

Important Notice

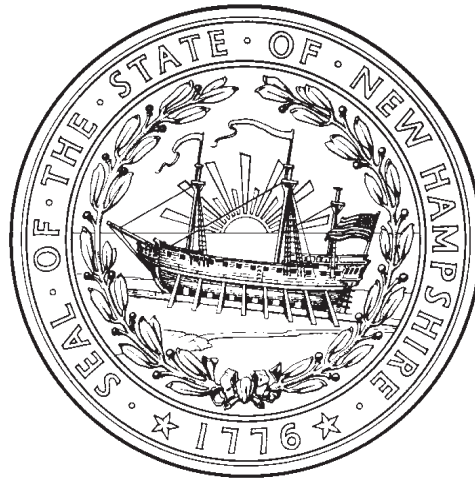
Due to the COVID-19 pandemic, the General Court is conducting legislative activities remotely with the exception of publicly noticed sessions in the House or Senate Calendar. During this time, the State House and Legislative Office Building remain closed to visitors.

May 20, 2021
No. 25A

STATE OF NEW HAMPSHIRE

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First Year of the 167th Session of the
New Hampshire General Court

SENATE CALENDAR ADDENDUM

Due to the COVID-19 pandemic, the General Court is conducting legislative activities remotely with the exception of publicly noticed sessions in the House or Senate Calendar. During this time, the State House and Legislative Office Building remain closed to visitors.

**THE SENATE WILL MEET IN SESSION ON THURSDAY,
MAY 27, 2021 AT 10:00 A.M. IN REPRESENTATIVES' HALL**

The Senate Session on Thursday, May 27, 2021, in Representatives' Hall
will be live streamed at the following link:

<http://sg001-harmony.sliq.net/00286/Harmony/en/View/Calendar/20210527/-1>

Please note, this link will not be live until the Senate Session on
Thursday, May 27, 2021 at 10:00 A.M.

CONSENT CALENDAR REPORTS

ELECTION LAW AND MUNICIPAL AFFAIRS

HB 391, increasing the threshold for reporting by political committees.

Ought to Pass with Amendment, Vote 5-0.

Senator Soucy for the committee.

This bill as amended will establish a commission to review and make recommendations on campaign finance laws. The purpose of this Commission is to determine how New Hampshire can streamline the current process in order to balance transparency and reporting requirements for both candidates and political committees. The Commission will consult with members of both major political parties and receive testimony from any independent election organization and the public.

JUDICIARY

HB 108-FN-L, relative to minutes and decisions in nonpublic sessions under the right-to-know law.

Ought to Pass with Amendment, Vote 5-0.

Senator Kahn for the committee.

As amended this bill requires that for meetings in nonpublic session where the minutes or decisions were determined to not be subject to public disclosure, a list shall be kept which shall include certain information; the list shall be made available for public disclosure. The bill also requires that sealed minutes of a nonpublic session related to the acquisition, sale, or lease of real or personal property be released once the transaction closes or the public body decides not to proceed. Additionally, the bill establishes requirements for remote access to public meetings under RSA 91-A: allowing members of public bodies to participate by electronic or other means and allowing a public body to provide remote access to their meetings to the public. Finally, the bill exempts materials falling within the attorney-client privilege or attorney work product doctrine from the provisions of RSA 91-A. These changes are important updates to RSA 91-A, Access to Governmental Records and Meeting, otherwise known as the Right-to-Know Law. The Committee asks for your support in the motion of Ought to Pass with Amendment.

HB 139, relative to the submission of evidence in divorce proceedings.

Inexpedient to Legislate, Vote 5-0.

Senator Whitley for the committee.

This bill would permit the parties to request a continuance if evidence in a divorce proceeding is not submitted prior to the hearing. The Judicial Branch already has rules addressing discovery deadlines and this bill would create inconsistency and confusion by imposing different requirements.

HB 142, relative to causes for divorce.

Inexpedient to Legislate, Vote 5-0.

Senator French for the committee.

This bill would revise the fault-based grounds for divorce. With the New Hampshire Supreme Court ruling in *Blaisdell v. Blaisdell* already overturning the definition of the grounds established in *Blanchflower v. Blanchflower*, there is no reason to move forward with this bill.

Due to the COVID-19 pandemic, the General Court is conducting legislative activities remotely with the exception of publicly noticed sessions in the House or Senate Calendar. During this time, the State House and Legislative Office Building remain closed to visitors.

HB 161, relative to the calculation of child support.

Inexpedient to Legislate, Vote 5-0.

Senator Whitley for the committee.

This bill would revise the child support guideline percentages, increase the self-support reserve amount, define a shared parenting plan, establish a new formula for the calculation of child support in cases involving shared parenting plans; and permit the court to modify the presumptive child support amount as justice and the best interest of the child may require. The Committee strongly believes that the child's best interest should be of the utmost importance in these proceedings and that time parenting should not be tied to a financial incentive and therefore recommends this bill to be Inexpedient to Legislate.

HB 179-FN, relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

Ought to Pass with Amendment, Vote 5-0.

Senator Whitley for the committee.

This bill establishes an enhanced penalty for persons convicted of negligent homicide who have prior convictions for driving under the influence of drugs or liquor. The Committee amended the bill to clarify the language to include when a person causes serious bodily injury as defined in RSA 625:11 to another and asks for your support in passing the bill.

HB 180, increasing the penalty for buyers under the law regarding trafficking in persons.

Ought to Pass with Amendment, Vote 5-0.

Senator Kahn for the committee.

This bill changes the penalty for a person who pays to engage in sexual contact with another person under the age of 18 who is a victim of human trafficking to a class B felony. The Committee amended the bill to compromise on concerns raised by the amendment passed by the House, leaving the actor as guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact or sexual penetration with a person who is under the age of 16.

HB 196, adding trespass as an exception to the charge of criminal threatening.

Re-refer to Committee, Vote 5-0.

Senator Gannon for the committee.

This bill would add an exception to the criminal threatening statute for a person who displays a firearm to warn away a trespasser. This is an issue that needs further clarification regarding the language being proposed, and therefore the Committee requests support in the motion of Re-Refer to Committee in order to have more time to work on this legislation.

HB 232, relative to nonpublic sessions under the right to know law.

Re-refer to Committee, Vote 5-0.

Senator French for the committee.

This bill would permit nonpublic sessions under RSA 91-A for the consideration of the amount paid, offered, or accepted for the sale or lease of property, but nonpublic sessions would not be permitted for general discussions of whether to proceed with the sale or lease. The Committee would like to take some more time to understand the ramifications of this legislation and therefore asks for support of the motion of Re-Refer to Committee.

HB 236, creating a statute of limitation on civil actions relative to damage caused by perfluoroalkyl and polyfluoroalkyl substances.

Ought to Pass with Amendment, Vote 5-0.

Senator Whitley for the committee.

This bill extends the statute of limitation on civil actions relative to damage caused by perfluoroalkyl and polyfluoroalkyl substances. This is an important piece of legislation that gives those impacted by these damages six years to bring forward civil action as opposed to the standard three years. The Committee amended the bill to ensure that this language would not impact the State's ability to bring forward actions in these cases and asks for your support in passing this language with the amendment.

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HB 293, relative to the procedure for adoption of a minor child.

Re-refer to Committee, Vote 5-0.

Senator Gannon for the committee.

This bill would provide that, in an adoption proceeding, a home assessment may not be required if the parents are deceased or their parental rights have been terminated and the child has lived with the prospective adoptive parents for at least two years, or if an assessment has been completed in the previous three years. The Committee appreciates the intention behind this legislation but feels it needs more time to examine the consequences of implementing this kind of change, and therefore, asks for support of the motion of Re-Refer to Committee.

HB 474, prohibiting surveillance by the state on public ways or sidewalks.

Inexpedient to Legislate, Vote 5-0.

Senator Gannon for the committee.

This bill would prohibit the use of surveillance to determine the location of a motor vehicle or the identity or location of a pedestrian. Individuals do not have an expectation of privacy on public ways and the significant unintended consequences of this bill would severely impact the safety of our roadways. Therefore, the Committee asks for support of the motion of Inexpedient to Legislate.

HB 494, relative to temporary relief and permanent restraining orders issued in a divorce proceeding.

Inexpedient to Legislate, Vote 5-0.

Senator French for the committee.

This bill would provide that the court shall not issue an order in a divorce proceeding that infringes on a party's constitutional rights unless the court determines there is no less restrictive means to achieve a compelling government interest. Currently, if an enumerated constitutional right is violated in an order, then the constitution and the facts of the case already provide the legal basis for an appeal. Therefore, there is no need to move this bill forward.

HB 495, relative to restraining orders issued in a parenting case.

Inexpedient to Legislate, Vote 5-0.

Senator French for the committee.

This bill would provide that the court shall not issue an order in a parenting case that infringes on a party's constitutional rights unless the court determines there is no less restrictive means to achieve a compelling government interest. The Committee recommends moving this bill as Inexpedient to Legislate due to the fact that the courts are already not allowed to issue unconstitutional orders.

HB 539, relative to records of communications common carriers.

Inexpedient to Legislate, Vote 5-0.

Senator Gannon for the committee.

This bill would require that customer information in records of communications common carriers only be provided pursuant to a search warrant or a judicially-recognized exception to the warrant requirement. Common carriers already must adhere to the Customer Proprietary Network Information regulations at the FCC and cannot divulge information about subscribers without the proper judicial requirements. This bill would implement a significant amount of change and there is a lack of clarity regarding the impact of this on our existing emergency procedures. Therefore, the Committee asks for support of the motion of Inexpedient to Legislate.

HB 566, relative to the discussion and disclosure of minutes from a nonpublic session under the right-to-know law.

Ought to Pass with Amendment, Vote 5-0.

Senator Gannon for the committee.

As amended, this bill adds the discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session as additional exemption to RSA 91-A, provided that the vote on disclosure takes place in public session. This is an important step to provide public bodies increased opportunities to disclose nonpublic minutes and therefore, the Committee asks for your support on this bill.

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TRANSPORTATION

HB 222-FN, relative to official cover plates.

Inexpedient to Legislate, Vote 5-0.

Senator Birdsell for the committee.

This bill permits the director to issue official cover plates to the clerk of the New Hampshire house of representatives. The bill also clarifies the number of sets of official cover plates that may be issued to any eligible person. The committee unanimously determined that this bill is inexpedient to legislate. The committee learned that clerks in many other states do not have official cover plates. The committee believes that access to official cover plates should be reasonably limited.

HB 224, relative to tinted windows on motor vehicles.

Ought to Pass, Vote 5-0.

Senator Ricciardi for the committee.

This bill allows for after market tinting of side windows. This bill allows for older motor vehicles to achieve the tinting as provided by manufacturers in newer motor vehicles. Window tinting provides protection from harmful UV rays. This bill will decrease the number of issues related to window tint percentages during car inspections. This bill may encourage more businesses to offer their window tinting services in New Hampshire so that individuals do not have to travel out of state to find these services.

REGULAR CALENDAR REPORTS

ELECTION LAW AND MUNICIPAL AFFAIRS

HB 98, relative to the date of the state primary election.

Ought to Pass with Amendment, Vote 5-0.

Senator Birdsell for the committee.

HB 291, relative to public inspection of absentee ballot lists.

Ought to Pass with Amendment, Vote 3-2.

Senator Gray for the committee.

FINANCE

HB 15-FN, relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

Ought to Pass, Vote 6-1.

Senator Hennessey for the committee.

HB 605-FN, relative to the therapeutic cannabis program.

Ought to Pass, Vote 4-3.

Senator Rosenwald for the committee.

JUDICIARY

HB 125, relative to post-arrest photo distribution by law enforcement officers.

Ought to Pass, Vote 3-2.

Senator French for the committee.

HB 195, adding display of a firearm as an exception to reckless conduct.

Ought to Pass with Amendment, Vote 3-2.

Senator Gannon for the committee.

HB 233-FN, relative to the right of any infant born alive to medically appropriate and reasonable care and treatment.

Re-refer to Committee, Vote 3-2.

Senator Carson for the committee.

HB 307, relative to the state preemption of the regulation of firearms and ammunition.

Re-refer to Committee, Vote 3-2.

Senator French for the committee.

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HB 334, relative to prohibitions on carrying a loaded firearm on an OHRV or snowmobile.

Ought to Pass, Vote 4-1.

Senator French for the committee.

HB 440, prohibiting the suspension of civil liberties during a state of emergency.

Re-refer to Committee, Vote 3-2.

Senator Carson for the committee.

HB 542, relative to the protection of religious liberty.

Ought to Pass with Amendment, Vote 3-2.

Senator Carson for the committee.

HB 625-FN, relative to the protection of fetal life.

Ought to Pass with Amendment, Vote 3-2.

Senator Carson for the committee.

AMENDMENTS

Election Law and Municipal Affairs

May 24, 2021

2021-1660s

11/10

Amendment to HB 98

Amend the bill by replacing all after the enacting clause with the following:

1 Election of Officers and Delegates; Election Dates; State Primary Election; Authority for Change in Filing Period. Amend RSA 653:8 to read as follows:

653:8 State Primary Election. The state primary election shall be held on the second Tuesday in ~~[September]~~ **August** of every even-numbered year.

653:8-a Change in Primary Date. Notwithstanding the provisions of RSA 653:8, if the secretary of state changes the dates of the filing period pursuant to RSA 655:14-c, he or she is hereby authorized to make a corresponding change to the date of the primary election.

2 Voters and Checklists; Hearings on Alterations to Party Registration. Amend RSA 654:32 to read as follows:

654:32 Hearings on Alterations to Party Registration. Before each state or presidential primary election, the supervisors of the checklist shall be in session before each primary for the change of registration of legal voters as provided in RSA 654:34 or 654:34-a or both. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period, between 7:00 p.m. and 7:30 p.m. and at the discretion of the supervisors for extended hours. Before the state primary election, the session shall be on Tuesday before the first Wednesday in ~~[June]~~ **May** between 7:00 p.m. and 7:30 p.m. and at the discretion of the supervisors for extended hours.

3 Voters and Checklists; Change of Registration. Amend RSA 654:34, IV to read as follows:

IV. No person, who is already registered to vote, whether his **or her** party membership has been previously registered or not, shall affiliate with a party or disaffiliate from a party between the first Wednesday in ~~[June]~~ **May** and the day before the state primary election.

4 Voters and Checklists; Verification of Checklists. Amend RSA 654:38, III to read as follows:

III. Upon completion of verification of the checklist, but, in no event later than ~~[September 1]~~ **August 1**, the supervisors shall file with the secretary of state the following certificate: We, the supervisors of the checklist of the town (or ward ____) of _____, do hereby certify that we have verified the checklist of registered voters in the town (or ward ____ of the city) of _____ as directed by the ballot law commission.

5 Voters and Checklists; Verification Every 10 Years. Amend RSA 654:39, V to read as follows:

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V. Upon completion of verification of the checklist, but in no event later than ~~[September 1]~~ **August 1**, the supervisors shall file with the secretary of state the following certificate: We, the supervisors of the checklist (or registrars of voters) of the town (or ward _____) of _____, do hereby certify that we have verified the checklist of registered voters in the town (or ward _____ of the city) of _____, pursuant to the provisions of RSA 654:39.

6 Elections; Nominations by Primary; Filing: General Provisions. Amend RSA 655:14 to read as follows:

655:14 Filing; General Provisions. The name of any person shall not be printed upon the ballot of any party for a primary unless he or she is a registered member of that party, he or she shall have met the age and domicile qualifications for the office he or she seeks at the time of the general election, he or she meets all the other qualifications at the time of filing, and he or she shall file with the appropriate official between the first Wednesday in ~~[June]~~ **May** and the Friday of the following week a declaration of candidacy as provided in RSA 655:17.

7 Elections; Nominations by Primary. Amend RSA 655:21 to read as follows:

655:21 Form. Primary petitions shall be made in the following form:

State of New Hampshire

County of _____ ss.

City (Town) of _____

I do hereby join in a petition for the printing on the primary ballot of the name of _____ whose domicile is in the city (town) of _____ (ward, street, and number, if in a city), in the county of _____, for the office of _____ to be voted for on Tuesday, the _____ day of ~~[September]~~ **August**, _____ (year), and certify that I am qualified to vote for a candidate for said office, that I am a registered member of the _____ party, and am not at this time a signer of any other similar petition for any other candidate for the above office; that my domicile is in the city (town) of _____ (ward, street, and number, if in a city), in the county of _____. I certify that to my knowledge the above-named candidate is not a candidate for incompatible offices as defined in RSA 655:10, and that he or she is not a federal employee which makes him or her ineligible to file as a candidate for this office. I further certify that I believe the above-named person is especially qualified to fill said office.

I hereby swear, under the penalties for voting fraud set forth below, that the information above is true and correct to the best of my knowledge and belief.

Print Voter's name

Voter's Signature

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

8 Elections; Nomination by Primary; Examination and Rejection. Amend RSA 655:26 to read as follows:

655:26 Examination and Rejection. The officer with whom primary petitions are filed shall immediately upon receipt thereof examine the same and ascertain whether they conform to the law. If found not to conform thereto or to be conflicting as provided in RSA 655:23, he **or she** shall then endorse thereon the reason why such petition cannot be accepted and shall, within 24 hours, return the same to the candidate in whose behalf it was filed. In such case, the candidate may file supplementary petitions with the official, but not later than ~~[the third Wednesday in June]~~ **14 days after the opening of the filing period under RSA 655:14.**

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9 Ballot Law Commission; Hearing Date. Amend the introductory paragraph of RSA 665:5, I to read as follows:

I. If necessary, the ballot law commission shall meet on the [third] **second** Thursday [of September] **following the date of the state primary election** in each general election year and the third Friday following the presidential primary election in order to hear and decide:

10 Effective Date. This act shall take effect January 1, 2023.

2021-1660s

AMENDED ANALYSIS

This bill changes the date of the state primary election to the second Tuesday in August.

Senate Judiciary
May 25, 2021
2021-1711s
08/04

Amendment to HB 108-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT relative to minutes and decisions in nonpublic sessions; an exemption for items falling within the attorney-client privilege or the attorney work product doctrine under the right-to-know law; and remote access to public meetings under the right-to-know law.

Amend the bill by replacing all after the enacting clause with the following:

1 Right-to-Know Law; Nonpublic Sessions. Amend RSA 91-A:3, III to read as follows:

III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes of such sessions shall record all actions in such a manner that the vote of each member is ascertained and recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply. ***For all meetings held in nonpublic session, where the minutes or decisions were determined to not be subject to full public disclosure, a list of such minutes or decisions shall be kept and this list shall be made available as soon as practicable for public disclosure. This list shall identify the public body and include the date and time of the meeting in nonpublic session, the specific exemption under paragraph II on its face which is relied upon as foundation for the nonpublic session, the date of the decision to withhold the minutes or decisions from public disclosure, and the date of any subsequent decision, if any, to make the minutes or decisions available for public disclosure. Minutes related to a discussion held in nonpublic session under subparagraph II(d) shall be made available to the public as soon as practicable after the transaction has closed or the public body has decided not to proceed with the transaction.***

2 Access to Governmental Records and Meetings; Meetings Open to the Public. Amend RSA 91-A:2, III to read as follows:

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

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~~[(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.]~~

~~(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an “emergency” means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.]~~

~~(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting.]~~

(a) A physical location is not required for any meeting, provided the meeting complies with the provisions of this paragraph.

(b) If a meeting has no physical location, public access shall be provided to the public by telephone, and additional access may be provided by video or other electronic means.

(c) If a meeting has no physical location, public notice of the meeting, with all information necessary to access the meeting telephonically and by other means, shall be given as provided in this chapter. The notice shall provide a mechanism for the public to alert the public body during the meeting if there are problems with access. The meeting shall be adjourned if the public is unable to access the meeting because of any technical communication problems experienced by the provider of the communication media.

(d) Each member participating electronically or otherwise [must] in a meeting required to be open to the public shall be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting’s location, if the meeting has a physical location. Any member participating in such fashion shall identify the location from which the person is participating and the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

~~[(d)]~~ ***(e) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.***

~~[(e)]~~ ***(f) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.***

3 Access to Governmental Records and Meetings; Meetings Open to the Public; Version Effective July 1, 2022. RSA 91-A:2, III is repealed and reenacted to read as follows:

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an “emergency” means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

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(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

4 New Paragraph; Right To Know; Exemptions. Amend RSA 91-A:5 by inserting after paragraph XI the following new paragraph:

XII. Records protected under the attorney-client privilege or the attorney work product doctrine.

5 Effective Date.

I. Section 1 of this act shall take effect January 1, 2022.

II. Section 3 of this act shall take effect July 1, 2022.

III. The remainder of this act shall take effect upon its passage.

2021-1711s

AMENDED ANALYSIS

This bill:

I. Requires that for meetings in nonpublic session where the minutes or decisions were determined to not be subject to public disclosure, a list shall be kept which shall include certain information. The list shall be made available for public disclosure.

II. Requires that sealed minutes of a nonpublic session related to the acquisition, sale, or lease of real or personal property be released once the transaction closes or the public body decides not to proceed.

III. Exempts materials falling within the attorney-client privilege or attorney work product doctrine from the provisions of RSA 91-A.

Senate Judiciary

May 25, 2021

2021-1692s

04/05

Amendment to HB 179-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Short Title. This act shall be known as Tyler Shaw's Law.

2 Extended Term of Imprisonment. RSA 651:6, II(c) is repealed and reenacted to read as follows:

(c) Has been previously convicted of driving or operating under the influence of drugs or liquor under RSA 265-A:2, aggravated driving while intoxicated under RSA 265-A:3, or negligent homicide under RSA 630:3, II, or under reasonably equivalent offenses in an out-of-state jurisdiction, and such person is charged with an offense under RSA 630:3, II or RSA 265-A:3, I(b) or II(b).

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3 Extended Term of Imprisonment. Amend RSA 651:6, III(a) to read as follows:

(a) Any felony, other than murder [or], manslaughter, ***negligent homicide under RSA 630:3, II, or aggravated driving while intoxicated under RSA 265-A:3, I(b) or II(b) under circumstances where the person caused serious bodily injury as defined in RSA 625:11 to another***, a minimum to be fixed by the court of not more than 10 years and a maximum to be fixed by the court of not more than 30 years;

4 Extended Term of Imprisonment. Amend RSA 651:6, III(f)-(g) to read as follows:

(f) A third offense under RSA 632-A:3, life imprisonment; [or]

(g) Any of the crimes listed under RSA 651:6, I(j), a minimum to be fixed by the court of not less than 90 days and a maximum of not more than one year; ***or***

(h) Negligent homicide under RSA 630:3, II or aggravated driving while intoxicated under RSA 265-A:3, I(b) or II(b) under circumstances where the person caused serious bodily injury as defined in RSA 625:11 to another, provided that the court may consider an enhanced sentence of not less than 10 years or more than 20 years where the person has once previously been convicted under RSA 265-A:2, I, RSA 265-A:3, or RSA 630:3, II, or under a reasonably equivalent offense in an out-of-state jurisdiction; or

(i) Negligent homicide under RSA 630:3, II or aggravated driving while intoxicated under RSA 265-A:3, I(b) or II(b) under circumstances where the person caused serious bodily injury as defined in RSA 625:11 to another, provided that the court may consider an enhanced sentence of not less than 15 years or more than 30 years where the person has, on 2 or more prior occasions, been convicted under RSA 265-A:2, I, RSA 265-A:3, or RSA 630:3, II, or under a reasonably equivalent offense in an out-of-state jurisdiction.

5 Effective Date. This act shall take effect January 1, 2022.

Senate Judiciary
May 25, 2021
2021-1693s
04/08

Amendment to HB 180

Amend the bill by replacing section 1 with the following:

1 Interference With Freedom; Trafficking in Persons. Amend RSA 633:7, III-a to read as follows:

III-a.(a) A person is guilty of a class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or a third party. Neither the actor's lack of knowledge of the other person's age nor consent of the other person shall constitute a defense to a charge under this paragraph.

(b) A person is guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person who is under the age of 16. The payment or offer or agreement to pay may be made to the person who is under the age of 16 or a third party.

2021-1693s

AMENDED ANALYSIS

This bill increases the penalty for a person who pays to engage in sexual contact with another person under the age of 16 who is a victim of human trafficking.

Important Notice

Due to the COVID-19 pandemic, the General Court is conducting legislative activities remotely with the exception of publicly noticed sessions in the House or Senate Calendar. During this time, the State House and Legislative Office Building remain closed to visitors.

Senate Judiciary
May 25, 2021
2021-1708s
04/11

Amendment to HB 195

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Reckless Conduct; Exception for Display of a Firearm. Amend RSA 631:3 by inserting after paragraph IV the following new paragraph:

V. The act of displaying a firearm shall not, in and of itself and without additional circumstances, constitute reckless conduct under this section.

Senate Judiciary
May 25, 2021
2021-1695s
08/11

Amendment to HB 236

Amend RSA 485-H:11 as inserted by section 1 of the bill by replacing it with the following:

485-H:11 Statute of Limitations; Civil Actions; PFAS Exposure. A civil action arising out of any harm or injury caused by a person or entity found legally responsible for or an action for any damages resulting from a PFAS exposure may be brought within the 6 years after the date the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, such harm, injury, or damages and the causal relationship of an act or omission to such harm, injury or damages. Nothing in this section shall be construed as limiting any action brought by the state.

Election Law and Municipal Affairs
May 24, 2021
2021-1674s
06/11

Amendment to HB 291

Amend the title of the bill by replacing it with the following:

AN ACT relative to the analysis of requests for absentee ballot information by the attorney general.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Analysis of Requests for Absentee Ballot Information. Amend RSA 657 by inserting after section 24 the following new section:

657:24-a Analysis of Requests for Absentee Ballot Information. The attorney general shall analyze the requests for absentee ballot information for state general elections and presidential primary elections contained in the statewide centralized voter registration database for evidence of misuse. The analysis shall include, but shall not be limited to, the number of absentee ballots mailed to a common address and significant differences in the number of ballots that were requested from a city or town. The results of the analysis and any additional actions identified shall be reported to the house and senate committees with jurisdiction over elections within 120 days of the election.

2 Effective Date. This act shall take effect 60 days after its passage.

2021-1674s

AMENDED ANALYSIS

This bill requires the attorney general to analyze absentee ballot information requests for evidence of misuse.

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Election Law and Municipal Affairs
May 24, 2021
2021-1683s
11/06

Amendment to HB 391

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to review and make recommendations on campaign finance laws.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Commission on Campaign Finance Laws. Amend RSA 664 by inserting after section 5-c the following new section:

664:5-d Commission Established. There is established a commission to review and make recommendations on campaign finance laws of the state of New Hampshire.

I. The members of the commission shall be as follows:

(a) Two members of the senate election law and municipal affairs committee, one from the majority appointed by the president of the senate and one from the minority nominated by the senate minority leader and appointed by the president of the senate.

(b) Three members of the house of representatives election law committee, 2 from the majority appointed by the speaker of the house of representatives and one from the minority nominated by the minority leader of the house of representatives and appointed by the speaker of the house of representatives.

(c) The attorney general, or designee.

(d) The secretary of state, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall, during at least one of its meetings, seek comment from individuals representing the 2 major political parties regarding their concerns and/or issues with existing campaign finance laws.

IV. The commission shall solicit input and receive public testimony from any person or independent organizations that participate in the election process.

V. The commission shall review and make specific recommendations on the following items:

(a) Existing campaign finance laws and any inconsistencies that may exist therein.

(b) Determining whether state campaign finance laws differ from current federal campaign finance laws.

(c) Making legislative recommendations to streamline and improve the current process in an effort to balance transparency and reporting requirements for both candidates and political committees.

(d) Providing direction and clarity for those committees that have local reporting requirements in addition to the state reporting requirements.

VI. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 30 days of the effective date of this section. Four members of the commission shall constitute a quorum.

VII. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate election law and municipal affairs committee, and the house election law committee on or before June 1, 2022. The report shall describe the activities and findings of the commission and recommendations for proposed legislation and rulemaking by relevant agencies.

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2 Prospective Repeal. RSA 664:5-d, relative to the commission to review and make recommendations on campaign finance laws, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect June 1, 2022.

II. The remainder of this act shall take effect upon its passage.

2021-1683s

AMENDED ANALYSIS

This bill establishes a commission to review and make recommendations on campaign finance laws.

Senate Judiciary
May 25, 2021
2021-1712s
05/08

Amendment to HB 542

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Protection of Religious Liberty. Amend RSA by inserting after chapter 546-B the following new chapter:

CHAPTER 546-C PROTECTION OF RELIGIOUS LIBERTY

546-C:1 Definitions. In this chapter:

I. "Exercise of religion" means the practice or observance of religion. It includes, but is not limited to, any action that is motivated by a sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.

II. "Religious organization" means:

- (a) A house of worship, including but not limited to churches, synagogues, mosques, shrines, and temples;
- (b) A religious group, corporation, association, educational institution, ministry, order, society, or similar entity, regardless of whether it is integrated or affiliated with a church or other house of worship; or
- (c) An officer, owner, employee, manager, religious leader, clergy, or minister of an entity or organization described in this paragraph.

III. "Religious service" means a meeting, gathering, or assembly of 2 or more persons organized by a religious organization for the purpose of worship, teaching, training, providing educational services, conducting religious rituals, or other activities that are deemed necessary by the religious organization for the exercise of religion.

IV. "State government" means:

- (a) The state or a political subdivision of the state;
- (b) Any agency of the state or of a political subdivision of the state, including a department, bureau, board, commission, council, court, or public institution of higher education;
- (c) Any person acting under color of state law; and
- (d) Any private person suing under or attempting to enforce a law, rule, or regulation adopted by the state or a political subdivision of the state.

V. "Substantial burden" means any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person's exercise of religion. It includes, but is not limited to, withholding benefits, assessing criminal, civil, or administrative penalties or damages, or exclusion from governmental programs or access to governmental facilities.

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546-C:2 State of Emergency Protections.

I. Notwithstanding RSA 4:45 or any other provision of law to the contrary, during a state of emergency, the state government shall permit a religious organization to continue operating and to engage in religious services to the same or greater extent that other organizations or businesses that provide essential services that are necessary and vital to the health and welfare of the public are permitted to operate.

II. Nothing in this section shall prohibit the state government from requiring religious organizations to comply with neutral health, safety, or occupancy requirements issued by the state or federal government that are applicable to all organizations and businesses that provide essential services. Provided, however, that the state government shall not enforce any health, safety, or occupancy requirement that imposes a substantial burden on a religious service unless the state government demonstrates that applying the burden to the religious service in this particular instance is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

III. A religious organization may assert a violation of this section as a claim against the state government in any judicial or administrative proceeding or as a defense in any judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of the state government, any private person, or any other party.

IV. Any religious organization that successfully asserts a claim or defense under this section may recover appropriate relief including, but not limited to, injunctive relief, declaratory relief, compensatory damages, and costs and attorney fees.

2 Effective Date. This act shall take effect 60 days after its passage.

2021-1712s

AMENDED ANALYSIS

This bill provides that, during a state of emergency, the state shall permit religious organizations to operate to the same degree as other organizations that provide essential services or are vital to public health and welfare.

Senate Judiciary
May 25, 2021
2021-1710s
08/04

Amendment to HB 566

Amend the title of the bill by replacing it with the following:

AN ACT relative to the discussion of disclosure of the minutes from a nonpublic session under the right-to-know law.

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

2021-1710s

AMENDED ANALYSIS

This bill allows discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session, provided the vote on disclosure takes place in public session.

Senate Judiciary
May 25, 2021
2021-1714s
05/08

Amendment to HB 625-FN

Amend the bill by replacing all after the enacting clause with the following:

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1 Title. This act may be known and cited as the “Fetal Life Protection Act.”

2 Legislative Findings and Purpose.

I. The general court finds that:

(a) The prohibition of late-term abortion is supported by history and the common law. The Hippocratic Oath as Literary Text: A Dialogue Between Law and Medicine, 2 Yale J. Health Policy L. & Ethics 299, 308 (discussing the Hippocratic Oath’s prohibition on abortion); Digest of Justinian: Digest 4.48.8.8 (classifying abortion as a form of homicide); 2 Bracton on Laws and Customs of England 341 (S. Thorne trans. 1968) (classifying abortion as a form of homicide “especially if [the fetus] is quickened”); 1 W. Blackstone, Commentaries on the Law of England 125 (1773) (stating that the common law has historically prohibited abortion “as soon as an infant is able to stir in the mother’s womb.”). The New Hampshire supreme court has observed that “The common law has always been most solicitous for the welfare of the fetus in connection with its inheritance rights as well as protecting it under the criminal law.” *Poliquin v. Donald*, 101 N.H. 104, 107 (1957).

(b) The United States Supreme Court, in holding that the United States Constitution protects abortion, also stated that “The pregnant woman cannot be isolated in her privacy. She carries an embryo and, later, a fetus... The situation therefore is inherently different from marital intimacy [etc.]... it is reasonable and appropriate for a State to decide that at some point in time another interest, that of... [fetal] life, becomes significantly involved. The woman’s privacy is no longer sole and any right of privacy she possesses must be measured accordingly.” *Roe v. Wade*, 410 U.S. 113, 159 (1973).

(c) The *Roe* Court specifically rejected the view that “the woman’s right is absolute and that she is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses.” *Roe v. Wade*, 410 U.S. 113, 153 (1973).

(d) The *Roe* Court affirmed that “For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.” *Roe v. Wade*, 410 U.S. 113, 164-165 (1973).

(e) The United States Supreme Court, in rejecting the trimester framework of *Roe*, reaffirmed “the State’s power to restrict abortions after fetal viability, if the law contains exceptions for pregnancies which endanger the woman’s life or health” and stated that “the State has legitimate interests from the outset of the pregnancy in protecting... the life of the fetus that may become a child.” *Planned Parenthood v. Casey*, 505 U.S. 833, 846 (1992).

(f) Already in 1973, the Supreme Court had observed that “Viability is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks.” *Roe v. Wade*, 410 U.S. 113, 160 (1973). Since that time, however, there has been “dramatic improvement in survival for infants born at the border of viability (≤ 24 weeks).” Barbara Luke and Morton B. Brown, The changing risk of infant mortality by gestation, plurality, and race: 1989-1991 versus 1999-2001, *Pediatrics*, Dec. 2006, 118 (6): 2488-2497.

(g) The Supreme Court has observed that “In some broad sense it might be said that a woman who fails to act before viability has consented to the State’s intervention on behalf of the developing child.” *Planned Parenthood v. Casey*, 505 U.S. 833, 870 (1992).

(h) New Hampshire has historically seen the fetus as a separate entity from the mother with distinct legal interests. *Bennett v. Hymers*, 101 N.H. 483, 485 (1958) (“We adopt the opinion that the fetus from the time of conception becomes a separate organism and remains so throughout its life.”); N.H. Rev. State. Ann. § 630:1-a: IV (stating that “the meaning of ‘another’ shall include a fetus” under specified criminal laws).

(i) “[R]espect for the dignity of human life” is a legitimate state purpose. *Gonzales v. Carhart*, 550 U.S. 124, 157 (2007). The United States Supreme Court has said that “Respect for human life finds an ultimate expression in the bond of love the mother has for her child... While we find no reliable data to measure the phenomenon, it seems unexceptionable to conclude some women come to regret their choice to abort the infant life they once created and sustained.” *Id.* at 159.

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(j) In addition, there is substantial medical evidence that a fetus by at least 20 weeks' gestation has the capacity to feel pain during an abortion. K. Anand and P. R. Hickey, Pain and its effects in the human neonate and fetus, N.E.J.M., 1987, 317:1321.

II. Based on the findings in paragraph I, the general court's purposes in promulgating this act are:

(a) Based on the state's interest in protecting fetal life, to prohibit abortions at or after 24 weeks gestation, except in cases of a medical emergency.

(b) To define "medical emergency" to encompass "significant health risks," namely those circumstances in which a pregnant woman's life or a major bodily function is threatened. *Gonzales v. Carhart*, 550 U.S. 124, 161 (2007).

3 New Subdivision; Fetal Life Protection Act. Amend RSA 329 by inserting after section 42 the following new subdivision:

Fetal Life Protection Act

329:43 Definitions. In this subdivision:

I. "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the fetus. Such use, prescription, or means is not an abortion if done with the intent to:

- (a) Save the life or preserve the health of the fetus;
- (b) Remove a dead fetus caused by spontaneous abortion; or
- (c) Remove an ectopic pregnancy.

II. "Attempt to perform" means an act or omission of a statutorily required act that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance or inducement of an abortion.

III. "Conception" means the fusion of a human spermatozoon with a human ovum.

IV. "Gestational age" means the time that has elapsed since the first day of the woman's last menstrual period.

V. "Major bodily function" includes, but is not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

VI. "Medical facility" means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location wherein medical care is provided to any person.

VII. "Health care provider" means any person who provides health care services. The term includes but is not limited to medical doctors, doctors of osteopathy, nurses, or any employee of a medical facility.

VIII. "Pregnant" or "pregnancy" means the female reproductive condition of having one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.

IX. "Probable gestational age" means what, in reasonable medical judgment, will with reasonable probability be the gestational age of the fetus at the time the abortion is considered, performed, or attempted.

X. "Reasonable medical judgment" means that medical judgment that would be made by a reasonably prudent physician in the community, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

XI. "Fetus" means an unborn offspring, from the embryo stage which is the end of the twentieth week after conception or, in the case of in vitro fertilization, the end of the twentieth week after implantation, until birth.

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329:44 Prohibition.

I. Except in the case of a medical emergency as specifically defined in paragraph III, no abortion shall be performed, induced, or attempted by any health care provider unless a physician has first made a determination of the probable gestational age of the fetus. In making such a determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed all such medical examinations, imaging studies, and tests as a reasonably prudent physician in the community, knowledgeable about the medical facts and conditions of both the woman and the fetus involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age, provided, however, that the physician shall conduct an obstetric ultrasound examination of the patient for the purpose of making the determination.

II. Except in a medical emergency as specifically defined in paragraph III, no health care provider shall knowingly perform, induce, or attempt to perform an abortion upon a pregnant woman when the probable gestational age of her fetus has been determined to be at least 24 weeks or in the absence of a determination by a physician pursuant to paragraph I as to the fetus' probable gestational age.

III. For the purposes of this subdivision only, "medical emergency" means a condition in which an abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function, as defined in RSA 329:43, V, of the pregnant woman.

329:45 Reporting.

I. Any health care provider who performs an abortion under this subdivision shall report, in writing, to the medical facility in which the abortion is performed the reason for the determination that a medical emergency existed. The health care provider's written report shall be included in a written report from the medical facility to the department of health and human services. If the abortion is not performed in a medical facility, the health care provider shall report, in writing, the reason for the determination that a medical emergency existed to the department of health and human services as part of the written report made by the health care provider to the department. The health care provider and the medical facility shall retain a copy of the written reports required under this section for not less than 5 years.

329:46 Criminal Penalties.

I. Any health care provider who fails to perform the determination required in RSA 329:44, I, under circumstances where the probable gestational age is less than 24 weeks, shall be guilty of a misdemeanor.

II. Any health care provider who knowingly performs or induces an abortion in violation of any other provision of this subdivision shall be guilty of a class B felony and, in addition to any other penalties the court may impose, be fined not less than \$10,000 nor more than \$100,000.

329:47 Civil Remedies.

I. The woman, the father of the fetus if married to the mother at the time she receives an abortion in violation of this subdivision, and/or, if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or, if brought by the maternal grandparents, the maternal grandparents consented to the abortion.

II. Such relief shall include monetary damages for all psychological and physical injuries caused by the violation of this subdivision.

329:48 Review by New Hampshire Board of Medicine.

I. A defendant health care provider accused of violating this subdivision may seek a hearing before the board of medicine as to whether the health care provider's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a

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life-endangering physical condition caused by or arising from the pregnancy itself; and/or as to whether the continuation of the pregnancy would have created a serious risk of substantial and irreversible impairment of a major bodily function, as defined in RSA 329:43, V, of the pregnant woman.

II. The findings on this issue are admissible at the criminal and civil trials of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

329:49 Construction. Nothing in this subdivision shall be construed as creating or recognizing a right to abortion.

329:50 Severability. If any provision of this subdivision or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the subdivision which can be given effect without the invalid provision or application, and to this end the provisions of this subdivision are declared to be severable.

4 Effective Date. This act shall take effect January 1, 2022.