

SB 261-FN - AS INTRODUCED

2025 SESSION

25-1019

11/09

SENATE BILL        **261-FN**

AN ACT            requiring that custodial interrogations be recorded, establishing a fund to make grants to state law enforcement agencies to purchase equipment to enable such recordings, and making an appropriation therefor.

SPONSORS:        Sen. McGough, Dist 11; Sen. Murphy, Dist 16; Sen. Gannon, Dist 23; Rep. Lynn, Rock. 17; Rep. Osborne, Rock. 2; Rep. Scherr, Rock. 26

COMMITTEE:      Judiciary

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ANALYSIS

This bill requires that custodial interrogations be recorded, establishes a fund to make grants to state law enforcement agencies to purchase equipment to enable such recordings, and appropriates \$50,000 therefor.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.



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1 I. Except as otherwise provided in RSA 594-A:4, a custodial interrogation at a place of  
2 detention, including the giving of any required warning, advice regarding the rights of the individual  
3 being questioned, and the waiver of any rights by the individual, shall be recorded electronically in  
4 its entirety. A custodial interrogation at a jail, police or sheriff's station, holding cell, or correctional  
5 or detention facility shall be also recorded. A custodial interrogation at any other place of detention  
6 shall be recorded by audio means at minimum.

7 II. This section shall not apply to an administrative disciplinary hearing in a state  
8 correctional facility or to a parole violator not charged with a new offense.

9 594-A:3 Exceptions.

10 I. If a custodial interrogation occurs in another state in compliance with that state's law or  
11 is conducted by a federal law enforcement agency in compliance with federal law, the interrogation  
12 shall not be recorded electronically unless the interrogation is conducted with intent to avoid the  
13 requirement of electronic recording in RSA 594-A:2.

14 II. If an individual to be interrogated requests that the interrogation not be recorded, or if  
15 the individual being interrogated indicates that the individual will not participate in further  
16 interrogation unless electronic recording ceases, the interrogation shall not be recorded electronically  
17 provided that this request is preserved by electronic recording or in a written document that is  
18 signed by the individual. A law enforcement officer with intent to avoid the requirement of  
19 electronic recording in RSA 594-A:2 shall not encourage an individual to request that a recording not  
20 be made.

21 III.(a) All or part of a custodial interrogation to which paragraph I of this section applies  
22 shall not be recorded electronically to the extent that recording is not feasible because the available  
23 electronic recording equipment fails, despite reasonable maintenance of the equipment, and timely  
24 repair or replacement is not feasible.

25 (b) If both audio and video recording of a custodial interrogation are otherwise required  
26 by paragraph I of this section, recording may be by audio alone if a technical problem in the video  
27 recording equipment prevents video recording, despite reasonable maintenance of the equipment,  
28 and timely repair or replacement is not feasible.

29 (c) If both audio and or video recording of a custodial interrogation are otherwise  
30 required by paragraph I of this section, recording may be by video alone if a technical problem in the  
31 audio recording equipment prevents audio recording, despite reasonable maintenance of the  
32 equipment, and timely repair or replacement is not feasible.

33 (d) If an electronic recording is not feasible under subparagraphs (a)-(c) of this section,  
34 the police shall document in writing the reasons for the failure of the recording equipment as soon as  
35 feasible. Such documentation shall include the most recent maintenance actions relating to the  
36 electronic equipment.

1           IV. Paragraph I of this section shall not apply to a spontaneous statement made outside the  
2 course of a custodial interrogation or a statement made in response to a question asked routinely  
3 during the processing of the arrest of an individual.

4           594-A:4 Presumption of Inadmissibility. Except as provided in RSA 594-A:3 and RSA 594-A:5,  
5 all statements made by a person during a custodial interrogation that are not electronically recorded  
6 shall be inadmissible as evidence against the person in any criminal or juvenile delinquency  
7 proceeding brought against the person.

8           594-A:5 Overcoming the Presumption of Inadmissibility. The presumption of inadmissibility of  
9 statements provided in 594-A:4 may be overcome, and statements that were not electronically  
10 recorded may be admitted into evidence in a criminal or juvenile delinquency proceeding brought  
11 against the person, if the court finds:

12           I. That the statements are otherwise admissible under applicable rules of evidence; and

13           II. That law enforcement personnel provide a reasonable justification, including a summary  
14 and documentation of the surrounding facts and circumstances, explaining the lack of recording.

15           594-A:6 Electronic Equipment Acquisition Fund; Allocation.

16           I. There is hereby established in the state treasury a nonlapsing fund to be known as the  
17 electronic equipment acquisition fund (EEAF) which shall be administered by the department of  
18 safety. The department shall credit all state appropriations and all federal moneys to the fund for  
19 the purposes of this chapter.

20           II. Grant moneys from the EEAF shall be available to a state law enforcement agency in  
21 need of audio and/or audiovisual equipment or additional support to comply with the requirements of  
22 this chapter to acquire such equipment. The department of safety shall:

23           (a) Notify all state law enforcement agencies of the availability of such funds within 60  
24 days of the effective date of this chapter and impose a deadline of 60 days after that date for the  
25 filing of an application for said funds.

26           (b) Prioritize the allocation of any funds as follows:

27           (1) A law enforcement agency that has neither audio nor audiovisual recording  
28 equipment shall have first priority.

29           (2) A law enforcement agency that has audio recording equipment but not  
30 audiovisual recording equipment shall have second priority.

31           (3) A law enforcement agency that has audiovisual recording equipment but  
32 insufficient storage capability for recorded files shall have third priority.

33           (c) A law enforcement agency that has both audio and audiovisual recording equipment  
34 and adequate storage capability for the recordings as of the effective date of this chapter shall not be  
35 eligible for funds under this chapter.

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1           (d) The commissioner of the department of safety shall adopt rules, pursuant to RSA  
2 541-A, relative to application procedures, forms, deadlines, notification, and disbursement of funds  
3 to grant applicants.

4           3 New Subparagraph; Application of Receipts; Electronic Equipment Acquisition Fund. Amend  
5 RSA 6:12, I(b) by inserting after subparagraph (399) the following new subparagraph:

6                   (400) Moneys credited to the electronic equipment acquisition fund established in  
7 RSA 594-A:6.

8           4 Electronic Equipment Acquisition Fund; Appropriation. There is hereby appropriated \$50,000  
9 for the biennium ending June 30, 2027 to the department of safety which shall be credited to the  
10 electronic equipment acquisition fund established in RSA 594-A:6. The governor is authorized to  
11 draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

12           5 Effective Date. This act shall take effect 9 months after its passage.

**SB 261-FN- FISCAL NOTE**  
AS INTRODUCED

AN ACT requiring that custodial interrogations be recorded, establishing a fund to make grants to state law enforcement agencies to purchase equipment to enable such recordings, and making an appropriation therefor.

**FISCAL IMPACT:** This bill does not provide funding, nor does it authorize new positions.

| <b>Estimated State Impact</b> |   |   |                |                |
|-------------------------------|---|---|----------------|----------------|
|                               | <b>FY 2025</b>                                      | <b>FY 2026</b>  | <b>FY 2027</b> | <b>FY 2028</b> |
| <b>Revenue</b>                | \$0   | \$0   | \$0            | \$0            |
| <i>Revenue Fund(s)</i>        | None  |   |                |                |
| <b>Expenditures*</b>          | \$0   | <u>Reimbursements to Political Subdivisions</u><br>Indeterminable Increase - No More Than \$50,000<br><br><u>Department of Corrections Position</u><br>\$32,000 in FY 2026, \$109,000 in FY 2027,<br>and \$113,000 in FY 2028 |                |                |
| <i>Funding Source(s)</i>      | General Fund, Electronic Equipment Acquisition Fund |   |                |                |
| <b>Appropriations*</b>        | \$0   | \$50,000  |                | \$0            |
| <i>Funding Source(s)</i>      | General Fund  |   |                |                |

\*Expenditure = Cost of bill

\*Appropriation = Authorized funding to cover cost of bill

| <b>Estimated Political Subdivision Impact</b> |                |   |                |                |
|---|----------------|---|----------------|----------------|
|   | <b>FY 2025</b> | <b>FY 2026</b>                                  | <b>FY 2027</b> | <b>FY 2028</b> |
| <b>Revenue</b>                                | \$0            | Indeterminable Increase - No More Than \$50,000 |                |                |
| <b>Expenditures</b>                           | \$0            | Indeterminable Increase                         |                |                |

**METHODOLOGY:**

This bill requires that custodial interrogations be recorded and establishes a fund, with a \$50,000 general fund appropriation and administered by the Department of Safety, to make grants to state law enforcement agencies to purchase equipment to enable such recordings. For informational purposes, the Department states, based on a vendor quote obtained, outfitting to comply with this bill could be \$18,670.00 per room. Ultimately, it is unlikely that the \$50,000 appropriation would be sufficient to cover all reimbursement requests. The Department has identified no administrative costs associated with processing reimbursement requests.

The Department of Corrections states there would be no fiscal impact for the cost of the equipment as all “custodial interrogations” are recorded by use of body worn cameras.

However, there would be a cost to the Department for the hiring of a facilitator of these recordings as this legislation would require a full-time employee who would be tasked with discovery requests and responsible for redactions of the interviews. Assuming a start date of April 1, 2026, an administrator II position (SOC 11-05) would cost approximately \$32,000 in FY 2026, \$109,000 in FY 2027, and \$113,000 in FY 2028 (this bill provides neither authorization nor appropriation for new personnel).

The New Hampshire Association of Counties states this bill may result in minimal costs to county governments. Any county revenue from reimbursement from the state is indeterminable.

The New Hampshire Municipal Association states this bill may result in a cost to local governments for purchasing and maintaining equipment for recording all custodial interrogations and training police officers to comply with this mandate. There will also be costs related to storage of the recorded interrogations. Any costs will vary from municipality to municipality, and it is unknown how much could be covered by reimbursement from the state.

**AGENCIES CONTACTED:**

Department of Safety, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association