

HB 365 - AS INTRODUCED

2021 SESSION

21-0295

08/04

HOUSE BILL           **365**

AN ACT               giving peace officer status to federal law enforcement officers.

SPONSORS:         Rep. J. Schmidt, Hills. 28; Rep. Shurtleff, Merr. 11

COMMITTEE:       Criminal Justice and Public Safety

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ANALYSIS

This bill allows federal law enforcement officers to be certified by the commissioner of the department of safety for the purpose of making arrests.

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Explanation:       Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~in brackets and struck through.~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 giving peace officer status to federal law enforcement officers.

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

1 1 Peace Officers; Inclusion of Federal Officers. Amend RSA 594:1, III to read as follows:

2 III. "Officer" or "peace officer" is any sheriff or deputy sheriff, mayor or city marshal,  
3 constable, police officer or watchman, member of the national guard acting under orders while in  
4 active state service ordered by the governor under RSA 110-B:6, certified border patrol agent as  
5 defined in RSA 594:26, I, ***certified federal law enforcement officer as defined in RSA 594:27***,  
6 or other person authorized to make arrests in a criminal case.

7 2 New Subdivision; Certified Federal Law Enforcement Officers. Amend RSA 594 by inserting  
8 after section 26 the following new subdivision:

9 Certified Federal Law Enforcement Officers  
10 594:27 Certified Federal Law Enforcement Officers; Powers of Arrest.

11 I. For purposes of this section, "a certified federal law enforcement officer" means a federal  
12 law enforcement officer who:

13 (a) Is employed as a law enforcement officer of the federal government as an officer or  
14 inspector of the U.S. Customs Service of the Department of the Treasury or the U.S. Department of  
15 Justice, including the Federal Bureau of Investigation, the Drug Enforcement Administration, the  
16 Bureau of Alcohol, Tobacco and Firearms, and the U. S. Marshalls; and

17 (1) Has satisfactorily completed a course of study in New Hampshire laws and  
18 criminal procedures approved by the police standards and training council, at the expense of the  
19 officer's agency;

20 (2) Has been certified by the commissioner of the department of safety pursuant to  
21 paragraph II; and

22 (3) Has taken an oath administered by the commissioner of the department of safety  
23 or by the commissioner's designee to uphold the constitution of the state of New Hampshire.

24 II. The executive director of the police standards and training council shall certify a federal  
25 law enforcement officer who applies for certification if the officer satisfies the employment and study  
26 requirements listed in paragraph I. A certification under this subdivision shall automatically  
27 terminate immediately upon the officer's suspension or termination of employment from the federal  
28 agency in which he or she was employed at the time the certification occurred.

29 III. A certified federal law enforcement officer is authorized to make an arrest for violation  
30 of New Hampshire laws anywhere within the state if the officer determines that it is necessary to do  
31 any of the following:

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1           (a) Protect an individual in the presence of the officer from the imminent infliction of  
2 serious bodily injury.

3           (b) Provide immediate assistance to an individual who has suffered or is threatened with  
4 serious bodily injury.

5           (c) Prevent the escape of any individual whom the officer reasonably believes has  
6 committed a crime in the presence of the officer.

7           (d) Prevent the escape of any individual whom the officer reasonably believes has  
8 committed a felony under New Hampshire law.

9           IV. A certified federal law enforcement officer who makes an arrest under this section shall  
10 report the arrest, without delay, to the nearest New Hampshire state police barracks.

11           V. A certified federal law enforcement officer who makes an arrest under the authority of  
12 this section shall have the same immunity from liability that a state or municipal law enforcement  
13 officer has under the laws of this state.

14           VI. The state of New Hampshire shall not be responsible for employment benefits,  
15 supervision, and defense of the certified border patrol agent, including when exercising authority  
16 under this section. This section is not intended to limit existing authority of federal officers under  
17 federal law or to interfere with the performance of federal duties by federal officers.

18           3 Police Standards and Training Council; Power to Certify Federal Law Enforcement Officers.  
19 Amend RSA 106-L:5,V to read as follows:

20           V. Certify persons as being qualified under the provisions of this chapter to be police  
21 officers, state corrections officers, state probation-parole officers, certified border patrol agents or for  
22 the purposes of RSA 594:26, ***certified federal law enforcement officers for the purposes of RSA***  
23 ***594:27***, and establish rules under RSA 541-A for the suspension or revocation of the certification of  
24 such persons in the case of egregious misconduct or failure to comply with council standards.

25           4 Effective Date. This act shall take effect July 1, 2021.