Bill as Introduced

HB 683-FN – AS INTRODUCED

2003 SESSION

03-0749
04/10

HOUSE BILL ***683-FN***

AN ACT relative to escape or attempted escape from a juvenile facility.

SPONSORS: Rep. Gilman, Graf 9; Rep. Bicknell, Rock 73; Rep. Buhlman, Hills 66; Rep. Sorg, Graf 11; Rep. Kennedy, Merr 34

COMMITTEE: Children and Family Law

ANALYSIS

This bill makes escape or attempted escape from a juvenile facility grounds for transfer of a minor to the superior court for proceedings as an adult.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 683-FN – AS INTRODUCED

03-0749
04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to escape or attempted escape from a juvenile facility.

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

1 Delinquent Children; Transfer to Superior Court. Amend RSA 169-B:24, IV to read as follows:

IV. When the felony offense charged is first degree murder, second degree murder, attempted murder, manslaughter, first degree assault, second degree assault (except when the allegation is a violation of RSA 631:2, I(d)), aggravated felonious sexual assault, kidnapping, criminal restraint, robbery punishable as a class A felony, ***escape or attempted escape from an institution for the confinement of juvenile offenders punishable as a class A felony under RSA 642:6,*** a violation of RSA 318-B:26, I(a) or (b), or negligent homicide under RSA 630:3, II, or when the minor is charged with any felony and, prior to the filing of the felony petition, the minor has been petitioned to the court on 4 or more occasions and adjudicated delinquent in 4 separate adjudicatory hearings which alleged misdemeanor or felony offenses, and the minor commits the act after the minor's fifteenth birthday, there shall be a presumption that the factors listed in RSA 169-B:24, I support transfer to the superior court.

2 Repeal. RSA 169-B:4, IV(a), relative to revocation of consent by a minor in juvenile proceedings, is repealed.

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

LBAO
03-0749
1/28/03

HB 683-FN - FISCAL NOTE

AN ACT relative to escape or attempted escape from a juvenile facility.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

LBAO
03-0749
Revised 2/18/03

HB 683 FISCAL NOTE

AN ACT relative to escape or attempted escape from a juvenile facility.

FISCAL IMPACT:

The Judicial Branch, Judicial Council and Department of Corrections have stated this bill may increase state expenditures by an indeterminable amount in FY 2004 and each year thereafter. There will be no fiscal impact on county and local expenditures or state, county and local revenue.

METHODOLOGY:

The Judicial Branch stated this bill amends RSA 169-8:24, IV, the section listing certain crimes in which there is a presumption that the factors for treatment as an adult have been met if the juvenile who committed these crimes when fifteen or older. The proposed amendment adds to this list of crimes escape or attempted escape from a juvenile facility. This bill would also repeal RSA 169-B:4, IV(a), which currently allows the juvenile to revoke his consent to the court's retention of jurisdiction after the juvenile's seventeenth birthday. Thus, if this bill is enacted, once the juvenile consents to extended jurisdiction, he could not revoke it. Regarding the addition of escape or attempted escape from a juvenile facility to the list of crimes in which there is a presumption that the factors for treatment as an adult have been met, the fiscal impact to the judicial branch should be minimal. There are few charges of escape or attempted escape from a juvenile facility and, given prosecutorial discretion, not all will be charged as adult crimes. Therefore, the judicial branch does not anticipate more than a minimal fiscal impact from this provision. Similarly, the number of individuals over whom the district court retains jurisdiction after age seventeen is not large and few revoke their consent to that jurisdiction. All that would be involved for the potential few who under this proposal could not revoke their consent is the continuation of review hearings until age twenty-one. The number of reviews in these situations is very limited. Any new offense committed would be brought as an adult case anyway. Therefor, the provision of this bill for not allowing revocation of consent to extended jurisdiction should also have minimal fiscal impact on the judicial branch.

The Judicial Council stated this bill provides that escape or attempted escape from a juvenile facility may constitute grounds for transfer of a minor to the superior court for proceedings as an adult punishable as a new class A felony under certain circumstances. These circumstances include when the minor is charged with any felony and prior to the filing of the felony petition, the minor has been petitioned to the court on four or more occasions and adjudicated delinquent

in 4 separate adjudicatory hearings which alleged misdemeanor or felony offenses, and the minor commits the act after the minor's fifteenth birthday, there shall be a presumption that the factors listed in RSA 169-B:24,I to support transfer to the superior court. The scope of this new class A felony charge is limited by the circumstances previously detailed. This new felony can only be charged when the juvenile has been previously adjudicated delinquent on four separate offenses and this new felony of escape or attempted escape is committed after the fifteenth birthday. Only then shall the presumption support transfer to the superior court with the new class A felony. Based upon the scope of the application of this bill, it is narrowly aimed at a very specific event and potential population. This will reduce the potential fiscal impact of the bill. The Council stated, however, there is no doubt that a case so transferred to the superior court will be very aggressively litigated as there is so much at stake for the juvenile so charged. The Council state that it is not possible to accurately predict the number of cases which may result from this bill. Therefor, the Council is unable to calculate an exact fiscal impact. It is assumed that the individual so charged has been determined to be indigent, at which time the court will proceed to appoint an attorney to represent the defendant. The significance of this bill is that the new charge will take the case out of the juvenile system and put it into the adult superior court felony. If a public defender or contract attorney is appointed to the case, the fixed contract rate of $687.50 will apply to each case so charged. If an assigned counsel attorney must be used, due to either conflict of interest or for reasons of caseload limitations, the $60 per hour rate will apply to the case, with a fee cap of $3,000. The fee cap may be waived upon motion filed in advance with the court. If any "services other than counsel" are filed as a necessary part of the defense of a case, those costs would also be a charge to Indigent Defense funds.

The Department of Justice stated the Department seldom becomes involved in prosecutions of juveniles, and it is assumed they will continue not to be involved. If the Department were involved, the number of instances would be negligible and the cost of prosecution should not increase.

The Department of Corrections stated the Juvenile Services Division has statistics showing 47 people AWOL from the facility for FY 2002 and 47 people escaping from furloughs and parole, but there are no figures to show how many would be punishable as a Class A felony. The average cost of incarceration for FY 2002 was $24,866 per inmate per year.

Hearing Minutes

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 683-FN

BILL TITLE: relative to escape or attempted escape from a juvenile facility.

DATE: Mar. 4, 2003

LOB ROOM: 206 **Time Public Hearing Called to Order:** 1:40 p.m.

Time Adjourned: 1:42 p.m.

(please circle if present)

Committee Members: Reps. Moran, McRae, J. Brown, Arnold, Bickford, Greenberg, D. Bouchard, Itse, Furman, Gargasz, Dokmo, Ouellette, Hallyburton, J. Allen, E. Blanchard, Grassie, B. Richardson, Allison, T. Pratt, L. Johnson and Giles

Bill Sponsors: Rep. Gilman, Rep. Bicknell, Rep. Buhlman, Rep. Sorg, Rep. Kennedy

TESTIMONY

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

Rep. Mike Gilman, Grafton District 9, Prime Sponsor- Withdraws the bill as he understands that this issue is being addressed in other ways.

Respectfully Submitted,

Barbara Hull Richardson

Rep. Barbara Hull Richardson, Clerk

Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 683-FN

BILL TITLE: **relative to escape or attempted escape from a juvenile facility.**

DATE: Mar. 13, 2003

LOB ROOM: 206

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. David A. Bickford

Seconded by Rep. Margaret D. Hallyburton

Vote: 14-0 (Please attach record of roll call vote.)

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

Moved by Rep.

Seconded by Rep.

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

CONSENT CALENDAR VOTE: 14-0

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Barbara Hull Richardson, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

CHILDREN AND FAMILY LAW

Bill #: HB 683 Title: _____

PH Date: 3/4/03 Exec Session Date: 3/13/03

Motion: _____ Amendment #: _____

MEMBER	YEAS	NAYS
Moran, Edward P, Chairman	✓	
McRae, Karen K, V Chairman	✓	
Brown, Julie M		
Arnold, Thomas I	✓	
Bickford, David A	✓	
Greenberg, Gary C	✓	
Bouchard, David M		
Itse, Daniel C		
Furman, Christine M		
Gargasz, Carolyn M	✓	
Dokmo, Cynthia J	✓	
Ouellette, Robert O	✓	
Hallyburton, Margaret D	✓	
Allen, Janet F	✓	
Blanchard, Elizabeth D	✓	
Pratt, Irene A	✓	
Allison, David C		
Richardson, Barbara Hull, Clerk	✓	
Johnson, Lionel W		
Grassie, Anne C		
Gile, Mary Stuart	✓	
	14	0
TOTAL VOTE:		

Printed: 2/5/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Children and Family Law**

BILL NUMBER: **HB 683-FN**

TITLE: relative to escape or attempted escape from a juvenile facility.

DATE: March 13, 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)

The sponsor of this bill asked the committee not to go forward with this bill. Therefore, the committee agreed to recommend it inexpedient to legislate.

Vote 14-0.

Rep. David A. Bickford
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

CONSENT CALENDAR

Children and Family Law

HB 683-FN, relative to escape or attempted escape from a juvenile facility. **INEXPEDIENT TO LEGISLATE**

Rep. David A. Bickford for Children and Family Law: The sponsor of this bill asked the committee not to go forward with this bill. Therefore, the committee agreed to recommend it inexpedient to legislate. **Vote 14-0.**

3-18-03

HB 65 ITL

The sponsor of this bill asked the committee not to go forward with this bill therefore the committee agreed to recommend ITL.

Rep. David A Bickford

Consent
2 pm.