Bill as Introduced

SB 40 – AS AMENDED BY THE SENATE

03/13/03 0587s

2003 SESSION

03-1067
04/09

SENATE BILL ***SB 40***

AN ACT relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.

SPONSORS: Sen. Flanders, Dist 7; Rep. Welch, Rock 79

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill allows for the filing of complaints for violation-level offenses without a police officer's signature or oath and provides that electronic submission of a false statement shall be charged as unsworn falsification.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 40 – AS AMENDED BY THE SENATE

03/13/03 0587s

03-1067
04/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.

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, and provided that any statements made in such complaint shall be made under penalty of perjury.***

2 Unsworn Falsification; Electronic Filings Added. 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 ***or electronic*** 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 upon its passage.

Amendments

Rep. Tholl, Coos 2
April 29, 2003
2003-1438h
04/09

Amendment to SB 40

Amend RSA 592-A:7 as inserted by section 1 of the bill by replacing it with the following:

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 include notice that making a false statement on the complaint may result in criminal prosecution.***

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # SB 40 Date 4/15/2003

Committee C J & P S

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

Name	Address	Phone	Representing	(check one) Pro	Con
Sen Andrew Peterson	P.O. 59 P'boro	924-3321	Dist 11	✓	
Claire Ebel	18 Low Av Concord	225-3080	NHCLU	concerns	
			House language on notice is better		

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON SB 40

BILL TITLE: **(New Title) relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.**

DATE: **April 15, 2003**

LOB ROOM: **204** **Time Public Hearing Called to Order:** 10:00 A.M.

Time Adjourned: 10:30 A.M.

(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: Sen. Flanders, Rep. D. Welch

TESTIMONY

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

Sen. Flanders, sponsor, supporting bill
-introduced bill

Sen. Peterson – supporting
-provides a penalty of perjury for a false statement on a complaint filed electronically.

John Stephen, Asst. Comm. Dept. of Safety, supporting
-the House version of this bill is almost identical, but is generally better and he would urge we accept the house version

***Keith Lohmann**, Police Standards, supporting
-submitted written testimony

Respectfully submitted,

Stanley E. Stevens

Rep. Stanley E. Stevens,
Clerk of the Committee

Testimony

Testimony of Assistant Director Keith H. Lohmann
New Hampshire Police Standards and Training Council
SB 40
House Criminal Justice and Public Safety Committee
10:00 April 15, 2003 LOB 204

Ladies and Gentlemen of the Committee:

My name is Keith Lohmann and I am the Assistant Director of the New Hampshire Police Standards & Training Council. I appear before you today in favor of SB 40, as amended.

This is a bill that takes a first step toward moving the criminal justice system technologically in New Hampshire ahead toward the 21st Century. In essence, this would allow for electronic filing of violation-level complaints (predominately traffic citations) with the courts.

In New Hampshire, we are working towards an integrated criminal justice system, one where the transmission of data between different parts of the system can be accomplished electronically. This will theoretically have a significant impact on both the efficiency of the system as well as the timeliness of information in the system at any given time, when, for example, complaints can be electronically transmitted between a local police department and the local district court.

The project attempting to provide this integration is called "J-One". It is a collaborative effort between the Department of Safety, the Administrative Office of the Courts, the Department of Corrections, and (at least initially) county sheriffs and local law enforcement agencies. We are at the point now where in a few test locations, the State Police and a few volunteer local police departments are supplying information concerning criminal complaints to the "data warehouse", which resides at the Department of Safety. It is envisioned that this information will be electronically transmitted to the Courts for filing and scheduling, and

that this is where we discovered the statutory problem. This bill is seen as a first small step to being able to facilitate that electronic filing and submission.

Currently, by law, all criminal complaints must be sworn to by the officer writing the complaint. This, in essence, is an affirmation that the information provided by the officer in the complaint is true. If the complaint goes to court, the officer would have to swear before testifying "to tell the truth, the whole truth, and nothing but the truth..." so the situation at hand has to do with the filing of the original complaint, as opposed to what might happen in court. Currently, the Administrative Office of the Court, because of the requirement in law, does not accept a complaint as "real" until it receives the complaint with the signature indicating that it had been sworn to. The legislation before you today aims to change that standard.

This legislation does two things, and only on violation-level (non-criminal) complaints. It waives the requirement that the complaint be sworn to, but adds a provision that an officer providing false information in the complaint subjects that officer to a potential charge of unsworn falsification.

We feel that this is a measured, conservative approach to a new, emerging area of operations. Particularly while work continues on e-signature initiatives elsewhere in State and federal government, we feel that this is a prudent measure to allow the process of technological advancement to continue moving along, as well as ending a process that is ministerial in many cases, at best. Anecdotal stories abound of officers showing up to swear to 50 citations simultaneously. Given the pace of operations today, a way to ensure truthfulness by officers, without requiring a handwritten signature on each complaint makes sense. I believe that this legislation would provide the necessary safeguards and at the same time significantly streamline throughput and save time for all involved.

Thank you for listening, and I would be pleased to answer any questions that you may have.

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on SB 40

BILL TITLE: **(New Title) relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.**

DATE: April 30, 2003

LOB ROOM: 204

Amendments:

Sponsor: Rep. Tholl	OLS Document #:	2003	1438h
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. Bicknell

Vote: 11-0 (Please attach record of roll call vote.)

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

Moved by Rep. Tholl

Seconded by Rep. Bicknell

Vote: 11-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 11-0

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

Bill #: SB 40 **Title:** Relative to Filing Complaints

PH Date: ___/___/___ **Exec Session Date:** 04/30/03

Motion: OTPA **Amendment #:** 1438h.

MEMBER	YEAS	NAYS
Welch, David A, Chairman	✓ OTP Amend ✓ OTPA	
Tholl, John E, V Chairman	✓ ✓	
Fesh, Bob M		
Jones, Constance A		
Kennedy, Richard E	✓ ✓	
Gilbert, Karl I	✓ ✓	
Nedeau, Stephen H		
~~Stevens, Stanley E~~ Vervil	✓ ✓	
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	✓ ✓	

TOTAL VOTE:
Printed: 1/6/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Criminal Justice and Public Safety**

BILL NUMBER: **SB 40**

TITLE: (New Title) relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.

DATE: April 30, 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)

SB 40 allows the electronic submission of violation complaints by the officer in the cruiser to comply with the Integrated Criminal Justice Information System, a portion of which is being tested in several locations in the state. It removes the requirement to have the complaints sworn to by a justice of the peace, and adds a notice on the electronic form that false statements are punishable by law. It reduces paperwork and duplication of effort on several levels. SB 40 is similar in content with HB 206, which passed the House on Feb. 13, 2003. The amendment replaces some of the Senate language with the language of the House version.

Vote 11-0.

Rep. John E. Tholl, Jr.
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Criminal Justice and Public Safety

SB 40, (New Title) relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: SB 40 allows the electronic submission of violation complaints by the officer in the cruiser to comply with the Integrated Criminal Justice Information System, a portion of which is being tested in several locations in the state. It removes the requirement to have the complaints sworn to by a justice of the peace, and adds a notice on the electronic form that false statements are punishable by law. It reduces paperwork and duplication of effort on several levels. SB 40 is similar in content with HB 206, which passed the House on Feb. 13, 2003. The amendment replaces some of the Senate language with the language of the House version. **Vote 11-0.**

COMMITTEE REPORT

COMMITTEE: **Criminal Justice and Public Safety**

BILL NUMBER: **SB 40**

TITLE: (New Title) relative to filing of complaints for violation-level offenses and making the electronic submission of a false statement chargeable as unsworn falsification.

DATE: April 30, 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)

SB 40 allows the electronic submission of violation complaints by the officer in the cruiser to comply with the Integrated Criminal Justice Information System, a portion of which is being tested in several locations in the state. It removes the requirement to have the complaints sworn to by a justice of the peace, and adds a notice on the electronic form that false statements are punishable by law. It reduces paperwork and duplication of effort on several levels. SB 40 is similar in content with HB 206, which passed the House on Feb. 13, 2003. The amendment replaces some of the Senate langauge with the language of the House version.

Vote 11-0.

Rep. John E. Tholl, Jr.
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

SB 40 allows the electronic submission of violation complaints by the officer in the cruiser to comply with the Integrated Criminal Justice Information System, a portion of which is being tested in several locations in the state. It removes the requirement to have the complaints sworn to by a justice of the peace, and adds a notice on the electronic form that false statements are punishable by law. It reduces paperwork and duplication of effort on several levels. SB 40 is similar in content with HB 206, which passed the house on February 13, 2003. The amendment replaces some of the Senate language with the language of the House version