

SB 96-FN-A - AS AMENDED BY THE SENATE

03/18/2021 0773s

2021 SESSION

21-1001

04/05

SENATE BILL

96-FN-A

AN ACT

relative to implicit bias training for judges; establishing a body-worn and in-car camera fund and making an appropriation therefor; amending juvenile delinquency proceedings and transfers to superior court; and establishing committees to study the role and scope of authority of school resource officers and the collection of race and ethnicity data on state identification cards.

SPONSORS:

Sen. Bradley, Dist 3; Sen. Gray, Dist 6; Sen. Watters, Dist 4; Sen. Whitley, Dist 15; Sen. Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Hennessey, Dist 1; Sen. Perkins Kwoka, Dist 21; Sen. Morse, Dist 22; Sen. Sherman, Dist 24; Sen. Soucy, Dist 18; Rep. Cushing, Rock. 21; Rep. M. Smith, Straf. 6

COMMITTEE:

Judiciary

AMENDED ANALYSIS

This bill:

I. Amends the municipal retention schedule for certain police non-criminal internal affairs investigations.

II. Requires the memorandum of understanding between a school district and a school resource officer to be made public and establishes a committee to study the role and scope of authority of school resource officers.

III. Establishes a body-worn and in-car camera fund and makes an appropriation therefor.

IV. Amends the juvenile delinquency statutes to exclude any child under 13 years of age unless he or she has committed a violent crime, and removes certain criminal offenses as the basis for transferring a delinquent child to superior court.

V. Establishes a committee to study whether the state should collect race and ethnicity data to be included on state identification cards.

VI. Encourages all judges to receive annual training covering the topics of implicit bias and racial profiling.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 relative to implicit bias training for judges; establishing a body-worn and in-car camera fund and making an appropriation therefor; amending juvenile delinquency proceedings and transfers to superior court; and establishing committees to study the role and scope of authority of school resource officers and the collection of race and ethnicity data on state identification cards.

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

1 1 New Subparagraph; Application of Receipts; Body Worn and In-car Camera Fund. Amend
2 RSA 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

3 (365) Moneys credited to the body-worn and in-car camera fund established in RSA
4 105-D:3.

5 2 Disposition of Municipal Records; Disposition and Retention Schedule. Amend RSA 33-A:3-a,
6 CVIII to read as follows:

7 CVIII. Police, non-criminal-internal affairs investigations: ~~[as required by attorney general~~
8 ~~and union contract and town personnel rules]~~ ***upon the retirement or termination of the subject***
9 ***officer plus 20 years, except that the municipality shall follow the retention period for non-***
10 ***criminal internal affairs investigations as set forth in any applicable union or collective***
11 ***bargaining agreement in effect as of July 1, 2021 until such agreement expires, at which***
12 ***time the 20-year retention period in this paragraph shall apply.***

13 3 Duties of the State Board of Education. Amend RSA 186:11, XXXVII to read as follows:

14 XXXVII. School Resource Officers. Require each school district in the state to which a school
15 resource officer is assigned to develop and implement a policy which shall include, at a minimum, a
16 requirement for a signed memorandum of understanding between the school district and the law
17 enforcement agency from which the school resource officer is deployed. ***The memorandum of***
18 ***understanding shall be made available as a public document.***

19 4 New Section; Body-Worn and In-car Camera Fund. Amend RSA 105-D by inserting after
20 section 2 the following new section:

21 105-D:3 Body-Worn and In-car Camera Fund.

22 I. There is hereby established the body-worn and in-car camera fund within the department
23 of safety for the purpose of encouraging local law enforcement agencies to equip officers with body-
24 worn cameras and agency vehicles with in-car cameras. All moneys in the fund shall be nonlapsing
25 and continually appropriated to the department of safety.

26 II. The fund shall provide grants to local law enforcement agencies to assist agencies with
27 the purchase, maintenance, and replacement of body-worn and in-car cameras and ongoing costs
28 related to the maintenance and storage of data recorded by body-worn and in-car cameras.

1 III. All local law enforcement agencies shall be eligible to apply for grants from the fund.

2 IV. The fund shall be overseen by the commissioner of the department of safety and the
3 attorney general who shall, within 180 days of the effective date of this section, jointly establish a
4 process for the application for grants from the fund. Such process shall be established in rules
5 adopted jointly by the commissioner of safety and attorney general in accordance with RSA 541-A.

6 5 Appropriation; Body-Worn and In-car Camera Fund. The sum of \$1 for the fiscal year ending
7 June 30, 2022 is hereby appropriated to the body-worn and in-car camera fund established in RSA
8 105-D:3. The governor is authorized to draw a warrant for said sum out of any money in the
9 treasury not otherwise appropriated.

10 6 Delinquent Children; Definitions. Amend RSA 169-B:2, IV to read as follows:

11 IV. "Delinquent" means a person who has committed an offense before reaching the age of
12 18 years which would be a felony or misdemeanor under the criminal code of this state if committed
13 by an adult, or which is a violation of RSA 318-B:2-c, II or III, and is expressly found to be in need of
14 counseling, supervision, treatment, or rehabilitation as a consequence thereof. ***No person under 13***
15 ***years of age shall be subject to proceedings under this chapter unless such person has***
16 ***committed a violent crime as defined in RSA 169-B:35-a, I(c). This provision shall not be***
17 ***construed to limit the filing of a petition for any minor child under RSA 169-D.***

18 7 Delinquent Children; Transfer to Superior Court. Amend RSA 169-B:24, IV to read as follows:

19 IV. When the felony offense charged is first degree murder, second degree murder,
20 attempted murder, manslaughter, first degree assault, ~~[second degree assault (except when the~~
21 ~~allegation is a violation of RSA 631:2, I(d)),]~~ aggravated felonious sexual assault~~[- kidnapping,~~
22 ~~criminal restraint, robbery]~~ punishable as a class A felony, a violation of RSA 318-B:26, I(a) or (b),
23 ~~or negligent homicide under RSA 630:3, II,]~~ or when the minor is charged with any felony and, prior
24 to the filing of the felony petition, the minor has been petitioned to the court on 4 or more occasions
25 and adjudicated delinquent in 4 separate adjudicatory hearings which alleged misdemeanor or
26 felony offenses, and the minor commits the act after the minor's fifteenth birthday, there shall be a
27 presumption that the factors listed in RSA 169-B:24, I support transfer to the superior court.

28 8 Committee to Study the Inclusion of Race and Ethnicity Data on State-issued Identification
29 Cards. There is hereby established a committee to study the inclusion of race and ethnicity data on
30 state-issued identification cards.

31 I.(a) The committee shall consist of the following members:

32 (1) Two members of the house of representatives, appointed by the speaker of the
33 house of representatives.

34 (2) One member of the senate, appointed by the president of the senate.

35 (b) Members of the committee shall receive mileage at the legislative rate when
36 attending to the duties of the committee

1 II.(a) The committee shall study whether the state should include race and ethnicity on any
2 state-issued identification card and whether or not the state should be collecting data on race and
3 ethnicity.

4 (b) The committee may solicit and receive advice and testimony from any individual or
5 organization with information relevant to the committee's objective.

6 III. The members of the study committee shall elect a chairperson from among the members.
7 The first meeting of the committee shall be called by a senate member. The first meeting of the
8 committee shall be held within 45 days of the effective date of this section. Two members of the
9 committee shall constitute a quorum.

10 IV. The committee shall report its findings and any recommendations for proposed
11 legislation to the president of the senate, the speaker of the house of representatives, the senate
12 clerk, the house clerk, the governor, and the state library on or before November 1, 2021.

13 9 Unified Court System; Authority Granted; Implicit Bias and Racial Profiling. Amend RSA
14 490-A:3, II to read as follows:

15 II. *The chief justice of the supreme court with the advice and consent of the chief*
16 *justice of the superior court and the administrative judge of the circuit court, shall*
17 *encourage the justices and judges of all courts in New Hampshire to receive annual*
18 *training covering the topics of implicit bias and racial profiling.*

19 **III.** In carrying out the duties imposed by ~~[paragraph I]~~ **this section**, the chief justices may
20 seek the advice and assistance of all persons and bodies interested in the administration of justice in
21 New Hampshire, including, but not limited to, those listed in RSA 490-A:2.

22 10 Effective Date.

23 I. Sections 2, 4, and 5 of this act shall take effect July 1, 2021.

24 II. The remainder of this act shall take effect 60 days after its passage.

SB 96-FN-A- FISCAL NOTE
AS INTRODUCED

AN ACT requiring implicit bias training for judges; establishing a body-worn and dashboard camera fund and making an appropriation therefor; relative to race and ethnicity data on driver's licenses, and relative to juvenile delinquency.

FISCAL IMPACT: ☒ **State** ☒ **County** ☒ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$1	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Body-Worn and Dashboard Camera Fund			

COUNTY:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill:

- Amends the municipal retention schedule for certain police non-criminal internal affairs investigations.
- Extends the authority of a law enforcement officer to any elementary, secondary, or postsecondary educational institution pursuant to a request or written agreement with the administrator of the institution or the governing body of the school district.
- Establishes a body-worn and dashboard camera fund and makes an appropriation therefor.
- Amends the juvenile delinquency statutes to exclude any child under 13 years of age unless he or she has committed a violent crime, and removes certain criminal offenses as the basis for transferring a delinquent child to superior court.

- Adds race and ethnicity as optional information that may be included on a non-driver's picture identification card and requires law enforcement agencies to collect such data.
- Requires all judges to receive annual training covering the topics of implicit bias and racial profiling.

The Judicial Branch indicates this bill would require the Supreme Court to issue rules requiring the justices and judges of all courts in New Hampshire to receive at least 2 hours of annual training covering the topics of implicit bias and racial profiling. The Branch expects that annual training covering the topics of implicit bias and racial profiling could be implemented for less than \$10,000 per year.

The Judicial Council assumes any decline in the number of non-violent juvenile prosecutions brought against individuals 12 and younger would be so insignificant that it will not result in any savings to the indigent defense system. While increased use of dash or body cameras may benefit individual defendants on a case by case basis, it is assumed that this will not impact the number of cases brought by the State. The Council states the fiscal impact from this bill would be limited to the costs of handling the videos. When videos are provided through the discovery process, the Public Defender is required to store that video for at least three years. These videos take up a significant amount of server space. Depending on the level of increased camera use resulting from this bill, it could result in IT costs to the indigent defense system. Certification cases are extremely time-consuming and costly. In addition to attorney time, these cases often require services other than counsel, including mental health and adolescent brain development experts. Any reduction to these cases would mean fewer expenses in services other than counsel, but would not significantly reduce costs in this area.

The NH Municipal Association states the extended retention requirement for internal affairs records will require additional storage space, either physical or electronic, which could result in additional municipal expenditures, although the additional expenditures are not likely to be significant. The requirement to obtain, compile, and report gender, race, and ethnicity data will require additional staff time for local police departments, which may result in additional expenditures. This is likely to vary significantly among municipalities, and the Association does not have any way to estimate the amounts of any additional expenditures. The Association indicates the fund for body-worn and dashboard cameras may provide additional revenue to municipalities, which presumably would need to be matched by municipal expenditures for the purchase and maintenance of cameras and storage of data. The purchase of cameras by municipalities would be voluntary. The Association has no way of predicting how many municipalities would participate in this program, what the costs would be, or how much funding would be provided to municipalities. The other provisions of the bill are unlikely to affect municipal revenues or expenditures.

The Department of Safety indicates the body-worn and dashboard camera fund will be administered through the Commissioner's Office and the Attorney General's Office. Retention of the non-criminal internal affairs investigations for a period of 20 years will have no noticeable financial impact on the Department. The Division of State Police internal affairs investigations are stored electronically. The Department assumes there will be no fiscal impact to the Department.

The Department of Health and Human Services indicates this bill does not modify the Division for Children, Youth and Families (DCYF) obligations under RSA 169-B and does not impact the services that DCYF provides to juveniles pre- or post-adjudication.

It is assumed that any fiscal impact would occur after July 1, 2021.

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Departments of Health and Human Services and Safety, and New Hampshire Municipal Association