

Senate Judiciary Committee

Brendan Bunnell 271-4063

HB 1091, relative to the penalty for violations of municipal ordinances related to sleeping or camping outside.

Hearing Date: April 9, 2026

Time Opened: 2:20 p.m.

Time Closed: 3:10 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Altschiller and Reardon

Members of the Committee Absent: Senator Carson

Bill Analysis: This bill requires municipalities to provide for a nonmonetary penalty that may be elected in lieu of a financial penalty for any ordinance or bylaw prohibiting sleeping or camping outdoors.

Sponsors:

Rep. Newell

Rep. A. Murray

Rep. O'Rorke

Rep. Scherr

Rep. Wheeler

Rep. D. Paige

Rep. Beauchemin

Sen. Fenton

Sen. Watters

Who supports the bill: 69 Individuals signed in support of the bill. For a complete list of those who signed in support please contact the Judiciary Committee aide.

Who opposes the bill: 3 Individuals signed in opposition to the bill. For a complete list of those who signed in opposition please contact the Judiciary Committee aide.

Who is neutral on the bill: None.

Summary of the testimony presented:

Representative Jodi Newell introduced the bill and explained that the bill originated from conversations with an advocate working directly with unhoused individuals, who reported that people were being cited and fined for sleeping outside even when no shelter space was available.

- She emphasized that under current practice, individuals may be penalized despite having no lawful alternative.

- She provided specific examples of fines, stating that penalties can reach approximately \$157 in Keene, \$250 in Manchester, and up to \$1,000 under state law depending on the ordinance and enforcement structure.
- She referenced the Grants Pass decision and explained that, following that decision, municipalities are permitted to enforce camping bans regardless of whether shelter is available, which makes the structure of penalties more significant.
- She argued that monetary fines are ineffective and counterproductive because unhoused individuals generally lack the ability to pay, which can lead to compounding legal and financial consequences and create additional barriers to obtaining housing or stability.
- She explained that the bill requires municipalities to provide non monetary alternatives to fines, such as community service or connection to services, and clarified that the bill does not limit municipalities to only those options but requires that any available alternatives be clearly listed in the ordinance.
- She emphasized that the intent is not to eliminate enforcement but to ensure that penalties are realistic and do not worsen an individual's situation.
- She stated that the House Criminal Justice and Public Safety Committee adopted amendments to clarify language and ensure flexibility, and that the bill ultimately passed the House unanimously.
- Senator Reardon asked whether the state should be mandating this structure rather than leaving it to municipalities under RSA 31:39 C, which governs municipal ordinance authority.
 - Representative Newell responded that current law effectively results in monetary penalties being the default and that municipalities do not consistently provide alternatives. She stated that the bill does not remove local control but instead requires that municipalities include alternative options, thereby expanding rather than restricting flexibility.
- Senator Altschiller asked how the alternative penalties would be administered and whether municipalities would need to create new roles or systems to manage compliance.
 - Representative Newell responded that municipalities already administer fines through existing administrative staff and that this process would remain largely the same. She explained that instead of processing payment, municipalities would receive proof of compliance, such as documentation of completed community service or participation in services, and that the responsibility for completing and documenting compliance remains with the individual rather than requiring active monitoring by municipal staff.

- Senator Altschiller asked whether the bill allows the individual to choose the penalty or whether the municipality assigns it.
 - Representative Newell clarified that municipalities must define the available alternatives in their ordinances, and that individuals cited under those ordinances would then be able to choose among the listed options.
- Senator Altschiller asked who would be responsible for follow up in smaller municipalities with limited staff capacity.
 - Representative Newell responded that, as with fines, the burden remains on the individual to provide proof of compliance and that municipalities are not required to track individuals proactively. She emphasized that this mirrors existing enforcement mechanisms and does not impose new administrative tracking obligations.
- Senator Abbas asked whether choosing a non monetary option could disadvantage an individual compared to appealing a citation and potentially having it dismissed.
 - Representative Newell responded that while appeals are available, many individuals do not understand or are unable to navigate the appeals process. She stated that the bill provides a more accessible and immediate alternative while preserving the right to appeal if an individual chooses to do so.

Representative Jonah Orion Wheeler testified in support of the bill. He described personal lived experience with homelessness and emphasized the practical realities faced by individuals without stable housing.

- He stated that fines imposed on individuals without resources are ineffective and do not achieve compliance or deterrence. He explained that courts often already allow alternative resolutions informally and that the bill formalizes that practice in statute.
- He emphasized that the bill does not create new administrative systems or burdens because individuals are responsible for completing and reporting compliance.
- He described the bill as a modest, practical adjustment that aligns enforcement with reality and stated that it received unanimous support in the House after significant discussion.

- Senator Abbas asked whether accepting a non monetary penalty amounts to admitting responsibility rather than pursuing an appeal that could result in dismissal.
 - Representative Wheeler acknowledged that concern but emphasized that many individuals lack the ability to pursue appeals due to lack of knowledge, resources, or stability. He stated that the bill provides an accessible option while preserving existing legal rights.

Bob Keating testified in support of the bill. He stated that he has decades of experience working with unhoused individuals and described current shelter capacity as insufficient.

- He explained that warming shelters and overflow facilities are closing or reducing capacity, resulting in individuals being left without options.
- He stated that fines exacerbate the problem by pushing individuals further into instability and discouraging them from seeking help.
- He argued that providing alternatives to fines is a more humane and practical approach.
- Senator Reardon stated that the committee broadly understands and agrees with the policy objective but expressed concern about how the bill would function across different legal landscapes, including municipal ordinances and state enforcement systems, and how it would be implemented consistently.

Sarah Burke Cohen, representing the New Hampshire Municipal Association, testified in opposition. She stated that while the intent of the bill is well meaning, it creates implementation challenges by mandating specific penalty structures for municipalities.

- She argued that municipalities should retain discretion over how they structure penalties and enforce ordinances. She raised concerns about administrative burden, particularly in tracking compliance with non monetary penalties, and about how municipalities would handle repeat violations.
- She emphasized that smaller municipalities may lack the capacity to manage additional administrative requirements.
- Senator Reardon asked whether bylaws and ordinances are the same.

- o Cohen responded that they are often used interchangeably in statute but generally differ, with bylaws relating more to internal governance and ordinances applying to the public.
- Senator Reardon asked whether municipalities already have authority under RSA 31:39 III to adopt non monetary penalties.
 - o Cohen responded that the statute allows “suitable penalties,” which could include non monetary options, but stated that the law is not explicit and that clarification could be helpful.
- Senator Reardon asked whether municipalities currently have the discretion to already implement what this bill requires without state mandate.
 - o Cohen responded that some municipalities may interpret existing law as allowing flexibility, but others rely on monetary penalties because that is the clearest enforcement mechanism, and she indicated that the bill would remove ambiguity but at the cost of mandating a uniform approach.
- Senator Reardon asked whether the concern is primarily about administrative burden or loss of local control.
 - o Cohen responded that it is both, explaining that municipalities value the ability to tailor enforcement to local conditions and that requiring specific penalty structures could create operational challenges, particularly for smaller communities.

Griseliz Glenn, testified in support of the bill. She described personal experience with homelessness and stated that she had been cited for camping despite having no access to shelter.

- She explained that the bill would not eliminate enforcement but would replace fines with alternatives that are more realistic and constructive.
- She argued that policymaking often lacks input from those directly affected and that fines function as punishment for poverty rather than as effective policy.
- She supported the bill as a harm reduction measure while emphasizing the need to address underlying causes of homelessness.