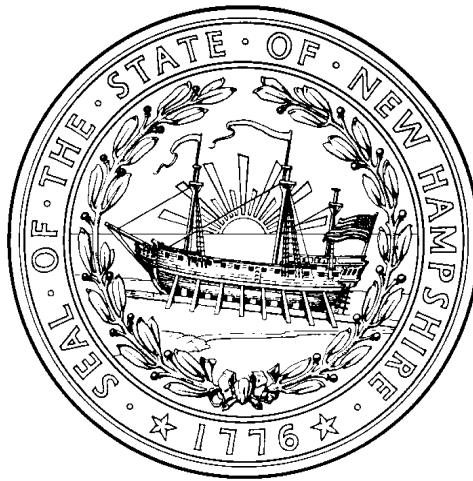


January 7, 2016
No. 1A

STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us



**Second Year of the 164th Session of the
New Hampshire General Court**

SENATE CALENDAR ADDENDUM

**THE SENATE WILL MEET IN SESSION ON
THURSDAY, JANUARY 14, 2016 AT 10:00 A.M.**

CONSENT CALENDAR REPORTS

JUDICIARY

SB 140-FN, relative to online harassment by prisoners.

Interim Study, Vote 5-0.

Senator Carson for the committee.

This bill dealt with a specific type of online contact between individuals. Some had concerns as to whether it interferes with free speech rights. Because work is continuing on this and the proper way to deal with this type of harassment, the committee recommends that the bill be referred to Interim Study.

SB 147, granting immunity from criminal prosecution to a person who reports a drug or alcohol related emergency.

Interim Study, Vote 5-0.

Senator Carson for the committee.

As the House Bill dealing with the same topic has now been signed into law, there is no need for this parallel legislation to move forward. The committee therefore recommends that the bill be referred to Interim Study.

SB 184, adopting the Uniform Marital Property Act.

Interim Study, Vote 5-0.

Senator Carson for the committee.

This legislation seeks to make significant and broad-reaching changes into the division of marital property. The committee recommends that the legislation be referred to Interim Study to afford the sponsors time to take the legislation apart and see if there are smaller specific items that should be brought forward as individual pieces of legislation.

SB 197-FN, relative to mandatory minimum sentences.

Interim Study, Vote 5-0.

Senator Carson for the committee.

This House Criminal Justice Committee has done significant work on mandatory minimum sentences and has just passed HB 605-FN which will be coming over to us. The committee recommends that this legislation be referred to Interim Study and that we focus on the policies established within the House Bill.

SB 257-FN, relative to the amortization of the unfunded accrued liability under the judicial retirement plan and membership in the judicial retirement plan of judges appointed at age 63 or older.

Ought to Pass with Amendment, Vote 5-0.

Senator Carson for the committee.

This bill was submitted to deal with the Judicial Retirement System. The amendment removes part 1 of the bill that was not supported by the Judicial Retirement System Board.

HB 285, relative to discussion with legal counsel under the right-to-know law.

Ought to Pass with Amendment, Vote 5-0.

Senator Carson for the committee.

This legislation is amended to be consistent with a recent NH Supreme Court decision dealing with public meetings and communication with legal counsel.

REGULAR CALENDAR REPORTS

EDUCATION

SB 369-FN, requiring public schools to include drug and alcohol education as part of their health education curriculum.

Ought to Pass with Amendment, Vote 5-0.

Senator Stiles for the committee.

JUDICIARY

SB 447-FN, relative to the controlled drug prescription health and safety program and establishing a commission to study Narcan.

Ought to Pass with Amendment, Vote 5-0.

Senator Lasky for the committee.

SB 576-FN-A, relative to the penalty for possession and use of fentanyl-class drugs, insurance coverage for substance use disorders, the acceptance of general funds by the controlled drug prescription health and safety program, the membership of the board of medicine and prescribers of controlled drugs and making an appropriation therefor.

Ought to Pass with Amendment, Vote 5-0.

Senator Carson for the committee.

HB 560-FN, including a fetus in the definition of “another” for the purpose of certain criminal offenses.

Ought to Pass with Amendment, Vote 3-2.

Senator Carson for the committee.

HB 645-FN, relative to the licensure and regulation of child day care agencies.

Ought to Pass with Amendment, Vote 5-0.

Senator Pierce for the committee.

AMENDMENTS

Senate Judiciary

January 7, 2016

2015-3072s

09/01

Amendment to SB 257-FN

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

AN ACT relative to membership in the judicial retirement plan of judges appointed at age 63 or older.

Amend the bill by deleting section 1 and renumbering the original sections 2-3 to read as 1-2, respectively.

2015-3072s

AMENDED ANALYSIS

This bill establishes criteria for membership and benefits under the judicial retirement plan for judges appointed at age 63 or older.

Senate Education

January 12, 2016

2016-0046s

04/08

Amendment to SB 369-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; School Boards; Drug and Alcohol Education. Amend RSA 189 by inserting after section 11-c the following new section:

189:11-d Drug and Alcohol Education.

I. Each public school in the state, as part of their health education curriculum, shall provide at each grade level age appropriate drug and alcohol education to pupils from kindergarten through grade 12. The school board may authorize the use of an evidence-based prevention program.

II. School boards shall develop policies authorizing school district personnel to provide pupils, parents, and legal guardians with information and resources relative to existing drug and alcohol counseling and treatment for pupils. Nothing in this section shall require a school district to add additional programs or services, but only to provide information about available programs and services.

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

2016-0046s

AMENDED ANALYSIS

This bill requires public schools to provide, as part of the school's health education curriculum, age appropriate drug and alcohol education to pupils in kindergarten through grade 12.

Senate Judiciary
January 12, 2016
2016-0049s
01/09

Amendment to SB 447-FN

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

AN ACT establishing a commission to study Narcan.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Commission to Study Narcan. Amend RSA 126-A by inserting after section 68 the following new subdivision:

Commission to Study Narcan

126-A:69 Commission Established; Membership; Duties.

I. There is established a commission to study Narcan.

(a) The members of the commission shall be as follows:

(1) Two members of the senate, one of whom shall be appointed by the president of the senate, and one of whom shall be appointed by the senate minority leader.

(2) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the house minority leader.

(3) The commissioner of the department of health and human services, or designee.

(4) A pharmacist, appointed by the board.

(5) A licensed alcohol and drug counselor, appointed by the chairperson of the board of licensing for alcohol and other drug use professionals.

(6) A licensed physician, appointed by the board of medicine.

(7) An emergency medical technician, appointed by the director of the division of fire standards and training and emergency medical services, department of safety.

(8) A police officer, appointed by the senate president.

(9) An APRN, appointed by the New Hampshire Nurse Practitioner Association.

(10) A public member, appointed by the governor.

(11) A public member, appointed by the senate president.

(12) A public member, appointed by the speaker of the house of representatives.

(b) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

II.(a)(1) The commission shall study all aspects of Narcan, including, but not limited to:

(A) Whether there should be a registry established for those in possession of Narcan.

(B) The training required regarding dosage, conditions for administering Narcan, and other appropriate training.

(C) Whether there should be mandatory reporting of use of Narcan.

(D) Whether those persons who are administered Narcan should be required to go to outpatient treatment for a certain period of time.

(2) The commission shall produce a long-term plan on the use and distribution of Narcan.

(b) The commission shall solicit information from any person or entity the commission deems relevant to its study.

III. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

IV. The commission shall make an interim report within 6 months of the effective date of this section, and a final report on November 1, 2017 indicating its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library.

2 Repeal. RSA 126-A:69, relative to a commission to study Narcan, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2017.

II. The remainder of this act shall take effect upon its passage.

2016-0049s

AMENDED ANALYSIS

This bill establishes a commission to study Narcan.

Senate Judiciary
January 12, 2016
2016-0048s
01/09

Amendment to SB 576-FN-A

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

AN ACT relative to the penalty for possession and use of fentanyl-class drugs, insurance coverage for substance use disorders, the funding of the controlled drug prescription health and safety program, the membership of the board of medicine, and prescribers of controlled drugs.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Controlled Drug Act; Definition Added. Amend RSA 318-B:1 by inserting after paragraph XI the following new paragraph:

XI-a. "Fentanyl class drug" shall mean the following drugs: fentanyl, 3-methylfentanyl, 3-methylthiofentanyl, acetylfentanyl, acetyl-alpha-methylfentanyl, alpha-methylfentanyl, alpha-methylthiofentanyl, beta-hydroxy-3-methylfentanyl, beta-hydroxyfentanyl, para-fluorofentanyl, thiofentanyl, alfentanil, carfentanil, remifentanil, sufentanil, and all optical isomers of these substances. Drugs which become controlled after September 1, 2015, pursuant to RSA 318-B:1-a; and are known or scheduled with a common name that includes the term "fentanyl", or "fentanil" shall also be considered as belonging to this class, along with optical isomers of same. Drugs may be added or removed from this classification by action of the general court.

2 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(a)(3) to read as follows:

(3) Heroin or its analog [or], crack cocaine, **or a fentanyl class drug** in a quantity of 5 grams or more, including any adulterants or dilutants.

3 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(b)(4) to read as follows:

(4) Heroin or its analog [or], crack cocaine, **or a fentanyl class drug** in a quantity of one gram or more, including any adulterants or dilutants;

4 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(c)(4) to read as follows:

(4) Heroin or its analog [or], crack cocaine, **or a fentanyl class drug** in a quantity of less than one gram, including any adulterants or dilutants;

5 Controlled Drug Act; Controlled Drug Prescription Health and Safety Program. Amend RSA 318-B:32, II-IV to read as follows:

II. ~~[All]~~ **Any** costs incurred by the board for the implementation and operation of the program ~~[shall]~~ **may** be supported through grants, gifts, or user contributions. The board may charge a fee to individuals who request their own prescription information. The amount charged for an individual's request for his or her prescription information shall not exceed the actual cost of providing that information.

III. ~~[There shall be no state general funds appropriated for the implementation or operation of the program.]~~

IV. Prescription information relating to any individual, which information does not meet the level established to suggest possible drug abuse or diversion shall be deleted within 36 months after the initial prescription was dispensed. All other information shall be deleted after 3 years.

6 Controlled Drug Prescription Health and Safety Program; Access to Program. Amend RSA 318-B:33, II-a to read as follows:

II-a. Only registered prescribers ~~[and]~~, dispensers, ***or their designees, and federal health prescribers and dispensers working in federal facilities located in New Hampshire, Massachusetts, Maine, and Vermont*** shall be eligible to access the program.

7 Controlled Drug Prescription Health and Safety Program; Operation. Amend RSA 318-B:33, V to read as follows:

V.(a) ***Except as provided in subparagraphs (b) and (c)***, each dispenser shall submit the required information in accordance with transmission methods ~~[and frequency as established by the program; but no more than 7 days]~~ ***daily by the close of business on the next business day*** from the date the prescription was dispensed.

(b) Veterinarians shall submit the information required under subparagraph (a) no more than 7 days from the date the prescription was dispensed.

(c) Dispensers who have a federal Drug Enforcement Administration license, but who do not dispense controlled substances may request a waiver from the requirements of subparagraph (a) from the board.

8 New Subparagraph; Providing Controlled Drug Prescription Health and Safety Information; Office of the Chief Medical Examiner. Amend RSA 318-B:35, I(c) by inserting after subparagraph (2) the following new subparagraph:

(3) The office of the chief medical examiner for the purpose of investigating the death of an individual.

9 New Sections; Certain Registrants Required to Query the Program Prior to Prescribing Controlled Substances. Amend RSA 318-B by inserting after section 38 the following new sections:

318-B:39 Prescribers Required to Query the Program Prior to Prescribing Controlled Substances. Prescribers required to register with the program under this subdivision shall query the program for a patient's initial prescription when prescribing schedule II, III, and IV opioids for the management or treatment of pain and then periodically and at least twice per year, except when:

I. Controlled medications are to be administered to patients in a health care setting.

II. Treating acute pain associated with serious traumatic injury, post-operatively, or with an acute medical condition, with clear objective findings by the practitioner, for no more than 30 days.

318-B:40 Competency Requirements. All prescribers required to register with the program who possess a United States Drug Enforcement Administration (DEA) license number shall complete 3 contact hours of free appropriate prescriber's regulatory board-approved online continuing education or pass an online examination, in the area of pain management and addiction disorder or a combination, as a condition for initial licensure and license renewal. Verification of successful completion of the examination or of the required continuing education shall be submitted to the prescriber's regulatory board with the licensee's application for initial licensure or renewal. A list of the prescriber's regulatory boards' approved continuing education courses and online examinations in pain management and addiction disorder, shall be available on the office of professional licensure and certification's Internet website.

10 Board of Medicine; Medical Review Committee. Amend RSA 329:17, V-a to read as follows:

V-a. A medical review subcommittee of ~~[11]~~ **13** members shall be nominated by the board of medicine and appointed by the governor and council. The subcommittee shall consist of one member of the board of medicine and ~~[10]~~ **12** other persons, 3 of whom shall be public members, one of whom shall be a physician assistant, and ~~[6]~~ **8** of whom shall be physicians. ***One of the physician members shall practice in the area of pain medicine and anesthesiology.*** Any public member of the subcommittee shall be a person who is not, and never was, a member of the medical profession or the spouse of any such person, and who does not have, and never has had, a material financial interest in either the provision of medical services or an activity directly related to medicine, including the representation of the board or profession for a fee at any time during the 5 years preceding appointment. The terms of the public members shall be staggered so that no 2 public members' terms expire in the same year. The subcommittee members shall be appointed for 3-year terms, and shall serve no more than 2 terms. Upon referral by the board, the subcommittee shall review disciplinary actions reported to the board under paragraphs II-V of this section, except that matters concerning a medical director involved in a current internal or external grievance pursuant to RSA 420-J shall not be reviewed until the grievance process has been completed. Following review of each case, the subcommittee shall make recommendations to the board. Funds shall be appropriated from the general fund for use by the subcommittee to investigate allegations under paragraphs I-V of this section. The board shall employ through the office of professional licensure and certification physician as a medical review subcommittee investigator who shall serve at the pleasure of the board. The salary of the medical review subcommittee investigator shall be established by RSA 94:1-a.

11 New Subdivision; Substance Use Disorders. Amend RSA 420-J by inserting after section 14 the following new subdivision:

Substance Use Disorders

420-J:15 Definitions. In this subdivision:

I. "ASAM criteria" means the latest edition of the Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, developed by the American Society of Addiction Medicine.

II. "Substance use disorder services" means health care services that are provided to a covered person as treatment for an addictive substance-related condition, not including treatment for any condition related to tobacco use.

420-J:16 Levels of Care Criteria; Attestation.

I. Whenever substance use disorder services are a covered benefit under a health benefit plan subject to this chapter, the health carrier providing such benefits shall rely upon ASAM criteria when determining medical necessity and developing utilization review standards for levels of care for substance use disorder services.

II. On January 1 of each year, each health carrier that provides coverage for substance use disorder services shall file with the commissioner an annual attestation of compliance with this subdivision.

420-J:17 Prior Authorization. Whenever substance use disorder services are a covered benefit under a health benefit plan subject to this chapter, no prior authorization shall be required for the first 2 routine outpatient visits of an episode of care by an individual for assessment and care with respect to a substance use disorder.

12 Consultation Required Regarding 24-Hour Hotline. The commissioner of the department of health and human services, in consultation with the commissioner of the department of safety, shall determine whether a 24-hour drug crisis hotline should be established. If it is determined that a 24-hour hotline should be established, the commissioner of the department of health and human services shall submit a report, on or before April 1, 2016, with recommendations relative to staffing the hotline, which department would administer the hotline, how the hotline would be paid for, and other issues necessary to implement the hotline, to the fiscal committee of the general court, the president of the senate, the speaker of the house of representatives, and the governor.

13 Contingency. Sections 7 and 9 of this act shall take effect September 1, 2016 only if moneys are appropriated or otherwise acquired for technology upgrades to the controlled drug prescription health and safety program, established under RSA 318-B:32, as certified by the executive director of the pharmacy board to the secretary of state and the director of legislative services.

14 Effective Date.

I. Sections 7 and 9 of this act shall take effect as provided in section 13 of this act.

II. Section 11 of this act shall take effect January 1, 2017.

III. The remainder of this act shall take effect upon its passage.

2016-0048s

AMENDED ANALYSIS

This bill:

I. Adds possession and use of fentanyl-class drugs for the purposes of the penalty under the controlled drug act.

II. Clarifies the funding of the controlled drug prescription health and safety program.

III. Clarifies access to the information of the controlled drug prescription health and safety program.

IV. Requires prescribers of controlled drugs to query the controlled drug prescription health and safety program prior to prescribing controlled substances and to take 3 hours of continuing education or an online examination.

V. Adds 2 physician members to the medical review committee.

VI. Clarifies substance use disorder services for treatment for an addictive substance-related condition under the Medicaid managed care program.

VII. Requires the commissioner of the department of health and human services to consult with the commissioner of the department of safety regarding a 24-hour drug crisis hotline.

VIII. Requires dispensers to submit the required information to the controlled drug prescription health and safety program daily by the close of business on the next business day from the date the prescription was dispensed. Current law requires such information to be submitted no more than 7 days from the date the prescription was dispensed.

Senate Judiciary

January 7, 2016

2015-3069s

01/06

Amendment to HB 285

Amend the bill by replacing all after the enacting clause with the following:

1 Right-to-Know; Meetings Open to the Public. Amend RSA 91-A:2, I(b) to read as follows:

(b) Consultation with legal counsel, ***which shall include consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present;***

2 Effective Date. This act shall take effect upon its passage.

Senate Judiciary

January 7, 2016

2015-3068s

04/10

Amendment to HB 560-FN

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

AN ACT including a viable fetus in the definition of “another” for the purposes of certain criminal offenses.

Amend the bill by replacing all after the enacting clause with the following:

1 Homicide; Capital Murder; Definition of Unborn Child. Amend RSA 630:1, IV to read as follows:

IV. As used in this section [~~and RSA 630:1-a, 1-b, 2, 3 and 4~~], the meaning of “another” [~~does~~] ***shall*** not include a [~~foetus~~] ***viable fetus***.

2 New Paragraphs; First Degree Murder; Definition of Another; Exemption for Abortion. Amend RSA 630:1-a by inserting after paragraph III the following new paragraphs:

IV. For the purposes of this section and RSA 630:1-b, RSA 630:2, RSA 630:3, and RSA 630:4, the meaning of “another” shall include a viable fetus as defined in paragraph V.

V.(a) Nothing in this section or RSA 630:1-b shall apply to:

- (1) Any act committed by the pregnant woman;
- (2) Any act committed at the request or direction of the pregnant woman or for the benefit of the pregnant woman;
- (3) Any act performed by a physician or other medical professional in the course of such physician’s or medical professional’s professional duties, including but not limited to, an act that results in the termination of a pregnancy; or
- (4) Any act taken in furtherance of the lawful dispensation or administration of prescription or nonprescription medication.

(b) In this section:

- (1) “Fetus” means a developing human that has attained the basic attributes of its species.
- (2) “Pregnant” means the female reproductive condition of having one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.
- (3) “Pregnancy” means one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.
- (4) “Viable fetus” means a fetus that is implanted in a female uterus and has reached such a stage of development as to be capable of sustained extrauterine survival.

3 Effective Date. This act shall take effect upon its passage.

2015-3068s

AMENDED ANALYSIS

This bill provides that a viable fetus shall be included in the definition of “another” for the purposes of first and second degree murder, manslaughter, negligent homicide, and causing or aiding suicide.

Senate Judiciary
January 8, 2016
2015-3073s
05/01

Amendment to HB 645-FN

Amend the bill by replacing all after section 5 with the following:

6 New Paragraphs; Child Day Care Licensing; Exemptions; Notice Required. Amend RSA 170-E:3 by inserting after paragraph II the following new paragraphs:

III. Whenever a child day care that is license exempt under subparagraphs I(c), (e), (f), or (g) accepts a new child into the program, the provider shall inform the child’s parent or legal guardian that the program is not licensed and is operating as a legally license exempt program.

IV. If a licensed child day care agency ceases operating as a licensed program and continues to provide child care services as a legally license exempt provider, it shall notify the department of the date it ceased being licensed, return its license to the department, and notify the parent or legal guardian of all children in the program or who enroll in the program that it is no longer licensed by the department.

7 Child Day Care Licensing; Advertising. Amend RSA 170-E:16 to read as follows:

170-E:16 Advertising. A child day care agency licensed or operating under a permit issued by the department may publish advertisements of the services for which it is specifically licensed or issued a permit under this subdivision. No person who is required to obtain a license or permit under this subdivision may advertise or cause to be published an advertisement soliciting a child for child day care unless the person has obtained

the requisite license or permit. ***A child care provider that is legally operating as a license exempt provider under RSA 170-E:3 shall not hold itself out in any way or advertise that it is licensed by the department, including using forms developed by the department for use by licensed child day care agencies.***

8 New Subparagraph; Child Day Care Licensing; Penalty. Amend RSA 170-E:21,II by inserting after subparagraph (d) the following new subparagraph:

(e) Holds themselves out in any way or advertises that they are licensed if they do not hold a license issued by the department.

9 Child Day Care Agency; License Required. Amend RSA 170-E:4, I to read as follows:

I. No person shall establish, maintain, operate or conduct any child day care agency without a license or permit issued by the department under this subdivision. ***The requirements of this chapter applicable to licensed child day care agencies shall apply with equal force to any child day care agency required to be licensed under this chapter that is not so licensed.***

10 Effective Date. This act shall take effect upon its passage.

2015-3073s

AMENDED ANALYSIS

This bill:

I. Mandates that any person required to be licensed as a child day care agency under RSA 170-E comply with the chapter's prohibition against child endangerment and the insurance disclosure requirement.

II. Establishes an enhanced criminal penalty for any person operating a child day care agency if a permanent debilitating injury or death occurs.

III. Requires a legally license exempt child care provider to notify the child's parent of its license exempt status and prohibits such providers from holding themselves out as licensed.

IV. Requires a child care provider to inform the department of health and human services and program participants if the program ceases to be licensed by the department but continues to operate as a license exempt provider.

V. Establishes a criminal penalty for persons who falsely advertise or hold themselves out as licensed child day care providers.

VI. Provides that the requirements of RSA 170-E applicable to licensed child day care agencies shall apply to any child day care agency required to be licensed that is not so licensed.