

Amendment to HB 188-FN

1 Amend the bill by replacing sections 3 and 4 with the following:

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3 3 Delinquency Children; Issuance of Summons and Notice; Appointment of Counsel. RSA 169-
4 B:7, III is repealed and reenacted to read as follows:

5 III. The court shall appoint counsel for the minor upon receipt of the petition. Such
6 appointment shall occur no later than the time the summons is issued. The court shall apply the
7 presumption of indigency required by RSA 169-B:12, I, so that such appointment is not delayed. The
8 summons shall contain the contact information of the appointed counsel. The appointment shall be
9 made sufficiently before any hearing to allow for consultation between counsel and client, as well as
10 for any appropriate investigation. Notice of the appointment shall be provided to counsel and to the
11 petitioner telephonically, electronically, or in some other manner that is calculated to provide actual
12 notice on the same day as the appointment.

13 4 Appointment of Counsel; Waiver of Counsel. Amend RSA 169-B:12, I and I-a to read as
14 follows:

15 I. ~~[Absent a valid waiver, the court shall appoint counsel at the time of arraignment of an~~
16 ~~indigent minor, provided that an indigent minor detained pursuant to RSA 169-B:11, III, shall have~~
17 ~~counsel appointed upon the issuance of the detention order.] **Absent a valid waiver, the court**~~
18 ~~**shall appoint counsel for an indigent minor pursuant to RSA 169-B:7, III.**~~ For purposes of
19 ~~[the appointment of counsel under]~~ this section, an indigent minor shall be a minor who satisfies the
20 court, after appropriate inquiry, that the minor is financially unable to independently obtain
21 counsel. **So that counsel can be appointed promptly pursuant to RSA 169-B:7, III, indigency**
22 **shall be presumed for all minors who are the subject of petitions brought under this**
23 **chapter, subject to the court's reconsideration following the receipt of complete**
24 **information regarding the minor's financial ability to independently obtain counsel.** If the
25 court has received information indicating that the minor has an intellectual, cognitive, emotional,
26 learning, or sensory disability, the court shall require the minor to consult with counsel.

27 I-a. When an attorney is appointed as counsel for a child, representation shall include
28 counsel and investigative, expert, and other services, including process to compel the attendance of
29 witnesses, as may be necessary to protect the rights of the child. **Representation also shall**
30 **include representation in related proceedings when such matters are based on the same**
31 **factual circumstances as the petition under this chapter. Such appointment shall remain**

1 *in effect until the court no longer has jurisdiction over the child pursuant to this chapter,*
2 *except in situations where the only remaining issue involves the payment of fines or*
3 *restitution. If an action for damages is commenced based on the same factual*
4 *circumstances as a petition under this chapter, representation by counsel appointed under*
5 *this chapter in such action may only extend to protecting the minor's right against self-*
6 *incrimination and other constitutional and statutory rights as related to the petition*
7 *brought under this chapter. Under no circumstances shall representation by counsel*
8 *appointed under this chapter in related proceedings continue after the court no longer has*
9 *jurisdiction over the child pursuant to this chapter.*