

SB 409-FN - AS AMENDED BY THE HOUSE

14May2026... 1773h
14May2026... 1389h
14May2026... 1964h
14May2026... 1961h

2026 SESSION

26-2177
09/08

SENATE BILL **409-FN**

AN ACT relative to the penalties for the offense of disobeying an officer and relative to liability of governmental units., and relative to liability of governmental units.

SPONSORS: Sen. Gannon, Dist 23; Sen. McGough, Dist 11; Sen. Innis, Dist 7; Sen. Lang, Dist 2; Sen. McConkey, Dist 3; Sen. Carson, Dist 14; Sen. Pearl, Dist 17; Rep. Weyler, Rock. 14; Rep. Rice, Hills. 38; Rep. L. Walsh, Rock. 15; Rep. Bernardy, Rock. 36; Rep. Rhodes, Ches. 17

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

I. Amends the penalties for the offense of disobeying an officer.

II. Modifies the standards and amounts for which a governmental unit may be held liable for negligence resulting in personal injury or property damage.

III. Establishes for students, student organizations, and faculty members of publicly funded New Hampshire colleges and universities the right to certain due process protections when disciplinary proceedings are brought against them by such institutions, and addresses the provisions' applicability to collective bargaining agreements.

IV. Requires political subdivisions to indemnify employees absent wanton or reckless conduct for negligent conduct resulting in personal injury or property damage, if the action was within the scope of the employment.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to the penalties for the offense of disobeying an officer and relative to liability of governmental units., and relative to liability of governmental units.

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

1 1 Disobeying an Officer; Penalties. Amend RSA 265:4, II-III to read as follows:

2 II. Any person who violates any provision of paragraph I of this section may have his or her
3 license or privilege to drive and any registrations issued in his or her name suspended.

4 **III. In addition to the penalty listed in paragraph II:**

5 (a) Any person who violates the provisions of subparagraphs I (a), (b), (d), (e), or (f) of
6 this section shall be guilty of a class A misdemeanor.

7 [~~III.(a) In addition to the penalties listed in paragraph II,~~] (b) Any person who violates the
8 provisions of subparagraph I(c) shall be guilty of a class **B felony who, at the time of the offense**
9 **alleged:**

10 (1) **Drives or operates at a speed more than 30 miles per hour in excess of the**
11 **prima facie limit;**

12 (2) **Extinguishes the vehicle's exterior lighting to evade detection;**

13 (3) **Operates a vehicle against the designated flow of traffic on a one-way**
14 **street, divided highway, or off-ramp;**

15 (4) **Intentionally causes a collision with, or damage to, a law enforcement**
16 **vehicle with the intent to disable said vehicle or elude apprehension; or**

17 (5) **Engages in any other extrahazardous behavior in addition to refusing to**
18 **stop, that is intended to evade apprehension which a reasonable person would know**
19 **creates a substantial risk of death or serious bodily injury to the officer, the person, or the**
20 **general public** [A misdemeanor and shall be fined not less than \$500].

21 [~~(b)~~] (c) Any person who violates the provisions of subparagraph I(c), and is involved in a
22 motor vehicle [~~accident~~] **collision** which causes serious bodily injury as defined in RSA 625:11, VI
23 [~~while being pursued~~], shall be guilty of a class B felony.

24 [~~(e)~~] (d) Any person who violates the provisions of subparagraph I(c), and is involved in a
25 motor vehicle [~~accident~~] **collision** which causes the death of another, shall be guilty of a class A
26 felony.

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1 (c) The right to the presumption that no violation occurred. This presumption may be
2 overcome only if the public institution of higher education establishes by a preponderance of the
3 evidence that the violation alleged was committed by the student, student organization, or faculty
4 member charged.

5 (d) The right against self-incrimination.

6 (e) The right to confront and cross-examine witnesses who provide evidence against the
7 student, student organization, or faculty member; provided, however, that if a person who claims to
8 be a victim of the conduct giving rise to the disciplinary action objects to being cross-examined by the
9 person accused of the violation, the hearing officer or panel shall require that the cross-examination
10 be conducted by another person selected by the accused and approved by the hearing officer or panel.
11 The person accused shall have the right to be present when his or her accuser is cross-examined.

12 (f) The right to present a defense and call witnesses in support of the defense.

13 (g) The right to an impartial hearing officer or panel.

14 (h) The right to have the assistance of an advisor, advocate, or legal representative, at
15 the student's, student organization's, or faculty member's own expense, who shall be allowed to be
16 present at and directly participate in all aspects of the proceeding. Such advisor, advocate, or legal
17 representative shall not serve in any other role in connection with the proceeding, including as
18 investigator, witness, decider of fact, hearings officer, panel member, decider of an appeal, or advisor
19 to any of the foregoing.

20 (i) The right to have a verbatim record of the hearing made and preserved for use in the
21 event there is an appeal.

22 (j) The right to appeal a final adverse decision to the vice president of student affairs or
23 equivalent official or body specifically designated by the institution to hear such appeals. The person
24 or persons comprising the appeal tribunal shall not have directly participated in any other aspect of
25 the proceeding in question.

26 II. The procedural rights, including the hearing, specified in paragraph I shall be afforded to
27 a student, student organization, or faculty member prior to the imposition of any discipline, provided
28 however that, in cases where the public institution of higher education can show a substantial
29 likelihood of an immediate threat to the physical health or safety of any student or other individual
30 before a hearing can be held, the institution may immediately take such actions as are necessary to
31 prevent or ameliorate the threat and shall thereupon hold the hearing as soon as reasonably
32 practicable after it has taken such actions.

33 III. A student, student organization, or faculty member may waive any or all of the rights
34 specified in paragraph I, provided that such waiver is made knowingly, intelligently, and voluntarily.

35 188-K:4 Rules and Regulations of Public Institutions of Higher Education. Any New Hampshire
36 public institution of higher education may adopt rules, regulations, policies, or procedures that
37 afford students, student organizations, or faculty members more due process protections than those

1 provided in this chapter, but no such institution shall adopt or utilize any rules, regulations, policies,
2 or procedures that afford students, student organizations, or faculty members facing a disciplinary
3 proceeding less protections than those afforded them herein.

4 188-K:5 Applicability of Chapter to Existing Collective Bargaining Agreements. If the rights
5 afforded to faculty members under this chapter conflict with grievance or disciplinary procedures
6 established under a valid collective bargaining agreement between a public institution of higher
7 education and a union representing faculty members of such institution that is in effect when this
8 chapter becomes effective, the grievance or disciplinary procedures provided for in the collective
9 bargaining agreement rather than those provided by this chapter shall apply to any disciplinary
10 proceedings brought against faculty members covered by the collective bargaining agreement while
11 the agreement remains in effect. After the expiration of said collective bargaining agreement, the
12 provisions of this chapter shall apply to any new disciplinary proceedings commenced against faculty
13 members represented by the union. From and after the effective date of this chapter, no public
14 institution of higher education and no union representing faculty members of such institution shall
15 enter into any new collective bargaining agreement, nor extend the expiration date of an existing
16 collective bargaining agreement, which contains grievance or disciplinary procedures less protective
17 of faculty members' due process rights than those established by this chapter.

18 3 Bodily Injury Actions Against Governmental Units; Liability for Negligence. RSA 507-B:2 is
19 repealed and reenacted to read as follows:

20 507-B:2 Liability for Negligence.

21 I. A governmental unit may be held liable for damages for:

22 (a) Bodily injury, personal injury, death, or property damages caused by the failure of
23 the governmental unit or its officials or employees acting within the scope of their authority to follow
24 the appropriate standard of care when that duty was owed to the person making the claim, including
25 any right of action for money damages which either expressly or by implication arises from any law,
26 unless another remedy for such claim is expressly provided by law; or

27 (b) Property damages suffered by a governmental unit employee or official during the
28 performance of that employee's or official's duties while on the governmental unit's business where
29 compensation is appropriate under principles of equity and good conscience;

30 (c) Provided, however, that the liability of any governmental unit with respect to its
31 sidewalks, streets, and highways shall be limited as provided in RSA 231 and the liability of any
32 governmental unit with respect to publicly owned airport runways and taxiways shall be limited as
33 set forth in RSA 422.

34 II. The provisions of this chapter shall not apply to:

35 (a) Any claim based upon an act or omission of an employee or official of a governmental
36 unit when such employee or official is exercising due care in the execution of any statute or any
37 regulation of a public employer, or any municipal ordinance.

1 (b) Any claim based upon the exercise or performance or the failure to exercise or
2 perform a discretionary executive or planning function or duty on the part of an employee or official
3 of a governmental unit acting within the scope of his office or employment.

4 4 Bodily Injury Actions Against Governmental Units; Limit of Liability. Amend RSA 507-B:4, I
5 to read as follows:

6 I. Liability of a governmental unit for bodily injury, personal injury or property damage
7 sustained by any one person in actions brought under this chapter is limited to [~~\$325,000~~] **\$475,000**
8 ***per claimant and \$1,425,000 per any single incident, or the proceeds from any insurance***
9 ***policy, whichever amount is greater.*** Such limit applies in the aggregate to any and all actions to
10 recover for bodily injury, personal injury or property damage sustained by one person in a single
11 incident or occurrence. [~~Liability of a governmental unit for bodily injury, personal injury, or~~
12 ~~property damage sustained by any number of persons in a single incident or occurrence is limited to~~
13 ~~\$1,000,000.] The limits applicable to any action shall be the limits in effect at the time of the
14 judgment or settlement.~~

15 5 Bodily Injury Actions Against Governmental Units; Insurance Policies Procured by
16 Governmental Agency. Amend RSA 507-B:7-a to read as follows:

17 507-B:7-a Insurance Policies Procured by Governmental Agency. It shall be lawful for the state
18 or any municipal subdivision thereof, including any county, city, town, school district, school
19 administrative unit or other district, to procure the policies of insurance described in RSA 412 ***or***
20 ***participate in pooled risk management, or self-insurance, pursuant to RSA 5-B.*** In any
21 action against the state or any municipal subdivision thereof to enforce liability on account of a risk
22 so insured against, the insuring company or state or municipal subdivision thereof shall not be
23 allowed to plead as a defense immunity from liability for damages resulting from the performance of
24 governmental functions, and its liability shall be determined as in the case of a private corporation
25 except when a standard of care differing from that of a private corporation is set forth by statute ***or***
26 ***common law***; provided, however, that liability in any such case shall not exceed the limits of
27 coverage specified in the policy of insurance or as to governmental units defined in RSA 507-B,
28 liability shall not exceed the policy ***or pooled risk*** limit or the limit specified in RSA 507-B:4, if
29 applicable, whichever is higher, ***or for self-insurance, the limit specified in RSA 507-B:4,*** and
30 the court shall abate any verdict in any such action to the extent that it exceeds such limit.

31 6 Political Subdivision Employees; Indemnification for Damages. Amend RSA 31:105 to read as
32 follows:

33 31:105 Indemnification for Damages. A city, town, county, village district or precinct, school
34 district, chartered public school, school administrative unit, or any other municipal corporation or
35 political subdivision [~~may by a vote of the governing body~~] ***shall*** indemnify and save harmless for
36 loss or damage [~~occurring after said vote~~] any person employed by it and any member or officer of its
37 governing board, administrative staff or agencies including but not limited to selectmen, school

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1 board members, chartered public school trustees, city councilors and aldermen, town and city
2 managers, regional planning commissioners, town and city health officers, overseers of public
3 welfare, and superintendents of schools from personal financial loss and expense including
4 reasonable legal fees and costs, if any, arising out of any claim, demand, suit, or judgment by reason
5 of negligence or other act resulting in accidental injury to a person or accidental damage to or
6 destruction of property if the indemnified person at the time of the accident resulting in the injury,
7 damage, or destruction was acting in the scope of employment or office ***and such acts were not***
8 ***wanton or reckless.***

9 7 Effective Date.

10 I. Section 1 of this act shall take effect January 1, 2027.

11 II. Section 2 of this act shall take effect July 1, 2026.

12 III. Sections 3 through 6 of this act shall take effect January 1, 2027.

**SB 409-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the penalties for the offense of disobeying an officer.

FISCAL IMPACT:

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
Expenditures*	Indeterminable			
<i>Funding Source</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association