Bill as Introduced

HB 206 – AS INTRODUCED

2003 SESSION

03-0368
09/01

HOUSE BILL ***206***

AN ACT relative to filing of complaints for violation-level offenses.

SPONSORS: Rep. Welch, Rock 79

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill allows for the filing of complaints for violation-level offenses without a police officer's signature or oath.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 206 – AS INTRODUCED

03-0368
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to filing of complaints for violation-level offenses.

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

1 Jurisdiction and Procedure; Complaints; Filings for Violation-Level Offenses. Amend RSA 592-A:7 to read as follows:

592-A:7 Complaints. Criminal proceedings before a district [~~or municipal~~] court shall be begun by complaint, signed and under oath, addressed to such court, briefly setting forth, by name or description, the party accused and the offense [~~with which he is~~] charged, ***provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for a violation-level offense shall not require a signature or an oath.***

2 Effective Date. This act shall take effect January 1, 2004.

Amendments

Rep. Tholl, Coos 2
February 4, 2003
2003-0156h
09/04

Amendment to HB 206

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

1 Jurisdiction and Procedure; Complaints; Filings for Violation-Level Offenses. Amend RSA 592-A:7 to read as follows:

592-A:7 Complaints. Criminal proceedings before a district [~~or municipal~~] court shall be begun by complaint, signed and under oath, addressed to such court, briefly setting forth, by name or description, the party accused and the offense [~~with which he is~~] charged, ***provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for a violation-level offense shall not require a signature or an oath. Any complaint filed electronically shall provide notice that making false statements on the complaint may result in criminal prosecution.***

2 Unsworn Falsification. Amend RSA 641:3 to read as follows:

641:3 Unsworn Falsification. A person is guilty of a misdemeanor if:

I. He ***or she*** makes a written false statement which he ***or she*** does not believe to be true, on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or

II. With a purpose to deceive a public servant in the performance of his ***or her*** official function, he ***or she***:

(a) Makes any written ***or electronic*** false statement which he ***or she*** does not believe to be true; or

(b) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or

(c) Submits or invites reliance on any writing which he ***or she*** knows to be lacking in authenticity; or

(d) Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he ***or she*** knows to be false.

III. No person shall be guilty under this section if he ***or she*** retracts the falsification before it becomes manifest that the falsification was or would be exposed.

3 Effective Date. This act shall take effect January 1, 2004.

2003-0156h

AMENDED ANALYSIS

This bill allows for the electronic filing of complaints for violation-level offenses without a police officer's signature or oath. The bill clarifies that the misdemeanor penalty for unsworn falsification applies to false electronic complaints.

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 206

BILL TITLE: relative to filing of complaints for violation-level offenses.

DATE: January 22, 2003

LOB ROOM: 204 **Time Public Hearing Called to Order:** 11:45 a.m.

Time Adjourned: 12:00 Noon

(please circle if present)

Committee Members: Reps Welch, Tholl, Fesh, Jones, Kennedy, K. Gilbert, Nedeau, Stevens, Weare, Bemis, Bicknell, Fish, Oliver, D. Smith, Winchell, Knowles, Callaghan, Movsesian, Berube, Pantelakos and T. Robertson.

Bill Sponsors: Rep. Welch

TESTIMONY

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

Rep. Welch, sponsor
- Introduced bill at request of agency

John Stephen, Department of Safety
- Extended provision for our J-ONE system
- Want to abolish requirement of having a Justice of the Peace sign violation, as it is bogging down the system

Question by Rep. Knowles: What do you mean by "not requiring signature"? Answer: These complaints will be transmitted electronically and would require all officers to have electronic signatures. Question by Rep. Knowles: Couldn't anyone do this, even if not authorized? Answer: Yes, but they already can, and this will be controlled by an access code.

Claire Ebel
- If there is a unique numerical identifier, I do not have a problem
- If there is a statement that the officer is swearing to it as part of the template, it would solve the problem

A **subcommittee** was appointed:

Chair	Rep. Tholl
Members	Reps Stevens and Berube

Pink Cards:

- Rep. David Welch, sponsor – supports the bill
- John Stephen, Department of Safety. No indication of support or non-support.
- Claire Ebel, NHCLU, 18 Low Ave, Concord. 225-3080. Has concerns about the bill.

Respectfully submitted,

Rep. Stanley E. Stevens
Committee Clerk

SES:co

Sub-Committee Actions

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 206

BILL TITLE: **relative to filing of complaints for violation-level offenses.** Thall

DATE: 1-30-03

Subcommittee Members: Reps. Thall / STEVENS.

Comments and Recommendations:

Amendments:

Sponsor: Rep. Thall OLS Document #: 2003-0156 H Adopted/~~Failed~~

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

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

Motions: ~~OTP~~, (OTP/A), ITL, Interim Study (Please circle one.)

Moved by Rep. ~~Thall~~ STEVENS

Seconded by Rep. ~~STEVENS~~ Thall

Vote: ✓

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

Moved by Rep. _____

Seconded by Rep. _____

Vote: _____

Respectfully submitted,

Rep. _____
Subcommittee Chairman/Clerk

House Bill 206
Subcommittee

Members:
Rep Tholl Chair
Rep Stevens
Rep Berube

Meeting called to order @ 1340 hrs 1/30/03 Room 204

Members present: Tholl & Stevens

Rep Welch also present as bills sponsor. Along with Asst. Comm John Stephen of Safety.

An amendment was discussed and voted upon as follows

Add Phrase so long as the complaint contains notification that false statements may be punished pursuant to law.

Amend RSA 641:3 (a) makes a statement weather written or electronic which he/she does not believe to be true.....

Moved OTPA Rep Stevens 2nd Rep Tholl 2-0 OTPA

Meeting adjourned until 2-4-03 @ 0955 to check amendment.

2-4-03 Amendment. Not Comment HAO Reporter
Provided copy to Senate Judiciary
Sub Com okd Amen Tholl/Stevens 2/5-

Testimony

I. National Crime Prevention and Privacy Compact

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TITLE 42. THE PUBLIC HEALTH AND WELFARE CHAPTER 140--CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION SUBCHAPTER II--EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES

§ 14611. Findings

Congress finds that--

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

§ 14612. Definitions

In this subchapter:

(1) Attorney general

The term "Attorney General" means the Attorney General of the United States.

(2) Compact

The term "Compact" means the National Crime Prevention and Privacy Compact set forth in section 14616 of this title.

(3) Council

The term "Council" means the Compact Council established under Article VI of the Compact.

(4) FBI

The term "FBI" means the Federal Bureau of Investigation.

(5) Party State

The term "Party State" means a State that has ratified the Compact.

(6) State

The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 14613. Enactment and consent of the United States

The National Crime Prevention and Privacy Compact, as set forth in section 14616 of this title, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

§ 14614. Effect on other laws

(a) Privacy Act of 1974

Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of Title 5 (commonly known as the "Privacy Act of 1974").

(b) Access to certain records not affected

Nothing in the Compact shall interfere in any manner with--

(1) access, direct or otherwise, to records pursuant to--

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act [42 U.S.C.A. § 5119 et seq.];

(C) the Brady Handgun Violence Prevention Act (Public Law 103-159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) Authority of FBI under Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973

Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544 (86 Stat. 1115)).

(d) Federal Advisory Committee Act

The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Members of Council not Federal officers or employees

Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed--

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of Title 5); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

§ 14615. Enforcement and implementation

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this subchapter.

§ 14616. National Crime Prevention and Privacy Compact

The Contracting Parties agree to the following:

OVERVIEW

(a) In general

This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) Obligations of parties

Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I--DEFINITIONS

In this Compact:

(1) Attorney General

The term "Attorney General" means the Attorney General of the United States.

(2) Compact officer

The term "Compact officer" means--

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) Council

The term "Council" means the Compact Council established under Article VI.

(4) Criminal history records

The term "criminal history records"--

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) Criminal history record repository

The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) Criminal justice

The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) Criminal justice agency

The term "criminal justice agency"--

(A) means--

(i) courts; and

(ii) a governmental agency or any subunit thereof that--

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) Criminal justice services

The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) Criterion offense

The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) Direct access

The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) Executive order

The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI

The term "FBI" means the Federal Bureau of Investigation.

(13) Interstate Identification System

The term "Interstate Identification Index System" or "III System"--

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) National Fingerprint File

The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) National Identification Index

The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) National indices

The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) Nonparty State

The term "Nonparty State" means a State that has not ratified this Compact.

(18) Noncriminal justice purposes

The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) Party State

The term "Party State" means a State that has ratified this Compact.

(20) Positive identification

The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) Sealed record information

The term "sealed record information" means--

(A) with respect to adults, that portion of a record that is--

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) State

The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II--PURPOSES

The purposes of this Compact are to--

(1) provide a legal framework for the establishment of a cooperative Federal- State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III--RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI responsibilities

The Director of the FBI shall--

(1) appoint an FBI Compact officer who shall--

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies

and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including--

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) State responsibilities

Each Party State shall--

(1) appoint a Compact officer who shall--

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide--

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) Compliance with III System standards

In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) Maintenance of record services

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV--AUTHORIZED RECORD DISCLOSURES

(a) State criminal history record repositories

To the extent authorized by section 552a of Title 5, (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) Criminal justice agencies and other governmental or nongovernmental agencies

The FBI, to the extent authorized by section 552a of Title 5, (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) Procedures

Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall--

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V--RECORD REQUEST PROCEDURES

(a) Positive identification

Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Submission of State requests

Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) Submission of Federal requests

Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) Fees

A State criminal history record repository or the FBI--

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) Additional search

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records--

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI--ESTABLISHMENT OF COMPACT COUNCIL

(a) Establishment

(1) In general

There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) Organization

The Council shall--

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) Membership

The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom--

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3- year term, of whom--

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3- year term, and who shall be an employee of the FBI.

(c) Chairman and Vice Chairman

(1) In general

From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council--

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2- year term.

(2) Duties of Vice Chairman

The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) Meetings

(1) In general

The Council shall meet at least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) Quorum

A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) Rules, procedures, and standards

The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) Assistance from FBI

The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) Committees

The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII--RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of

ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII--MISCELLANEOUS PROVISIONS

(a) Relation of Compact to certain FBI activities

Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's Advisory Policy Board (APB) chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) No authority for nonappropriated expenditures

Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Relating to Public Law 92-544

Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX--RENUNCIATION

(a) In general

This Compact shall bind each Party State until renounced by the Party State.

(b) Effect

Any renunciation of this Compact by a Party State shall--

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X--SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI--ADJUDICATION OF DISPUTES

(a) In general

The Council shall--

(1) have initial authority to make determinations with respect to any dispute regarding--

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) Duties of FBI

The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) Right of appeal

The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of Title 28, or other statutory authority.

Home Privacy Compact Compact Analysis State Legislation Testimony III, NFF Participation Council Documents

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 206

BILL TITLE: **relative to filing of complaints for violation-level offenses.**

DATE: February 6, 2003

LOB ROOM: 204

Amendments:

Sponsor: Rep. Tholl — OLS Document #: 2003 0156h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

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

Moved by Rep. Tholl AMENDMENT ONLY

Seconded by Rep. Gilbert

Vote: 20-0 (Please attach record of roll call vote.)

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

Moved by Rep. Tholl

Seconded by Rep. Gilbert

Vote: 20-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 20-0

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 204 **Title:** _____

PH Date: ___/___/___ **Exec Session Date:** 2/6/03

Motion: _____ **Amendment #:** _____

MEMBER	YEAS		NAYS
Welch. David A. Chairman	AMENDMENT ✓	OTP/A ✓	
Tholl. John E. V Chairman	✓	✓	
Fesh. Bob M	✓	✓	
Jones. Constance A	✓	✓	
Kennedy. Richard E	✓	✓	
Gilbert. Karl I	✓	✓	
Nedeau. Stephen H	✓	✓	
Stevens. Stanley E	✓	✓	
Weare. E Albert	✓	✓	
Bemis. Alan B			
Bicknell. Elbert I	✓	✓	
Fish. Douglas K	✓	✓	
Oliver. James H	✓	✓	
Smith. Donald C	✓	✓	
Winchell. George D	✓	✓	
Knowles. William V	✓	✓	
Berube. Roger R	✓	✓	
Callaghan. Frank D	✓	✓	
Movsesian. Lori A	✓	✓	
Pantelakos. Laura C	✓	✓	
Robertson. Timothy N	✓	✓	
	20	20	0 0

TOTAL VOTE:
Printed: 1/6/2003

Committee Report

F

COMMITTEE REPORT

COMMITTEE: **Criminal Justice and Public Safety**

BILL NUMBER: **HB 206**

TITLE: relative to filing of complaints for violation-level offenses.

DATE: February 6, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

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

STATEMENT OF INTENT
(Include Committee Vote)

This bill allows the electronic filing of complaints without the requirement for it being filed under oath. It provides that a statement shall be provided stating that making false statements may result in criminal prosecution. It further amends RSA 641:3 to include electronic statements in the law. This will allow police officers to utilize the computers and available data transfer systems to file complaints with the Department of Safety and the courts. When the officer appears in court, he testifies under oath.

Vote 20-0.

Rep. John E. Tholl
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 206, relative to filing of complaints for violation-level offenses. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl for Criminal Justice and Public Safety: This bill allows the electronic filing of complaints without the requirement for it being filed under oath. It provides that a statement shall be provided stating that making false statements may result in criminal prosecution. It further amends RSA 641:3 to include electronic statements in the law. This will allow police officers to utilize the computers and available data transfer systems to file complaints with the Department of Safety and the courts. When the officer appears in court, he testifies under oath. **Vote 20-0.**

HB206 allows the electronic filing of complaints w/o the requirement for it being filed under oath. It provides that a statement shall be provided stating that making false statements may result in crminal prosecution. It further ammends RSA 641:3 to include Electronic statements in the law. This will alllow police officers to utilized the computers and available data transfer systems to file complaints with the Department of Safety and the courts . ~~20:0~~ When the officer appears in court he testifies under oath 20-0