

SB 47 - AS INTRODUCED

2021 SESSION

21-1042

11/06

SENATE BILL **47**

AN ACT                    modifying the absentee voter registration process, absentee ballot application, and absentee ballot voting process.

SPONSORS:            Sen. Soucy, Dist 18; Sen. D'Allesandro, Dist 20; Sen. Watters, Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Whitley, Dist 15; Sen. Prentiss, Dist 5; Sen. Cavanaugh, Dist 16; Sen. Kahn, Dist 10; Sen. Rosenwald, Dist 13; Sen. Sherman, Dist 24; Rep. Rogers, Merr. 28; Rep. Cote, Hills. 31

COMMITTEE:          Election Law and Municipal Affairs

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ANALYSIS

      This bill allows for no-excuse absentee registration and voting, and partial processing of absentee ballots prior to election day.

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                             Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT	modifying the absentee voter registration process, absentee ballot application, and absentee ballot voting process.
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*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 Absentee Voter Registration. Amend RSA 654:16 and RSA 654:17 to read as follows:

654:16 Applicability. Any person who has his ***or her*** domicile in any town or city in this state  
and is qualified to vote therein at the next subsequent election to be held in said town or city except  
for the fact that his ***or her*** name does not appear on the checklist to be used at the election[~~and~~  
~~who is temporarily absent therefrom or who by reason of physical disability is unable to attend a~~  
~~meeting of the supervisors of the checklist,]~~ may cause his ***or her*** name to be added to such checklist  
by applying to the city or town clerk or the secretary of state for a voter registration form provided  
for in RSA 654:7 and an appropriate absentee registration affidavit provided for in RSA 654:17.

9            654:17 Absentee Registration Affidavit.

10 I. The absentee registration affidavit shall be prepared by the secretary of state and shall be  
11 in substantially the following form:

12 Affidavit [~~(Absence from town)~~]

13 I, \_\_\_\_\_ do hereby swear or affirm, under the penalties for voting fraud set forth  
14 below, the following:

15           1) That my legal domicile is in the town of \_\_\_\_\_, New Hampshire, I will be of the age  
16   of 18 years or over on election day and am entitled to vote in the election to be held in said town on  
17   \_\_\_\_\_, \_\_\_\_\_ (date), except for the fact that my name does not appear on the checklist  
18   to be used in said town at such election;

2) ~~[That I do not intend to be present within said town at such time prior to said election as shall enable me personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;~~

22 — 3) That I am temporarily residing in \_\_\_\_\_ (city and state or city, province, and country);

23 4)] That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a

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resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;

[5] 3) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved; and

[6] 4) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

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.

~~[Affidavit (Physical Disability)]~~

~~I, \_\_\_\_\_ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:~~

~~1) That my legal domicile is in the town of \_\_\_\_\_, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town on \_\_\_\_\_, \_\_\_\_ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;~~

~~2) That I am unable by reason of physical disability personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;~~

~~3) That I hereby enclose one of the following as proof of identity and domicile:~~

~~(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or~~

~~(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;~~

~~4) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 3) above, this application may not be approved; and~~

~~5) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.~~

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\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

~~— 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.]~~

II. There shall be printed below each of the foregoing affidavits the following affirmation:

Affirmation

I, \_\_\_\_\_, the undersigned witness, do hereby swear or affirm, under the penalties for voting fraud set forth below, that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ (date), the above named, \_\_\_\_\_, having satisfied me as to his or her identity, signed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

\_\_\_\_\_  
Signature of Witness

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.

2 Absentee Ballots. Amend RSA 656:33 to read as follows:

656:33 ~~[Official Absence, Religious Observance, and Disability]~~ Absentee Ballots. Prior to any state election, the secretary of state shall prepare, in such quantity as the secretary of state may deem necessary, ~~[absence, religious observance, and disability]~~ absentee ballots in the same form as nearly as practicable as the official ballot to be used at said election. Said absentee ballots shall have the words "absentee ballot" printed on them and shall be similarly endorsed and printed on paper of the same color as that used for official ballots.

3 Absentee Voting. Amend RSA 657:1 to read as follows:

657:1 ~~[Absence, Religious Observance, and Disability]~~ Absentee Voting.

~~[I.] Any person who [will be absent on the day of any state election from the city, town, or unincorporated place in which he or she is registered to vote or who cannot appear in public on any election day because of his or her observance of a religious commitment or who is unable to vote there in person by reason of physical disability]~~ **is qualified to vote at any state election** may vote at such ~~[elections]~~ **election** as provided in this chapter. ~~[A person who is unable to appear at any time during polling hours at his or her polling place because of an employment obligation shall be~~

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~~considered absent for purposes of this chapter. For the purposes of this section, the term "employment" shall include the care of children and infirm adults, with or without compensation.~~

~~II. When the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to the city, town, or unincorporated place:~~

~~(a) A person who otherwise would have voted in person but has concerns for his or her safety traveling in the storm, shall be considered absent for purposes of this chapter and may vote absentee on the day immediately prior to the election.~~

~~(b) A person who cares for children or infirm adults who reasonably anticipates that school, child care, or adult care will be canceled, who otherwise would have voted in person but will be deterred from voting by the need to care for children or infirm adults, shall be considered absent for purposes of this chapter and may vote absentee on the day immediately prior to the election.~~

~~(c) As required by RSA 652:20, the clerk's office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots on the day immediately prior to an election at a minimum from 3:00 p.m. to 5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the individual has taken the oath of office and has been trained in the requirements for using an absentee ballot and the procedures for issuing and receiving absentee ballots.~~

~~(d) In the event an election is postponed pursuant to RSA 669:1, the provisions of subparagraph (c) shall apply to the day before the date of the originally scheduled election and the day before the date of the postponed election.]~~

4 Absentee Voting. Amend RSA 657:4, I to read as follows:

I. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded in substantially the following form. The secretary of state shall insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the application forms in such quantity as he or she deems necessary:

~~[Absence (Excluding Absence Due to Residence Outside the United States), Religious Observance, and Disability]~~ ***Absentee Ballot Application:***

I hereby declare that (check one):

☐ I am a duly qualified voter who is currently registered to vote in this town/ward.

☐ I am ~~[absent from the town/city where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability,]~~ ***a duly qualified voter who is currently registered to vote in this town/ward*** and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.

~~[I will be entitled to vote by absentee ballot because (check one):~~

~~☐ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.~~

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~~\_\_\_\_\_ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.~~

~~\_\_\_\_\_ I cannot appear in public on election day because of observance of a religious commitment.~~

~~\_\_\_\_\_ I am unable to vote in person due to a disability.~~

~~\_\_\_\_\_ I cannot appear at any time during polling hours at my polling place because of an employment obligation. For the purposes of this application, the term "employment shall include the care of children and infirm adults, with or without compensation.~~

~~For use only on the Monday immediately prior to the election: I cannot appear at my polling place on election day because the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to my city, town, or unincorporated place and either (check one):~~

~~\_\_\_\_\_ I am elderly or infirm or I have a physical disability, and would otherwise vote in person but I have concerns for my safety traveling in the storm.~~

~~\_\_\_\_\_ I anticipate that school, child care, or adult care will be canceled, and would otherwise vote in person but will need to care for children or infirm adults.]~~

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an official absentee ballot for the following election (check one):

\_\_\_\_\_ Presidential Primary to be held on \_\_\_\_\_

(MM/DD/YYYY)

(The date may appear as blank when the date is not known.)

\_\_\_\_\_ State Primary to be held on \_\_\_\_\_

(MM/DD/YYYY)

\_\_\_\_\_ General Election

For primary elections, I am a member of or I am now declaring my affiliation with the (check one):

\_\_\_\_\_ Republican Party

\_\_\_\_\_ Democratic Party

\_\_\_\_\_ (name of any party determined by the secretary of state to have achieved official status under RSA 652:11)

and am requesting a ballot for that party's primary.

Please print:

Applicant's Name: \_\_\_\_\_

(Last) (First) (Middle) (Sr., Jr., II., III)

Applicant's Voting Domicile (home address):

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(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Mail the ballot to me at this address (if different than the home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Applicant's Phone Number : \_\_\_\_\_

Applicant's Email Address : \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

(MM/DD/YYYY)

I attest that I assisted the applicant in executing this form because he or she has a disability.

Signature \_\_\_\_\_

Print Name \_\_\_\_\_ **Address** \_\_\_\_\_

~~[If your absentee ballot application or affidavit envelope has the printed name and signature of a person who assisted you with voting, your signature will not be compared to your signature on the absentee ballot affidavit to verify your identity. Otherwise, if your signatures do not appear to be made by the same person, your absentee ballot may not be counted.]~~

The applicant must sign this form to receive an absentee ballot. Any person who witnesses and assists a voter with a disability in executing this form shall print and sign his or her name in the space provided on the application form. The moderator will not compare the voter's signature on the application with the signature on the absentee ballot affidavit when a person assisting the voter has signed the statement on the absentee ballot application or affidavit envelope that assistance was provided.

5 Absentee Voting Materials. Amend the introductory paragraph of RSA 657:7 and RSA 657:7, I and II to read as follows:

657:7 ~~[Absence, Religious Observance, and Disability]~~ **Absentee Voting.** Prior to any state election, the secretary of state shall prepare the following forms in such quantity as he **or she** deems necessary:

I. ~~[Absence, religious observance, and disability]~~ Absentee ballots as provided in RSA 656:33.

II. Affidavit envelopes of sufficient size to contain the ballots on which shall be printed the following:

~~[(a) Absence from City or Town.]~~ A person voting by absentee ballot ~~[because of absence from the city or town in which he or she is entitled to vote]~~ shall fill out and sign the following certificate:

I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of \_\_\_\_\_, New Hampshire, in ward \_\_\_\_\_; ~~[that I will be unable to appear at~~

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~~any time during polling hours at my polling place because I will be working on election day, or I am voting on the Monday immediately prior to the election, the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning, and I am elderly or infirm, have a physical disability, or have to care for children or infirm adults, or I will be otherwise absent on election day from said city or town and will be unable to vote in person;]~~ that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind). ~~[For the purposes of this certification, the term "working" shall include the care of children and infirm adults, with or without compensation.]~~

(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.

~~[(b) Absence Because of Religious Observance or Physical Disability. A person voting by absentee ballot because of religious observance or physical disability shall fill out and sign the following certificate:~~

~~I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of \_\_\_\_\_, New Hampshire, in ward \_\_\_\_\_; that I will be observing a religious commitment which prevents me from voting in person or that on account of physical disability I am unable to vote in person; that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind).~~

~~(Signature) \_\_\_\_\_~~

~~The signature on this affidavit must appear to be executed by the same person who signed the absentee ballot application. A person assisting a disabled or blind voter shall make and sign a statement on this envelope in the space provided acknowledging the assistance. The moderator will not compare the voter's signature on this affidavit with the signature on the absentee ballot application when a person assisting the voter has signed the statement on the affidavit that assistance was provided.~~

~~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.]~~

6 Absentee Voting. Amend the subdivision heading preceding RSA 657:12 to read as follows:



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1 Procedure for ~~[Absence, Religious Observance, and Disability and Overseas]~~ **Absentee** Voting  
2 7 Absentee Voting in Town Elections. Amend RSA 669:26 to read as follows:  
3 669:26 Absentee Voting.

4 ~~[I.] Every town which has adopted an official ballot system for town elections as provided in~~  
5 ~~RSA 669:12 or 669:13 shall provide for absentee voting. [Any eligible voter who is absent from such~~  
6 ~~a town on the day of a town election, or who cannot appear in public on election day because of his or~~  
7 ~~her observance of a religious commitment, or who, by reason of physical disability, is unable to vote~~  
8 ~~in person may vote at a town election in accordance with the provisions of this section and RSA~~  
9 ~~669:27-669:29. A person who is unable to appear at any time during polling hours at his or her~~  
10 ~~polling place because of an employment obligation shall be considered absent for purposes of this~~  
11 ~~section and RSA 669:27-669:29. For the purposes of this section, the term "employment" shall~~  
12 ~~include the care of children and infirm adults, with or without compensation.~~

13 ~~——— H. When the National Weather Service has issued a winter storm warning, blizzard~~  
14 ~~warning, or ice storm warning for election day applicable to the town:~~

15 ~~——— (a) A person who is elderly or infirm or who has a physical disability, who otherwise~~  
16 ~~would have voted in person but has concerns for his or her safety traveling in the storm, shall be~~  
17 ~~considered absent for purposes of this section and RSA 669:27-669:29 and may vote absentee on the~~  
18 ~~Monday immediately prior to the election.~~

19 ~~——— (b) A person who cares for children or infirm adults who reasonably anticipates that~~  
20 ~~school, child care, or adult care will be canceled, who otherwise would have voted in person but will~~  
21 ~~be deterred from voting by the need to care for children or infirm adults, shall be considered absent~~  
22 ~~for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday~~  
23 ~~immediately prior to the election.~~

24 ~~——— (c) As required by RSA 652:20, the clerk's office shall be open to receive applications for~~  
25 ~~absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive~~  
26 ~~returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to~~  
27 ~~5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the~~  
28 ~~individual has taken the oath of office and has been trained in the requirements for using an~~  
29 ~~absentee ballot and the procedures for issuing and receiving absentee ballots.]~~

30 8 Absentee Voting; Procedure by Clerk. Amend RSA 657:18 to read as follows:

31 657:18 Procedure by Clerk. Upon receipt of an outer envelope purporting to contain an official  
32 absentee voting ballot, the clerk of the city or town shall, subject to RSA 657:16, attach thereto the  
33 application for an absentee ballot submitted by said voter and record the information pursuant to  
34 RSA 657:15. All such envelopes shall be preserved unopened until election day ***except as provided***  
35 ***by RSA 659:49-b.***

36 9 Processing of Absentee Ballots. Amend RSA 659:49 to read as follows:

37 659:49 Processing Absentee Ballots.

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I. Processing of previously received absentee ballots shall begin at 1:00 p.m. unless a different time, that is no earlier than ~~[2-hours]~~ **one hour** after the opening of the polls~~[.]~~ is posted and announced in accordance with paragraph II. The processing of the absentee ballots shall not unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time for the processing of such ballots during normal polling hours. Absentee ballots which are received after the start time for processing absentee ballots and prior to 5:00 p.m. on the day of the election shall be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be counted prior to the closing of the polls.

II. Notwithstanding the provisions of paragraph I, ~~[upon the written challenges of 10 or more voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the processing of all absentee ballots until after the polls close and prior to the counting of all ballots cast in the election.]~~ the moderator, or his or her designee, shall post the time at which the processing of absentee ballots shall begin at the polling place and one other public location at least 24 hours before the polls open. In addition, when the polls open the moderator shall announce the time at which the processing of absentee ballots shall begin.

10 Opening Absentee Ballot Outer Envelopes. Amend RSA 659:49-b to read as follows:

659:49-b Opening Absentee Ballot Outer Envelopes. The moderator or the moderator's designee may authorize the opening of absentee ballot outer envelopes on election day **or the Thursday, Friday, Saturday, or Monday** prior to the time established for processing absentee ballots in RSA 659:49, **but after the corrected checklist has been posted** provided that the opening of the outer envelopes occurs in public with notice of the time and place. ~~[The envelope containing the ballot shall not be removed from the outer envelope at such time, and The outer envelope containing the inner envelope shall be secured until it is processed pursuant to RSA 659:50.]~~ **After the outer envelope has been opened, the affidavit on the inner envelope shall be examined, the voter's name shall be announced, an opportunity for a challenge of the ballot shall be given, and a notation may be made on the checklist to help facilitate processing of the ballot on election day. Notwithstanding RSA 659:51, if absentee ballots are partially processed before election day a challenge may not be made after the notation has been made on the checklist. The ballot shall remain secure in the unopened affidavit envelope until final processing on election day.**

11 New Section; Election Procedure; Processing Absentee Ballots; Partial Processing of Absentee Ballots Prior to an Election. Amend RSA 659 by inserting after section 55-a the following new section:

659:55-b Partial Processing of Absentee Ballots Prior to an Election.

I. The moderator, or his or her designee, may begin the processing of absentee ballots prior to the opening of the polls provided that the clerk shall post, in an appropriate public place and prior to election day, notice of the time and place of the processing. If the moderator chooses to do so it

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1 shall be posted in 2 appropriate public places, one of which shall be the public body's Internet  
2 website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at  
3 least 48 hours, excluding Sundays and legal holidays, prior to such meeting. A copy of the notice  
4 shall be provided to the secretary of state. The partial processing of absentee ballots prior to an  
5 election shall occur on the Thursday, Friday, Saturday, or Monday prior to the date of the election  
6 after the posting of the checklist. The moderator shall be assisted by at least 3 other election officers  
7 as defined under RSA 652:14. Members of the general public may observe this process. Under no  
8 circumstances shall absentee ballots be counted prior to the opening of the polls.

9 II. Once notice of the processing has been posted, all absentee ballots received by the end of  
10 the day preceding the posted time for the meeting shall be partially processed. Only one session for  
11 the partial processing of absentee ballots may be scheduled prior to an election.

12 III. Except as otherwise provided, the moderator, or his or her designee, shall adhere to the  
13 procedures detailed in RSA 659:49-b, RSA 659:50, RSA 659:51, RSA 659:52, RSA 659:53, RSA  
14 659:54, RSA 659:54-a, RSA 666:4, and RSA 666:5.

15 12 Effective Date. This act shall take effect 60 days after its passage.