the administrator seeks further information or verification, and in such case, the~~  
32~~investigation shall be limited to that scope. If the administrator elects not to refer a claim to an~~  
33~~investigator, then the administrator shall so notify the AG designee and the claimant, and advise the~~  
34~~claimant in writing regarding his or her options: to accept the AG designee's position, to request the~~  
35~~administrator decide the claim, or to withdraw his or her claim from further processing. Within 30~~  
36~~days of receiving the position of the AG designee, the claimant shall indicate to the administrator~~

0 and the AG designee whether he or she agrees with the AG designee's position, whether he or she  
1 wishes for the administrator to decide the claim, or whether he or she wishes to withdraw his or her  
2 claim from further processing. In the absence of an indication from the claimant, the administrator  
3 may assume that the claimant is in agreement with the position of the AG designee.

4           (e) ~~The purpose of an investigation shall be to verify a claim, as submitted, if possible.  
5 The investigation shall, to the greatest extent possible, be conducted in a trauma informed,  
6 respectful, and dignified manner. The investigation may include an interview of the claimant, which  
7 may be conducted under oath and recorded. The investigator may also request to review additional  
8 records related to the claim. The claimant shall be entitled to the assistance of an advocate in  
9 connection with the investigation process who shall be allowed to accompany the claimant during  
10 any interview. The claimant shall execute such documents or authorizations as may be necessary to  
11 permit the investigator to access records. If the claimant is represented by counsel, counsel shall  
12 also be allowed to attend any interview of the claimant. A claim may be denied if a claimant refuses  
13 to cooperate with the investigation. Except in extraordinary circumstances, investigations should be  
14 completed within 90 days of referral.~~

15           (f) ~~The investigator shall present a report to the administrator of his or her findings,  
16 which shall include a summary of any interviews conducted or records gathered, a copy of any such  
17 supporting documentation, records and recordings. The administrator shall provide a copy of the  
18 investigator's report and supporting documentation to the claimant and the AG designee once  
19 received.~~

20           (g) ~~Within 30 days of receiving the investigation report, the AG designee shall indicate  
21 to the claimant and the administrator its updated position regarding the claim, and the  
22 administrator shall advise the claimant in writing regarding his or her options: to accept the AG  
23 designee's position, to request the administrator decide the claim, or to withdraw his or her claim  
24 from further processing.~~

25           (h) ~~Within 30 days of receiving the updated position of the AG designee, the claimant  
26 shall indicate to the administrator and the AG designee whether he or she agrees with the AG  
27 designee's position, whether he or she wishes for the administrator to decide the claim, or whether  
28 he or she wishes to withdraw the claim from further processing. In the absence of an indication from  
29 the claimant, the administrator may assume that the claimant is in agreement with the position of  
30 the AG designee. If the claimant and the AG designee are in agreement regarding the disposition of  
31 the claim, the administrator shall make an award consistent with the parties' agreement.~~

32           (i) ~~The AG designee and the claimant or claimant's counsel may also engage in  
33 discussion separate and apart from their stated claim positions in an effort to resolve their  
34 disagreements regarding a claim. Such discussions shall be treated in like fashion to settlement  
35 discussions conducted under New Hampshire rules of evidence 408, and the administrator shall not  
36 be apprised of efforts to compromise in the event that the claim proceeds to a resolution proceeding.~~



0 ~~IX.(a) When a claimant requests that the administrator decide the claim, the administrator~~  
1 ~~shall schedule the claim for a resolution proceeding according to the procedures approved by the~~  
2 ~~joint fiscal committee. All resolution proceedings shall take place in the state of New Hampshire,~~  
3 ~~although parties and witnesses may attend by telephone or video conference in the discretion of the~~  
4 ~~administrator. To the greatest extent possible, claims shall be scheduled for resolution in the order~~  
5 ~~that they are received and determined to be complete, except that the administrator may also give~~  
6 ~~consideration to the time for which litigation may have been pending prior to the filing of a claim.~~  
7 ~~By requesting a resolution proceeding, a claimant fully waives his or her right to seek other or~~  
8 ~~additional monetary relief in any forum from the state of New Hampshire or any of its agents or~~  
9 ~~employees, or from any of its political subdivisions or their agents or employees arising out of or~~  
10 ~~relating to any incidents which are or could have been the subject of a claim, except that the~~  
11 ~~claimant does not waive his or her right to seek or continue to seek relief in any forum from an~~  
12 ~~individual whose direct, personal actions constitute sexual abuse or physical abuse, even if said~~  
13 ~~individual was a state employee at the time of the acts. The administrator shall require a claimant~~  
14 ~~to execute appropriate dismissals, waivers, releases, or other documents as a condition of scheduling~~  
15 ~~a resolution proceeding, provided that such documents expressly preserve the right to pursue claims~~  
16 ~~against individual perpetrators as described.~~

17 ~~(b) The administrator may require such submissions by the parties as the administrator~~  
18 ~~determines, may consider such information as the administrator deems appropriate, and shall~~  
19 ~~resolve claims based upon written submission, through conciliation, by conducting a hearing, or on~~  
20 ~~any other basis determined by the administrator. The claimant shall be entitled to the assistance of~~  
21 ~~an advocate in connection with the resolution process who shall be allowed to accompany the~~  
22 ~~claimant during any hearing or meeting.~~

23 ~~(c) Any hearing conducted by the administrator shall be scheduled for not more than 3~~  
24 ~~hours unless good cause is shown regarding the need for more time and shall be conducted in a~~  
25 ~~victim-centered, trauma informed way, to the greatest extent possible. If the claimant is~~  
26 ~~represented by counsel, counsel shall also be allowed to attend and participate in any hearing.~~

27 ~~(d) At any hearing, any witnesses who testify shall be sworn.~~

28 ~~(e) The administrator shall issue a written decision to the parties within 30 days of the~~  
29 ~~conclusion of the resolution process. The administrator's decision regarding the claim shall be final~~  
30 ~~and non appealable, and the provisions of RSA 542:8, RSA 542:9, and RSA 542:10 shall not apply,~~  
31 ~~provided, however, that either the claimant or the AG designee may request the administrator to~~  
32 ~~reconsider a decision on grounds that it contains mathematical mistakes or miscalculations.~~

33 ~~X. Upon the rendering of any final decision to approve payment of any part of a claim,~~  
34 ~~whether made by the administrator pursuant to the agreement of the claimant and the AG designee~~  
35 ~~or pursuant to a determination by the administrator following a resolution proceeding, the payment~~  
36 ~~shall be made from the YDC settlement fund established in paragraph II. In addition, the claimant~~

~~0 may request, and the administrator shall hold a face-to-face meeting with the claimant where the  
1 claimant may speak with the administrator without the AG designee present. The conduct of such a  
2 meeting shall not be considered a part of a resolution process and shall be not be available if a  
3 resolution process is requested until after it is completed.~~

4 ~~XIX.~~ Any proposed settlement agreement between the claimant and the AG designee and any  
5 determination by the administrator may include a determination by the administrator that a claim  
6 should be paid in annual installments over a period of up to 10 years. A claimant may indicate that  
7 he or she does not wish to receive installment payments, and the administrator shall honor the  
8 claimant's wishes in this regard. Additionally, a claimant may request that he or she receive the  
9 award in the form of periodic payments under a structured settlement that (i) is the subject of a  
10 qualified assignment that satisfies the conditions of Internal Revenue Code Section 130 and releases  
11 the fund from any liability for the periodic payments; and (ii) is funded by an annuity contract issued  
12 by a life insurance company domiciled in the United States, licensed in New Hampshire and rated A  
13 or better by A.M. Best. Upon receipt of such a request, the administrator shall accommodate the  
14 processing of an award in said fashion. Additionally, the administrator may maintain and provide to  
15 claimants a list of licensed structured settlement specialists who have indicated a desire to assist in  
16 establishing periodic payments to meet a claimant's anticipated needs.

17 ~~XIXI.~~ If the administrator determines that a shortfall in the YDC settlement fund is likely  
18 to occur, the administrator, in consultation with the attorney general, shall request additional funds  
19 from the legislature.

20 ~~XIXXII.~~ The costs of and expenses of the following shall be paid from the fund:

21 (a) the administration of the fund and any,

22 (b) the administrator, including the costs of any research the administrator may require  
23 in relation to jury verdicts, damage awards and other information relevant to determination of the  
24 guidelines and the compensation of any process expert selected by the administrator,

25 (c) the attorney general, limited to costs and expenses which are outside of the ordinary  
26 operational expenses of the department of justice ~~shall be paid from the fund,~~

27 ~~XIV.~~ ~~The administrator may approve all fees and costs of attorneys who represent claimants~~  
28 ~~in proceedings before the administrator. The administrator shall not approve any request of an~~  
29 ~~attorney for fees or costs which are not reasonable. The administrator shall not approve an~~  
30 ~~attorney's fee in excess of 33 1/3 percent of the amount of the award. All costs and attorney's fees~~  
31 ~~paid to a claimant's attorney shall be paid from the amount awarded to the claimant~~

32 (d) the department of health and human services, limited to costs and expenses related to  
33 producing information required by this section or the administrator, and otherwise assisting with  
34 and participating in the settlement process.

35 ~~XVXIII.~~ The administrator, in consultation with the attorney general, shall quarterly submit  
36 a report to the speaker of the house of representatives, the president of the senate, the joint fiscal

0committee and the governor providing information as to the number and nature of claims made and  
1settled, the amounts requested and paid in settlement to date, the claim amounts pending, an  
2estimate of the likely amounts which will be approved and paid, the administrative costs which have  
3been paid, and an estimate of future administrative costs to be paid. The report shall be structured  
4to protect the privacy and anonymity of the claimants. The attorney general shall also post the  
5report on the department of justice's public website.

6 3 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA  
791-A:5 by inserting after paragraph XII the following new paragraph:

8XIII. Records of the youth development center claims administration and the YDC settlement fund  
9pursuant to RSA 21-M:11-a, with the exception of settlement agreements, which shall remain subject  
10to RSA 91-A:4, VI, and, after a claim has been finally resolved, such other records the release of  
11which would not constitute a violation of other provisions of law or an unwarranted invasion of a  
12claimant's privacy.

13 4 Appropriation. Notwithstanding RSA 9:13-e, the sum of \$100,000,000 for the biennium ending  
14June 30, 2023, is hereby appropriated from the revenue stabilization reserve account to the YDC  
15settlement fund established in RSA 21-M:11-a, II for the purpose of administering and settling  
16claims as provided in RSA 21-M:11-a. The appropriation shall be nonlapsing, provided that any  
17moneys in the YDC settlement fund not expended as of June 30, 2032 shall lapse to the revenue  
18stabilization reserve account, unless the fund is earlier terminated by the attorney general, in  
19consultation with the administrator, or as otherwise provided by law.

20 5 Effective Date. This act shall take effect upon its passage.  
21

Document comparison by Workshare Compare on Thursday, March 31, 2022  
2:46:42 PM

<b>Input:</b>	
Document 1 ID	netdocuments://4879-4684-7512/1
Description	HB 1677 - as adopted by the House (JVH Working Draft)
Document 2 ID	netdocuments://4879-4684-7512/6
Description	HB 1677 - as adopted by the House (JVH Working Draft)
Rendering set	Standard

<b>Legend:</b>	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved-deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

<b>Statistics:</b>	
	Count
Insertions	81
Deletions	80
Moved from	13
Moved to	13
Style changes	0
Format changes	0
Total changes	187

**H.B. 1677**  
**Senate Judiciary Committee Hearing, April 7, 2022**  
**VERDICTS AND SETTLEMENTS RESEARCH**  
Presented by Attorney General John M. Formella

**All Cases Average: \$506,991.70 per claimant**

Year	State	Case caption	Summary	Verdict/ settlement	Amount	Claimants	Per Claimant
		<b>GROUPS of YOUTH in STATE YOUTH DETENTION FACILITIES or ADULT JAILS</b>	<b>AVERAGE = \$131,099 per Claimant</b>				
2001	Alabama	Peoples, et al v. Wood, et al. (01-cv-01433-LSC, No. Dist. Of Alabama)	Claims by <u>49 girls</u> , of physical abuse and sexual misconduct (fondling, harassment and rape) at Youth Services Chalkville detention facility.	Settlement (2007)	\$12,500,000	49	\$255,102
2002	Maryland	Gary J., et al v. State of Maryland; Maryland Dept of Juvenile Justice (CCB-02-cv-1060)(USDC, MD)	Class action- <u>890 male juveniles</u> (between ages 14-17) committed to juvenile bootcamps between 1996 and 1999; allegations that staff members regularly assaulted the youths, inflicting injuries. (Settlement-- \$2 million for scholarships for all held in the camps; \$1.8 million to the 61 juveniles who were the most severely beaten (\$29,500 ea), remainder \$800,000 in attorneys' fees) Allocate fees equally to recoveries. \$2.2 MM/61=\$36,065	Class Settlement (2002)	\$2,200,000	61	\$36,065
2005	Hawaii	R.G., et al. v. Koller, et al (05-cv-566-jms-lek) (USDC, Hawaii)	Plaintiffs, <u>3 juveniles</u> , claimed they suffered abuse, harassment and isolation by staff based on their actual or perceived sexual orientation, gender identity or sex, and that the defendants failed to protect them from peer harassment and abuse, and obstructed their access to counsel.	Settlement (2006)	\$625,000	3	\$208,333
2012	California	Shadd, et. Al v. County Sacramento, et al. (12-cv-2834-mce-kjn, Eastern District of California)	Claims by approx. <u>24 juveniles</u> who were in custody between 1998 and 2010 at juvenile detention facilities in Sacramento County. Physical and emotional abuse.	Settlement (2015)	\$475,000	24	\$19,791
2013	Michigan	John Does 1-18, et al, v. Michigan Dept. of Corrections, et al. (State of Michigan, Circuit court for Washtenaw County; 13-1196-CZ; 15-	Class action by <u>1300</u> (approx.) current or formerly incarcerated youth who claimed physical and sexual assaults and harassment while held at <u>adult</u> jails and prisons.	Class Settlement (2020)	\$80,000,000	1300	\$61,538

		1006-CZ)	(Class= "...those persons incarcerated in an MDOC facility while under the age of 18 any time between October 15, 2010 and February 24, 2020.")				
2015	Idaho	John Doe, et al. v. Idaho Dept of Juvenile Corrections (Canyon County, no docket)	Plaintiff, <u>one of 12 juvenile inmates</u> who accused jail staff of sexual misconduct and physical abuse. At time of abuse, plaintiff was 15 y/o. Also claims dfdts were negligent in hiring, training and supervision of employees.	Settlement	\$450,000	12	\$37,500
2017	Minnesota	L.T., M.C., et al v. Kids Peace Corp, Kids Peace Mesabi Academy, Inc. (27-CV-17-3148, MN, Hennepin Cty., 4 <sup>th</sup> Judicial District)	<u>17 juveniles</u> alleged abuse, institutional neglect, improper staff training and lack of gov't oversight.	Settlement (2019)	\$1,495,000	17	\$87,941
2018	Pennsylvania	L.O.K.G. et al. v. Stevenson et al (18-cv-357-HSP, USDC, Eastern District of Pennsylvania)	Claims by <u>5 girls</u> , who were sexually assaulted by guard at Youth Intervention Center.	Settlement (2020)	\$1,300,000	5	\$260,000
2018	Washington	C.H. v. State of Washington, et al (Pierce Cty, Washington)	<u>10 boys (between the ages of 14 and 18)</u> suffered sexual abuse between 1976 and 2008 while in state custody at juvenile detention center for male juvenile offenders in Chehalis, WA); payout ranges from \$40,000 to \$350,000 per plaintiff	Settlement (2021)	\$2,136,175	10	\$213,618
			Average				\$131,098.67

Year	State	Case caption	Summary	Verdict/ settlement	Amount	Claimants	Per Claimant
		<b>INDIVIDUAL YOUTH IN STATE YOUTH DETENTION FACILITIES or ADULT JAILS</b>	<b>AVERAGE = \$230,000 per Claimant</b>				
1977	Maine	Price v. Thayer, Leeman, et al (Maine)	16 y/o boy raped by adult cellmate while incarcerated at county jail.	Verdict (1983)	\$175,000	1	\$175,000
2001	California	Plaintiff v. California Youth Authority	Female minor suffered emotional distress when she was sexually abused by male defendants during the course of their employment at the juvenile corrections center; allegations include the production of pornographic videos of her and conspiring to conceal their behavior when questioned.	Settlement (2001)	\$165,000	1	\$165,000
2012	Washington	Confidential Teen (M.H.) v. King County (USDC, Washington Western Dist)	17 y/o incarcerated male experienced sexual misconduct, including compelled sexual intercourse with female counselor at King County Jail, was also physically abused by guards in retaliation after he told authorities.	Settlement (2012)	\$300,000	1	\$300,000
2012	New Hampshire	John Doe (SC) v. DHHS., YDC (2011-cv-1109)	Plaintiff (age 14 at time of committal to YDC) alleged several episodes of molestation and one rape by criminal defendants Poulette and Crawford.	Settlement (2014)	\$20,000	1	\$20,000
2012	Indiana	T.G.B. b/n/f Gail Eckert v. Rivenburg, Furman and Indiana Dept. of Correction	Plaintiff, a bi-polar 14 y/o sentenced in 2007 to juvenile detention facility. Guard sexually abused a detainee; guard's supervisor failed to deter possible sexual misconduct, and state failed to properly ensure detainee safety.	Verdict (2012)	\$200,000	1	\$200,000
2017	Maine	Matthew Keene v. Maine Dept of Corrections	As an inmate at the Maine Youth Center from 1995 to 1999, he was routinely placed in isolation for long periods, held in 6 by 8 foot cell for 23 to 24 hours a day, sometimes up to 72 hours without access to exercise or educational opportunities.	Settlement (2019)	\$500,000	1	\$500,000
2018	California	Marcus Stewart v. County of Los Angeles, et al (18-cv-7739)(USDC, California, Central District	Plaintiff, suffered deprivation of civil rights and emotional distress after deputy juvenile probation officer sexually assaulted him on 4 occasions during his incarceration. Defendant's staff retaliated against him for complaining about the assaults by attempting to convince him to recant his report and failing to respond within reasonable time for requests for medical care, water and hygiene items.	Settlement (2020)	\$250,000	1	\$250,000
			Average				\$230,000.00

Year	State	Case caption	Summary	Verdict/ settlement	Amount	Claimants	Per Claimant
		<b>Group and Individual YOUTH IN PRIVATE SETTINGS (FOR-PROFIT CONTRACTED DETENTION FACILITIES, SCHOOLS, CHURCHES, NON-PROFIT ORGANIZATIONS)</b>	<b>AVERAGE = \$1,046,131 per Claimant</b>				
1999	Texas	Kathleen Doe, et al. v. Wackenhut Corporation, et al (99-CV-01319, USDC, Northern Dist of Texas)	Plaintiffs, <u>3 young girls</u> , allegedly sexually, physically and mentally abused by employees of Wackenhut Corrections Corporation while residing in the Coke County Juvenile Justice Center.	Settlement (1999)	\$1,500,000	3	\$500,000
2001	Maine	Michael Taylor v. Long Creek Youth, Maine Dept of Corrections (Cumberland Cty Superior Court, 2001- cv-1343) (Cumberland Cty Superior Court, 2001- cv-1343)	Plaintiff alleged he was placed in solitary confinement for more than a month at a time and tied down for up to 47 hours during five separate periods of imprisonment during the 1990's	Settlement (2004)	\$600,000	1	\$600,000
2000	South Carolina	William Pacetti v. Corrections Corporation of America (CCA)	14 y/o boy, sent to juvenile detention after creating a disturbance on a school bus, and threatening a school official, was awarded more than \$3 million in damages after the court found CCA' guilty of physically abusing the Charleston, SC teen-ager. He was held at a CCA between 7/1/96 and 1/20/97	Jury Verdict (2000)	\$3,000,000	1	\$3,000,000
2013	Connecticut	Gesner Lecenat, et al v. Douglas Perlitz et al (13-cv-1633-RNC, Dist. of CT)	Plaintiffs, approx. 130 <u>poor and homeless boys</u> who attended a charity school in Haiti, which was financially supported by Fairfield University, the Society of Jesus of New England, the Order of Malta and the Haiti Fund. Class definition- 'All persons who were subject to sexual abuse by Douglas Perlitz, Father Carrier, or any other person affiliated with the school.' Class period- Jan. 1, 1996 through July 9, 2006. (Note: there was a 2013 settlement of \$12 million with 24 other young men= \$500,000 ea.)	Class settlement (2019)	\$60,000,000	130	\$461,538
2020	Delaware	In re: Boy Scouts of America and Delaware BSA (20-10343-LSS)(U.S. Bankruptcy Ct.- Delaware)	82,500 class members, (former Boy Scouts) sexually abused by scout leaders and other personnel. Under settlement plan, class members will vote on settlement terms by 12/14/21.	Tentative Settlement (2021)(To be voted and finalized 2022)	\$1,900,000,000	82,500	\$23,030
2002	New Hampshire	Plaintiffs v. Diocese of Manchester	Group of 16 men who were abused by priests over a 25-year period beginning in 1957. (Rep. by Douglas)	Settlement	\$950,000	16	\$59,375



2017	New Hampshire	Plaintiffs v. Diocese of Manchester	Group of 62 victims—abused by priests, 2 lay workers and one member of a religious order; abuse took place between the 1950's and the 1980's. All cases involved some form of physical contact, ranging from touching over clothes to multiple acts of sodomy. (Median settlement- \$41,250, no one person received over \$500,000, Average \$96,774) (Rep. by Hutchins)	Settlement	\$6,000,000	62	\$96,774
2003	New York	Jane Doe, John Roe v. Matthew Maillo, St. Raphael's Parish, Diocese of Rockville Center	During 4 year period, between 1999 and 2003, <u>two</u> plaintiffs, a 15 y/o girl and 14 y/o boy, were repeatedly raped and sodomized by a youth minister at a Roman Catholic church. (Jury returned defense verdict on issue of negligent supervision, pltf's verdict on negligent hiring. Total of \$11.45 MM. Attributed 70% of fault to youth minister, 30% to church. Damages awarded on past and future pain and suffering).	Verdict (Mixed)	\$3,435,000	2	\$1,717,500
2017	W. Virginia	L.B. v. Miracle Meadows School (Kanawha Circuit Court 17-C-146)	Claims by <u>29</u> children who were alleged to have suffered mental, physical and sexual abuse by the adults who ran Miracle Meadows, a Christian boarding school. Abuse included: being chained and shackled to beds, kept in isolation rooms for weeks and months at a time, sexually and physical assaults.	Settlement (2020)	\$51,900,000	29	\$1,790,000
1998	Washington	XXX, et al. v. State of Washington and Kiwanis Club of Olympia  (Thurston County Superior Court, WA)	18 plaintiffs, (12 victims and 6 parents), were residents of the OK Boys Ranch, a group home for troubled boys. Cases of abuse occurred between 1979 and 1994, when the facility was closed. Abuse included violent hazing, sexual abuse by older boys on younger boys, sexual abuse by staff and generally poor conditions at facility.	Settlement (1998)	\$5,500,000	18	\$305,555
2018	Washington	RK, et al v. Kiwanis International (18-2-13370-5) (Pierce Cty, Washington)	7 boys* (between the ages of 11 and 17) suffered physical and sexual abuse by staff and other residents between 1979 and 1994 while placed (as wards of the state) at the Kiwanis Vocational Home. <i>*Pierce Cty court docket shows 14 plaintiffs</i>	Settlement (2021)	\$6,000,000	14	\$428,571
1999	Washington	13 Boy Residents of the OK Boys Ranch v. State of Washington and Kiwanis Int'l  (Superior Court of Washington, 99-2-07080-7)	Plaintiffs, <u>13</u> males between the ages of 11 to 14 at time of abuse, were residents of the OK Boys Ranch, a group home licensed by Department of Social and Health Services.	Settlement (2001)	\$11,700,000	13	\$900,000
2017	Wisconsin	Laera Reed v. John Ourada, et. Al (17-cv- 590-bbc, USDC, Western Dist. Of Wisconsin); Paige Ray-Cluney v. John Ourada, et. Al (17-cv-591-bbc, USDC, West.	2 women, 1 male claimed physical abuse at juvenile facilities, Copper Lake School for Girls, and Lincoln Hills School for Boys.	Settlement (2019)	\$5,000,000	3	\$1,666,666

		District of Wisconsin); Jacob Bailey v. John Wienandt, et al (17-cv-943-bbc, USDC Western Dist. Of Wisconsin)					
2017	Michigan	Denhollander, et al v. Michigan State University, et al.  (17-cv-0029, Western Dist. Mich.)	332 young women and girls, gymnasts, who were sexually abused under the guise of medical treatment by former Olympic and USA Gymnastics doctor Larry Nassar. \$500 million settlement (\$425 mill for survivors, \$75 mill for future claimants)	Class Settlement (2018) (with MI State <u>only</u> )	\$425,000,000	332	\$1,280,000
		USAG and USOPC Bankruptcy (filed after above lawsuit initiated)	510 Claimants filed POCs	Bankruptcy Approved Settlement (2021)	\$380,000,000	510	\$745,098
2018	California	In Re: USC Student Health Center Litigation  (18-cv-4258-SVW, Cent. District of California)	Settlement class (710 women) All women seen for treatment by Dr. George Tyndall at USC student health center between August 14, 1989 and June 21, 2016 (a) for women's health issues, or (b) whose treatment included an examination by him of her breast or genital areas, or (c) whose treatment included the taking of photographs or videotapes of her unclothed or partially clothed body. \$852 million (\$842 mill for 702 pltfs; \$9.2 mill for 8 pltfs)	Class Settlement (2021)	\$842,000,000	702	\$1,200,000
		See above			\$9,200,000	8	\$1,150,000
			Average				\$936,712.18

Year	State	Case caption	Summary	Verdict/ settlement	Amount	Claimants	Per Claimant
		<b>ADULTS IN PRISON SETTINGS</b>	<b>AVERAGE = \$161,426 per Claimant</b>				
1989	Georgia	Isdell v. McBerry, City of Forest Park, et al.(Georgia)	Female inmate (in her 20's) allegedly sexually harassed and raped by male prison guard.	Verdict (1992)	\$300,000	1	\$300,000
2006	New Hampshire	Jane Doe I, et al v. NH Dept of Corrections and Douglas Tower (06-c-0019)(Merr. Cty SC)	27 Female inmates at prison halfway house alleged that corrections officer used position and coercion to rape and otherwise engage in sexual activities. Settlement amounts ranged from \$6k to 228k per plaintiff).	Settlement (2008)	\$1,850,000	27	\$68,519
2009	Michigan	Neal, et al v. Michigan Dept. of Corrections (96-6986, Circuit Court of Washtenaw County)	Class action filed on behalf of approx. 900 female prisoners subjected to sexual abuse, harassment, privacy violations by male staff and retaliation for reporting abuse. Thirteen year litigation included extensive discovery, two trials involving 18 class members, mediation evaluations for 36 class members. Settlement distributed over 6 years.	Class Settlement (2007)	\$100,000,000	900	\$111,111
2018	Michigan	Christine Beausoleil and Judith Scholl v. Rick Snyder, Heidi Washington, et al. (18-13139)(USDC- E.D. Michigan)	<u>2 women repeatedly sexually assaulted by prison warehouse employee.</u>	Settlement (2021)	\$495,000	2	\$247,500
2009	New Hampshire	Cheever v. NH Dept of Corrections; Edmark (06-cv-351, USDC, NH)	Male inmate alleged he suffered violation of his civil rights, concussion, multiple contusions when he was transferred to SHU; became distraught and unable to stop crying. Pltf failed to properly train and supervise staff; ofers taunted and psychologically abused him, struck him in torso and ribs, slammed his head against wall and floor, causing him to lose consciousness, strapped him to a flat chair while he was naked.	Jury Verdict (2009)	\$80,000	1	\$80,000
			Average				\$161,426.00

Year	State	Case caption	Summary	Verdict/ settlement	Amount	Claimants	Per Claimant
		<b>CLAIMS INVOLVING STATE INSTITUTIONAL PHYSICAL ABUSE</b>	<b>AVERAGE = \$67,548 per Claimant</b>				
2002	Maryland	Gary J., et al v. State of Maryland; Maryland Dept of Juvenile Justice (CCB-02-cv-1060)(USDC, MD)	Class action- <u>890 male juveniles</u> (between ages 14-17) committed to juvenile bootcamps between 1996 and 1999; allegations that staff members regularly assaulted the youths, inflicting injuries. (Settlement-- \$2 million for scholarships for all held in the camps; \$1.8 million to the 61 juveniles who were the most severely beaten (\$29,500 ea), remainder \$800,000 in attorneys' fees) Allocate fees equally to recoveries. \$2.2 MM/61=\$36,065	Class Settlement (2002)	\$2,200,000	61	\$36,065
2012	California	Shadd, et. Al v. County Sacramento, et al. (12-cv-2834-mce-kjn, Eastern District of California)	Claims by approx. <u>24 juveniles</u> who were in custody between 1998 and 2010 at juvenile detention facilities in Sacramento County. Physical and emotional abuse.	Settlement (2015)	\$475,000	24	\$19,791
2013	Michigan	John Does 1-18, et al, v. Michigan Dept. of Corrections, et al. (State of Michigan, Circuit court for Washtenaw County; 13-1196-CZ; 15-1006-CZ)	Class action by <u>1300 (approx.)</u> current or formerly incarcerated youth who claimed physical and sexual assaults and harassment while held at <u>adult</u> jails and prisons.  (Class= "...those persons incarcerated in an MDOC facility while under the age of 18 any time between October 15, 2010 and February 24, 2020.")	Class Settlement (2020)	\$80,000,000	1300	\$61,538
2015	Idaho	John Doe, et al. v. Idaho Dept of Juvenile Corrections (Canyon County, no docket)	Plaintiff, <u>one of 12 juvenile inmates</u> who accused jail staff of sexual misconduct and physical abuse. At time of abuse, plaintiff was 15 y/o. Also claims dfdts were negligent in hiring, training and supervision of employees.	Settlement	\$450,000	12	\$37,500
2017	Minnesota	L.T., M.C., et al v. Kids Peace Corp, Kids Peace Mesabi Academy, Inc. (27-CV-17-3148, MN, Hennepin Cty., 4 <sup>th</sup> Judicial District)	<u>17 juveniles</u> alleged abuse, institutional neglect, improper staff training and lack of gov't oversight.	Settlement (2019)	\$1,495,000	17	\$87,941
2012	Washington	Confidential Teen (M.H.) v. King County (USDC, Washington Western Dist)	<u>17 y/o</u> incarcerated male experienced sexual misconduct, including compelled sexual intercourse with female counselor at King County Jail, was also physically abused by guards in retaliation after he told authorities.	Settlement (2012)	\$300,000 (allocate half to sexual abuse and half to physical abuse)	1	\$150,000
2009	New Hampshire	Cheever v. NH Dept of Corrections; Edmark (06-cv-351, USDC, NH)	Male <u>inmate</u> alleged he suffered violation of his civil rights, concussion, multiple contusions when he was transferred to SHU; became distraught and unable to stop crying. Pltf failed to properly train and supervise staff; ofers taunted and psychologically abused him,	Jury Verdict (2009)	\$80,000	1	\$80,000

			struck him in torso and ribs, slammed his head against wall and floor, causing him to lose consciousness, strapped him to a flat chair while he was naked.				
			Average				\$67,547.86

**Survivors' Concerns Regarding the HB 1677 YDC Settlement Fund**

(Indicating proposed changes to HB 1677 as passed by the House)

While HB 1677 represents a positive step toward remedying the harm caused to children committed to the state's custody, the bill falls short of its worthy goal of a "victim-centered," "trauma informed" reconciliation process.

- **Under-inclusive scope:** By omitting independent claims for emotional abuse, unlawful confinement, child endangerment, child exploitation, and deprivation of educational rights, the bill is not genuinely friendly to victims. To the contrary, such omissions effectively exclude some victims altogether, while devaluing the claims of many others. Because most survivors have suffered these other forms of abuse in varying degrees, the state will be effectively discounting the harm to the entire class of survivors.

Change	References
Add emotional abuse, child endangerment, false imprisonment, unlawful confinement, child exploitation, and deprivation of educational rights.	<b>Page 1, Lines 37-39</b>

- **Arbitrarily low caps:** Setting arbitrarily low caps is a standard defense lawyer tactic that is designed to protect the state, by minimizing liability, rather than to fairly compensate victims for the harm they suffered. Many survivors have claims surpassing the \$150,000 cap on physical abuse and the \$1.5 million aggregate cap. Those survivors will be forced to choose between a low ball settlement or litigation. This claims resolution tactic will only work to the extent that it preys on financially insecure survivors.

Changes	References
Delete the limit on physical abuse alone. Raise the per claimant cap to \$4,500,000, which is an amount consistent with settlements governed by RSA 14:35-b.	<b>Page 4, Lines 25-26 Page 5, Lines 21-23</b>

- **Untrustworthy guidelines:** The success or failure of the process hinges on the whether the guidelines fairly value the harm suffered by survivors. Because the bill allows the attorney general to unilaterally set the guidelines, survivors will have little faith that the guidelines will be fair and the process will fail. A truly victim-friendly process would set the guidelines by agreement, not by unilateral dictation of the culpable party.

Change	References
Add neutrality and fairness to the determination of the guidelines by empowering the administrator to determine them if the attorney general and claimants' counsel cannot reach agreement.	<b>Page 3, Lines 25-30</b>
Empower the administrator to obtain independent research to the extent he or she believes it is needed.	<b>Page 11, Lines 20-24</b>

- **Overly complex procedures:** A lengthy process is not victim-friendly. The current bill contemplates two phases. The initial phase results in a settlement offer from the state, but could potentially involve the appointment of an investigator and multiple rounds of submissions by the attorney general and the

**Survivors' Concerns Regarding the HB 1677 YDC Settlement Fund**

(Indicating proposed changes to HB 1677 as passed by the House)

claimant. All told, the initial settlement process could take 270 days. If the claimant thereafter asks for the administrator to decide the claim, it is likely that at least another 60-90 days will be needed, extending the process to nearly one year. Most modern, victim-friendly claims resolution protocols target final resolution within 90 days.

Change	References
Empower the administrator to develop and implement the process based on identified minimum standards after input from the parties, victim and witness advocates, and if needed, qualified experts.	<b>Page 4, Line 27 to Page 5, Line 20</b>
Establish a 90-day period for the administrator to process claims when the administrator determines a claim is ready for consideration.	<b>Page 7, Lines 11-19</b>

- **Waiver of judicial remedies:** The current bill requires the claimant to waive all rights to judicial relief if the claimant asks for the administrator to decide the claim. This too is not victim-friendly and runs counter to most modern child sexual abuse claims resolution protocols, where claimants are not required to release their claims until they accept the administrator's final settlement proposal.

Changes	References
Require a claimant to stay any lawsuit starting when the administrator starts the settlement process.	<b>Page 7, Lines 17-19</b>
Require a claimant to release claims and dismiss lawsuits if the process results in settlement.	<b>Page 7, Lines 23-29</b>

- **Inadequate notice and a short window for claims submissions:** The bill provides bare minimum notice, which will result in fewer survivors becoming aware of its existence. Additionally, a two-year window for the filing of claims is unduly short given that many survivors are only just beginning the process of confronting their childhood abuse. The window should be substantially extended to allow claimants time to process their childhood trauma to the point that they are able accept that it happened and can discuss it with others.

Changes	References
To allow claimant's counsel to supplement the state's notice to potential victims, require the attorney general to provide relevant information and cooperation.	<b>Page 5, Lines 34-36</b>
To create a process that would be applicable regarding future appropriations, delete the two-year window.	<b>Page 6, Lines 17-18</b>

- **Adversarial proceedings that are counter to a victim friendly process:** These survivors of state-sponsored child abuse have lived for years with the pain of not being believed. Subjecting them to

**Survivors' Concerns Regarding the HB 1677 YDC Settlement Fund**

(Indicating proposed changes to HB 1677 as passed by the House)

recorded interrogation under oath, and under the express threat of criminal prosecution, is not characteristic of a "victim-centered," "trauma informed" process and will surely result in survivors self-limiting their own claims for fear of being prosecuted by the same state that is responsible for their abuse. The unnecessary explicit threat of prosecution appears calculated to deter survivors from using the process, rather than inviting them into it.

Changes	References
Convert the process to a 90-day settlement period of meetings and review of information controlled by the administrator based on identified standards important to the claimants and the state.	Page 4, Line 27 to Page 5, Line 20

- **Unconstitutional interference with claimants' relationship with counsel:** The bill gratuitously intrudes upon the survivors' private contractual relationships with their attorneys by setting caps on fees and costs and providing for administrator review. This intrusion is unconstitutional as it discriminates against a single class of people—survivors of abuse at New Hampshire's juvenile facilities—without a substantial relationship to an important government objective. *See Comm. Resources for Justice, Inc. v. City of Manchester*, 154 N.H. 748, 762 (2007) (strengthening the intermediate scrutiny test from *Carson v. Maurer*, 120 N.H. 925 (1980)). The state's objective appears paternalistic and hypocritical insofar as it seeks to protect the survivors (now adults) from their attorneys who are helping them pursue claims for the state's failure to protect them from abuse when they were children. The administrator's role in reviewing claimants' counsels' fees and costs also unnecessarily injects bias into the process as the administrator is not asked to perform a similar oversight function over the attorney general. It appears the intent behind this provision is to drive a wedge between counsel and client and between counsel and the administrator. Such an unfair and imbalanced process is likely to fail.

Changes	References
Delete relevant provisions and ensure that the fund will not be used to pay attorney's fees and that the administrator's valuing of claims will not take into account payment of attorney's fees and costs.	Page 4, Lines 9-10 Page 11, Lines 27-31





**TO:** Chairman Carson, Vice Chairman Gannon, and Honorable Members of the New Hampshire Senate Judiciary Committee

**FROM:** Marci Hamilton, Founder & CEO, CHILD USA; Professor, University of Pennsylvania, and Kathryn Robb, Executive Director, CHILD USA Advocacy

**RE:** NH HB 1677: An act relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

**DATE:** April 7, 2022

---

Dear Chairman Carson, Vice Chairman Gannon, and Honorable Members of the Senate Judiciary Committee,

Thank you for allowing us to submit testimony in partial support of HB 1677, which will establish a compensation fund (Fund) for victims abused at the Youth Development Center (YDC). By way of introduction, Professor Marci Hamilton is a First Amendment constitutional scholar at the University of Pennsylvania who has led the national movement to reform statutes of limitations to reflect the science of delayed disclosure of childhood sexual abuse and who founded CHILD USA, a national nonprofit think tank devoted to ending child abuse and neglect. Kathryn Robb is the Executive Director of CHILD USA Advocacy, an advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. Kathryn is also an outspoken survivor of child sex abuse.

We commend the members for recognizing the need to provide justice to victims of child sexual abuse (CSA), and we acknowledge the improvements already made to HB 1677. However, the claims settlement program in HB 1677 still falls short of the victim friendly and trauma-informed process it hopes to accomplish.

**I. HB 1677 Proposes a Fund Too Limited in Scope, Given the Documented Impact of Sexual Trauma on Children**

New Hampshire courts acknowledge the state's responsibility in protecting the physical and psychological well-being of children. *New York v. Ferber*, 458 U.S. 747, 756-57 (1982). This mantle is even more vital in cases of sexual violence. *State v. Guajardo*, 605 A.2d 217, 220 (N.H. 1992). At bare minimum, New Hampshire must ensure that each child in its custody is not subjected to rape and violence; the State requires this standard of its' resident parents, and it must uphold the same standard for itself. The Fund proposed in HB 1677 does address physical and sexual violence, but it fails to provide comprehensive justice to the very children the State is tasked to protect.

**A. There is a Nationwide Epidemic of CSA Causing Lifelong Damage to Victims**

Currently, more than 10% of children are sexually abused, with at least one in five girls and one in thirteen boys sexually abused before they turn 18. CSA is a social problem that occurs in all social groups and institutions, including familial, religious, educational, medical, and athletic. Nearly 90% of CSA perpetrators are someone the child knows; in fact, roughly one third of CSA offenses are committed by family members. Moreover, CSA in New Hampshire has increased in recent years. According to Finkelhor, D. and the colleagues in *Updated Trends in Child Maltreatment, 2019*.

The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes:

- Childhood trauma, including CSA, can have **devastating impacts on a child's brain**, including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (PTSD); and disability.
- CSA victims suffer an **increased risk of suicide**—in one study, female CSA survivors were two to four times more likely to attempt suicide, and male CSA survivors were four to 11 times more likely to attempt suicide.
- CSA leads to an increased risk of **negative outcomes across the lifespan**, such as alcohol problems, illicit drug use, depression, marriage issues, and family problems.

In addition to the devastating impacts of CSA itself, youth who encounter the juvenile justice system, like the victims who would be bringing claims under the Fund, often experience difficulties related to mental health, poverty, substance abuse, academic disadvantage, and subsequent recidivism. For example, a nationwide study from the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention found that 70% of children placed in a residential facility had experienced trauma, which may include physical or sexual abuse. Additional research showed that a high percentage of youth (70 percent) involved with the juvenile justice system has a diagnosable mental health disorder. Further, nearly half of students who enter a residential juvenile justice facility have an academic achievement level that is below the grade equivalent for their age. Not only were the victims of the State's YDC betrayed by the very system that was supposed to both protect and help them, but they were also likely navigating the difficulties often faced by youth who come into contact with the juvenile justice system.

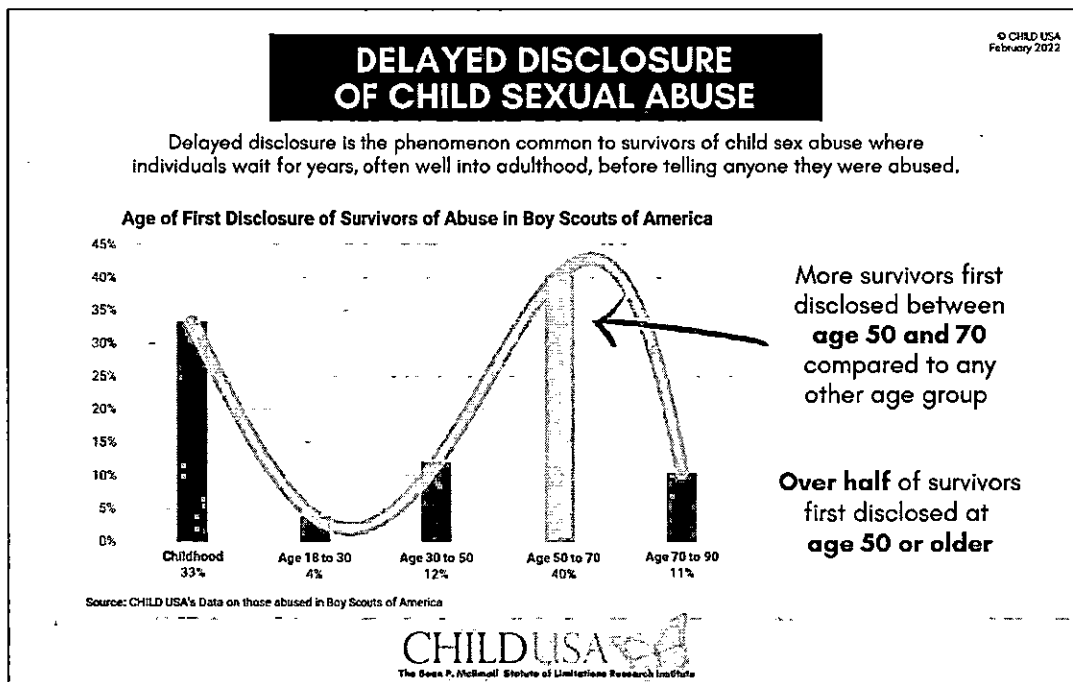
CSA is devastating to New Hampshire's children, and the Legislature's response should be tailored to all of its children. HB 1677 is an incomplete response to the enormous, ongoing problem in New Hampshire and creating a compensation fund limited to CSA victims and victims of physical abuse of the YDC negates the experiences and trauma of thousands of other victims in New Hampshire, especially when valuation of those claims considers the applicable statute of limitations if the claim were pursued as litigation.

**B. HB 1677's Unreasonably Short Timeframe for Filing Claims Will Effectively Leave Many Victims Without the Opportunity to Seek Redress**

Many victims of CSA suffer in silence for decades before they talk to anyone about their traumatic experiences. As children, CSA victims often fear the negative repercussions of disclosure, such as disruptions in family stability, loss of relationships, or involvement with the authorities. Additionally, CSA survivors may struggle to disclose because of trauma and psychological barriers such as shame and self-blame, as well as social factors like gender-based stereotypes or the stigma surrounding victimization. Further, victims may develop a variety of coping strategies—denial, repression, dissociation—in order to avoid recognizing or dealing with the harm they suffered. These mechanisms may persist well into adulthood thereby delaying manifestation of CSA’s traumatic effects and by proxy disclosure.

Moreover, disclosure of CSA to the authorities for criminal prosecution or an attorney in pursuit of civil justice is a difficult and emotionally complex process, which involves the survivor knowing that he or she was abused, being willing to identify publicly as an abuse survivor, and deciding to act against their abuser. In light of these barriers to disclosure, it is not surprising that:

- In a study of survivors of abuse in Boys Scouts of America, **51% of survivors disclosed their abuse for the first time at age 50 or older.**
- **One-third** of CSA survivors **never report** their abuse to anyone.
- Research has found a **higher rate of PTSD** symptoms in CSA victims delaying disclosure compared to those who did not delay disclosure.



For both children and adults, disclosure of CSA trauma is a process and not a discrete event in which a victim comes to terms with their abuse. Therefore, HB1677’s two years to file claims



after which all future claims would be barred does not give victims the time they need to bring their claims. The harm to victims is compounded by the bill's provision establishing the

publication date of the proposed Fund as the "conclusive proof" of the latest date a victim could reasonably discover their claim, *whether or not they file a claim*. All future claims, even legitimate ones, would be barred. New Hampshire should acknowledge the needs of victims and give them all the time they need to bring a claim, even if it is more administratively taxing.

## **II. HB 1677 Imposes an Arbitrary Cap on Claims That Undermines the Bill's Intended Purpose**

The proposed cap of \$1.5 million on child sexual abuse claims and \$150,000 on physical abuse claims unnecessarily limits an administrator's ability to accurately value a claim, and it may stymie the deterrent effect of victim compensation on future abuse.

### **A. The Cap Limits an Administrator's Ability to Assess Claims Individually to the Detriment of Those Most Severely Injured**

There is no signature injury that flows from CSA—victims process the abuse and experience its effects in a variety of ways—making it difficult to assess its financial impact on victims. Though the financial costs of abuse are significant, they are different for each individual victim. For example:

- In the case against Larry Nassar, the average payout settlement will be at least \$1.28 million per victim, although that number does not capture the highest payout amount.
- A 2017 settlement between the Los Angeles Archdiocese and victims gave an average of \$1.3 million to each victim.
- A 2018 settlement between the Diocese of Brooklyn and four victims resulted in an average settlement of \$6.8 for each student.
- A 2020 settlement between Los Angeles Unified School District and victims resulted in an average of \$2.6 million to each victim.
- A 2022 settlement between Los Angeles Unified School District and victims resulted in an average of \$2.1 million to each victims.

Although the average claims hovered near the proposed cap in HB 1677, they are just that – *averages*. Claims were not limited to those amounts, simply because damages vary considerably per victim. Any averages by some victims should not limit the settlement of a victims who suffered greater damages.

The imposition of caps has a disparate impact on child sex abuse victims generally, and especially on those most severely injured among them. The idea of concentrating the costs of the most severe injuries on the most vulnerable members of society while ostensibly safeguarding the financial interests of insurance companies in cases of institutional child sex abuse seems especially abhorrent and inapposite to the bill's legislative purpose. Capping claims under the proposed Fund communicates to victims that their individual experiences will not be considered or weighed in proportion to their suffering, and it may force them to choose between a low settlement offer and



going to court. Further, it reduces victims to a number calculated outside of their personal experience, pain, and trauma.

**B. The Cap Creates a System of Deterrence for Victims that Favors Predators and the Institutions that Cover Up for Them**

Limiting victim compensation diminishes the law's deterrent effect. Potential liability for the full financial burdens borne by victims deters future bad actors and gives institutions incentive to invest in child protection. Therefore, HB1677's arbitrary cap significantly undermines incentives for reforms while rewarding those institutions that ignore the safety of children. The cap also does a terrible disservice to future victims who may be deterred from coming forward if they are denied the ability to hold fully accountable those responsible.

**III. HB 1677 Is Neither Fully Trauma-Informed Nor Victim-Focused**

Despite declaring that it will endeavor to be trauma-informed, HB 1677 fails to contemplate a Fund that will consider the specific and unique emotional, procedural, and financial needs of individual victims.

**A. The Fund's False Claim Referral Provision Will Deter Victims Who Have Already Been Let Down By the State From Filing Claims**

HB 1677 gives the proposed Fund administrator the power to refer any claims it believes are false to law enforcement. False claims of sexual assault are rare, and a victim's traumatic response makes it difficult to come forward in the first place. Given the extreme rarity of false claims of CSA, this provision will only delay and deter legitimate claims by individuals who fear they will not be believed, or who do not have significant evidence. This provision further undermines any trust that victims of a state detention facility have in New Hampshire's willingness to compensate them fairly. Further, the threat of a law enforcement referral will likely have a disproportionately silencing impact on victims who choose to not be represented by council if they do not trust the Fund process.

**B. The Proposed Fund in HB 1677 Should Not Force Victims Into Telling Their Stories**

Victims who survive CSA face significant barriers to recovery and one component of trauma-informed care is the choice and control over one's story. Victims in New Hampshire may wish to share their stories in the course of making a claim or seeking recovery, but HB 1677 leaves all discretion about whether victims may or must meet with the administrator in the hands of the Fund. HB 1677 does not give victims the guarantee that they have the power or choice to share their stories, and this failing may further injure survivors and prevent healing.

**C. The Structure of the Proposed Fund and Arbitration Will Keep the Facts About the Conditions Endangering Children from the Public**



The Proposed Fund would keep all claims out of court, requiring victims to waive any judicial remedies if they submit a claim, removing their right to bring a claim if they disagree with the findings of the Fund administrator.

Historically, a wall of ignorance and secrecy has been constructed around CSA, which has been reinforced by legal mechanisms like short statutes of limitations that kept victims out of the legal system. The decades before public disclosure give perpetrators and institutions wide latitude to suppress the truth to the detriment of children, parents, and the public. Some predators abuse a high number of victims and continue abusing children well into their elderly years. For example, one study found that 7% of offenders sampled committed offenses against 41 to 450 children, and the highest time between offense to conviction was 36 years. By allowing claims for past abuse to be brought to court, and not kept confidentially in a Fund proceeding, hidden predators are brought into the light and are prevented from further abusing more children.

Public disclosure also educates the public about the dangers of CSA and how to prevent it. When predators and institutions are exposed, particularly high-profile ones like Larry Nassar, Jeffrey Epstein, the Boy Scouts of America, and the Catholic Church, the media publish investigations and documentaries that enlighten the public about the insidious ways child molesters operate to sexually assault children and the institutional failures that enabled their abuse. By shedding light on the problem, parents and other guardians are better able to identify abusers and responsible institutions, while the public is empowered to recognize grooming and abusive behavior and pressure youth serving organizations to implement prevention policies to report abuse in real time. Indeed, CSA publicity creates more social awareness to help keep kids safe, while also encouraging institutions to implement accountability and safe practices.

HB 1677 suggests a binding Fund process followed by a binding arbitration process that would keep all claims out of court and from the public eye. In some cases, victims prefer to avoid the stress of litigation or remain anonymous. However, by proposing that *all* YDC claims be administered through the Fund, HB 1677 covers all claims in a shroud of silence and secrecy, including those claims of victims who would be empowered by coming forward on their own terms. HB 1677 takes away a victim's right to choose how they will share their story and seek redress, while robbing the public of an important opportunity to learn how abuse happens and what is required to prevent it in the future. This represents a structural failure of the Fund to place victims at the center of the compensation process. Given each of these factors, we support the passage of HB 1677, conditional upon making our suggested incorporations.

## I. Conclusion

Once again, we commend you for taking up the issue of compensation for survivors of CSA, which is desperately needed to validate survivors in New Hampshire and protect children from future abuse. However, doing so through the Fund proposed by HB 1677 will limit the claims of victims without producing lasting, preventative change. Please do not hesitate to contact us or reach out to [info@childusa.org](mailto:info@childusa.org) if you have questions regarding HB 1677 or if we can be of assistance in any way on other child protection issues.



Sincerely,

A handwritten signature in black ink that reads "Marci A. Hamilton".

Marci A. Hamilton, Esq.  
*Founder & CEO*  
CHILD USA  
3508 Market Street, Suite 202  
Philadelphia, PA 19104  
mhamilton@childusa.org  
(215) 539-1906

A handwritten signature in black ink that reads "Kathryn Robb".

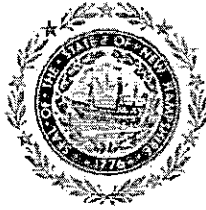
Kathryn Robb, Esq.  
*Executive Director*  
CHILD USA Advocacy  
3508 Market Street, Suite 201  
Philadelphia, PA 19104  
krobb@childusadvocacy.org  
(781) 856-7207

CHILD   
USA *Advocacy*

CHILD USA   
THE NATIONAL THINK TANK FOR CHILD PROTECTION



**Monica I. Mezzapelle**  
STATE TREASURER



**THE STATE OF NEW HAMPSHIRE**  
**STATE TREASURY**  
25 CAPITOL STREET, ROOM 121  
CONCORD, NH 03301  
(603) 271-2621  
FAX (603) 271-3922  
TDD Access: Relay NH 1-800-735-2964

April 7, 2022

Dear Members of the Senate Judiciary Committee,

As the New Hampshire State Treasurer, I take no position on HB 1677. I do not have concerns about the purpose of this bill, I simply would to bring to your attention the potential ramifications of the funding being utilized for this legislation.

Early this year, as part of the issuance of the State's general obligation bonds, the State was reviewed by the three Credit Rating Agencies: Moody's, Standard & Poor's ("S&P"), and Fitch Ratings ("Rating Agencies"). In their assessment, the Rating Agencies recognized that the State maintains a strong financial position, had a strong recovery from the pandemic, and based on other economic indicators and factors, their outlook is that the State will remain stable with possibilities for an upgrade.

Attached to this testimony is a summary I prepared from the reports we received from the Rating Agencies. The Summary highlights some of the considerations that could lead the State to an upgrade or, conversely, a downgrade. For purposes of this testimony, I have highlighted sections regarding the Revenue Stabilization Account ("Rainy Day Fund"). As noted in the Summary, the State's commitment to increase the reserves in the Rainy Day Fund and the fact that the State modified its policy during the last budget process (HB 2) to increase the capacity of the Rainy Day Fund led the State to an outlook change by S&P from Stable to Positive as well as a confirmation that the State will be in a better position to confront future recessions by maintaining sufficient reserves and liquidity.

While it may appear that this another dedicated fund the State has available, the use of the Rainy Day Fund has more consequential meaning not only in the eyes of the Rating Agencies, but also investors interested in the State's bonds. The purpose of this fund is already described in RSA 9:13-e, which is intended as a budgetary control in the event the State faces a budget deficit or revenue shortfall at the end of the biennium.

Please do not hesitate to contact me if you have any questions.

Respectfully,

A handwritten signature in cursive script that reads "Monica I. Mezzapelle".

Monica Mezzapelle  
State Treasurer

State of New Hampshire Treasury  
Credit Rating Agency Highlights  
March 2, 2022

Moody's:

Rating outlook

The outlook is stable as the state will likely maintain stable reserves and continue its path of economic growth and employment recovery while long-term leverage will not significantly change in coming years.

Factors that could lead to an upgrade:

- » Maintenance of strong reserves and liquidity in line with higher-rated peers
- » Consistent economic growth that outperforms the nation

Factors that could lead to a downgrade:

- » Decline in resident incomes or economic growth
- » Major erosion of reserves or liquidity, recurring budget imbalances
- » Large increases in leverage or fixed costs from debt, pension or OPEB liabilities

Fitch:

Factors that could, individually or collectively, lead to positive rating action/upgrade:

- Sustained economic growth which improves expectations for revenue growth at a level near or above national GDP growth;
- Ability to maintain structural balance while emerging from pandemic-related uncertainty, given state tax policy actions, particularly as federal stimulus support is removed from the general economy;
- Sustained maintenance of the state rainy-day fund at 10% of general fund revenues.

Factors that could, individually or collectively, lead to negative rating action/downgrade:

- A departure from the state's approach to maintaining fiscal flexibility throughout the economic cycle, including a focus on maintaining fiscal balance and adequate rainy-day fund reserves.
- Unexpected and sustained increase in long-term liability burden to more than 10% of state personal income.

S&P Global:

Positive Outlook

The outlook revision reflects our view of a one-in-three likelihood that we could raise New Hampshire's rating over the outlook horizon given its swift emergence from the fiscal challenges of the pandemic-induced recession and improvement of its revenue stabilization reserve account (RSRA) balance to \$257.8 million, or a strong 9.3% of net appropriations at the end of the fiscal 2020-2021 biennium, the highest level in state history. If New Hampshire can demonstrate an ongoing commitment to timely intra-biennium adjustments and preserving structural balance, while also upholding reserves and liquidity at levels that we believe more readily prepare the state to manage future cyclical economic and fiscal stress, this could improve our view of the state's creditworthiness. The positive outlook also incorporates our view a near-full recovery of most of New Hampshire's economic and employment metrics, and population growth trends, particularly among its working age population, that outpaced the national growth rate in 2020 and 2021. If projections for further expansion of the state's working age population are sustained at a level comparable to the U.S. and this support additional capacity for the state's core economy metrics to improve over the outlook horizon, this could further underpin New Hampshire's position at a higher rating level.

State of New Hampshire Treasury  
Credit Rating Agency Highlights  
March 2, 2022

Conversely, material weakening of the state's financial policy commitment to maintaining budgetary balance and financial flexibility over the current and next fiscal biennium and a reversal of recent pension funding progress, coupled with softening economic growth rates or a sustained decline in metrics compared to the U.S. level in ensuing years would likely result in a revision in our outlook to stable.

## **Jennifer Horgan**

---

**From:** Richard Lehmann <rick@nhlawyer.com>  
**Sent:** Thursday, April 7, 2022 11:28 AM  
**To:** Sharon Carson; Jay Kahn; William Gannon; Harold French; Becky Whitley  
**Cc:** Jennifer Horgan  
**Subject:** Section 541-B:14 Limitation on Action and Claims.

<http://www.gencourt.state.nh.us/rsa/html/LV/541-B/541-B-14.htm>

Richard J. Lehmann  
Senate Legal Counsel  
N.H. State House, Room 302  
Concord, NH 03301  
(603) 731-5435

Monica I. Mezzapelle  
STATE TREASURER



THE STATE OF NEW HAMPSHIRE  
STATE TREASURY  
25 CAPITOL STREET, ROOM 121  
CONCORD, NH 03301  
(603) 271-2621  
FAX (603) 271-3922  
TDD Access: Relay NH 1-800-735-2964

April 7, 2022

Dear Members of the Senate Judiciary Committee,

As the New Hampshire State Treasurer, I take no position on HB 1677. I do not have concerns about the purpose of this bill, I simply would to bring to your attention the potential ramifications of the funding being utilized for this legislation.

Early this year, as part of the issuance of the State's general obligation bonds, the State was reviewed by the three Credit Rating Agencies: Moody's, Standard & Poor's ("S&P"), and Fitch Ratings ("Rating Agencies"). In their assessment, the Rating Agencies recognized that the State maintains a strong financial position, had a strong recovery from the pandemic, and based on other economic indicators and factors, their outlook is that the State will remain stable with possibilities for an upgrade.

Attached to this testimony is a summary I prepared from the reports we received from the Rating Agencies. The Summary highlights some of the considerations that could lead the State to an upgrade or, conversely, a downgrade. For purposes of this testimony, I have highlighted sections regarding the Revenue Stabilization Account ("Rainy Day Fund"). As noted in the Summary, the State's commitment to increase the reserves in the Rainy Day Fund and the fact that the State modified its policy during the last budget process (HB 2) to increase the capacity of the Rainy Day Fund led the State to an outlook change by S&P from Stable to Positive as well as a confirmation that the State will be in a better position to confront future recessions by maintaining sufficient reserves and liquidity.

While it may appear that this another dedicated fund the State has available, the use of the Rainy Day Fund has more consequential meaning not only in the eyes of the Rating Agencies, but also investors interested in the State's bonds. The purpose of this fund is already described in RSA 9:13-e, which is intended as a budgetary control in the event the State faces a budget deficit or revenue shortfall at the end of the biennium.

Please do not hesitate to contact me if you have any questions.

Respectfully,

A handwritten signature in cursive script that reads "Monica I. Mezzapelle".

Monica Mezzapelle  
State Treasurer

State of New Hampshire Treasury  
Credit Rating Agency Highlights  
March 2, 2022

Moody's:

Rating outlook

The outlook is stable as the state will likely maintain stable reserves and continue its path of economic growth and employment recovery while long-term leverage will not significantly change in coming years.

Factors that could lead to an upgrade:

- » Maintenance of strong reserves and liquidity in line with higher rated peers
- » Consistent economic growth that outperforms the nation

Factors that could lead to a downgrade:

- » Decline in resident incomes or economic growth
- » Major erosion of reserves or liquidity, recurring budget imbalances
- » Large increases in leverage or fixed costs from debt, pension or OPEB liabilities

---

Fitch:

Factors that could, individually or collectively, lead to positive rating action/upgrade:

- Sustained economic growth which improves expectations for revenue growth at a level near or above national GDP growth;
- Ability to maintain structural balance while emerging from pandemic-related uncertainty, given state tax policy actions, particularly as federal stimulus support is removed from the general economy;
- Sustained maintenance of the state rainy-day fund at 10% of general fund revenues.

Factors that could, individually or collectively, lead to negative rating action/downgrade:

- A departure from the state's approach to maintaining fiscal flexibility throughout the economic cycle, including a focus on maintaining fiscal balance and adequate rainy-day fund reserves.
- Unexpected and sustained increase in long-term liability burden to more than 10% of state personal income.

S&P Global:

Positive Outlook

The outlook revision reflects our view of a one-in-three likelihood that we could raise New Hampshire's rating over the outlook horizon given its swift emergence from the fiscal challenges of the pandemic-induced recession and improvement of its revenue stabilization reserve account (RSRA) balance to \$257.8 million, or a strong 9.3% of net appropriations at the end of the fiscal 2020-2021 biennium, the highest level in state history. If New Hampshire can demonstrate an ongoing commitment to timely intra-biennium adjustments and preserving structural balance, while also upholding reserves and liquidity at levels that we believe more readily prepare the state to manage future cyclical economic and fiscal stress, this could improve our view of the state's creditworthiness. The positive outlook also incorporates our view a near-full recovery of most of New Hampshire's economic and employment metrics, and population growth trends, particularly among its working age population, that outpaced the national growth rate in 2020 and 2021. If projections for further expansion of the state's working age population are sustained at a level comparable to the U.S. and this support additional capacity for the state's core economy metrics to improve over the outlook horizon, this could further underpin New Hampshire's position at a higher rating level.

State of New Hampshire Treasury  
Credit Rating Agency Highlights  
March 2, 2022

Conversely, material weakening of the state's financial policy commitment to maintaining budgetary balance and financial flexibility over the current and next fiscal biennium and a reversal of recent pension funding progress, coupled with softening economic growth rates or a sustained decline in metrics compared to the U.S. level in ensuing years would likely result in a revision in our outlook to stable.

**Complete Document**

**Can Be Viewed**

**In Bill Folder**



# The state was supposed to rehabilitate them. Instead, hundreds of children were allegedly abused in N.H.

By Dugan Arnett and Laura Crimaldi Globe Staff, Updated April 22, 2022, 49 minutes ago



Michaela Jancsy was 15 when a YDC counselor impregnated her. "When your mind figures out how to go numb to this stuff," she said, "it's hard to go un-numb." ERIN CLARK/GLOBE STAFF

**M**

ANCHESTER — She didn't cry when the pregnancy test came back positive. She didn't scream or shout or attempt to explain to officials how she — a girl

his brief time at YDC, an incident that left him sobbing on the floor of a facility bathroom.

In 2020, at the age of 25, Belanger was elected to the New Hampshire House of Representatives. Last year, after the passage of a state budget calling for the Sununu Center to shut its doors by next March, he was appointed to a committee tasked with devising a plan for closing the facility and determining how — or whether — to replace it.

Not long after, meanwhile, Belanger crossed paths with the governor at the State House in Concord. A relatively new legislator, Belanger didn't know Sununu well. Still, he felt comfortable enough to levy a request.

---

*When the facility finally comes down, he said, I want to be holding a sledgehammer.*

---

Dugan Arnett can be reached at [dugan.arnett@globe.com](mailto:dugan.arnett@globe.com). Laura Crimaldi can be reached at [laura.criminaldi@globe.com](mailto:laura.criminaldi@globe.com). Follow her on Twitter @lauracriminaldi.

Hide comments

## 5 Comments

Sort by: Best Newest **Oldest**



liberal to a degree

4/22/22 - 7:22AM

There's a special place in h-e-double toothpicks for those who perpetrated this abuse or those who enabled it.

Like (4)

Dislike (0)

Reply

Report

Ignore

merrilight

4/22/22 - 7:26AM

# Voting Sheets

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

Bill # 1677

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

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

Motion of: OTP Vote: 5-0

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

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"/>

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: Whitley

Notes: Finance work on the bill

\_\_\_\_\_  
 \_\_\_\_\_

# Senate Finance Committee

## EXECUTIVE SESSION

①

Bill # HB 1677-FR

Hearing date: N/A

Executive session date: 05/03/22

5-2  
Rosenwald  
D'Allesandro

③ Motion of: OTT

VOTE: \_\_\_\_\_

<u>Made by</u> Daniels <input type="checkbox"/>	<u>Seconded</u> Daniels <input type="checkbox"/>	<u>Reported</u> Daniels <input checked="" type="checkbox"/>
<u>Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input checked="" type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>
Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>
Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>
D'Allesandro <input type="checkbox"/>	D'Allesandro <input type="checkbox"/>	D'Allesandro <input type="checkbox"/>
Morse <input checked="" type="checkbox"/>	Morse <input type="checkbox"/>	Morse <input type="checkbox"/>
Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>

① Motion of: Move # 19/05

2-5 Fails!  
Rosenwald  
D'Allesandro

<u>Made by</u> Daniels <input type="checkbox"/>	<u>Seconded</u> Daniels <input type="checkbox"/>	<u>Reported</u> Daniels <input type="checkbox"/>
<u>Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>
Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>
Rosenwald <input checked="" type="checkbox"/>	Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>
D'Allesandro <input type="checkbox"/>	D'Allesandro <input checked="" type="checkbox"/>	D'Allesandro <input type="checkbox"/>
Morse <input type="checkbox"/>	Morse <input type="checkbox"/>	Morse <input type="checkbox"/>
Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Daniels, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Reagan, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Giuda	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Hennessey	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Rosenwald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Morse	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Amendments: \_\_\_\_\_

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

# Senate Finance Committee

## EXECUTIVE SESSION

(2)

Bill # HB 1677-FN

Hearing date: N/A

Executive session date: 05/03/22

(2) Motion of: Morse # 19215

2-5 Fails!  
 VOTE: Rosenwald  
D'Allesandro

<u>Made by</u> Daniels <input type="checkbox"/>	<u>Seconded</u> Daniels <input type="checkbox"/>	<u>Reported</u> Daniels <input type="checkbox"/>
<u>Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>
Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>
Rosenwald <input checked="" type="checkbox"/>	Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>
D'Allesandro <input type="checkbox"/>	D'Allesandro <input checked="" type="checkbox"/>	D'Allesandro <input type="checkbox"/>
Morse <input type="checkbox"/>	Morse <input type="checkbox"/>	Morse <input type="checkbox"/>
Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>

Motion of: \_\_\_\_\_ VOTE: \_\_\_\_\_

<u>Made by</u> Daniels <input type="checkbox"/>	<u>Seconded</u> Daniels <input type="checkbox"/>	<u>Reported</u> Daniels <input type="checkbox"/>
<u>Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>	<u>by Senator:</u> Reagan <input type="checkbox"/>
Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>	Giuda <input type="checkbox"/>
Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>	Rosenwald <input type="checkbox"/>
D'Allesandro <input type="checkbox"/>	D'Allesandro <input type="checkbox"/>	D'Allesandro <input type="checkbox"/>
Morse <input type="checkbox"/>	Morse <input type="checkbox"/>	Morse <input type="checkbox"/>
Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>	Hennessey <input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Daniels, Chairman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reagan, Vice-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Giuda	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Hennessey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Rosenwald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Morse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Amendments: \_\_\_\_\_

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

# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, April 20, 2022

THE COMMITTEE ON Judiciary

to which was referred **HB 1677-FN**

AN ACT

relative to the administration and settlement of  
claims of abuse at the youth development center  
and making an appropriation therefor.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Rebecca Whitley  
For the Committee

Jennifer Horgan 271-7875



**JUDICIARY**

**HB 1677-FN**, relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

Ought to Pass, Vote 5-0.

Senator Rebecca Whitley for the committee.

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Tuesday, May 3, 2022

THE COMMITTEE ON Finance

to which was referred **HB 1677-FN**

AN ACT

relative to the administration and settlement of  
claims of abuse at the youth development center  
and making an appropriation therefor.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-2

Senator Gary Daniels  
For the Committee

Deb Martone 271-4980

# HB1677-FN

## Bill Details

**Title:** relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

**Sponsors:** (Prime) Umberger (R), Wallner (D), Rice (R), Long (D), Jeb Bradley (R)

LSR Number: **22-3122**

General Status: **SIGNED BY GOVERNOR**

Chapter Number: **122**

House:

**Committee:** Finance

**Due Out:** 3/10/2022

**Status:** PASSED/ADOPTED WITH AMENDMENT

Senate:

**Committee:** Finance

**Floor Date:** 5/5/2022

**Status:** PASSED/ADOPTED

### Bill Docket

Body	Description
H	Introduced 01/05/2022 and referred to Finance
H	Public Hearing: 01/20/2022 10:00 am LOB 210-211
H	Division Work Session: 01/26/2022 01:00 pm LOB 210-210
H	Public Hearing: 02/11/2022 10:00 am LOB 210-211
H	Division Work Session: 02/11/2022 10:00 am LOB 210-210
H	Division III joint with Division I Work Session: 02/24/2022 10:00 am LOB 210-210
H	Division III joint with Division I Work Session: 03/01/2022 02:00 pm LOB 210-210
H	Division III joint with Division I Work Session: 03/03/2022 02:00 pm LOB 210-210
H	Executive Session: 03/08/2022 10:00 am LOB 210-211
H	Committee Report: Ought to Pass with Amendment # 2022-0956h <u>(Vote 19-1: RC)</u>
H	Amendment # 2022-0956h: AA VV 03/16/2022 <u>HJ 7</u>
H	FLAM # 2022-1038h (Rep. Wallner): AF DV 164-177 03/16/2022 <u>HJ 7</u>
H	FLAM # 2022-1036h (Reps. Wallner, Rogers): AF DV 165-184 03/16/2022 <u>HJ 7</u>
H	Ought to Pass with Amendment 2022-0956h: MA VV 03/16/2022 <u>HJ 7</u>
S	Introduced 03/17/2022 and Referred to Judiciary: <u>SJ 6</u>
S	Hearing: 04/07/2022, Room 100, SH, 09:30 am; <u>SC 14</u>
S	Committee Report: Ought to Pass, 04/28/2022; <u>SC 17</u>
S	Ought to Pass: MA, VV; Refer to Finance Rule 4-5; 04/28/2022; <u>SJ 10</u>
S	Committee Report: Ought to Pass, 05/05/2022; <u>SC 18A</u>
S	Sen. D'Allesandro Floor Amendment # 2022-1961s, RC 10Y-14N, AF; 05/05/2022; <u>SJ 11</u>
S	Sen. D'Allesandro Floor Amendment # 2022-1967s, RC 10Y-14N, AF; 05/05/2022; <u>SJ 11</u>
S	Ought to Pass: RC 14Y-10N, MA; OT3rdg; 05/05/2022; <u>SJ 11</u>
S	Enrolled Adopted, VV, (In recess 05/12/2022); <u>SJ 13</u>
H	Enrolled (in recess of) 05/12/2022 <u>HJ 13</u>
H	Signed by Governor Sununu 05/27/2022; Chapter 122; Eff. 05/27/2022

**Docket of HB1677**

Docket Abbreviations

**Bill Title:** relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

**Official Docket of HB1677.:**

<b>Date</b>	<b>Body</b>	<b>Description</b>
12/30/2021	H	<b>Introduced</b> 01/05/2022 and referred to Finance
1/11/2022	H	Public Hearing: 01/20/2022 10:00 am LOB 210-211
1/19/2022	H	Division Work Session: 01/26/2022 01:00 pm LOB 210-210
1/21/2022	H	Public Hearing: 02/11/2022 10:00 am LOB 210-211
1/27/2022	H	Division Work Session: 02/11/2022 10:00 am LOB 210-210
2/14/2022	H	Division III joint with Division I Work Session: 02/24/2022 10:00 am LOB 210-210
2/22/2022	H	Division III joint with Division I Work Session: 03/01/2022 02:00 pm LOB 210-210
3/3/2022	H	Division III joint with Division I Work Session: 03/03/2022 02:00 pm LOB 210-210
2/19/2022	H	Executive Session: 03/08/2022 10:00 am LOB 210-211
3/9/2022	H	Committee Report: Ought to Pass with Amendment <b>#2022-0956h</b> (Vote 19-1; RC)
3/20/2022	H	Amendment <b>#2022-0956h</b> : AA VV 03/16/2022 <b>HJ 7</b>
4/11/2022	H	FLAM <b>#2022-1038h</b> (Rep. Wallner): AF DV 164-177 03/16/2022 <b>HJ 7</b>
3/20/2022	H	FLAM <b>#2022-1036h</b> (Reps. Wallner, Rogers): AF DV 165-184 03/16/2022 <b>HJ 7</b>
3/20/2022	H	<b>Ought to Pass with Amendment</b> 2022-0956h: MA VV 03/16/2022 <b>HJ 7</b>
3/22/2022	S	Introduced 03/17/2022 and Referred to Judiciary; <b>SJ 6</b>
3/30/2022	S	<b>Hearing:</b> 04/07/2022, Room 100, SH, 09:30 am; <b>SC 14</b>
4/20/2022	S	Committee Report: Ought to Pass, 04/28/2022; <b>SC 17</b>
4/28/2022	S	Ought to Pass: MA, VV; Refer to Finance Rule 4-5; 04/28/2022; <b>SJ 10</b>
5/3/2022	S	Committee Report: Ought to Pass, 05/05/2022; <b>SC 18A</b>
5/5/2022	S	Sen. D'Allesandro Floor Amendment <b>#2022-1961s</b> , RC 10Y-14N, AF; 05/05/2022; <b>SJ 11</b>
5/5/2022	S	Sen. D'Allesandro Floor Amendment <b>#2022-1967s</b> , RC 10Y-14N, AF; 05/05/2022; <b>SJ 11</b>
5/5/2022	S	<b>Ought to Pass:</b> RC 14Y-10N, MA; OT3rdg; 05/05/2022; <b>SJ 11</b>
5/24/2022	S	Enrolled Adopted, VV, (In recess 05/12/2022); <b>SJ 13</b>
5/24/2022	H	Enrolled (in recess of) 05/12/2022 <b>HJ 13</b>
6/3/2022	H	Signed by Governor Sununu 05/27/2022; Chapter 122; Eff. 05/27/2022

# Other Referrals

**Senate Inventory Checklist for Archives**

Bill Number: HB 1677-FN

Senate Committee: FINANCE

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 # 1910s       - amendment # \_\_\_\_\_

- amendment # 1921s       - 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 # 1966s       - amendment # 1967s

- 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:

Debra A. Martore  
Committee Aide

06/16/22  
Date

Senate Clerk's Office JM

## Senate Inventory Checklist for Archives

Bill Number: HB1677

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 # 16485      \_\_\_ - 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:

[Signature]  
Committee Aide

8/12/22  
Date

Senate Clerk's Office AK