

SB 96-FN-A - AS INTRODUCED

2021 SESSION

21-1001

04/05

SENATE BILL

***96-FN-A***

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.

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

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ANALYSIS

This bill:

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

II. 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.

III. Establishes a body-worn and dashboard 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. Adds race and ethnicity as optional information that may be included on a nondriver's picture identification card and requires law enforcement agencies to collect such data.

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

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

1       1 New Subparagraph; Application of Receipts; Body Worn and Dashboard Camera Fund.  
2 Amend RSA 6:12, I(b) by inserting after subparagraph (3640 the following new subparagraph:  
3               (365) Moneys credited to the body-worn and dashboard camera fund established in  
4 RSA 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 New Section; Police Officers and Watchmen; Extended Authority. Amend RSA 105 by  
14 inserting after section 13-c the following new section:

15       105:13-d Extended Authority; Educational Institutions. The authority of any law enforcement  
16 officer may extend to any elementary, secondary, or postsecondary educational institution pursuant  
17 to a request or written agreement with the administrator of the institution or the governing body of  
18 the school district. Any agreement to provide law enforcement officer presence within any such  
19 institution shall be a public record subject to disclosure as provided in RSA 91-A.

20       4 New Section; Body-Worn Cameras. Amend RSA 105-D by inserting after section 2 the  
21 following new section:

22       105-D:3 Body-Worn and Dashboard Camera Fund.

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

27               II. The fund shall provide grants to local law enforcement agencies to assist agencies with  
28 the purchase, maintenance, and replacement of body-worn and dashboard cameras and ongoing costs  
29 related to the maintenance and storage of data recorded by body-worn and dashboard 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 Dashboard Camera Fund. The sum of \$1 for the fiscal year  
7 ending June 30, 2022 is hereby appropriated to the body-worn and dashboard camera fund  
8 established in RSA 105-D:3. The governor is authorized to draw a warrant for said sum out of any  
9 money in the 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 18  
12 years which would be a felony or misdemeanor under the criminal code of this state if committed by  
13 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 New Paragraph; Motor Vehicles; Provision for Federal Identification Database Prohibited.  
29 Amend RSA 260:14-a by inserting after paragraph VII the following new paragraph:

30 VIII. A local law enforcement agency acting pursuant to RSA 594:14-b and the department  
31 may make available to the public aggregated statistical data containing information generated from  
32 motor vehicle records, provided that no such data shall contain personal information, as defined by  
33 RSA 260:14. The publicly available aggregated statistical data shall only contain information  
34 regarding a person's gender, race, ethnicity, residence zip code, and whether the event involved a  
35 motor vehicle accident, a fatality, and whether there was a motor vehicle stop and its disposition,  
36 such as a warning, citation, arrest, and the offense charged. The commissioner of the department of

safety may adopt rules to implement this paragraph and any such rules shall be exempt from the provisions of RSA 541-A.

9 Motor Vehicles; Nondriver's Picture Identification Cards. Amend RSA 260:21, III to read as follows:

III. The identification card shall bear the name, address, date of birth, blood type (optional), gender indicated as "M" for "male," "F" for "female," or "X" for "other," veteran's status for the purposes of identification for receiving benefits and services under New Hampshire law (optional), **race (optional), ethnicity (optional)**, picture and signature of the applicant, and in the case of a card issued pursuant to RSA 260:21, I(c), said card shall bear the notation "Golden Granite State Discount Card." The identification card shall bear an approved security marking indicating that it was not issued in compliance with Public Law 109-13 and is therefore not acceptable for federal identification purposes.

10 Motor Vehicles; Nondriver's Picture Identification Card; Public Law 109-13 Compliant Identification Cards. Amend RSA 260:21-a, II to read as follows:

II. The identification card shall bear the name, address, date of birth, gender indicated as "M" for "male," "F" for "female," or "X" for "other," veteran's status for the purposes of identification for receiving benefits and services under New Hampshire law (optional), **race (optional), ethnicity (optional)**, organ donor status (optional), picture, and signature of the applicant.

11 Motor Vehicles; Nondriver's Picture Identification Card; Enhanced Identification Card. Amend RSA 260:21-b, II to read as follows:

II. The identification card shall bear the name, address, date of birth, gender indicated as "M" for "male," "F" for "female," or "X" for "other," veteran's status for the purposes of identification for receiving benefits and services under New Hampshire law (optional), **race (optional), ethnicity (optional)**, organ donor status (optional), picture, and signature of the applicant.

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

II. *The chief justice of the supreme court, with the advice and consent of the chief justice of the superior court, shall 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. Such rules shall be issued no later than January 1, 2021 and may be updated by the chief justices as necessary.*

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

13 New Section; Arrests in Criminal Cases; Race and Ethnicity Data Collection. Amend RSA 594 by inserting after section 14-a the following new section:

594:14-b Race and Ethnicity Data Collection.

1           I. A law enforcement agency shall, when possible, collect data from a driver's license or other  
2 state-issued identification card on gender, race, and ethnicity as may be available pursuant to RSA  
3 260:21, RSA 260:21-a, and RSA 260:21-b, and the town of residence of persons who are arrested,  
4 cited, or subjected to a field stop or warning, including a motor vehicle stop that did not lead to a  
5 citation.

6           II. A law enforcement agency shall provide on an annual basis the aggregate data collected  
7 pursuant to paragraph I to the police standards and training council on January 31 for the preceding  
8 calendar year. This aggregate data shall, at a minimum, include an analysis showing the numbers  
9 of individuals for each race/ethnicity broken down by the following categories: persons arrests,  
10 persons cited, and persons subjected to a field stop or warning. The aggregate data shall also  
11 include an analysis of the percentage of the race and ethnicity of persons in each of the categories.  
12 Within 30 days of receipt, the police standards and training council shall make the data and analysis  
13 it receives from each law enforcement agency available on its public website in a manner that is  
14 accessible.

15           III. In this section, "law enforcement agency" shall have the same meaning as in RSA 105-  
16 D:1, V.

17       14 Effective Date.

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

19           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
<b>Appropriation</b>	\$0	\$1	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<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:**

<b>Revenue</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**LOCAL:**

<b>Revenue</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$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