

Amendment to HB 536

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

2
3 AN ACT directing the wellness and primary prevention council to establish a system of family
4 resource centers of quality; relative to involuntary emergency admission procedures;
5 and relative to the child protection act.
6

7 Amend the bill by replacing all after section 3 with the following:

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9 4 Involuntary Emergency Admission Hearing. Amend RSA 135-C:31, I to read as follows:

10 I. Within 3 days after ***the completion of*** an involuntary emergency admission ***certificate***,
11 not including Sundays and holidays, and subject to the notice requirements of RSA 135-C:24, there
12 shall be a probable cause hearing in the district court having jurisdiction to determine if there was
13 probable cause for involuntary emergency admission. The burden shall be on the petitioner to show
14 that probable cause existed. The court shall render its written decision as soon as possible after the
15 close of the hearing, but not later than the end of the court's next regular business day.

16 5 Child Protection Act; Definition of Probable Cause. Amend RSA 169-C:3, XXIII to read as
17 follows:

18 XXIII. "Probable cause" means facts and circumstances ~~[based upon accurate and reliable~~
19 ~~information]~~, including hearsay, that would justify a reasonable person to believe that a child
20 subject to a report under this chapter is abused or neglected.

21 6 New Paragraph; Definition of Reasonable Concern Added. Amend RSA 169-C:3 by inserting
22 after paragraph XXV the following new paragraph:

23 XXV-a. "Reasonable concern" means facts and circumstances, based on specific, articulable
24 facts, taken together with rational inferences from those facts, that would cause a reasonable
25 person to have substantial concern that a child subject to a report under this chapter is abused or
26 neglected.

27 7 Definitions of Unfounded Report and Unfounded with Reasonable Concern Report. Amend
28 RSA 169-C:3, XXVIII to read as follows:

29 XXVIII. "Unfounded report" means a report made pursuant to this chapter for which the
30 department finds that there is ~~[no]~~ ***neither*** probable cause ***nor a reasonable concern*** to believe
31 that the child is abused or neglected.

32 ***XXIX. "Unfounded with reasonable concern report," means a report made***
33 ***pursuant to this chapter for which the department finds that there is a reasonable***

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1 *concern to continue to monitor the child, but for which the evidence does not rise to the*
2 *level of probable cause.*

3 8 Access to Medical Records. Amend RSA 169-C:25-a, I(a)(1) to read as follows:

4 (1) A statement of facts establishing ~~probable cause~~ **a reasonable concern** to
5 suspect that a child has been the victim of a crime, and that the child's medical records will contain
6 evidence of that crime;

7 9 Duties of the Department of Health and Human Services. Amend RSA 169-C:34, II to read as
8 follows:

9 II. For each report it receives, the department shall promptly perform a child protective
10 investigation to: (i) determine the composition of the family or household, including the name,
11 address, age, sex and race of each child named in the report, and any siblings or other children in
12 the same household or in the care of the same adults, the parents or other persons responsible for
13 their welfare, and any other adults in the same household; (ii) determine whether there is probable
14 cause **or a reasonable concern** to believe that any child in the family or household is abused or
15 neglected, including a determination of harm or threatened harm to each child, the nature and
16 extent of present or prior injuries, abuse or neglect, and any evidence thereof, and a determination
17 of the person or persons apparently responsible for the abuse or neglect; (iii) determine the
18 immediate and long-term risk to each child if the child remains in the existing home environment;
19 and (iv) determine the protective treatment, and ameliorative services that appear necessary to help
20 prevent further child abuse or neglect and to improve the home environment and the parents'
21 ability to adequately care for the children.

22 10 Duties of the Department of Health and Human Services. Amend RSA 169-C:34, IV to read
23 as follows:

24 IV. Upon notification by the department that the immediate safety or well-being of a child
25 may be endangered, the court shall, upon finding probable cause **or a reasonable concern** to
26 believe that the child's immediate safety or well-being is endangered, order a police officer or a
27 juvenile probation and parole officer or child protection service worker, accompanied by a police
28 officer, to enter the place where the child is located, in furtherance of such investigation.

29 11 Duties of the Department of Health and Human Services. Amend RSA 169-C:34, VII to read
30 as follows:

31 VII. If the child's parents refuse to allow a social worker or state employee on their
32 premises as part of the department's investigation, and the department has probable cause **or a**
33 **reasonable concern** to believe that the child has been sexually molested, sexually exploited,
34 intentionally physically injured so as to cause serious bodily injury, physically injured by other than
35 accidental means so as to cause bodily injury, a victim of a crime, abandoned, or neglected, the
36 department shall seek a court order to enter the premises. If the court finds probable cause **or a**
37 **reasonable concern** to believe that the child has been abused or neglected in the manner

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described in this paragraph, the court shall issue an order permitting a police officer, juvenile probation and parole officer, or child protection service worker to enter the premises in furtherance of the department's investigation and to assess the child's immediate safety and well-being. Any juvenile probation and parole officer or child protection service worker who serves or executes a motion to enter issued under this paragraph shall be accompanied by a police officer.

12 Central Registry. Amend RSA 169-C:35 to read as follows:

169-C:35 Central Registry.

I. There shall be established a state registry for the purpose of maintaining a record of founded ***and unfounded with reasonable concern*** reports of abuse and neglect. The registry shall be confidential and subject to rules on access established by the commissioner of the department under RSA 541-A.

II. Upon receipt by the department of a written request and verified proof of identity, an individual shall be informed by the department whether that individual's name is listed in the founded reports maintained in the central registry. It shall be unlawful for any employer other than those specified in RSA 170-E and RSA 170-G:8-c to require as a condition of employment that the employee submit his or her name for review against the central registry of founded reports of abuse and neglect. Any violation of this provision shall be punishable as a violation.

III. Founded reports of abuse and neglect shall be retained for a period of 7 years subject to an individual's right to petition for the earlier removal of his or her name from the central registry, ***or reduction to unfounded with reasonable concern***, as provided in this section.

III-a. Unfounded with reasonable concern reports of abuse and neglect shall be retained for a period of 5 years subject to an individual's right to petition for earlier removal of his or her name from the central registry as provided in this section.

IV. Any individual whose name is listed in the founded ***or unfounded with reasonable concern*** reports maintained on the central registry may petition the district court to have his or her name expunged from the registry.

(a) A petition to expunge shall be filed in the district court where the abuse and neglect petition was heard. In cases where the department makes a finding but no petition is filed with the court, a petition to expunge shall be filed in the district court where the petition for the abuse and neglect could have been brought.

(b) A petition to expunge shall be filed on forms promulgated by the district courts and may include any information the petitioner deems relevant.

(c) When a petition to expunge is filed, the district court shall require the department to report to the court concerning any additional founded ***or unfounded with reasonable concern*** abuse and neglect reports on the petitioner and shall require that the department submit the petitioner's name, birth date, and address to the state police to obtain information about criminal convictions. The court may require the department to provide any additional information that the

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1 court believes may aid it in making a determination on the petition.

2 (d) Upon the receipt of the department's report, the court may act on the petition
3 without further hearing or may schedule the matter for hearing at the request of either party. If
4 the court determines that the petitioner does not pose a present threat to the safety of children, the
5 court shall grant the petition and order the department to remove the individual's name from the
6 central registry. Otherwise, the petition shall be dismissed.

7 V. When an individual's name is added to the central registry, the department shall notify
8 individuals of their right to petition to have their name expunged from the central registry. No
9 petition to expunge shall be brought within one year from the date that the petitioner's name was
10 initially entered on the central registry. If the petition to expunge is denied, no further petition
11 shall be brought more frequently than every 3 years thereafter.

12 VI. Upon receipt of a written request from another state's child welfare agency or from a
13 private adoption agency that is licensed or certified in another state to check the central registry
14 established under this section for information on a prospective foster or adoptive parent or any
15 other adult living in the home of such a prospective foster or adoptive parent, the department shall
16 conduct the requested check and shall provide the requesting state or private adoption agency with
17 the results of the check along with such additional information from the department's case records
18 as the department deems necessary for the requesting state or private adoption agency to be able to
19 evaluate the results.

20 13 New Paragraph; Records Management of Abuse and Neglect Reports; Unfounded with
21 Reasonable Concern Report. Amend RSA 169-C:35-a by inserting after paragraph II the following
22 new paragraph:

23 II-a. The department shall retain an unfounded with reasonable concern report for 5 years
24 from the date that the department determined the case to be unfounded with reasonable concern,
25 after which time, the department shall delete or destroy all electronic and paper records of the
26 report.

27 14 Effective Date.

28 I. Sections 1-4 of this act shall take effect upon its passage.

29 II. The remainder of this act shall take effect January 1, 2018.

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AMENDED ANALYSIS

This bill:

I. Requires the wellness and primary prevention council to develop criteria and a process to select an organization to establish a system of family resource centers of quality.

II. Requires a probable cause hearing within 3 days of the completion of an involuntary emergency admission certificate.

III. Provides that, if the department of health and human services finds there is a reasonable concern of abuse or neglect sufficient to warrant continued monitoring of the child, but for which the evidence does not rise to the level of probable cause, the department may file an "unfounded with reasonable concern" report of abuse and neglect.