Bill as Introduced

HB 304 – AS INTRODUCED

1999 SESSION

99-0608
03/09

HOUSE BILL ***304***

AN ACT relative to the confidentiality of criminal history records checks.

SPONSORS: Rep. Spear, Straf 3; Sen. McCarley, Dist 6

COMMITTEE: Education

ANALYSIS

This bill modifies the procedure for criminal history records checks by school administrative units, school districts, and charter schools, and provides for the disposition of criminal history records information by such entities.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

99-0608
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT relative to the confidentiality of criminal history records checks.

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

1 Education; School Boards, Transportation and Instruction of Pupils; School Employee and Volunteer Background Investigation; Criminal History Records Information. RSA 189:13-a, III is repealed and reenacted to read as follows:

III. The school administrative unit, school district, or charter school shall submit the criminal history records release form to the New Hampshire state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. The school administrative unit, school district, or charter school shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph. If the criminal history records information indicates no criminal record, the school administrative unit, school district, or charter school shall destroy the information received immediately following its review of the information. If the criminal history records information indicates a criminal record, the school administrative unit, school district, or charter school shall, following sufficient review of the information for a hiring decision, send the information to the department of education for secure maintenance in a central records repository.

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

Amendments

House Education
October 27, 1999
1999-2190h
03/01

Amendment to HB 304

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

AN ACT relative to school employee and volunteer background investigations.

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

1 Education; School Boards, Transportation and Instruction of Pupils; School Employee and Volunteer Background Investigation; Criminal History Records Information. RSA 189:13-a, II-III is repealed and reenacted to read as follows:

II. The selected applicant for employment or designated volunteer with a school administrative unit, school district, or charter school shall submit to the employer a notarized criminal history records release form, as provided by the division of state police, which authorizes the release of information regarding the presence or absence of any record of convictions of the applicant of felonies or of the crimes listed in paragraph V. The applicant shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the school administrative unit, school district, or charter school. In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the school administrative unit, school district, or charter school may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where an applicant has lived during the past 5 years.

III. The school administrative unit, school district, or charter school shall submit the criminal history records release form to the New Hampshire state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the state police shall examine the list of crimes constituting grounds for non-approval of employment, or non-acceptance of volunteer services in that school administrative unit, school district, or charter school, and shall report the presence or absence of any such crime to the school administrative unit, school district, or charter school. Under no circumstances shall the criminal records be released to the school administrative unit, school district, or charter school. The school administrative unit, school district, or charter school shall

maintain the confidentiality of all criminal history records information received pursuant to this paragraph. If the criminal history records information indicates no criminal record, the school administrative unit, school district, or charter school shall destroy the information received immediately following its review of the information. If the criminal history records information indicates that the applicant has been convicted of a felony or of a crime listed in paragraph V, the school administrative unit, school district, or charter school shall review the information for a hiring decision, and the division of state police shall notify the department of education of any such convictions. The school administrative unit, school district, or charter school shall destroy any criminal history record information that indicates a criminal record within 30 days of receiving such information.

2 Education; School Boards, Transportation and Instruction of Pupils; School Employee and Volunteer Background Investigation; Crimes Changed. Amend RSA 189:13-a, V to read as follows:

V. Any person who has been convicted of [~~murder, child pornography, aggravated felonious sexual assault, felonious sexual assault, or kidnapping~~] ***any violation or attempted violation of RSA 630:1, 630:1-a, 630:1-b, 630:2, 632-A:2, 632-A:3, 632-A:4 633:1, 639:2, 639:3, 645:1, I(b), 645:2, 649-A:3, 649-B:3, or 649-B:4, or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene,*** in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be hired by a school administrative unit, school district, or charter school. By decision of the appropriate governing body, a school administrative unit, school district, or charter school may deny a selected applicant a final offer of employment if such person has been convicted of any felony in addition to those listed above. The governing body may adopt a policy stating that any person who has been convicted of any felony, or any of a list of felonies, shall not be hired.

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

1999-2190h

AMENDED ANALYSIS

This bill modifies the crimes that prevent a person from being hired by a school administrative unit, school district, or charter school. This bill also modifies the procedures for criminal history records checks by school administrative units, school districts, and charter schools.

Committee Minutes

EDUCATION COMMITTEE

1999 Re-Referred Bills and Subcommittee Assignments

7/15/99

HB 0349-FN-L	relative to revising annual grant amounts made for school building aid.	**Rep. Robert McKinley, Chair** Rep. Bruce Dearborn Rep. Brien Ward Rep. Arthur Pelletier ***Rep. Alan Thulander **** ***(continuing member of School Building Aid studies)***
HB 0273-FN-L	relative to annual grants for school building aid.	
HB 0514-L	establishing open enrollment provisions in the school districts of the state.	**Rep. John Alger, Chair** Rep. Russell Cox Rep. Marie Rabideau Rep. Robert Guest Rep. John White
HB 0304	relative to the confidentiality of criminal history records checks.	**Rep. Brien Ward, Chair** Rep. Phil Weber Rep. Dave Larrabee Rep. Warren Henderson Rep. Claire Snyder ***Rep. David Welch **** ***Rep. Andrew Christie **** ***(members of C.J. & P.S.)***
SB 0170-FN-A	establishing a parents as teachers pilot program in Sullivan county and making an appropriation therefor.	**Rep. Susan Durham, Chair** Rep. John Alger Rep. Gordon Flint Rep. Claudette Jean Rep. Claire Snyder ***Rep. Margaret Case **** ***(member of H.,H.S.& E.A.)***
SB 0208-FN	establishing a "parents as scholars" program.	
HB 0466	establishing a commission to study education options in school districts not maintaining a high school.	**Rep. Bruce Dearborn, Chair** Rep. Perley Davis Rep. Betty Hoadley Rep. Claudette Jean Rep. Charlie Yeaton

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 304 Date 2-3-99

Committee EDUCATION

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Sen. Caroline McCarley	117 SH	2600	Dist 6	X	

Hearing Minutes

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 304

BILL TITLE: relative to the confidentiality of criminal history records checks.

DATE: February 3, 1999

LOB ROOM: 207 **Time Public Hearing Called to Order:** 10:08 a.m.

Time Adjourned: 11:45 a.m.

(please circle if present)

Committee Members: Reps. O'Hearn, Durham, Searles, Dearborn, Henderson, Larrabee, Weber, Hoadley, Rabideau, Flint, McKinley, P. David, Alger, Cox, Ward, Guest, Riley, Yeaton, Snyder, C. Jean, A. Pelletier, Estabrook and J. White.

Bill Sponsors: Rep. Spear and Sen. McCarley

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

REP. BARBARA SPEAR (Sponsor): I support this bill. I am happy that we are protecting our children; we cannot be too careful. There has been concern of the handling of criminal records. This bill caused the report to be sent to the school, which I don't feel is always happening. This bill addresses this issue.

REP. WILLIAM RILEY: What do you mean by criminality and how long would they be kept?

REP. SPEAR: I wouldn't think it prudent to destroy a record if the person was still employed and the criminal acts are listed in criminal law.

CHAIRMAN JANE O'HEARN: She then read RSA 189-13A-V which explains criminality.

REP. JOHN ALGER: The existing law allows records to reside with the state police?

REP. SPEAR: This bill basically leaves the criminal records with the school administration or school department.

REP. ELIABETH HOADLEY: In respect for individual privacy, why couldn't a note be placed on the employment record?

REP. SPEAR: I don't think this would be permitted.

REP. RICHARD KENNEDY: I support this bill. It is difficult to tell who you are hiring. The gun control laws have created a national clearing center for the ownership of guns; this might be useful to you. Misdemeanors are often times pleaded down from felonies in our court system. Utilizing the firearm dealers coding which cover violent crimes, felonies, domestic violence, etc. would provide a quick check off-to see if any prospective employee were listed.

REP. ROBERT GUEST: Are you proposing a second amendment?

REP. KENNEDY: No, I am leaving you with this information for your use in your deliberations.

CHAIRMAN O'HEARN: Is this the same as finger printing?

REP. KENNEDY: Not really. This is a database that contains all that information acquired on an individual felon.

MS. PAT BUSSELLE (Dept. of Education): I support this bill. The criminal records have always kept criminal history records of teachers. It was changed to have the Dept. of Safety provide the fingerprinting and keeping the records. Another change in the law was to provide school districts with the big five crimes and it didn't include drug cases. In dealing with the Dept. of Safety, the school districts were getting their requests back stamped "no record". This was because the State check had been completed, but the Federal records were not. The school districts were not receiving records from the Dept. of Safety.

REP. ARTHUR PELLETIER: Are the FBI record checks available to the districts?

MS. BUSSELLE: The records, instead of sitting in the Dept. of Safety, should be forwarded to administration.

REP. ROBERT MCKINLEY: Would a meeting with the Dept. of Safety to discuss using the gun check program be useful?

MS. BUSSELLE: I would think so.

REP. DAVID LARRABEE: If a gun check is to prevent bad people from having weapons, wouldn't the Education Dept. needs be the same?

MS. BUSSELLE: I really have no knowledge of this new system that has been developed more recently.

MR. JOSEPH HAAS (Member of Vocals, Inc.): I support this bill with an amendment. In lines #12 and #13, should include the input from a potential employee concerning any negative claims on a history check.

MR. PHILIP MCCORMACK: I support this bill. We have 700-800 employees that come under this law. Two years ago, the schools were forced to handle this issue with an increase in manpower required. The system is failing because the Dept. of Safety doesn't have the manpower to make sure the reports are disseminated. Our districts passed a policy to include drug-related offenses. We have asked the Dept. of Safety for this info and have yet to receive anything. We found clear records, of which we learned on our own, that felonies were included. We wish to review the record, as it would relate to the school environment.

REP. ROBERT GUEST: Your statement that it costs 20% of a person to handle the criminal records; is this not a "28A" issue?

MR. MCCORMACK: It was moved forward as an unfunded issue, however, the school districts have a choice of passing the cost on to individual candidates for employment.

REP. WILLIAM RILEY: What would you do to a person convicted of a motor vehicle license plate violation?

MR. MCCORMACK: In my SAU, I would not consider this a reason for non-employment.

CHAIRMAN JANE O'HEARN: Do you think this legislation helps protect our children?

MR. MCCORMACK: Yes, I do. What we have now doesn't help one bit.

REP. PHIL WEBER: Is the charge $35 per request of the Dept. of Safety?

MR. MCCORMACK: Yes

MR. DENNIS MURPHY (NEA-NH): I oppose this bill. I would suggest that a sub-committee research and study this issue.

MR. STEVE SACHS (NEA-NH): I oppose this bill. My understanding that the existing policy to review the whole record would provide more information than required to make an employment decision. I suggest that the State Police are better equipped to review criminal records and protection of individual rights.

REP. BRIEN WARD: Would you believe that there are teachers out there who have been passed from school district to school district because of a lack of information?

MR. MURPHY: This type of activity would not be cured by a records check. The local SAU should call previous employers.

MR. PAUL KROHNE (NH School Board Association): I support this legislation because the system is not working. The information is not coming from the Dept. of Safety. I would also support a sub-committee.

Respectfully Submitted,

Rep. Bruce Dearborn, Clerk

Subcommittee: Reps. Weber, Ward and Estabrook

Sub-Committee Minutes

SUBCOMMITTEE WORK SESSION

COMMITTEE: Education

BILL NUMBER: HB 304

TITLE: Confidentiality of Criminal History records checks

DATE: Sept. 28 LOB ROOM: 207

TIME CALLED TO ORDER: 10:20 TIME ADJOURNED: 11:20

SUBCOMMITTEE MEMBERS: Phil Weber, Brian Wards

also present: Rep. Durham, Hoadley, Davies

NOTES: (Attach additional sheets if necessary)

John Stephan, Ass. Com. Dept of Safety - whatever committee wants they will do. State now has 21 finger print scanning machines and the time to get a response from months to 2 to 3 weeks.

Jeff Kellett, State Police, the answer to request is sent back to a dist on a form which simply state "does" or "does not" have a conviction - it differentiates →

RECOMMENDATION TO THE FULL COMMITTEE:

- ☐ See Below
- ☐ No Recommendation Yet

RESPECTFULLY SUBMITTED,

Rep. _____

For the Subcommittee

Rev. 08/24/98

if a distrct asks for all felonies not just those listed in section V.

Dennis Murphy, NEA-NH like the way it is handled now - state police are experts in handling records with confidentiality -

Rep. Weber wants to hear from DOE about what criminal records they have and what they do with them. agrees that copy of the state Police "does not" form sent to DOE.

Sub-com: agreed to ~~have~~ take out the sentence beginning on line 8 "If the criminal history . . ."

Asks John Stephen to look through criminal code on sexually related offenses and make a list that might be added to sect. 5 of this statute.

Respectfully submitted -
Susan B Dunham

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

TDD Access: Relay NH
1-800-735-2964

COMMITTEE ON EDUCATION

MEMORANDUM

TO: **Re-Referred HB 304 Subcommittee Members**
Rep. Phil A. Weber
Rep. Dave E. Larrabee, Sr.
Rep. Warren C. Henderson
Rep. Claire A. Snyder
Rep. David A. Welch (Criminal Justice and Public Safety)
Rep. Andrew Christie, Jr. (Criminal Justice and Public Safety)

FROM: **Rep. Brien L. Ward, Subcommittee Chair**
PO Box 1, Littleton, NH 03561-0001
(603) 444-6945

DATE: **October 8, 1999**

SUBJ: **Re-referred HB 304, an act relative to the confidentiality of criminal history records checks.**

As subcommittee chair of re-referred HB 304, I have scheduled a subcommittee work session for Wednesday, October 13, 1999 at 11:00 a.m. in Room 207 of the Legislative Office Building.

Should you have any questions or unable to attend the work session, please do not hesitate to contact me.

BLW/laz
Enclosure
cc: Ann FitzGerald, Committee Researcher

House Education Committee
Subcommittee Report on HB 304
(relative to the confidentiality of criminal history records checks)

October 27, 1999

The subcommittee met on September 28th and October 13th. The attendees were Representatives P. Weber, D. Larrabee, and D. Welch (Corrections and Criminal Justice Committee); Judy Fillion, Department of Education; Jeff Kellett, Criminal Records Division; Assistant Commissioner John Stephen, Department of Safety; Steve Sax and Dennis Murphy, NEA-NH.

The committee amended the bill to streamline the process. All criminal records will be housed at the Division of State Police, Department of Safety. The Department of Education will be notified if there is a positive hit during a criminal history check by the Department of Safety.

The amendment also expanded the list of crimes to be checked during the history check.



Representative Brien L. Ward
Subcommittee Chair

Testimony

MEMORANDUM OF UNDERSTANDING

It is the intention of the local Police Department and the School District to work in a joint cooperative effort to provide a safe and healthy school environment for the students, staff, and visitors. We intend to do this in compliance with New Hampshire RSA 193-D, Safe School Zones, as amended.

Communication and sharing of information is the initiation of any cooperative effort. As required by law, it is agreed that every school employee who has witnessed, or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the Principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing.

As a result of New Hampshire RSA 193-D:7, school employees are relieved of concerns regarding confidentiality. It States:

Notwithstanding any other provision of law, it shall be permissible for any law enforcement officer and any school administrator to exchange information relating only to acts of theft, destruction, or violence in a safe school zone regarding the identity of any juvenile, police records relating to a juvenile, or other relevant information when such information reasonably relates to delinquency or criminal conduct, suspected delinquency or suspected criminal conduct, or any conduct which would classify a pupil as a child in need of services under RSA 169-D or a child in need of protection under RSA 169-C.

The report required above shall include: (blank forms are supplied)

(a) Identification of the act of theft, destruction, or violence as defined in R.S.A. 193-D:1 that was allegedly committed.

(b) The name and address, if known, of any witness to the act of theft, destruction, or violence in a safe school zone.

(c) The name and home address, if known of any person suspected of committing an act of theft, destruction, or violence in a safe school zone.

Memorandum of Understanding
(continued)

The written report required above shall be waived by law enforcement officials when there is a law enforcement response at the time of the incident which results in a written police report.

"Acts of theft, destruction, or violence" means acts set forth in the following, regardless of the age of the perpetrator and shall be reported as required above:

(a) Homicide under RSA 630

Any death shall be immediately reported to law enforcement officials, regardless of suspected case.

(b) Any first or second degree assault under RSA 631.

This will include any injury to a person caused by another person. Investigation may reveal that not all of these incidents constitute an actual crime. Reporting will allow an investigation to be conducted.

(c) Any felonious or aggravated felonious sexual assault under RSA 632-A.

Although going beyond the legal requirement, all acts of sexual penetration occurring within safe school zones will be reported.

(d) Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159.

Due to the tremendous potential for serious injury or death when firearms are present, any person in possession of a firearm within Safe School Zones will be reported. The exception will be recognized Law Enforcement personnel. Some of those reported may not be in violation of the law, but should be reported.

(e) Arson under RSA 634:1.

Any person who knowingly starts any fire or causes any explosion which results in injury, damage to the property of another, or is done with intentional disregard for the safety of others, is included in this section.

Memorandum of Understanding
(continued)

(f) Burglary under RSA 635.

Any person who enters a building, or separately secured section of a building, with a purpose to commit a crime inside.

(g) Robbery under RSA 636.

This includes any theft that is accomplished by the use of physical force or the threat of imminent use of force.

(h) Illegal sale or possession of a controlled drug under RSA 318-B.

Although going beyond the legal requirement, reports will be made on any substance, other than food, that affects the way your mind and body work, excepting legally prescribed medications, which should be recorded with the appropriate administrative school personnel.

Additionally, an act of theft, destruction or violence may mean the items set forth below when, in the opinion of the reporting individual, it is of serious proportion:

(a) Simple assault under RSA 631:2-a.

Simple assaults may result in some injuries. Simple assaults also include knowingly having unprivileged physical contact with another person. Recognize that this can be very minor contact and the Principals will consider the District Disciplinary Policy when making a determination about whether or not to file a Safe School Zone Offense Report. We agree to err in the direction of filing a report when there is any question. Law Enforcement and school officials can then jointly determine the best action to be taken.

(b) Criminal mischief under RSA 634:2.

This includes purposely or recklessly damaging the property of another. This includes school property.

(c) Theft under RSA 637.

Memorandum of Understanding
(continued)

This is the obtaining or exercising of unauthorized control over the property of another.

The following terms, as defined in RSA 193-D:1 apply to this memorandum:

"Safe school zone" means an area inclusive of any school property or school buses.

"School" means any public or private elementary, secondary, or secondary vocational-technical school in New Hampshire. It shall not include home schools under RSA 193-A.

"School Employee" means any school administrator, teacher, or other employee of any public, or private school, School District, school department, or school administrative unit, or any person providing or performing continuing contact services for any public or private school, School District, school department, or school administrative unit.

"School property: means all real property, physical plan and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.

"School purposes" means school-sponsored programs, including but not limited to educational or extra-curricular activities.

Nothing contained in this memorandum is intended to limit the events that may be reported to the police department or to limit school employees from requesting police assistance on matters not referred to in this memorandum.

The local Police Department and the School District, agree to provide their employees with training relative to this memorandum of understanding, its purpose and anticipated results. The parties further agree to maintain regular and open communication to evaluate the effect of this memorandum and suggest improvements and adjustments that may be necessary.

ADMINISTRATIVE PROCEDURE TO ACCOMPANY POLICY JICD STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS

The School District rules relative to student conduct, discipline and due process in the schools are adapted from the Rules of the New Hampshire State Board of Education. See Part ED 317. The purpose of the State Board rules is set forth as follows:

I. Purpose

a. These rules provide due process and statewide uniformity in the enforcement of RSA 193-D relative to disciplinary action for misconduct by a pupil in a safe school zone, including possessing a firearm or any other dangerous weapon, and RSA 193:13 relative to suspension and expulsion of pupils.

b. Since RSA 193-D:2, II provides that School Boards may adopt policies relative to pupil conduct and disciplinary procedures. These rules also provide a standard so that the policies of School Boards are consistent throughout the state.

c. These rules also link discipline and due process in safe school zones to the requirements of ED 1109 relative to special needs students.

II. Definitions

a. "Expulsion" means the permanent denial of a pupil's attendance at school for any of the reasons listed in RSA 193:13,II and III.

b. "Weapon" means (1) a firearm [see 18USC Section 921], to include a pellet or BB gun; (2) any object prohibited, licensed, or regulated under RSA 159; (3) a knife, but not a folding pocket knife or cafeteria-issued dining utensil; and/or (4) a knife and/or any other substance or object which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing serious injury.

c. "Gross misconduct" means an act or acts which: (1) results in violence to another person or property; or (2) poses a direct threat to the safety of others in a safe school zone; or (3) is identified in RSA 193-D:1; or (4) involves repeated instances of misconduct or inappropriate behavior for which the pupil has been previously warned or disciplined.

STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS
(continued)

d. "Neglect" in the context of RSA 193:13. I and II, means the failure of a pupil to pay attention to an announced, posted, or printed school rule.

e. "Possession" shall include, but not be limited to, having control over a weapon during any part of a school day or during any part of a school-related activity, including transporting the weapon to school or to a school-related activity and storage of the weapon anywhere on school premises, whether in the student's locker or in another student's locker or in any other place on school premises. Possession is also deemed to include doing any other act whereby the actor knowingly contributes to causing a weapon to be on school premises or contributes to causing use of a weapon on school premises.

f. "Pupil" means a child through age 21 in attendance at the school during the school day. (If the pupil is age 18 or older and not under guardianship, the written notices required below to issue to a parent shall issue instead only to the pupil and, further, all consents or decisions required in the suspension or expulsion process will issue from the pupil.)

g. "Refusal," in the context of RSA 193:13, I and II, means the defiance of a pupil to comply with an announced, posted or printed school rule.

h. "Safe school zone" means "safe school zone" as defined in RSA 193-D: I, II.

i. "School day" shall include not only the instructional portion of the day, but may also include travel to and from school or a school-related activity, as well as the time spent as a participant or spectator at a school-related activity.

j. "School premises" shall include the school and surrounding school property, including, without limitation, parking areas, athletic fields, and playgrounds; school busses or other vehicle furnished by the District or its agents for transportation to or from school or a school-related activity; school bus stops; and/or those premises and surroundings being used for a school-related activity. For purposes of this procedure and without intending to interfere with the rights and duties of the police and/or private property owners, school premises shall also be deemed to include streets and exterior property in the school neighborhood during the course of travel to and from school or a school-related activity.

STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS
(continued)

k. "Superintendent" means the school Superintendent or, in the absence of the Superintendent, the Assistant Superintendent for the School District(s) or towns.

l. "Suspension" means the temporary denial of a student's attendance at school for a specific period of time for gross misconduct or for neglect or refusal to conform to announced, posted, or printed school rules.

m. "Day," with respect to the number of days, shall refer to school days unless there is specific reference to "calendar" days.

III. Standard for Expulsion by the School District

a. If the School Board expels a pupil under RSA 193:13, II or III, it shall state in writing the act or acts leading to expulsion; and the specific statutory reference prohibiting that act or acts as set forth in RSA 193:13 and/or RSA 193-D; and shall provide notice that the expulsion may be reviewed prior to the start of each school year in accordance with Appendix A.

b. The principal of each school shall make certain that the pupil has received notice of the requirements of RSA 193:13 and RSA 193-D:1 through announced, posted, or printed school rules. The statutory text shall be printed in the school handbook to be distributed to each student at the beginning of the school year; and shall be announced, posted, and printed at other appropriate locations and times in the middle school and high school. Nothing herein shall prevent a school principal from printing, posting and/or announcing other rules applicable to the school.

c. If the student is subject to expulsion and a weapon is involved, the responsibility shall be upon the Superintendent to contact local law enforcement officials whenever there is any issue concerning:

1. Whether a firearm is legally licensed under RSA 159; or

2. Whether a firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

d. If a pupil brings or possesses a weapon in a safe school zone without written authorization from the Superintendent, the following shall apply:

STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS
(continued)

1. The pupil shall be suspended for a period of not less than 10 days and, if the weapon is determined to be a firearm as defined in 18 USC Section 921, the School Board shall hold a hearing within 10 days to determine whether:

   The student was in violation of RSA 193:13, III, and, therefore, is subject to expulsion for a period of not less than 12 months; and whether the student's expulsion will be modified under policies set forth in Appendix B.

IV. Disciplinary Procedures

There shall be the following levels of discipline available to school officials enforcing RSA 193:13 and/or RSA 193-D relative to the suspension and expulsion of pupils.

1. A short-term suspension (not to exceed 10 days). The Board hereby designates that the Superintendent, the Assistant Superintendent for the School District(s) and Towns, and each Principal and Assistant Principal shall have authority to suspend a pupil for 10 days or less.

2. A long-term suspension (between 11 and 20 days). Following a hearing, the Superintendent, the Assistant Superintendent for the School District(s) and Towns, and each Principal shall have authority to extend a short-term suspension to 20 days. This hearing shall be conducted and the decision shall be issued by a different administrator than the administrator who suspended the pupil for the first ten days.

3. An expulsion by the School Board whereby conditions are established for reinstatement. See also Appendix A relative to review of an expulsion prior to the start of any school year.

4. An indefinite expulsion by the School Board whereby no conditions are established for reinstatement. However, see Appendix A relative to review of an expulsion prior to the start of any school year.

Due process in disciplinary proceedings shall include, at a minimum, the following:

STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS
(continued)

1. In a short-term suspension:

(a) The pupil shall be informed of the purpose of the meeting.

(b) At or before the meeting, oral and/or written notice of the charges and an oral and/or written explanation of the evidence against the pupil shall be provided to the pupil:

(c) The pupil shall be provided an opportunity to present his/her side of the story;

(d) Following the meeting, a written statement shall issue to the pupil and at least one of the pupil's Parents or guardians, delivered in person or by mail to the pupil's last known address, including an explanation of the charges, the evidence, the findings, any recommendation for additional suspension or expulsion, and a recommendation for student action to correct the discipline problem.

2. In a long-term suspension of a pupil:

(a) The written statement issued under Section IV(b)(1)(d) shall establish a date for a hearing. The hearing will not generally be postponed if the postponement would interrupt the continuity of a short-term suspension into a long-term-term suspension.

(b) A hearing in accordance with the procedures set forth below in Section IV (b)(3)(f).

(c) A written decision which includes the legal and factual basis for the conclusion that the pupil should be suspended for an additional 10 days or less.

(d) Within 10 calendar days of the decision, this decision may be appealed to the School Board under RSA 193:13, I. The Board may or may not stay the suspension while the appeal is pending. The Board reserves the right to issue a decision without hearing any evidence or all proffered evidence, but may instead rely upon the record as it has been developed during the suspension process.

STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS
(continued)

3. In the expulsion by the School Board, due process shall include the following minimal requirements:

(a) A formal hearing shall be held before any expulsion;

(b) Such hearing may be held either before or after the short-term suspension has expired;

(c) If the hearing is held after the expiration of a short-term suspension, the pupil shall be entitled to return to school after the short-term suspension has expired, pending the expulsion hearing. The School Board reserves the right to deny a request for postponement of a scheduled hearing if the request for postponement is objected to by either the pupil or the administrator recommending expulsion.

(d) The written statement issued under Section IV(b)(1)(d) shall establish a date for the expulsion hearing and shall also include a complete description of the process used by administration to reach its recommendation that the student should be expelled.

(e) This notice shall be delivered to the pupil and at least one of the pupil's parents or guardians at least 5 calendar days prior to the hearing.

(f) The following hearing procedures shall apply:

(1) The pupil, together with a parent or guardian, may waive the right to a hearing and accept the findings.

(2) Formal rules of evidence shall not be applicable; however, school officials shall present evidence in support of the charge(s) and the accused pupil or his/her parent or guardian shall have an opportunity to present any defense or reply;

(3) The hearing shall be either public or private and the choice shall be that of the pupil or his parent or guardian. Provided, nevertheless, that if the nature of the evidence will violate the privacy of other students or if the Board determines that substantial harm to the pupil could

STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS
(continued)

result from an ill-conceived decision to hold the hearing in public, then the Board reserves the right and obligation to insist upon a private hearing;

(4) During the hearing, the pupil, parent, guardian, or counsel representing the pupil, shall have the right to examine any and all witnesses;

(g) The decision of the School Board shall be based on a dispassionate and fair consideration of substantial evidence that the accused pupil committed the act or acts for which expulsion is to be imposed and that such acts are, in fact, a proper reason for expulsion;

(h) The decision shall state whether the student is expelled; a statement of the time period for which the student is expelled; and any action the student may take to be restored by the Board.

(i) If the decision is to expel the pupil, the decision shall include the legal and factual basis for the decision; and,

4. A decision shall include a statement that the pupil has the right to appeal the decision of the State Board of Education.

5. All appeals to the State Board allowed under RSA 193:13, II or III, shall be filed within 20 calendar days of receipt of the written decision of the School Board and shall be in accordance with RSA 541-A and ED 200.

V. Reporting Procedures

a. In accordance with RSA 193-D:4, each written report by a supervisor to the principal relating to an act of theft, destruction, or violence in a safe school zone shall be on standardized New Hampshire Board of Education Form #Ed 317.

b. The report by a supervisor to a principal on Form #Ed 317 shall contain all the statutory information, required by RSA 193:D:4.

c. Form #Ed 317 shall be completed and filed with the Commissioner of Education on or before June 30 of each year.

STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS
(continued)

d. Form #Ed 317 shall contain the following information:

1. School name.
2. School address.
3. School telephone number.
4. Name of School Principal.
5. Date of incident involving an act of theft, destruction, or violence, or the possession of a firearm.
6. Time of incident in (5) above.
7. Location of incident in (5) above.
8. Alleged offense.
9. Description of incident.
10. Name of suspect.
11. Grade in school of suspect.
12. Address of suspect.
13. Gender of suspect.
14. Name of victim.
15. Grade in school of victim.
16. Address of victim.
17. Gender of victim.
18. Name of employee reporting incident.
19. Date report was completed by employee.
20. Date report was filed with law enforcement authority by school principal.

VI. Student with an Educational Disability

For any student with disabilities for whom a teacher, administrator or any member of the team has proposed suspension from school in excess of ten (10) days or expulsion from school due to the student's misconduct, the following procedures apply:

1. The LEPT shall convene as soon as reasonably possible after such misconduct to determine the relationship between the student's disability, the misconduct and the placement.

2. The team shall notify the parents in writing of a decision as to whether the misconduct was a manifestation of the student's disability.

STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS
(continued)

3. If the team determines that the misconduct was a manifestation of the student's disability, it may choose any of the following actions:

a. Continue to invoke the procedures, if any, described in the IEP 504 plan.

b. Seek an interim placement with parental approval.

c. Apply disciplinary measures, but not exceeding suspension for ten days.

d. Invoke the aid of the courts to remove or charge the placement of a dangerous or extraordinary disruptive student.

4. If the team determines that the misconduct was not a manifestation of the student's disability, the District may impose disciplinary sanctions in accordance with Policy JICD.

ADMINISTRATIVE PROCEDURE TO ACCOMPANY POLICY JICI-R

APPENDIX A

As expelled pupil has the right to request a review of the expulsion prior to the start of each school year.

A request for review should be directed by the pupil to the Superintendent of Schools and should be received by the Superintendent on or before August 15. The request shall set forth each and all reasons why the pupil's right to attend school should be reinstated. Of particular importance would necessarily be such information as might convince school authorities that the conduct which led to the expulsion would not be repeated.

The Superintendent of Schools or Assistant Superintendent and the Principal or an Assistant Principal at the applicable school shall direct written recommendation to the Board with a copy to the pupil.

The expulsion may be continued: the pupil may be reinstated without conditions; or the pupil may be required to meet certain conditions prior to reinstatement. A code of conduct and consequences may be established for a reinstated pupil which are more strict than for the general student population.

ADMINISTRATIVE PROCEDURE TO ACCOMPANY POLICY JICI-R

APPENDIX B

The mandatory 12-month expulsion from school for bringing or possessing a firearm in a safe school zone may be modified on a case-by-case basis in the sole discretion of the Superintendent of Schools in the following situations:

1. The Superintendent determines that possession of the firearm was inadvertent in that another person had left the firearm in the pupil's vehicle; and the pupil had not noticed that s/he was bringing the firearm within the safe school zone; or

2. The Superintendent determines that the pupil intended to use the firearm for sport immediately before or after school and had no intention to display the firearm to other students.

3. The pupil is in the fifth grade or lower grade and the Superintendent determines that the pupil did not properly understand the dangers of firearms when the firearm was brought to school.

4. The Superintendent determines that the firearm was not loaded; and that no ammunition was reasonably available; and that the pupil had no intention to display the firearm to other students.

Reference Policy: JICD

PART Ed 317 STANDARDS AND PROCEDURES FOR SUSPENSION AND EXPULSION OF PUPILS INCLUDING PROCEDURES ASSURING DUE PROCESS

Ed 317.01 Purpose.

(a) These rules provide the minimum requirements to assure due process and statewide uniformity in the enforcement of RSA 193:13 and 193-D relative to disciplinary action for gross misconduct, or for neglect or refusal to conform to the reasonable rules of the school, or for possession of a pellet or BB gun or rifle or possessing a firearm or other dangerous weapon by a pupil in a safe school zone.

(b) These rules also provide a standard that local school boards shall use in adopting and implementing a policy relative to pupil conduct and disciplinary procedures under RSA 193-D:2, II.

(c) These rules also link discipline and due process to the requirements of Ed 1109 relative to special needs students.

Source. #6109, eff 10-28-95; ss by #6366, eff 10-30-96; ss by #6820, eff 9-1-98

Ed 317.02 Definitions.

(a) "Expulsion" means the permanent denial of a pupil's attendance at school for any of the reasons listed in RSA 193:13, II and III.

(b) "Firearm or other dangerous weapon" means "firearm or dangerous weapon" as defined in section 921 of Title 18 of the US Code, and any weapon prohibited by RSA 159, including but not limited to dangerous weapons listed in RSA 159:16.

(c) "Gross misconduct" means an act which:

(1) Results in violence to another's person or property;

(2) Poses a direct threat to the safety of others in a safe school zone; or

(3) Is identified in RSA 193-D:1, I.

(d) "Neglect", in the context of RSA 193:13, I and II, means the failure of a pupil to pay attention to an announced, posted, or printed school rule.

(e) "Pupil" means a child through age 21 in attendance at a school during the school day.

(f) "Refusal", in the context of RSA 193:13, I and II means the willful defiance of a pupil to comply with an announced, posted, or printed school rule.

(g) "Safe school zone" means "safe school zone" as defined in RSA 193-D:1, II.

(h) "School day" means:

(1) For a pupil who takes the school bus, the time period beginning when a pupil boards the bus in the morning to the time when a pupil disembarks from the bus in the afternoon; and

(2) For a pupil who walks to school or arrives by private car, the time period beginning when the pupil arrives on the school grounds to the time when the pupil leaves the school grounds.

(i) "Superintendent" means the school superintendent or chief administering officer, or a representative designated in writing as authorized under RSA 193:13, I.

(j) "Suspension" means the temporary denial of a student's attendance at school for a specific period of time for gross misconduct or for neglect or refusal to conform to announced, posted, or printed school rules.

Source. #6109, eff 10-28-95; ss by #6366, eff 10-30-96

Ed 317.03 Standard for Expulsion by Local School Board.

(a) A school board which expels a pupil under RSA 193:13, II or III, shall state in writing its reasons and shall provide a procedure for review as allowed under RSA 193:13, II.

(b) School boards shall make certain that the pupil has received notice of the requirements of RSA 193-D:1 and RSA 193:13 through announced, posted, or printed school rules.

(c) School boards shall comply with paragraph (a) by specifically naming:

(1) The act leading to expulsion; and

(2) The specific statutory reference prohibiting that act as listed in RSA 193-D:1, I.

(d) If a student is subject to expulsion and a firearm is involved, the responsibility shall be upon the superintendent to contact local law enforcement officials whenever there is any doubt concerning:

(1) Whether a firearm is legally licensed under RSA 159; or

(2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.

(e) If a pupil brings or possesses a firearm in a safe school zone without written authorization from the superintendent, the following shall apply:

(1) The superintendent shall suspend the pupil for a period not to exceed 10 days, pending a hearing by the local board; and

(2) The school board shall hold a hearing within 10 days to determine that:

a. The student was in violation of RSA 193:13, III and therefor is subject to expulsion.

(f) A pupil may assert any of the protections provided in Ed 1128 if a pupil who has been identified as disabled under Chapter Ed 1100, or who has not been determined to be eligible for special education and related services has:

(1) Engaged in behavior that violated any rule or code of conduct of the school or local school board, including:

a. Carrying a weapon to school or to a school function under the jurisdiction of a State or a local school board;

b. Knowingly possessing or using illegal drugs; or

c. Selling or soliciting the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local school board;

(g) A pupil may assert any of the protections provided in Ed 1128 if:

(1) The pupil has been determined to be eligible for special education under chapter Ed 1100; or

(2) The school or local school board had knowledge in accordance with (h) below that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(h) A school district shall be deemed to have knowledge that a child is a child with a disability if:

(1) The parent of the child has expressed concern in writing, unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this paragraph, in which case said parent has expressed concern by other means, to administrative staff or other involved personnel that the child is in need of special education and related services;

(2) The behavior or performance of the child has demonstrated the need for such services due to a potential disability;

(3) The parent of the child has requested an evaluation of the child pursuant to Ed 1107; or

(4) The teacher of the child, or other personnel of the school district, has stated, in writing, substantial concern about the recent behavior or performance of the child to the director of special education of such agency;

(i) If a school or local school board does not have knowledge that a child is a child with a disability in accordance with (h) above, prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors consistent with the following:

(1) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (g) and (h), the evaluation shall be conducted in an expedited manner;

(2) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district and information provided by the parents, the agency shall provide special education and related services in accordance with Chapter Ed 1100;

(j) Pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

Source. #6109, eff 10-28-95; ss by #6366, eff 10-30-96; amd by #6820, eff 9-1-98

Ed 317.04 Disciplinary Procedures.

(a) There shall be the following levels of discipline available to school officials enforcing RSA 193:13 relative to the suspension and expulsion of pupils in a safe school zone:

(1) A suspension for gross misconduct or for neglect or refusal to conform to the reasonable rules of the school under RSA 193:13,I shall be considered a short-term suspension and shall be administered by a superintendent or designee for a period not to exceed 10 school days;

(2) A suspension for an act of theft, destruction, or violence as defined in RSA 193-D, or for possession of a pellet or BB gun or rifle under RSA 193:13,II shall be considered a long-term suspension and shall be administered by the school board or designee in order to continue the short term suspension for a period in excess of 10 school days, provided the designee is not the person who suspended the pupil for 10 school days under (1) above, and that designee provides a due process hearing under (d)(2) below;

(3) An expulsion by the local school board for a period determined in writing by the board under RSA 193:13, II; and

(4) An expulsion by the local school board for a period of not less than 12 months under RSA 193:13, III.

(b) Prior to initiating any disciplinary action listed in paragraph (a), each school board shall adopt a policy under RSA 189:15 which prescribes the manner in which the student body shall be informed concerning the content of RSA 193:13 through announced, posted, or printed school rules.

(c) If the school and school board have met the requirements of paragraph (b) a pupil appealing a local decision to the state board may not be allowed to claim lack of knowledge of the state law requiring expulsion for bringing or possessing a firearm or other dangerous weapon as defined in these rules.

(d) Due process in disciplinary proceedings shall include, at a minimum, the following:

(1) In a short-term suspension:

a. The superintendent or designee shall inform the pupil of the purpose of the meeting;

b. Oral or written notice of the charges and an explanation of the evidence against the pupil;

c. An opportunity for the pupil to present his/her side of the story;

d. A written statement to the pupil and at least one of the pupil's parents or guardian explaining any disciplinary action taken against the student;

(2) In a long-term suspension of a pupil:

a. Written communication to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the charges and an explanation of the evidence against the pupil;

b. The superintendent's written or oral recommendation for student action to correct the discipline problem;

c. A hearing in accordance with Ed 317.04(d)(3)g. below;

d. A written decision which includes the legal and factual basis for the conclusion that the pupil should be suspended;

e. If the hearing was conducted by the school board's designee, the decision may be appealed to the local school board under RSA 193:13, I; and

f. If the hearing was conducted by the school board, the decision may be appealed to the state board;

(3) In an expulsion by the local school board, due process shall include the following minimal requirements:

a. A formal hearing shall be held before any expulsion;

b. Such hearing may be held either before or after the short-term suspension has expired and pending the expulsion hearing;

c. If the hearing is held after the expiration of a short-term suspension, the pupil shall be entitled to return to school after the short-term suspension has expired and pending the expulsion hearing.

d. The school board shall provide written notice to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the date, time and place for a hearing before the local board;

e. The written notice required by d. above shall include:

1. A written statement of the charges and the nature of the evidence against the pupil; and

2. A superintendent's written recommendation for school board action and a description of the process used by the superintendent to reach his/her recommendation;

f. This notice shall be delivered to the pupil and at least one of the pupil's parents or guardian at least 5 days prior to the hearing.

g. The following hearing procedures shall apply:

1. The pupil, together with a parent or guardian may waive the right to a hearing and admit to the charges made by the superintendent;

2. If the pupil is 18 years of age or older, the concurrence of a parent or guardian shall be unnecessary unless the pupil is subject to a guardianship which would prevent the pupil from waiving the right to a hearing;

3. Formal rules of evidence shall not be applicable, however, school officials shall present evidence in support of the charge(s) and the accused pupil or his/her parent or guardian shall have an opportunity to present any defense or reply;

4. The hearing shall be either public or private and the choice shall be that of the pupil or his parent or guardian; and

5. During the hearing, the pupil, parent, guardian or counsel representing the pupil, shall have the right to examine any and all witnesses;

h. The decision of the school board shall be based on a dispassionate and fair consideration of substantial evidence that the accused pupil committed the act for which expulsion is to imposed and that such acts are, in fact, a proper reason for expulsion;

i. The decision shall state whether the student is expelled and the length of the expulsion. If the decision is to expel the pupil the decision shall include the legal and factual basis for the decision;

j. A statement of the time period for which the student is expelled and any action the student may take to be restored by the board; and

(e) A decision shall include a statement that the pupil has the right to appeal the decision to the state board of education.

(f) All appeals to the state board allowed under RSA 193:13, II or III shall be filed within 20 calendar days of receipt of the written decision of the local school board and shall be in accordance with RSA 541-A and Ed 200.

Source. #6109, eff 10-28-95; ss by #6366, eff 10-30-96

Ed 317.05 Reporting Procedures.

(a) In accordance with RSA 193-D:4, each written report by a supervisor to the principal relating to an act of theft, destruction, or violence in a safe school zone shall be on standardized form #Ed 317.

(b) The report by a supervisor to a principal on Form #Ed 317 shall contain all the statutory information required by RSA 193-D:4.

(c) Form #Ed 317 shall be completed and filed with the local law enforcement authority within 48 hours of such incident.

(d) Form #Ed 317 shall contain the following information:

(1) School name;

(2) School address;

(3) School telephone number;

(4) Name of school principal;

(5) Date of incident involving an act of theft, destruction, or violence, or the possession of a firearm;

(6) Time of incident in (5) above;

(7) Location of incident in (5) above;

(8) Alleged offense;

(9) Description of incident;

(10) Name of suspect;

(11) Grade in school of suspect;

(12) Address of suspect;

(13) Gender of suspect;

(14) Name of victim;

(15) Grade in school of victim;

(16) Address of victim;

(17) Gender of victim;

(18) Name of employee reporting incident;

(19) Date report was completed by employee;

(20) Date report was filed with local law enforcement authority by school principal.

(e) A school district reporting a crime committed by a child with a disability shall ensure that copies of the relevant portions of the special education and disciplinary records of the child are made available in a manner that protects the privacy of student records for consideration by the appropriate authorities to whom it reports the crime.

(f) A school district shall complete and file Form Ed 317-Fed, Report on Students Disciplined Under the Gun Free School Act of 1994, with the commissioner on or before June 30 of each year.

(g) Form Ed 317-Fed shall contain the following information:

(1) Name of school district;

(2) School name;

(3) Pupil's grade in school;

(4) Type of firearm:

a. Handgun;

b. Rifle/shotgun; or

c. Other firearm;

(5) Number of expulsions modified to less than 12 months;

(6) Number of modifications for students who are not students with educational disabilities; and

(7) Number of expulsions which resulted in a referral to an alternative school or program.

Source. #6109, eff 10-28-95; ss by #6366, eff 10-30-96; amd by #6820, eff 9-1-98

Ed 317.06 Student with an Educational Disability

(a) Any suspension or expulsion of a student with an educational disability as defined in Ed 1102.31 shall be in accordance with Ed 1119.11.

(b) In the case of a student with an educational disability who is determined to have brought a firearm as defined in 18 USC 921(a)(3) the federal requirement of section 612(a)(1) of Public Law 105-17, 20 USC 1415 shall apply, and the student may be placed in an interim alternative educational setting for the time periods pursuant to federal law.

Source. #6109, eff 10-28-95; ss by #6366, eff 10-30-96; amd by #6820, eff 9-1-98

CHAPTER 193-D. SAFE SCHOOL ZONES

Sec.
193-D:1. Definitions.
193-D:2. State Board Rulemaking Authority; Public School District Policies.
193-D:3. Criminal Penalties.
193-D:4. Written Report Required.
193-D:5. Waiver of Written Report Requirement.
193-D:6. Penalties for Failure to Report.
193-D:7. Confidentiality.
193-D:8. Transfer Records; Notice.

§ 193-D:1. Definitions.

In this chapter:

I. "Act of theft, destruction, or violence" means an act set forth in the following statutes regardless of the age of the perpetrator:

(a) Homicide under RSA 630.

(b) (1) Any first or second degree assault under RSA 631.

(2) Any simple assault under RSA 631:2-a.

(c) Any felonious or aggravated felonious sexual assault under RSA 632-A.

(d) Criminal mischief under RSA 634:2.

(e) Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159.

(f) Arson under RSA 634:1.

(g) Burglary under RSA 635.

(h) Robbery under RSA 636.

(i) Theft under RSA 637.

(j) Illegal sale or possession of a controlled drug under RSA 318-B.

II. "Safe school zone" means an area inclusive of any school property or school buses.

III. "School" means any public or private elementary, secondary, or secondary vocational-technical school in New Hampshire. It shall not include home schools under RSA 193-A.

IV. "School employee" means any school administrator, teacher, or other employee of any public or private school, school district, school department, or school administrative unit, or any person providing or performing continuing contract services for any public or private school, school district, school department, or school administrative unit.

V. "School property" means all real property, physical plant and equipment used for school

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purposes, including but not limited to school playgrounds and buses, whether public or private.

VI. "School purposes" means school-sponsored programs, including but not limited to educational or extra-curricular activities.

History

Source. 1994, 355:3. 1995, 231:2, eff. Aug. 15, 1995.

Amendments--1995. Paragraph I: Designated the existing provisions of subpar. (b) as subpar. (b)(1) and added subpar. (b)(2).

CROSS REFERENCES

Drug free school zones, see RSA 193-B.

§ 193-D:2. State Board Rulemaking Authority; Public School District Policies.

I. The state board of education shall adopt rules relative to safe school zones, under RSA 541-A, for public school pupils and public school employees regarding:

(a) Disciplinary proceedings, including procedures assuring due process.

(b) (1) Standards and procedures for suspension and expulsion of pupils, including procedures assuring due process.

(2) Standards and procedures which shall require expulsion of a pupil for knowingly possessing a firearm in a safe school zone without written authorization from the superintendent or designee.

(c) Procedures pertaining to discipline of pupils with special needs, including procedures assuring due process.

(d) Procedures for reporting acts of theft, destruction, or violence under RSA 193-D:4.

II. Nothing in this chapter shall prohibit local school boards from adopting and implementing policies relative to pupil conduct and disciplinary procedures.

History

Source. 1994, 355:3, eff. June 8, 1994.

CROSS REFERENCES

Expulsion from school for unauthorized possession of firearm, see RSA 193:13.

Rulemaking authority of department of education, see RSA 21-N:9.

§ 193-D:3. Criminal Penalties.

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Any person convicted of an act of theft, destruction, or violence as defined in RSA 193-D:1 committed in a safe school zone at any time of year may be subject to an extended term of imprisonment as provided in RSA 651:6.

History

Source. 1994, 355:3, eff. Sept. 1, 1994.

CROSS REFERENCES

Felonious use of firearms, see RSA 650-A.

§ 193-D:4. Written Report Required.

I. (a) Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing.

(b) The provisions of subparagraph (a) shall not apply to any simple assault involving pupils in kindergarten through grade 12 if the local school board has adopted a discipline policy which sets forth circumstances under which parents shall be notified of simple assaults.

(c) Each school district, in conjunction with the local law enforcement authority, shall establish a memorandum of understanding for administering the provisions of RSA 193-D:4, I(a)-(c).

II. The report required under paragraph I shall include:

(a) The name and home address, if known, of any person suspected of committing an act of theft, destruction, or violence in a safe school zone.

(b) The name and home address, if known, of any witness to the act of theft, destruction, or violence in a safe school zone.

(c) Identification of the act of theft, destruction, or violence as defined in RSA 193-D:1 that was allegedly committed.

History

Source. 1994, 355:3. 1995, 231:3, eff. Aug. 15, 1995.

Amendments--1995. Paragraph I: Amended generally.

§ 193-D:5. Waiver of Written Report Requirement.

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The written report required under RSA 193-D:4 shall be waived by law enforcement officials when there is a law enforcement response at the time of the incident which results in a written police report.

History

Source. 1994, 355:3, eff. Sept. 1, 1994.

§ 193-D:6. Penalties for Failure to Report.

Any person who knowingly fails to comply with the reporting requirements under RSA 193-D:4 for acts of theft, destruction, or violence, unless such report is waived under RSA 193-D:5, shall be guilty of a violation.

History

Source. 1994, 355:3, eff. Sept. 1, 1994.

CROSS REFERENCES

Classification of crimes, see RSA 625:9.

Sentences, see RSA 651.

§ 193-D:7. Confidentiality.

Notwithstanding any other provision of law, it shall be permissible for any law enforcement officer and any school administrator to exchange information relating only to acts of theft, destruction, or violence in a safe school zone regarding the identity of any juvenile, police records relating to a juvenile, or other relevant information when such information reasonably relates to delinquency or criminal conduct, suspected delinquency or suspected criminal conduct, or any conduct which would classify a pupil as a child in need of services under RSA 169-D or a child in need of protection under RSA 169-C.

History

Source. 1994, 355:3, eff. Sept. 1, 1994.

§ 193-D:8. Transfer Records; Notice.

All elementary and secondary educational institutions, including academies, private schools, and public schools, shall upon request of the parent, pupil, or former pupil, furnish a complete school record for the pupil transferring into a new school system. Such record shall include, but not be limited to, records relating to any incidents involving suspension or expulsion, or delinquent or criminal acts, or any incident reports in which the pupil was charged with any act of theft, destruction, or violence in a safe school zone.

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History

Source. 1994, 355:3, eff. Sept. 1, 1994.

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§ 193:13. Suspension and Expulsion of Pupils.

I. (a) The superintendent or chief administering officer, or a representative designated in writing by the superintendent, is authorized to suspend pupils from school for a period not to exceed 10 school days for gross misconduct or for neglect or refusal to conform to the reasonable rules of the school.

(b) The school board or a representative designated in writing of the school board is authorized, following a hearing, to continue the suspension of a pupil for a period in excess of 10 school days. The school board's designee may be the superintendent or any other individual, but may not be the individual who suspended the pupil for the first 10 days under subparagraph (a). Any suspension shall be valid throughout the school districts of the state, subject to modification by the superintendent of the school district in which the pupil seeks to enroll.

(c) Any suspension in excess of 10 school days imposed under subparagraph (b) by any person other than the school board is appealable to the school board, provided that the superintendent received such appeal in writing within 10 days after the issuance of the decision being appealed. The school board shall hold a hearing on the appeal, but shall have discretion to hear evidence or to rely upon the record of a hearing conducted under subparagraph (b). The suspension under subparagraph (b) shall be enforced while that appeal is pending, unless the school board stays the suspension while the appeal is pending.

II. Any pupil may be expelled from school by the local school board for gross misconduct, or for neglect or refusal to conform to the reasonable rules of the school, or for an act of theft, destruction, or violence as defined in RSA 193-D:1, or for possession of a pellet or BB gun or rifle, and the pupil shall not attend school until restored by the local board. Any expulsion shall be subject to review if requested prior to the start of each school year and further, any parent or guardian has the right to appeal any such expulsion by the local board to the state board of education. Any expulsion shall be valid throughout the school districts of the state.

III. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months.

IV. The local school board shall adopt a policy which allows the superintendent or chief administering officer to modify the expulsion requirements set forth in paragraphs II and III on a case by case basis.

V. Any pupil expelled by a local school board under the provisions of the Gun-Free Schools Act of 1994 shall not be eligible to enroll in another school district in New Hampshire for the period of such expulsion. Nothing in this section shall be construed to prevent the local school district that expelled the student from providing educational services to such students in an alternative setting.

VI. A pupil expelled from school in another state under the provisions of the Gun-Free Schools Act of 1994 shall not be eligible to enroll in a school district in New Hampshire for the period of such expulsion.

VII. For purposes of paragraphs I, II, and III, school board may be either the school board or

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a subcommittee of the board duly authorized by the school board.

History

Source. RS 73:4. CS 77:4. GS 83:3. GL 91:3. PS 93:3. 1921, 85, III:10. PL 118:12. RL 137:12. RSA 193:13. 1969, 356:5. 1971, 371:6. 1994, 355:2. 1995, 231:1, eff. Aug. 15, 1995. 1996, 168:1, 2, eff. July 1, 1997.

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§ 189:15. Regulations.

The school board may, unless otherwise provided by statute or state board regulations, prescribe regulations for the attendance upon, and for the management, classification and discipline of, the schools; and such regulations, when recorded in the official records of the school board, shall be binding upon pupils and teachers.

History

Source. RS 73:2. GS 81:10. 1868, 9:1. GL 89:10. 1883, 37:3. 1887, 52:1. PS 92:5. 1898, 208:1. 1905, 59:1. 1921, 85, II:7. PL 117:13. RL 135:15. RSA 189:15. 1965, 110:1. 1969, 104:2, eff. June 24, 1969.

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§ 169-C:29. Persons Required to Report.

Any physician, surgeon, county medical examiner, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel (engaged in admission, examination, care and treatment of persons), Christian Science practitioner, teacher, school official, school nurse, school counselor, social worker, day care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter.

History

Source. 1979, 361:2, eff. Aug. 22, 1979.

Revision note. Substituted "county medical examiner" for "county medical referee" in light of changes made by 1979, 66. See RSA 611.

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STUDENT CONDUCT, DISCIPLINE AND DUE PROCESS

Safe School Zone

The Board endorses the following principles of Student conduct:

1. Respect for law and those given the authority to administer it shall be expected of all Students. This includes conformity to school rules as well as to general provisions of the law regarding minors.

2. Respect for the rights of others, consideration of their privileges, and cooperative citizenship shall be expected of all members of the school community.

3. Respect for real and personal property, pride in one's work, and exemplary personal standards of courtesy, decency, honesty, and wholesome attitudes shall be maintained.

4. Respect for individual worth is the obligation of the school. Diligence and a desire to benefit from the opportunity is the obligation of the Student.

The Board expects Student conduct to be such as to contribute to a productive learning climate. Individual rights are to be honored and protected in all instances; however, the rights of one individual shall not take precedence over those of another individual or of the group itself, and all pupils shall have equal rights and equal responsibilities in the classroom or at any school-sponsored activity.

The Board further recognizes the right of each school to establish disciplinary procedures in accordance with RSA 193:13 and RSA 193-D through the development of administrative procedures which are approved by the Superintendent of Schools or his/her designee. Due process and equal protection of the law shall be afforded to any pupil involved in a proceeding which may result in suspension, exclusion, or expulsion. Students expelled from school may be reinstated by the Board under the provisions of RSA 193:13.

Statutory Reference:
RSA 193:13 - effective January, 1998
See Appendix: JICD-R

To: The House Education Committee
Room #207 L.O.B.
Concord, N. H. 03301

RE: House Bill #304

This is to follow up my testimony as speaker #4 of 8 and second comments at the end of this public hearing at from about 10:30 am - 11:50 o'clock am of almost an hour and a half.

I wish to put into writing that I support this bill with amendments as I talked about being two as follows: (1) to place after the first "information" word in line #13 something like: "including input from the criminal/applicant as to any details he or she would like to add to the file (like corrections are done by consumer statement(s) at private credit bureaus); and (2) to guarantee some process of the destruction of records, like as what might have happened to mine, no verification in writing from the Concord Police when my driving without a license case #87-S-313 was "nol prossed" 12 years ago when I cited the OREGON LAW REVIEW of Dec.1953, page 1 wherein a license is a restraint on the individual only after the person is a proven threat to the public, and that one is NOT a threat until AFTER your first accident.

In regards to the former (1) above I gave the example to reply to Rep. Cox's question to speaker #2 of Representative Richard "Stretch" Kennedy, that in reference to plea bargains reducing felonies down to misdemeanors, that in the case from Grafton County Superior Court where/when new Representative Brian Ward of Littleton was the assistant county attorney under John B. Eames, a citizen contacted me after I had run for the office of County Treasurer that there was corruption in his case being the fact that a "naked plea" or verbal plea by a criminal was used against him but not told to the jury who I questioned with two members saying that they would have voted not guilty had they known of this plea during deliberations. The point being that the applicant for such a job needs to be able to correct his file at the crutial time.

In regards to the former and latter in my closing remarks I also made mention of: (1) the fact that former Clerk of Grafton County Superiot Court, Paul A. Gruber, since indicted for insurance fraud, had put down a PG/FG in his report to the State Police, but that after I checked this error of Plead Quilty/Found Guilty, I corrected the first part anyways; and for to follow up what Attorney Sacks said as speaker #7 with speaker #6 of Dennis Murphy, NEA,NH questioned both by Rep. Ward on a Littleton case; plus (2) to respond to Rep. Riley's question of a motor vehicle case to speaker #5 Phil McCormack, Superintendent of Schools SAU29 with seven districts Mr. McCormack saying that halo's are not a requirement, I told the Committee (minus Mr. Riley to read this later) that one may obtain for a $10.00 donation an Abenaki license plate from Chief Homer St.Francis of Swanton, Vermont, who claims most of the land in Vermont and New Hampshire, of which I bought such a plate, but not to use until after my probation ends April 14, 2000.

Note to paragraph #2 above, section (2) input after the question of Rep. Alger to speaker #3 Pat(ricia) Brusell, NH Dept. of Education (sp.?elling), and also to (1) in same paragraph #2 above when I gave the example of the "criminal trespass" charge in my file BUT for complaining to the Town attorney thru open door after being told NOT to enter, but when I was angry after his tax sale bidder had broken down doors to my apartments and extorted rents from my tenants before any court case.

The bottom line: to put some protections in this bill for the applicants.

Yours truly,

Wednesday, February 3rd, 1999

Joseph S. Haas, Jr.
P. O. Box 218
Ashland, N.H. 03217

pc: FAL, the person in paragraph #3 above.

TITLE 15
Education

CHAPTER 189
School Boards, Superintendents, Teachers, And Truant Officers; School Census

School Boards, Transportation and Instruction of Pupils

SECTION 189:13-a

§ 189:13-a School Employee and Volunteer Background Investigations. – I. The employing school administrative unit, school district, or charter school shall complete a background investigation and a criminal history records check on every selected applicant for employment in any position in the school administrative unit, school district, or charter school prior to a final offer of employment. A school administrative unit, school district, or charter school may extend a conditional offer of employment to a selected applicant after completing a background investigation, with a final offer of employment subject to a successfully completed criminal history records check. No selected applicant may be extended a conditional offer of employment unless the school administrative unit, school district, or charter school has initiated a criminal history records check. The school administrative unit, school district, or charter school shall not be held liable in any lawsuit alleging that the extension of a conditional or final offer of employment to an applicant, or the acceptance of volunteer services from a designated volunteer, with a criminal history was in any way negligent or deficient, if the school administrative unit, school district, or charter school fulfilled the requirements of this section.

II. The selected applicant for employment or designated volunteer with a school administrative unit, school district, or charter school shall submit to the employer a notarized criminal history records release form and a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the school administrative unit, school district, or charter school. In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the school administrative unit, school district, or charter school may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where an applicant has lived during the past 5 years.

III. The school administrative unit, school district, or charter school shall submit the criminal history records release form to the New Hampshire state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the state police shall examine the list of crimes constituting grounds for non-approval of employment, or non-acceptance of volunteer services in that school administrative unit, school district, or charter school, and shall report the presence or absence of any such crime to the school administrative unit, school district, or charter school. Under no circumstances shall the

criminal records be released to the school administrative unit, school district, or charter school.

IV. The school administrative unit, school district, or charter school may require the selected applicant for employment or designated volunteer to pay the actual costs of the background investigation and a criminal history records check.

V. Any person who has been convicted of murder, child pornography, aggravated felonious sexual assault, felonious sexual assault, or kidnapping in this state, or under any statute prohibiting the same conduct in another state, territory or possession of the United States, shall not be hired by a school administrative unit, school district, or charter school. By decision of the appropriate governing body, a school administrative unit, school district, or charter school may deny a selected applicant a final offer of employment if such person has been convicted of any felony in addition to those listed above. The governing body may adopt a policy stating that any person who has been convicted of any felony, or any of a list of felonies, shall not be hired.

VI. This section applies to any employee, selected applicant for employment, or designated volunteer with private businesses and agencies, or volunteer organizations which contract with school administrative units, school districts, or charter schools to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel, or any other service where the contractor or employees of the contractor provide services directly to students of the district or charter school. The cost for background investigations, including criminal history records checks, for employees or selected applicants for employment with such contractors shall be borne by the contractor.

VII. The school administrative unit, school district, or charter school shall not be required to complete a background investigation or a criminal history records check on volunteers, provided, however, that the governing body of a school administrative unit, school district, or charter school may adopt a policy designating certain categories of volunteers as "designated volunteers" who may be required to undergo a background investigation and a criminal history records check.

Source. 1993, 324:1. 1995, 260:5, eff. July 1, 1995. 1997, 77:2, eff. Aug. 2, 1997. 1998, 256:6, eff. at 12:01 a.m., Aug. 25, 1998; 314:6, eff. Aug. 25, 1998.

HOUSE COMMITTEE RESEARCH OFFICE
New Hampshire House of Representatives
4th Floor, Legislative Office Building
Concord, New Hampshire 03301
TDD Access: Relay NH
1-800-735-2964

603-271-3600

MEMORANDUM

TO: **Representative Jane E. O'Hearn, Chairman**
Education Committee

FROM: **Ann FitzGerald, Committee Researcher**

DATE: **February 3, 1999**

RE: **Criminal Background Checks**

You requested a listing of recent bills pertaining to criminal background checks

1995 SESSION

HB 378 -FN-L, Requiring that criminal history record inquiries for teachers shall include all 50 states. Rep. Ham, Grafton 4. House Education Committee

House: Re-referred to committee

1996 SESSION

HB 378 -FN-L, Requiring that criminal history record inquiries for teachers shall include all 50 states. Rep. Ham, Grafton 4. House Education Committee

New title: Relative to school employee background investigations.

Senate: Interim Study

HB 1136-L, Relative to criminal history checks for all school employees and applicants. Rep. Melcher, Hills 11, et al. House Education Committee

House: Inexpedient to Legislate

1997 SESSION

HB 102-L, Relative to criminal history checks for all school employee background investigations. Rep. Spear, Straf. 5, et al, House Education

New title: Relative to school employee background investigations.

Chapter 77 of 1997

HB 703-FN-L, Relative to criminal history checks for school personnel. Rep. A. Pelletier, Straf. 12, House Education

House: Inexpedient to Legislate

1998 SESSION

HB 1280 Clarifying the procedures for background criminal checks for school employees and volunteers. Rep. McGillivray, Hills 21, et al, House Education

Senate: Laid on the Table

HB 1226 (New Title) Creating the educational credential of master teacher and clarifying the procedures for background criminal checks for school employees and volunteers. Rep. Estabrook, Straf. 8, et al, House Education

Chapter 314 of 1998

NAYS 105

BELKNAP

Boriso, Thomas	Johnson, James	Lawton, David	Rice, Thomas, Jr.
Thomas, John	Wendelboe, Francine		

CARROLL

Chandler, Gene	Lyman, L. Randy	Mock, Henry	Patten, Betsey

CHESHIRE

Avery, Stephen	Burnham, Daniel	Kingsbury, H. Thayer	Richardson, Barbara
Steere, Myron, III			

COOS

Mears, Edgar

GRAFTON

Chase, Paul, Jr.	Copenhaver, Marion	Guest, Robert	Ham, Bonnie
Mirski, Paul	Nordgren, Sharon	Williams, William, Jr.	

HILLSBOROUGH

Aksten, Cheryl	Alukonis, David	Arnold, Thomas, Jr.	Asselin, Robert
Buckley, Raymond	Burke, M. Virginia	Champagne, Norma	Clegg, Robert, Jr.
Cote, David	Desrosiers, William	Drabinowicz, A. Theresa	Feng, David
Fenton, James	Francoeur, Gary	Gibson, John	Goulet, Maurice
Haettenschwiller, Alphonse	Hall, Betty	Hansen, Herbert	Holley, Sylvia
Hunter, Bruce	Jean, Loren	Krochmal, Mark	Kurk, Neal
L'Heureux, Robert	Lefebvre, Roland	Letendre, Evelyn	Luebkert, Bernard
MacGillivray, Jeffrey	MacIntyre, Doris	Martin, Mary	McRae, Karen
Melcher, Harold	Mittelman, David	O'Rourke, Joanne	Reidy, Frank
Riley, Frances	Sallada, Roland	Showerman, Peter	Taylor, Paul

MERRIMACK

Brown, Mary	Chandler, Earle	Crowell, Peter	Daneault, Gabriel
Dunn, Miriam	Jacobson, Alf	Kennedy, Richard	Langer, Ray
Trombly, Rick	Varsalone, Robert	Wallner, Mary Jane	

ROCKINGHAM

Dodge, Robert	Dolan, Richard	Flanders, David	Gorman, Donald
Henderson, Warren	Kane, Cecelia	Kobel, Rudolph	Malcolm, Ken
McCarthy, John, Jr.	Morris, Debbie	Nowe, Ronald	Packard, Sherman
Pantelakos, Laura	Putnam, Ed, II	Rubin, George	Splaine, James
Syracusa, Anthony	Tufts, J. Arthur	Vaughn, Charles	

STRAFFORD

Berube, Roger	Hanlon, Mark	Hilliard, Dana	McCann, William, Jr.
Musler, George	Sullivan, Henry	Torr, Ralph	Wheeler, Katherine
Williams, Howard			

SULLIVAN

Adler, Rudolf	Scott, Robert	Whipple, Allen

, and the report was adopted.

HB 378-FN-L, requiring that criminal history record inquiries for teachers shall include all 50 states. RE-REFER TO COMMITTEE

Rep. James E. Ross for Education: After extensive discussion by the committee, it was felt that this bill has significant importance to require additional study. Vote 19-0.

Adopted.

AMENDED ANALYSIS

This bill requires the commissioner of the department of corrections to prepare a quarterly report on department of corrections population management.

Adopted.

Report adopted and ordered to third reading.

HB 1406-FN-A, making an appropriation of funds to the department of corrections for the pathways program for fiscal year 1997. OUGHT TO PASS

Rep. Donnalee M. Lozeau for Corrections and Criminal Justice: This bill appropriates $1.08 M to continue funding for an innovative and nationally recognized corrections program when our federal grant runs out in FY 1997. The pathways program is a collaborative effort between the department of corrections, postsecondary education and the office of alcohol and drug abuse prevention to provide education, treatment and career guidance to inmates. The primary goal of the program is to provide job skills and drug treatment that will promote the success of the offender when he returns to the community, thereby reducing recidivism. An added benefit is that judges frequently reduce the sentence of those who complete the program, resulting in lower costs. The actual savings from April to December 1995 was over $800,000. We believe that this bill makes good fiscal sense as well as good corrections policy. Vote 13-3.

Rep. Lozeau yielded to questions.

Adopted and referred to Finance.

HB 1384-FN-L, establishing a division of school purchasing and procurement in the department of education. REFER FOR INTERIM STUDY

Rep. Susan B. Durham for Education: The committee felt that the concept in this bill is not workable in its present form. The Department of Education and State Purchasing Department have offered to work with the committee on a study to see what savings could be achieved through central purchasing. Vote 11-3.

Adopted.

HB 1586-FN, relative to minimum bonding requirements for postsecondary institutions, and the state share of default costs on certain federal student loans, and nursing service required for cancellation of nursing scholarship loan obligations. OUGHT TO PASS

Rep. William S. Belvin for Education: This bill addresses three administrative issues as requested by the Postsecondary Education Commission: increasing minimum bonding levels from $5,000 to $10,000 for postsecondary schools, authorizing part-time nursing employment to allow nursing education loan paybacks, and a charge-back plan from the state to postsecondary institutions where high student loan default rates exist. The committee is concerned that defaulting students pay back their own loans without exposing the state to excess federal liabilities for bad debts. This legislation minimizes state liability in these circumstances. Vote 9-5.

Adopted and ordered to third reading.

HB 357, relative to mental health practice. REFER FOR INTERIM STUDY

Rep. Lawrence A. Emerton, Sr. for Executive Departments and Administration: This major bill seeks to re-organize, up-date and make major changes in the Mental Health Practice Act. This re-referred bill first went to the Health and Human Services committee where six well attended public hearings were held during the summer and fall. That committee made changes within their purview. After passage this month in the house, it was referred to ED&A. Our committee received several amendments prior to hearing the bill and due to the number of people, businesses and agencies affected by the bill, many more licensure type changes are needed. Therefore, because of its licensure, certification and registration complexities; the lack of time to print and notice of public hearings on the proposed amendments; the constraints imposed by house and senate rules, and respecting the numerous hour of work on this bill, our committee feels this bill is well worth the additional study required and recommends interim study. Vote 16-1.

Adopted.

HB 378-FN-L, relative to school employee background investigations. INEXPEDIENT TO LEGISLATE

Rep. Patricia A. Dowling for Finance: This bill, as printed, mandates the school district to complete background investigations on every selected applicant for employment in any posi-

tion in the school administrative unit or school district with the cost being borne by the school district or unit. HB 1136, which is very similar to this bill, is currently going through the proper committees so the issue will be revisited during this session. Vote 24-1.

Rep. Channing Brown spoke against.

The report failed.

Rep. Larson moved Ought to Pass.

Rep. Channing Brown offered a floor amendment.

Floor Amendment (4466L)

Amend RSA 189:13-a, IV-VI as inserted by section 1 of the bill by replacing them with the following:

IV. The school administrative unit or school district may require the selected applicant for employment to pay the actual costs of the background investigation, including a criminal history records check.

V. Any person who has been convicted of murder, child pornography, aggravated felonious sexual assault, felonious sexual assault, or kidnapping in this state, or under any statute prohibiting the same conduct in another state, territory or possession of the United States, shall not be hired by a school administrative unit or school district.

VI. This section applies to any employee or selected applicant for employment with private businesses and agencies which contract with school administrative units or school districts to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel or, any other service where the contractor or employees of the contractor provide services directly to students of the district. The cost for background investigations, including criminal history records checks, for employees or selected applicants for employment with such contractors shall be borne by the contractor.

Amend the bill by replacing section 2 with the following:

2 Application.

I. A school employee background investigation, including a criminal history records check, shall be performed under RSA 189:13-a for an employee working under a contract existing on the effective date of this act, only if the employee was hired after the effective date of this act.

II. A school employee background investigation, including a criminal history records check, shall be performed under RSA 189:13-a for each employee working under a contract entered into after the effective date of this act.

Rep. Larson spoke in favor.

Adopted.

Rep. Larson spoke in favor and yielded to questions.

Substitute report adopted and ordered to third reading.

HB 1574-FN, relative to open access to judicial records. INEXPEDIENT TO LEGISLATE

Rep. Sandra Balomenos Keans for Judiciary and Family Law: Currently, the access to court records is hindered in some counties by a time delay, but they are available. Because of the contract that the courts have with court recorders, they are paid by the page and are the only people authorized to release copies of court records when payment has taken place. If one wants to look at the records before requesting an official copy, it is possible. Vote 10-2.

Rep. Cobbin spoke against.

Rep. Keans spoke in favor and yielded to questions.

Rep. Hart spoke in favor.

Rep. Cobbin requested a roll call; sufficiently seconded. The question being the adoption of the report.

YEAS 221 - NAYS 114

YEAS 221

BELKNAP

Bartlett, Gordon	Boriso, Thomas	Golden, Paul	Holbrook, Robert
Hurt, George	Laflam, Robert	Lawton, Robert	Rosen, Ralph
Smith, Linda	Turner, Robert	Ziegra, Alice	

Beach, Mildred	Bradley, Jeb
Dickinson, Howard, Jr.	Foster, Robe
Mock, Henry	Patten, Bets
Avery, Stephen	Champagne,
Delano, Robert	Feuer, Josep
Manning, Joseph	McNamara,
Richardson, Barbara	Royce, H. C
Bradley, Paula	Coulombe, I
Guay, Lawrence	Hawkinson,
Adams, Carl	Bean, Pame
Chase, Paul, Jr.	Crory, Elizal
Ham, Bonnie	Hill, Richard
Lovett, Sidney	MacNeil, All
Teschner, Douglass	Trelfa, Rich
Ackerman, Philip	Ahern, Richl
Amidon, Eleanor	Brundige, F
Chabot, Robert	Clemons, J
Dodge, Emma	Dokmo, Cy
Dyer, Merton	Emerton, L
Foster, Joseph	Foster, Lin
Haettenschwiller, Alphonse	Hall, Betty
Herman, Keith	Holden, Ca
Jean, Claudette	Johnson, L
L'Heureux, Robert	LaRose, R
MacIntyre, Doris	Marcinkow
Mercer, Robert	Messier, Ir
Murphy, Robert	O'Hearn, .
Pepino, Leo	Perkins, P
Riley, Frances	Sargent, M
Soucy, Donna	Streeter, J
Turgeon, Roland	Wheeler, I
Boermeester, Henry	Chandler,
DeStefano, Stephen	Dunn, Mir
Jacobson, Alf	Langer, R
Morrill, Olive	Newland,
Rogers, Katherine	Trombly, I
Weeks, John, Jr.	Whittemo
Aranda, M. Kathryn	Battles, M
Case, Margaret	Christie, .
Conroy, Janet	Cote, Pat
Flanagan, Natalie	Flanders,
Hawkins, Robert	Johnson,
Lee, Rebecca	Magoon,
Nowe, Ronald	Noyes, F

(b) [Is involved in] ***Causes*** a motor vehicle [accident] ***collision*** resulting in serious bodily injury, as defined in RSA 625:11, ***to the person or another,*** or

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion or abandoning a vehicle while being pursued;

II. While [he has] ***having*** an alcohol concentration of 0.08 or more and, at the time alleged:

(a) Drives at a speed more than 30 miles per hour in excess of the prima facie limit,

(b) [Is involved in] ***Causes*** a motor vehicle [accident] ***collision*** resulting in serious bodily injury, as defined in RSA 625:11, ***to the person or another,*** or

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion or abandoning a vehicle while being pursued; or

III. While [he has] ***having*** an alcohol concentration of [0.20] ***0.16*** or more.

HB 1437, permitting certain convicted felons to possess rifles, shotguns and archery equipment for hunting or target practice. INEXPEDIENT TO LEGISLATE

Rep. Vivian L. Dunham for Corrections and Criminal Justice: The committee did not oppose the concept of the bill but did feel that passage of the bill would seem to place New Hampshire law in conflict with federal law. As there is already in place an annulment procedure by which convicted felons may apply to have such rights restored, the sentiment was to let that process stand. The sponsor concurred. Vote 15-0.

HB 1583, relative to driving while under the influence of a controlled drug or a combination of intoxicating liquor and any detectable amount of a controlled drug. INEXPEDIENT TO LEGISLATE

Rep. Everett A. Weare for Corrections and Criminal Justice: The current law adequately covers the purpose and intent of this bill. Vote 15-0.

HB 1136-L, relative to criminal history checks for all school employees and applicants. INEXPEDIENT TO LEGISLATE

Rep. Barbara L. Spear for Education: The content of this bill was covered by re-referred HB 378 which was passed earlier this session. Vote 15-0.

HB 1112, establishing a committee to study the investment practices of the New Hampshire retirement system. OUGHT TO PASS WITH AMENDMENT

Rep. Merton S. Dyer for Executive Departments and Administration: The amendment to the bill corrects the terminology to the prudent investor rule which is the present rule governing the investment policy of the New Hampshire Retirement System. This review of the investment results and practices of the New Hampshire Retirement System under the prudent investor rule will provide valuable information to the general court in assessing the continuation of the prudent investor rule to be considered in 1998. Vote 13-0.

Amendment (4606L)

Amend paragraph II of section 3 of the bill by replacing it with the following:

II. Implementation of the prudent investor rule.

HB 1287, allowing federal income tax withholding from unemployment compensation. OUGHT TO PASS

Rep. Benjamin C. Baroody for Labor, Industrial and Rehabilitative Services: This will bring New Hampshire law in conformity with federal law and was requested by the Department of Employment Security. Vote 14-0.

HB 1166-L, expanding the veterans' tax credit. INEXPEDIENT TO LEGISLATE

Rep. Robert W. Brundige for Municipal and County Government: The committee believes the law in its present form accurately expresses the intent of the legislature. This bill does not reflect that intent. Vote 15-0.

HB 1434-L, clarifying the definition of facility for the purposes of property tax exemptions for water and air pollution control facilities. OUGHT TO PASS WITH AMENDMENT

Rep. Linda T. Foster for Municipal and County Government: Our committee addresses many diverse issues. This legislative initiative, however, necessitates the assimilation of more information from scientific and technological experts. A study committee will allow a thorough examination of this issue from all perspectives. Vote 14-0.

V. It is unlawful to transport any alcoholic beverage, except when accompanied by a parent, legal guardian or legal age spouse, or when such transportation is within the course of legal employment.

VI. It is unlawful to be in possession of any alcoholic beverage, except when such possession is within the course of legal employment.

VII. Any other information concerning driving responsibility that the director deems necessary.

AMENDED ANALYSIS

This bill requires the department of safety to inform any person under 21 years of age of the state's DWI laws before issuing a driver's license.

HB 514-FN, relative to penalties for driving while intoxicated or under the influence of drugs for persons under 21 years of age. INEXPEDIENT TO LEGISLATE

Rep. L. Randy Lyman for Criminal Justice and Public Safety: This bill has the effect of weakening the DWI laws for offenders under 21, the legal drinking age. At the discretion of the court, a judge could suspend a portion of the minimum mandatory fine if the blood alcohol count was more than 0.02 , but less than 0.08. There was testimony on both sides of this issue but in the end, the committee recommended inexpedient to legislate as we felt we should not weaken any of the D.W.I. laws. Vote 13-0.

HB 767-FN, relative to violation of court orders regarding child custody. RE-REFER TO COMMITTEE

Rep. Herbert R. Hansen for Criminal Justice and Public Safety: The testimony that the committee heard indicated that the intent of the bill was sound, but that it needed additional work to be satisfactory. Consequently, the committee voted unanimously to re-refer the bill. Vote 17-0.

HB 703-FN-L, relative to criminal history checks for school personnel. INEXPEDIENT TO LEGISLATE

Rep. Arthur Pelletier for Education: The sponsor recommended that the committee find the bill inexpedient as the subject matter was adequately addressed in HB 102. Vote 19-0.

HB 808, changing the optional term of the school district clerk, moderator and treasurer. OUGHT TO PASS

Rep. Richard L. Hill for Education: This bill allows all school districts to vote for either a one year, two year or a three year term for school district clerk, moderator and treasurer. This is a change from present RSA 671:6-a III from either one year term or a three year term. Vote 13-0.

HB 372, relative to age and domicile requirements for candidacy for public office. OUGHT TO PASS WITH AMENDMENT

Rep. Joseph A. Foster for Election Law: This bill will assist certain cities and towns which have found it difficult to staff the polls on election day by permitting anyone 17 years of age or older who is otherwise qualified to work at the polls. Current law requires individuals to be at least 18 years old. This bill also repeals a law that relates to obsolete voting machines. Vote 14-0.

Amendment (0413h)

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

AN ACT relative to age requirements for assistant election officials.

Amend the bill by deleting section 1 and renumbering the original sections 2-4 to read as 1-3, respectively.

AMENDED ANALYSIS

I. Requires that assistant election officers be at least 17 years of age before initiating official duties.

II. Removes the law relative to listing of names of candidates on primary ballots.

HB 430, relative to registration of political committees. OUGHT TO PASS WITH AMENDMENT

Rep. Thomas I. Arnold, Jr. for Election Law: This bill requires political committees to have either a treasurer or agent who is a citizen of New Hampshire upon whom service may be made. It also eliminates certain laws related to advertising which are unenforceable due to recent supreme court decisions. It further modifies registration and reporting requirements for political committees. The committee determined that each of these changes is beneficial. Vote 17-0.

Amend the title of the bi
AN ACT relative to reg
contributions.

Amend the bill by replac
1 Registration of Politica

I. Any political comm
with the secretary of state
retary of state [~~before rece~~
contribution in excess of $
~~litical committee register w~~
~~any primary election~~] ***in ex***
which shall be deposited b
the political committee of
pay the $50 fee. ***Each poli***
of this state and who is aut
the political committee, an
the political committee. Th
of the purpose of the comm
dent expenditures in suppo
~~candidate,~~] a statement of
[~~chairman~~] ***chairperson***, t
~~chairman and treasurer th~~
~~allowed under RSA 664:5~~.

II. No member of a p
except members of politic
on behalf of the committe
candidate, [~~until the staten~~
~~that have filed a declarati~~
~~may make such expenditu~~

2 Prohibited Political E

I. By a political con
political committee [~~files~~
664:3, I.

II. By a political con
such candidate or [~~his~~] ***t***
written consent of the can
accordance with RSA 66

3 Reporting by Politic

IV-a. Any political
shall file an itemized stat
ditures are made, and the
shall cover the period dur
ment shall include a ce
meets the definition in I
pendent expenditure; the
name of the candidate or
of each expenditure; the
independent expenditure
than one candidate, the
expenditure was made a
graph, "reasonable basis
expected to be derived
shall be in addition to a
the filing periods during

4 Committee Treasur

2 Long-term Care Insurance Coverage. Amend RSA 141-H:4 and RSA 141-H:5 to read as follows:
141-H:4 Use of Genetic Testing in Health Insurance ***and Long-term Care Insurance***. [~~A health~~] An insurer in connection with providing health insurance ***or long-term care insurance*** shall not:

I. Require or request directly or indirectly any individual or a member of the individual's family to undergo genetic testing.

II. Require or request directly or indirectly any individual to reveal whether the individual or a member of the individual's family has undergone genetic testing or the results of the testing, if undergone by the individual or a member of the individual's family.

III. Condition the provision of health insurance coverage, ***long-term care insurance coverage,*** or health care benefits on whether an individual or a member of the individual's family has undergone genetic testing or the results of the testing, if undergone by the individual or a member of the individual's family.

IV. Consider in the determination of rates or any other aspect of health insurance coverage, ***long-term care insurance coverage,*** or health care benefits provided to an individual whether an individual or a member of the individual's family has undergone genetic testing or the results of the testing, if undergone by the individual or a member of the individual's family.

141-H:5 Use of Genetic Testing in Life[;] ***and*** Disability Income[~~, and Long-term Care~~] Insurance

I. Except as provided in paragraph II of this section, ***when the cumulative potential benefits payable under one or more life insurance policies issued to one individual exceed $250,000 and such policies are not a part of a group benefit or group policy***, the provisions of this chapter shall not apply to the provision of life insurance[;] ***or*** disability income insurance[~~, or long-term care insurance~~].

II. A person in the business of providing [~~life,~~] disability income[~~, or long-term care~~] insurance who obtains information with respect to any genetic testing of an individual or a member of the individual's family shall not use that information in writing a type of insurance coverage other than [~~life,~~] disability income[~~, or long-term care~~] insurance. ***A person in the business of providing life insurance who obtains information with respect to any genetic testing of an individual or a member of the individual's family shall not use that information in writing any type of insurance coverage except for life insurance when the cumulative potential benefits payable under policies issued to one individual exceed $250,000 and such policy is not a part of a group benefit or group policy.***

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

AMENDED ANALYSIS

This bill provides that an insurer providing long-term care insurance shall not require persons to undergo genetic testing unless under the terms of an employee benefit plan.

This bill also states that the law prohibiting genetic testing for life insurance purposes does not apply when the cumulative potential benefits of such a policy issued to one individual exceeds $250,000 and such policy is not a part of a group benefit or group policy.

Rep. Vachon spoke in favor.

Rep. Herman spoke against and yielded to questions.

On a division vote, 138 members having voted in the affirmative and 192 in the negative, the floor amendment failed.

Report adopted and ordered to third reading.

HB 102, relative to criminal history checks for all school employees and applicants. OUGHT TO PASS WITH AMENDMENT

Rep. Michael Marcinkowski for Education: The committee spent considerable time discussing the implications of this bill and the majority concluded that pupil safety was paramount. In addition it identifies the responsibility for a criminal history check to be best handled at the point of employment. The amendment included charter schools, and a provision to allow the current yearly criminal history check for contracted school bus drivers. Vote 17-2.

Amendment (0298h)

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

AN ACT relative to school employee background investigations.

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

1 Statement of Intent. It is the intent of this act to provide safe environments for pupils and to provide criminal history checks for those persons who are regularly in contact with pupils in the performance of their duties. It is not the intent to unduly burden volunteers and other such persons, contractors, or subcontractors who are not regularly in contact with pupils.

2 School Employee Background Investigations. RSA 189:13-a is repealed and reenacted to read as follows:

189:13-a School Employee Background Investigations.

I. The employing school administrative unit, school district, or charter school shall complete a background investigation, including a criminal history records check, on every selected applicant for employment in any position in the school administrative unit, school district, or charter school prior to a final offer of employment.

II. The selected applicant for employment with a school administrative unit, school district, or charter school shall submit to the employer a notarized criminal history records release form and a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the school administrative unit, school district, or charter school.

III. The school administrative unit, school district, or charter school shall submit the criminal history records release form to the New Hampshire state police which shall conduct a criminal history record inquiry through its records and through the Federal Bureau of Investigation.

IV. The school administrative unit, school district, or charter school may require the selected applicant for employment to pay the actual costs of the background investigation, including a criminal history records check.

V. Any person who has been convicted of murder, child pornography, aggravated felonious sexual assault, felonious sexual assault, or kidnapping in this state, or under any statute prohibiting the same conduct in another state, territory or possession of the United States, shall not be hired by a school administrative unit, school district, or charter school.

VI. This section applies to any employee or selected applicant for employment with private businesses and agencies which contract with school administrative units, school districts, or charter schools to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel or, any other service where the contractor or employees of the contractor provide services directly to students of the district or charter school. The cost for background investigations, including criminal history records checks, for employees or selected applicants for employment with such contractors shall be borne by the contractor.

3 Application.

I. A school employee background investigation, including a criminal history records check, shall be performed, under RSA 189:13-a, for an employee working under a contract existing on the effective date of this act, only if the employee was hired after the effective date of this act.

II. A school employee background investigation, including a criminal history records check, shall be performed under RSA 189:13-a for each employee working under a contract entered into after the effective date of this act.

III. The provisions of RSA 189:13-a shall not prohibit more frequent criminal history records checks required by law, in addition to those required under RSA 189:13-a.

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

Adopted.

Report adopted and ordered to third reading.

HB 501, including blindness in the special education provisions, and allowing attorneys to act as neutrals in special education dispute resolution. OUGHT TO PASS

Rep. Susan B. Durham for Education: There are two components to the bill. The first concerns the Alternative Dispute Resolution Process, instead of the expense of a formal hearing to adjudicate the appropriateness of an I.E.P. (Individualized Education Plan). A study has shown that special education disputes are more likely to be settled without a formal hearing when the administrative officer assigned to the case is a lawyer The second component, including blindness in the definition for special education, is for clarity in the visually impaired definition. Vote 14-6.

Adopted and referred to Finance.

HB 314, relative to spending caps for state political candidates. INEXPEDIENT TO LEGISLATE

Rep. C. Donald Stritch for Election Law: The committee felt that the present penalties were sufficient at this time and do not need adjustment. Vote 13-2.

Adopted.

H

HB 354, repealing the exempti
porting requirements. MAJORI
Rep. C. Donald Stritch for the
emptions for certain political
cluded in HB 356. Vote 8-7.
Rep. Raymond C. Buckley fo
argument can be made for this
ing candidates to hide the nam
ticket price. This loophole nee
Reps. Buckley and Arndt spok
Majority report adopted.

HB 355, relative to prohibited
LATE. MINORITY: OUGHT
Rep. C. Donald Stritch for the
bution that may be made in bel
feels should be fully examine
Rep. Jane A. Clemons for the
compliance with the U.S. con
decreasing the $5,000 amount
ity with the New Hampshire c
have so far accomplished noth
Rep. Buckley spoke in favor.
Majority report adopted.

HB 356, relative to reportin
MAJORITY: RE-REFER TO
Rep. C. Donald Stritch for El
porting was sufficient but felt
are some issues regarding fina
committee would like to peru
Rep. Raymond C. Buckley fo
HB 356 which increases discl
quirement from $500 to $250.
from the current $25. HB 356
Majority report adopted.

HB 374-FN-L, establishing 4
numbering state representative
ITY: OUGHT TO PASS.
Rep. Thomas I. Arnold, Jr. for
that although individual distr
between/among entrenched in
another, and b) newcomer asp
Rep. Raymond C. Buckley fo
on-one house races without ch
would require each house cand
same physical district—the or
The minority believes that this
able to the public.
Majority report adopted.

HB 379-FN, relative to repor
ate president. OUGHT TO PA
Rep. Lynn C. Horton for Ele
contributions for Speaker of t
public record. Vote 15-0.

of Energy, the chairpersons of the committees of the United States Congress having jurisdiction over electric utility restructuring, and to each member of the New Hampshire congressional delegation.

[Approved: May 21, 1997]

CHAPTER 76 (SB 164)

AN ACT ESTABLISHING A COMMITTEE TO STUDY THE ESTABLISHMENT OF A REGISTRY FOR INTELLECTUAL PROPERTY.

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

76:1 Committee Established. There is established a committee to study the establishment of a registry for intellectual property.

76:2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, or designees, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

II. The members of the committee shall solicit input from the Franklin Pierce Law Center and other appropriate institutions and people, as the committee deems relevant.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

76:3 Duties. The committee shall study the feasibility of establishing a registry for intellectual property, which shall include copyrights, patents, and trademarks.

76:4 Chairperson. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

76:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 1997.

76:6 Effective Date. This act shall take effect upon its passage.

[Approved: May 21, 1997]
[Effective Date: May 21, 1997]

CHAPTER 77 (HB 102)

AN ACT RELATIVE TO SCHOOL EMPLOYEE BACKGROUND INVESTIGATIONS.

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

77:1 Statement of Intent. It is the intent of this act to provide safe environments for pupils and to provide criminal history checks for those persons who are regularly in contact with pupils in the performance of their duties. It is not the intent to unduly burden volunteers and other such persons, contractors, or subcontractors who are not regularly in contact with pupils.

77:2 School Employee Background Investigations. RSA 189:13-a is repealed and reenacted to read as follows:

189:13-a School Employee Background Investigations.

I. The employing school administrative unit, school district, or charter school shall complete a background investigation, including a criminal history records check, on every selected applicant for employment in any position in the school administrative unit, school district, or charter school prior to a final offer of employment.

II. The selected applicant for employment with a school administrative unit, school district, or charter school shall submit to the employer a notarized criminal history records release form and a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the school administrative unit, school district, or charter school.

III. The school administrative unit, school district, or charter school shall submit the criminal history records release form to the New Hampshire state police which shall conduct a criminal history record inquiry through its records and through the Federal Bureau of Investigation.

IV. The school administrative unit, school district, or charter school may require the selected applicant for employment to pay the actual costs of the background investigation, including a criminal history records check.

V. Any person who has been convicted of murder, child pornography, aggravated felonious sexual assault, felonious sexual assault, or kidnapping in this state, or under any statute prohibiting the same conduct in another state, territory or possession of the United States, shall not be hired by a school administrative unit, school district, or charter school.

VI. This section applies to any employee or selected applicant for employment with private businesses and agencies which contract with school administrative units, school districts, or charter schools to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel, or any other service where the contractor or employees of the contractor provide services directly to students of the district or charter school. The cost for background investigations, including criminal history records checks, for employees or selected applicants for employment with such contractors shall be borne by the contractor.

77:3 Application.

I. A school employee background investigation, including a criminal history records check, shall be performed, under RSA 189:13-a, for an employee working under a contract existing on the effective date of this act, only if the employee was hired after the effective date of this act.

II. A school employee background investigation, including a criminal history records check, shall be performed under RSA 189:13-a for each employee working under a contract entered into after the effective date of this act.

III. The provisions of RSA 189:13-a shall not prohibit more frequent criminal history records checks required by law, in addition to those required under RSA 189:13-a.

77:4 Effective Date. This act shall take effect 60 days after its passage.

[Approved: June 3, 1997]
[Effective Date: August 2, 1997]

18feb98.....0524h

25march98....1084h

5/28/98 1930s

10jun98.....2076-EBA

1998 SESSION

98-2005

04/08

HOUSE BILL ***1226-FN***

AN ACT creating the educational credential of master teacher and clarifying the procedures for background criminal checks for school employees and volunteers.

SPONSORS: Rep. Estabrook, Straf 8; Rep. Yeaton, Merr 10; Rep. Dearborn, Rock 23; Rep. Hill, Graf 1; Sen. Gordon, Dist 2

COMMITTEE: Education

AMENDED ANALYSIS

This bill creates the educational credential of master teacher which allows properly certified teachers to mentor, supervise, and evaluate other teachers. The bill also clarifies the procedures for conducting background checks for school employees and allows a governing body to decide if an application for school employment may be denied if a person has been convicted of a felony.

- -

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.

18feb98.....0524h

25march98....1084h

5/28/98 1930s

10jun98.....2076-EBA

98-2005

04/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Eight

AN ACT creating the educational credential of master teacher and clarifying the procedures for background criminal checks for school employees and volunteers.

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

314:1 New Subparagraph; State Board of Education; Rulemaking; Creating the Educational Credential of Master Teacher. Amend RSA 21-N:9, II by inserting after subparagraph (y) the following new subparagraph:

(z) Establishing the educational credential of master teacher as provided in RSA 189:14-f.

314:2 New Paragraph; Teaching Certification. Amend RSA 186:8 by inserting after paragraph III the following new paragraph:

IV. Certification standards for advanced teaching credentials, including administering the master teacher credential as provided in RSA 189:14-f.

314:3 New Paragraph; Certification Standards For The Credential of Master Teacher. Amend RSA 186:11 by inserting after paragraph XXXIV the following new paragraph:

XXXV. CERTIFICATION STANDARDS FOR THE CREDENTIAL OF MASTER TEACHER. Adopt rules creating the educational credential of master teacher based on the provisions of RSA 189:14-f.

314:4 New Section; Master Teacher. Amend RSA 189 by inserting after section 14-e the following new section:

189:14-f Master Teacher.

I. The state board of education shall establish the educational credential of master teacher and grant it to those persons who have fulfilled at least the following requirements:

(a) Academic preparation which shall include a master's-level degree and graduate coursework in curriculum development, supervision, and evaluation;

(b) Teaching experience, including at least 7 years during which a teaching certificate was held; and

(c) Demonstrated quality teaching to be satisfied by meeting professional criteria developed by the professional standards board and approved by the state board of education, which criteria shall include:

(1) Quantitative evaluations of teaching quality from students, parents, peers, and administrators;

(2) At least 3 classroom observations of the candidate by an independent observer from outside the candidate's school district; and

(3) At least 4 significant and rigorous written tasks and exercises.

II. The purposes of the credential are to allow experienced teachers an opportunity for professional growth and development, and to identify highly qualified, experienced teachers to serve as resources in their areas of expertise in curriculum development, mentoring, supervising, evaluating teachers, and in other areas as may be determined by their schools and school districts. III. Master teachers shall have no authority to effectively recommend any personnel action. However, their activities may form the basis for an independent administrative performance review.

314:5 Progress Report. The state board of education shall report on its progress in implementing the master teacher credential no later than July 1, 1999 to the education committees of the house and senate.

314:6 School Employee and Volunteer Background Investigations. Amend RSA 189:13-a to read as follows:

189:13-a School Employee ***and Volunteer*** Background Investigations.

I. The employing school administrative unit, school district, or charter school shall complete a background investigation[; ~~including~~] ***and*** a criminal history records check[;] on every selected applicant for employment in any position in the school administrative unit, school district, or charter school prior to a final offer of employment. ***A school administrative unit, school district, or charter school may extend a conditional offer of employment to a selected applicant after completing a***

background check, with a final offer of employment subject to a successfully completed criminal history records check. No selected applicant may be extended a conditional offer of employment unless the school administrative unit, school district, or charter school has initiated a criminal history records check. The school administrative unit, school district, or charter school shall not be held liable in any lawsuit alleging that the extension of a conditional offer of employment to an applicant with a criminal history was in any way negligent or deficient, if the school administrative unit, school district, or charter school fulfilled the requirements of this section.

II. The selected applicant for employment with a school administrative unit, school district, or charter school shall submit to the employer a notarized criminal history records release form and a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the school administrative unit, school district, or charter school. *In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the school administrative unit, school district, or charter school may, in lieu of fingerprints, accept police clearances from every city or town where an applicant has lived during the past 5 years.*

III. The school administrative unit, school district, or charter school shall submit the criminal history records release form to the New Hampshire state police which shall conduct a criminal history record inquiry through its records and through the Federal Bureau of Investigation. *The school administrative unit, school district, or charter school shall assure confidentiality of an employee's, applicant's, or volunteer's criminal record report upon receipt of that report from the division of state police and the Federal Bureau of Investigation. An employee's report shall be maintained only in the employee's file, and only authorized personnel, as determined by the school administrative unit, school district, or charter school shall have access to such record.*

IV. The school administrative unit, school district, or charter school may require the selected applicant for employment *or designated volunteer* to pay the actual costs of the background investigation[~~, including~~] *and* a criminal history records check.

V. Any person who has been convicted of murder, child pornography, aggravated felonious sexual assault, felonious sexual assault, or kidnapping in this state, or under any statute prohibiting the same conduct in another state, territory or possession of the United States, shall not be hired by a

school administrative unit, school district, or charter school. ***By decision of the appropriate governing body, a school administrative unit, school district, or charter school may deny a selected applicant a final offer of employment if such person has been convicted of any felony in addition to those listed above.***

VI. This section applies to any employee [~~or~~], selected applicant for employment, ***or designated volunteer*** with private businesses and agencies, ***or volunteer organizations*** which contract with school administrative units, school districts, or charter schools to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel, or any other service where the contractor or employees of the contractor provide services directly to students of the district or charter school. The cost for background investigations, including criminal history records checks, for employees or selected applicants for employment with such contractors shall be borne by the contractor.

VII. The employing school administrative unit, school district, or charter school shall not be required to complete a background investigation or a criminal history records check on volunteers, provided, however, that a school district may adopt a policy pertaining to volunteers who may be required to undergo a background investigation, including a criminal history records check.

314:7 Contingency. If HB 1428 of the 1998 session becomes law, RSA 21-N:9, II(z), as inserted by section 1 of this act, shall be redesignated as RSA 21-N:9, II(bb), and RSA 186:8, IV, as inserted by section 2 of this act, shall be redesignated as RSA 186:8, V.

314:8 Effective Date. This act shall take effect 60 days after its passage.

(Approved: June 26, 1998)

(Effective Date: August 25, 1998)

LBAO

98-2005

11/24/97

HB 1226-FN - FISCAL NOTE

AN ACT creating the educational credential of master teacher and clarifying the procedures for background criminal checks for school employees and volunteers.

FISCAL IMPACT:

The Department of Education indicates this bill will increase state restricted revenue and state restricted expenditures by an indeterminable amount beginning in FY 1998 and each year thereafter. There will be no impact on county and local revenue or expenditures.

METHODOLOGY:

The Department states a subcommittee of the Professional Standards Board would have to convene to develop an assessment instrument for the program. The Department cannot estimate the cost to administer the program in the bill. The cost will be recouped from the candidate through a certification fee.

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY
DIVISION OF STATE POLICE

COMMITMENT AND DEDICATION WITHOUT COMPROMISE

FAX REQUEST

DATE October 7, 1999

TO Ms. Ann Fitzgerald FAX NUMBER 271-6689

ATTENTION _____ TELEPHONE/EXTENSION _____

FROM Jeff Kellett FAX LOCATION 271-2339

NUMBER OF PAGES 5 INCLUDING COVER SHEET

SPECIAL REMARKS Per Request of Rep Ward & DOS Ass't Commissioner Stephen, are proposed changes to HB 304.

SENT BY (NAME) J. Kellett DATE 10/7/99

OFFICE Criminal Records TIME 1645 hrs

STATE POLICE FAX LOCATIONS:		FAX NUMBER	BUSINESS NUMBER
HQ	CONCORD	271-1153	271-3636
TROOP A	EPPING	679-8112	679-3333
TROOP B	MILFORD	673-5038	672-3333
TROOP C	KEENE	358-6749	358-3333
TROOP D	BOW	225-2375	271-3333
TROOP E	TAMWORTH	323-8113	323-3333
TROOP F	TWIN MT.	846-5080	846-3333

STATE OF NEW HAMPSHIRE

Inter-Department Communication

To:	**Ann Fitzgerald**	**Date:**	**October 7, 1999**
From:	**Jeff Kellett, Administrator**	**Office:**	**State Police Criminal Records**

Subject: **HB 304; Sexually-related and youth-related misdemeanor RSAs**

Here is a list of the RSAs Representative Ward requested at the last Education Sub-committee meeting, for possible inclusion in RSA 189:13-a, Section V. If you have any questions, please call me at 271-2500. Thank you.

Sexually-related and youth-related misdemeanor RSAs:

639:2 Incest
639:3 Endangering the welfare of a child or incompetent
645:1 Indecent exposure and lewdness
645:2 Prostitution and related offenses
649-A:3 Child Pornography offenses
649-B:3 Computer Pornography
649-B:4 Certain Uses of Computer Services Prohibited
650:2 Offenses (Obscene Matter)
629:1 Attempt (to commit any one of the above offenses)

HB 304 - AS INTRODUCED

99-0608
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT Relative to the confidentiality of criminal history records checks.

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

1 Education; School Boards, Transportation and Instruction of Pupils; School Employee and Volunteer Background Investigation; Criminal History Records Information. RSA 189:13-a, II, and III are repealed and reenacted to read as follows:

II. The selected applicant for employment or designated volunteer with a school administrative unit, school district, or charter school shall submit to the employer a notarized criminal history records release form, **promulgated by the Division of State Police, which requires release of the presence or absence of any such crime listed in Section V. Also,** a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the school administrative unit, school district, or charter school, **shall be submitted with the release form.** In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the school administrative unit, school district, or charter school may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where an applicant has lived during the past 5 years.

III. The school administrative unit, school district, or charter school shall submit the criminal history records release form to the New Hampshire state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. **Upon completion**

of the background investigation, the state police shall examine the list of crimes constituting grounds for non-approval of employment, or non-acceptance of volunteer services in that school administrative unit, school district, or charter school. Under no circumstances shall the criminal records be released to the school administrative unit, school district, or charter school. The school administrative unit, school district, or charter school shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph. If the criminal history records information indicates no criminal record, the school administrative unit, school district, or charter school shall destroy the information received immediately following its review of the information. If the criminal history records information indicates a criminal record, **under Section V,** the school administrative unit, school district, or charter school shall review the information for a hiring decision, **and the division of state police shall also notify the department of education of any such convictions.**

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

New Hampshire Department of Safety

DIVISION OF STATE POLICE

Central Repository for Criminal Records
10 Hazen Drive, Concord, NH 03305

CRIMINAL RECORD RELEASE AUTHORIZATION FORM

SCHOOL EMPLOYEE BACKGROUND INVESTIGATION - RSA 189:13-a

I hereby authorize the New Hampshire Department of Safety, Division of State Police to release whether or not I have been convicted of any offenses pursuant to RSA 189:13-a, Section V. This information shall be released to:

_____ (Name)
_____ (Title)
_____ (Address)
_____

(Name and address of authorized representative of the employing school administrative unit, school district, charter school, or other person to receive Criminal History Record response)

PLEASE TYPE OR PRINT CLEARLY - ALL INFORMATION IS MANDATORY

Name: _____
LAST (MAIDEN) FIRST MI

Address: _____
STREET CITY STATE ZIP

Date of Birth: ____/____/____ **Social Security #:** ____/____/____

By signing below you are certifying that you are the individual listed above and that the information provided is true under penalty of forgery and/or unsworn falsification.

Releasee's Signature: _____ **Date:** ____/____/____

Notary's Signature: _____ **Date:** ____/____/____
(Affix seal)

Fees: $28 for volunteers, $34 for employees. Please make checks payable to: State of NH- Criminal Records.

Voting Sheets

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 304

BILL TITLE: **relative to the confidentiality of criminal history records checks.**

DATE: March 11, 1999

LOB ROOM: 207

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Phil Weber

Seconded by Rep. Brien Ward

Vote: 18-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Yes

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Bruce L. Dearborn

Rep. Bruce L. Dearborn, Clerk

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 304

BILL TITLE: **relative to the confidentiality of criminal history records checks.**

DATE: 3-11

LOB ROOM: 207

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Weber

Seconded by Rep. Ward

Vote: 8-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.) Hoadley Jean

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Bruce L. Dearborn, Clerk

EDUCATION

1999 SESSION

HB304 Bill #

Public Hearings _____ Executive Session _____

COMMITTEE REPORT: _____

	YEAS	NAYS
O'Hearn, Jane E, Chairman	✓	
Durham, Susan B, V Chairman	✓	
Dearborn, Bruce L, Clerk	✓	
Henderson, Warren C	✓	
Larrabee, David E, Sr	✓	
Weber, Phil A	✓	
Hoadley, Elizabeth K	✓	
Rabideau, Marie N		
Flint, Gordon B, Sr		
McKinley, Robert E	✓	
Davis, Perley E	✓	
Alger, John R M	✓	
Cox, Russell N	✓	
Ward, Brien L	✓	
Guest, Robert H	✓	
Riley, William A		
Yeaton, Charles B	✓	
Snyder, Clair A	✓	
Jean, Claudette R	✓	
Pelletier, Arthur J		
Estabrook, Iris W	✓	
White, John M	✓	
TOTAL VOTE		

Appeared in Favor	Appeared in Opposition

18-0 ON BILL

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on Amendment to HB 304

BILL TITLE: 2910S

DATE: 10-27-99

LOB ROOM: 207

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: (OTP) OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Ward

Seconded by Rep. McKenney

Vote: 18-0 (Please attach record of roll call vote.)

Motions: OTP, (OTP/A), ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Ward

Seconded by Rep. McKenney

Vote: _____ (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: _____

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Bruce L. Dearborn, Clerk

EDUCATION 1999 SESSION

HB 304 Bill #

Public Hearings _____ Executive Session _____

COMMITTEE REPORT: _____

	YEAS	NAYS
O'Hearn, Jane E, Chairman	✓	
Durham, Susan B, V Chairman	✓	
~~Searles, Stanley N, Sr~~		
Dearborn, Bruce L, Clerk	✓	
~~Henderson, Warren C~~		
Larrabee, David E, Sr	✓	
Weber, Phil A	✓	
~~Headley, Elizabeth R~~		
Flint, Gordon B, Sr	✓	
McKinley, Robert E	✓	
Davis, Perley E	✓	
Alger, John R M	✓	
Cox, Russell N	✓	
Ward, Brien L	✓	
Sullivan, P Judith	✓	
~~Guest, Robert H~~		
Riley, William A	✓	
Yeaton, Charles B	✓	
~~Snyder, Clair A~~		
Jean, Claudette R	✓	
Pelletier, Arthur J	✓	
Estabrook, Iris W	✓	
White, John M	✓	
TOTAL VOTE		

Appeared in Favor	Appeared in Opposition
18 yea 0 nay	

10/24

EDUCATION 1999 SESSION

HB204 Bill # OTPasA.

Public Hearings _____ Executive Session _____

COMMITTEE REPORT: _____

	YEAS	NAYS
O'Hearn, Jane E, Chairman	✓	
Durham, Susan B, V Chairman	✓	
Searles, Stanley N, Sr		
Dearborn, Bruce L, Clerk	✓	
Henderson, Warren C		
Larrabee, David E, Sr	✓	
Weber, Phil A	✓	
Hoadley, Elizabeth K		
Flint, Gordon B, Sr	✓	
McKinley, Robert E	✓	
Davis, Perley E	✓	
Alger, John R M	✓	
Cox, Russell N	✓	
Ward, Brien L	✓	
Sullivan, P Judith	✓	
Guest, Robert H		
Riley, William A	✓	
Yeaton, Charles B	✓	
Snyder, Clair A		
Jean, Claudette R	✓	
Pelletier, Arthur J	✓	
Estabrook, Iris W	✓	
White, John M	✓	
TOTAL VOTE		

Appeared in Favor	Appeared in Opposition
1 Rep yea 0 nay	

10/24

Committee Report

COMMITTEE REPORT

COMMITTEE: **Education**

BILL NUMBER: **HB 304**

TITLE: relative to the confidentiality of criminal history records checks.

DATE: March 11, 1999 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☒ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The members agree that discussion of a range of offenses is needed to do a criminal history check in the schools. The committee will, in addition, be working with the Dept. of Safety and the Criminal Justice Committee to pass a bill, which will fulfill the objectives of the intent, which is to insure the safety of the pupils in our schools.

Vote 18-0.

Rep. Phil Weber
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Education

HB 304, relative to the confidentiality of criminal history records checks. RE-REFER

Rep. Phil Weber for **Education:** The members agree that discussion of a range of offenses is needed to do a criminal history check in the schools. The committee will, in addition, be working with the Dept. of Safety and the Criminal Justice Committee to pass a bill, which will fulfill the objectives of the intent, which is to insure the safety of the pupils in our schools. Vote 18-0.

COMMITTEE REPORT

COMMITTEE: **Education**

BILL NUMBER: **HB 304**

TITLE: relative to the confidentiality of criminal history records checks.

DATE: 3-11-99 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☒ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Vote 18-0

Rep.
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

to do a history criminal check in the schools.

THE MEMBERS AGREE THAT DISCUSSION OF A RANGE OF OFFENSES IS NEEDED. THE COMMITTEE WILL IN ADDITION BE WORKING WITH THE DEPT. OF SAFETY AND THE CRIMINAL JUSTICE COMMITTEE TO PASS A BILL WHICH WILL ~~FULFILL~~ fulfill THE OBJECTIVES OF THE INTENT which IS to insure the safety of the pupils

COMMITTEE REPORT

COMMITTEE: **Education**

BILL NUMBER: **HB 304**

TITLE: relative to the confidentiality of criminal history records checks.

DATE: October 27, 1999 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The amendment replaces the bill and streamlines the process of a criminal history check for school personnel. This bill, as amended, increases the offense that an individual, if convicted of specific violations or attempted violations, would be prohibited from being employed by or volunteering in a New Hampshire school district. The bill also designates the Division of State Police as the sole repository for criminal records required for educational hiring procedures. The State Police shall be required to notify the State Department of Education if any applicant for hire or volunteer has been convicted of any of enumerated offenses. The school district is required to destroy within 30 days any criminal history record information that indicates a criminal record.

Vote 18-0.

Rep. Brien L. Ward
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Education

HB 304, relative to the confidentiality of criminal history records checks. OUGHT TO PASS WITH AMENDMENT

Rep. Brien L. Ward for **Education:** The amendment replaces the bill and streamlines the process of a criminal history check for school personnel. This bill, as amended, increases the offense that an individual, if convicted of specific violations or attempted violations, would be prohibited from being employed by or volunteering in a New Hampshire school district. The bill also designates the Division of State Police as the sole repository for criminal records required for educational hiring procedures. The State Police shall be required to notify the State Department of Education if any applicant for hire or volunteer has been convicted of any of enumerated offenses. The school district is required to destroy within 30 days any criminal history record information that indicates a criminal record. Vote 18-0.

COMMITTEE REPORT

COMMITTEE: **EDUCATION**

BILL NUMBER: 304

TITLE: Confidentiality of Criminal History Record Checks

DATE: 10/27/99 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Vote 18-0

Rep. Brian L. Ward
FOR THE COMMITTEE
Brian L. Ward

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

The amendment replaces the bill and streamline the process of a criminal history check for school personnel amended

~~The Committee voted [illegible]~~ ~~to pass as amended~~. This bill as

increases the ~~[illegible]~~ offenses that an

individual, if convicted of specific violations

or attempted violations, would be prohibited

from being employed by or volunteering

in a New Hampshire School District. The

bill also designates the Division of

State Police as the sole depository (repository)?

for criminal records required for criminal

~~record check~~ for educational hiring

purposes. The State Police shall

be required to

~~also~~ notify the State Dept. of Education

if any applicant for hire or ~~employed~~ volunteer ~~has~~ been

convicted or any of ~~the~~ enumerated offenses.