

CHAPTER 249
HB 260-FN – FINAL VERSION

6Mar2013... 0447h
27Mar2013... 0968h
05/23/13 1568s
05/23/13 1642s
05/23/13 1875s
06/06/13 1971s
26June2013... 2135CofC
26June2013... 2193EBA

2013 SESSION

13-0728
05/09

HOUSE BILL ***260-FN***

AN ACT relative to the children in need of services (CHINS) program, relative to court-ordered placements in shelter care facilities and at the youth development center and requiring a report on the uses of the Sununu Youth Services Center.

SPONSORS: Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19

COMMITTEE: Children and Family Law

AMENDED ANALYSIS

This bill:

I. Expands the definition of a child in need of services under RSA 169-D, revises circumstances under which the court may order various services or placements, and gives the department discretion to offer voluntary services.

II. Directs the department of health and human services to collect certain data regarding the CHINS program.

III. Provides for the suspension of voluntary services if appropriated funds will be insufficient to support voluntary services.

IV. Requires school board truancy policies to include certain information relative to student attendance.

V. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

VI. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

VII. Requires that the department make treatment available in both non-secure and secure settings.

VIII. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

IX. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

X. Provides for periodic court review of cases where a juvenile is held at the youth development

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center for more than 6 months.

XI. Requires the department of health and human services to report to the legislature on the uses of the Sununu Youth Services Center.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the children in need of services (CHINS) program, relative to court-ordered placements in shelter care facilities and at the youth development center and requiring a report on the uses of the Sununu Youth Services Center.

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

1 249:1 Children in Need of Services; Applicability of Chapter. RSA 169-D:1, IV and V are
2 repealed and reenacted to read as follows:

3 IV. To protect the integrity of the family by authorizing adjudication and the imposition of
4 dispositional judgment requiring participation in a plan of services or by offering appropriate
5 voluntary alternatives; and

6 V. To provide effective judicial procedures through which family service plans are executed
7 and enforced, and which assure the parties fair hearings at which their constitutional and other
8 rights as citizens are recognized and protected.

9 249:2 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read
10 as follows:

11 II. "Child in need of services" means a child under the age of 18:

12 (a) Who is subject to compulsory school attendance, and who is habitually, willfully, and
13 without good and sufficient cause truant from school;

14 (b) Who habitually runs away from home, or who repeatedly disregards the reasonable
15 and lawful commands of his or her parents, guardian, or custodian and places himself or herself or
16 others in unsafe circumstances;

17 (c) Who has exhibited willful repeated or habitual conduct constituting offenses which
18 would be violations under the criminal code of this state if committed by an adult or, if committed by
19 a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

20 (d) With a diagnosis of severe emotional, cognitive, or other mental health issues who
21 engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others
22 and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C; and

23 (e) Is expressly found to be in need of care, guidance, counseling, discipline, supervision,

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1 treatment, or rehabilitation.

2 249:3 New Paragraph; Children in Need of Services; Definition of Truant Added. Amend
3 RSA 169 D:2 by inserting after paragraph XIII the following new paragraph:

4 XIV. “Truant” means a child between the ages of 6 and 18 years who is either not attending
5 school as required by law or who is not participating in an alternative learning plan under
6 RSA 193:1. “Truancy” shall have the same meaning as in RSA 189:35-a.

7 249:4 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

8 ***I.(a) A petition alleging that a child is in need of services under RSA 169-D:2, II(a)***
9 ***may be filed by a truant officer or school official from the school district where the child is***
10 ***attending school with a judge or clerk of the court in the judicial district where the child is***
11 ***found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall***
12 ***not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until***
13 ***all steps in the school district’s intervention process under RSA 189:34, II have been***
14 ***followed.***

15 ***(b) A petition alleging that a child is in need of services under RSA 169-D:2,***
16 ***II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school***
17 ***official, or law enforcement officer with a judge or clerk of the court in the judicial district***
18 ***in which the child is found or resides.***

19 ***(c) A petition alleging that a child is in need of services under RSA 169-D:2, II(d)***
20 ***may, with the consent of the department, be filed by a parent, legal guardian or custodian, school***
21 ***official, or law enforcement officer with a judge or clerk of the court in the judicial district in which***
22 ***the child is found or resides.***

23 ***I-a.*** The petition shall be in writing and verified under oath. The following notice shall be
24 printed on the front of the petition in bold in no smaller than 14 point font size: “See back for
25 important information and financial obligations.” The back of the petition shall include a notice of
26 liability for parents and other individuals chargeable by law for the child’s support and necessities.

27 249:5 New Paragraph; Petition. Amend RSA 169-D:5 by inserting after paragraph II the
28 following new paragraph:

29 II-a. Any petition filed shall include language demonstrating whether appropriate voluntary
30 services have been attempted, the nature of voluntary services attempted, and the reason court
31 compulsion is necessary. The petition also shall include information regarding the department’s
32 determination as to whether voluntary services are appropriate for the child or family under
33 RSA 169-D:5-c. Refusal of the child to participate in the development of a voluntary services plan
34 may constitute sufficient information that voluntary service and support options have been
35 unsuccessful.

36 249:6 New Section; Voluntary Services. Amend RSA 169-D by inserting after section 5-b the

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1 following new section:

2 169-D:5-c Voluntary Services. The department shall assess whether to offer the child and
3 family, on a voluntary basis, any services permitted under RSA 169-D:17 except out-of-home
4 placement of the child. The department may decline to offer services to a child or family if it
5 concludes that the child does not meet the definition of child in need of services in RSA 169-D:2, II,
6 or if the department otherwise determines that voluntary services are not appropriate for the child
7 or family. The department shall document the basis for its decision. Notwithstanding RSA 541-A,
8 the department's decision shall not be subject to appeal, nor shall the fact that the department
9 declined to offer voluntary services preclude a person from filing a petition under RSA 169-D:5, I.
10 Voluntary services provided under this section shall not exceed 9 months, unless the department
11 determines that an extension for an additional, specified period of time is appropriate.

12 249:7 Issuance of Summons and Notice. RSA 169-D:6, I is repealed and reenacted to read as
13 follows:

14 I.(a) After a legally sufficient petition has been filed, unless the case is referred to the
15 department pursuant to RSA 169-D:5 or a consent order is entered and approved, the court shall
16 schedule an initial appearance and issue a summons, including a copy of the petition, to be served
17 personally upon the person having custody or control of the child or with whom the child may be,
18 requiring that person to appear with the child on the specified date and time.

19 (b) If personal service is not possible, service shall occur at the usual place of abode of
20 the person having custody or control of the child or with whom the child may be, requiring that
21 person to appear with the child at a specified place and time which time shall not be less than 24
22 hours after service. If the person so notified is not the parent or guardian of the child, then a parent
23 or guardian shall be notified, provided they and their residence are known.

24 249:8 Diversion and Pre-adjudicatory Procedure. RSA 169-D:9 is repealed and reenacted to read
25 as follows:

26 169-D:9 Pre-adjudicatory Procedure.

27 I. Except in emergencies, the department, its agent, or any person or agency it designates
28 shall determine whether voluntary service options are appropriate for the child and family. A
29 referral for this determination may be made by any person permitted to bring a petition under
30 RSA 169-D:5, I. To achieve this purpose, the department may designate a multi-disciplinary team to
31 consider the facts and circumstances of the case, the needs of the child and family, and available
32 diversion programs, services, and resources. This conference shall be attended by the child, if
33 appropriate, his or her parents, legal guardians or custodians, and representatives of any public
34 institution or agency having legal responsibility over the child, and may be attended by parties
35 invited by the family and representatives of any public or private institutions or agencies having
36 discretionary ability to coordinate and/or supply services to the child or family. If the child does not

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1 attend a multi-disciplinary conference, an appropriate individual shall be designated to solicit the
2 child's input and help the child understand available service options and supports.

3 II. If available, a multi-disciplinary conference may be held at any time before or after a
4 petition is filed but shall be held before the child's initial appearance pursuant to RSA 169-D:11.

5 III. At any time before or after a petition is filed, the child, his or her caretakers, and the
6 department may effect an individualized voluntary family services plan, which shall include:

7 (a) Identification of the circumstances which contributed to the need for services.

8 (b) A description of the services that are needed for the child, the child's caretakers, or
9 other family members, the availability of such services within the community, and a plan for
10 ensuring that any such services that are available will be secured and provided.

11 (c) The name of the person within the each affected public service agency who is directly
12 responsible for assuring that specific services indentified in the plan are provided.

13 (d) An estimate of the time anticipated to be necessary to accomplish the goals set out in
14 the plan.

15 (e) Any other provisions deemed appropriate by the parties.

16 (f) Designation of a responsible person or agency for oversight of the plan.

17 IV. A voluntary family services plan shall set forth in writing the terms and conditions
18 agreed to by the child, the child's caretaker, and all parties responsible for implementation of the
19 voluntary services plan. A written copy of the plan shall be submitted to each party or person
20 responsible for implementation of the plan.

21 V. A voluntary services plan may be amended by agreement of the parties at any time. If a
22 petition has been filed, the amended plan shall be submitted to the court.

23 VI. If a petition has been filed and the department determines voluntary services are
24 appropriate, a voluntary family services plan shall be submitted to the court. The voluntary services
25 plan shall stay the proceedings for a period not to exceed 90 days from the date of implementation,
26 unless the parties agree, in writing, to an extension for additional periods not to exceed 90 days.

27 VII. When the petitioning person or agency, the court, the department, or a member of the
28 multi-disciplinary team suspects that a child has a disability, an administrator at the responsible
29 school district shall be notified. If appropriate, the school district shall refer the child for evaluation
30 to determine if the child is in need of special education and related services.

31 VIII. A voluntary family services plan shall not be considered in an adjudicatory hearing
32 pursuant to RSA 169-B or 169-D, or a criminal trial. Evidence of the existence of such agreement
33 shall not be used against the child over objection in any juvenile adjudicatory hearing or criminal
34 trial.

35 IX. Any incriminating statement made by the child during discussions or conferences
36 incident to the voluntary family services plan shall not be used against the child, over objection, in

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1 adjudicatory hearing pursuant to RSA 169-B or 169-D, or a criminal trial. Any such statement may
2 be reported as the basis for a referral to the department pursuant to RSA 169-C, if there is
3 reasonable basis to believe that a child's physical or mental health or welfare is endangered by abuse
4 or neglect.

5 X. A voluntary family services plan suspends the proceedings on the petition. If the child
6 satisfies the terms of the voluntary family services plan, he or she shall be discharged from further
7 services or supervision, and the pending complaint or petition shall be dismissed with prejudice.

8 249:9 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10,
9 II and III to read as follows:

10 II. Pending the initial appearance, the court shall release the child to one of the following,
11 which in the court's opinion is the least restrictive and most appropriate:

12 (a) A parent or guardian;

13 (b) A relative or suitable adult;

14 (c) ***Where there are reasonable grounds to believe that the child is a runaway***
15 ***under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,***
16 ***II(d), the custody of department of health and human services for placement in a foster home, as***
17 ***defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses***
18 ***chargeable as provided in RSA 169-D:29; or***

19 (d) [Repealed.]

20 (e) An alcohol crisis center certified to accept juveniles.

21 III. ***Where there are reasonable grounds to believe that the child is a runaway***
22 ***under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,***
23 ***II(d) and*** [Should] there [be] ***is*** no shelter care/detention bed available, nor an appropriate parent,
24 guardian, or custodian as defined in paragraph II of this section available, the court or the officer
25 taking the child into temporary custody shall notify the department. If the child cannot be referred
26 to an alternative to secure detention, the court shall make an order authorizing the department to
27 place the child. The department shall then promptly arrange for placement of the child.

28 249:10 Initial Appearance. Amend RSA 169-D:11, II(c) and (d) to read as follows:

29 (c) Establish any conditions for release; [~~and~~]

30 (d) Set a hearing date[-]; ***and***

31 (e) ***Inquire of the child and a parent or guardian of the child if the child has***
32 ***been:***

33 (1) ***Determined to have an intellectual disability; or***

34 (2) ***Determined to have a mental illness, emotional or behavioral disorder,***
35 ***or another disorder that may impede the child's decision-making abilities.***

36 249:11 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-

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1 D:13, I to read as follows:

2 I. Following the initial appearance, a child alleged to be in need of services may be ordered
3 by the court subject to such conditions as the court may order, to be:

4 (a) Retained in the custody of a parent, guardian, or custodian; or

5 (b) Released in the supervision and care of a relative; or

6 (c) *Where the petition alleges that the child is a habitual runaway under*
7 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
8 released to the custody of the department of health and human services for placement in a foster
9 home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with
10 expenses chargeable as provided in RSA 169-D:29.

11 (d) [Repealed.]

12 *I-a. Where the petition alleges that the child is a habitual truant under*
13 *RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful*
14 *commands of his or her parents, guardian, or custodian under RSA 169-D:2, II(b), or that*
15 *the child repeatedly or habitually engages in conduct that constitutes violation level*
16 *offenses under RSA 169-D:2, II(c), the court shall not order the out-of-home placement of*
17 *the child.*

18 249:12 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as
19 follows:

20 I. If the court finds the child is in need of services, it shall order the least restrictive and
21 most appropriate disposition considering the facts in the case, the investigation report, and the
22 dispositional recommendations of the parties and counsel. The dispositional recommendation of the
23 department of health and human services shall include the costs of the recommended services,
24 placements, and programs. Such disposition may include:

25 (a) Permitting the child to remain with a parent, guardian, relative, or custodian,
26 subject to such limitations and conditions as the court may prescribe, including:

27 (1) Ordering the child or parent, guardian, relative, or custodian, or both, to accept
28 individual or family counseling;

29 (2) Placing the child on conditional release for a term of 2 years or less.

30 (b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

31 (2)(A) *Where the petition alleges that the child is a habitual runaway under*
32 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
33 releasing the child to the custody of the department of health and human services for placement in a
34 foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility
35 with expenses charged in accordance with RSA 169-D:29.

36 (B) *Notwithstanding subparagraph (A), where the petition alleges that*

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1 *the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly*
2 *disregards the reasonable and lawful commands of his or her parents, guardian, or*
3 *custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in*
4 *conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall*
5 *not order the out-of-home placement of the child.*

6 (c) Imposing a fine or restitution, or both, on a child who has committed an offense
7 which, if committed by an adult, would be a violation under the criminal code of this state; or has
8 committed an offense which, if committed by a person 16 years of age or older, would be a violation
9 under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town.
10 Such fine shall not exceed the fine which may be imposed against an adult for the same offense.

11 (d) Ordering the minor to perform up to 50 hours of uncompensated public service
12 subject to the approval of the elected or appointed official authorized to give approval of the city or
13 town in which the offense occurred. The court's order for uncompensated public service shall include
14 the name of the official who will provide supervision to the minor. However, no person who performs
15 such public service under this subparagraph shall receive any benefits that such employer gives to
16 its other employees, including, but not limited to, workers' compensation and unemployment benefits
17 and no such employer shall be liable for any damages sustained by a person while performing such
18 public service or any damages caused by that person unless the employer is guilty of gross
19 negligence.

20 (e) Requiring any child to attend structured after-school or evening programs which
21 address some of the child's compliance issues, as well as supervise the child during the time of the
22 day in which the child most values his or her freedom and the time which is most often used to
23 perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or
24 otherwise by the child, parent, guardian, or person having custody of the child, or may be available
25 to the child free of charge based on the limited means of the family or based on the program's receipt
26 of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that
27 have been certified pursuant to RSA 170-G:4, XVIII.

28 249:13 New Section; Data Collection; Reporting Requirement. Amend RSA 169-D by inserting
29 after section 30 the following new section:

30 169-D:31 Data Collection; Reporting Requirement.

31 I. The department shall establish a system to collect data related to:

32 (a) The person or entity who referred the child for services and/or filed the petition.

33 (b) The racial and ethnic identity of the child.

34 (c) The insurance status and coverage of child served.

35 (d) The length of time a child receives services under this chapter, including the time
36 prior and subsequent to the filing of a petition.

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1 (e) The identity of any public or private organization to whom the department has
2 referred a child or family.

3 (f) Any other information, including outcome data, that may assist the department and
4 the court in evaluating the availability and effectiveness of services for children who receive
5 assistance under this chapter.

6 (g) The number of cases in which the department determined that voluntary services
7 under RSA 169-D:5-c were not appropriate, and the basis for those decisions.

8 (h) The type of services offered and/or provided to a child on a voluntary basis and the
9 type of services ordered by the court after adjudication and disposition.

10 II. The department shall, upon request, make available to members of the public,
11 compilations of the data which do not contain identifying information.

12 III. Beginning on or before December 30, 2013, the department shall provide quarterly
13 reports regarding cases handled pursuant to this chapter to the chair of the house children and
14 family law committee, the chair of the senate health, education and human services committee, or to
15 the chairs of their successor committees, as well as the chair of the joint fiscal committee. The
16 reports shall include:

17 (a) The number of cases assessed pursuant to RSA 169-D:5-c.

18 (b) The number of cases declined for voluntary services and the bases for the
19 declinations.

20 (c) The number of cases accepted for voluntary services and their ultimate disposition.

21 (d) The number of petitions filed pursuant to RSA 169-D:5, I, and their dispositions.

22 (e) The number of voluntary and court-based cases pending in each definition category of
23 RSA 169-D:2, II at the beginning and end of the quarter.

24 (f) The type and cost of services provided in cases accepted for voluntary services and
25 cases handled through the court, in each definition category of RSA 169-D:2, II.

26 249:14 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

27 (b) A process for intervention designed to address individual cases of truancy as quickly
28 as possible and to reduce the number of habitual truants in the school district. ***The process shall***
29 ***consider whether school record keeping practices and notification provided to parents or***
30 ***guardians of the child's absences have an effect on the child's attendance.*** The board shall
31 provide for the participation of parents in the development of the policy. The policy shall include
32 early parental involvement in the intervention process. The policy shall also designate an employee
33 in each school as the person responsible for truancy issues.

34 249:15 Children in Need of Services; Suspension of Voluntary Services. The commissioner of the
35 department of health and human services may suspend referrals for voluntary services under
36 RSA 169-D upon the commissioner's determination that appropriated funds will be insufficient to

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1 support additional voluntary services cases. The commissioner shall report the decision to suspend
2 referrals for voluntary services, and the basis for the decision, to the fiscal committee of the general
3 court. Nothing in this section shall be construed to require fiscal committee approval to implement
4 the suspension.

5 249:16 Delinquent Children; Dispositional Hearing; Commitment. Amend RSA 169-B:19, I(j) to
6 read as follows:

7 (j) Commit the minor to the custody of the department of health and human services for
8 the remainder of minority. ***Commitment under this subparagraph may only be made***
9 ***following written findings of fact by the court, supported by clear and convincing evidence,***
10 ***that commitment is necessary to protect the safety of the minor or of the community.***

11 Commitment may include, but is not limited to, placement by the department of health and human
12 services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI,
13 administrative release to parole pursuant to RSA 621:19, or administrative release consistent with
14 the cap on youth development center population under RSA 621:10, provided that the appropriate
15 juvenile probation and parole officer is notified.

16 249:17 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA
17 169-B:2 by inserting after paragraph XIII the following new paragraph:

18 XIV. “Shelter care facility” means a non-secure or staff-secure facility for the temporary care
19 of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for
20 children prior to or following adjudication or disposition. A shelter care facility may not be operated
21 in the same building as a facility for architecturally secure confinement of children or adults.

22 249:18 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility.
23 Amend RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

24 XIV. “Shelter care facility” means a non-secure or staff-secure facility for the temporary care of
25 children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children
26 prior to or following adjudication or disposition. A shelter care facility may not be operated in the same
27 building as a facility for architecturally secure confinement of children or adults.

28 249:19 New Paragraph; New Hampshire Youth Development Center; Treatment Services in
29 Least Restrictive Environment. Amend RSA 621:1 by inserting after paragraph II the following new
30 paragraph:

31 III. To ensure that juveniles are placed in the least restrictive environment consistent with
32 their treatment needs, their safety, and the safety of the community, the department shall not
33 establish treatment services at the youth development center or other architecturally secure facility
34 which are not also available to children living in the community or in settings other than
35 architecturally secure settings.

36 249:20 New Paragraph; Release and Discharge from Youth Development Center. Amend

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1 RSA 621:19 by inserting after paragraph I the following new paragraph:

2 I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a
3 delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-
4 a no later than 6 months following the child's commitment pursuant to RSA 169-B:19, I(j). Release
5 is not required under this paragraph during the period that a child is the subject of a delinquency
6 petition which is awaiting adjudication or disposition. The department may seek a waiver of this
7 provision from the court which ordered the commitment of the child, which may be granted by the
8 court following written findings of fact supported by clear and convincing evidence that continued
9 commitment is necessary to protect the safety of the minor or of the community. Such a waiver may
10 be granted for up to 90 days. The number of waivers which may be granted in a particular case is
11 not limited.

12 249:21 New Section; Parole of Delinquents; Right to Counsel of Children Subject to Parole
13 Revocation. Amend RSA 170-H by inserting after section 10 the following new section:

14 170-H:10-a Right to Counsel of Children Subject to Parole Revocation.

15 I. Every child subject to revocation of parole has the right to the assistance of counsel, which
16 may not be waived except following consultation between the child and a parent or counsel.
17 Consultation between a child and parent is not sufficient to support waiver under this section if the
18 parent was a victim or complainant in the underlying proceeding or is a witness or provided
19 information in support of the basis for revocation in the parole revocation proceeding. Children
20 known to the department or the board to have an emotional disorder, intellectual disability, or any
21 other condition which may be expected to interfere with a child's ability to understand the
22 proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel
23 may not waive their right to counsel.

24 II. For purposes of this section, a child shall be considered a child who is subject to a parole
25 revocation proceeding if the child has been released pursuant to RSA 170-H:5 or RSA 621:19, I for
26 longer than a total of 30 days during one or more periods of release and is subject to return under
27 RSA 621:25.

28 249:22 Delinquent Children; Case Closure and Review of Disposition. Amend RSA 169-B:31 to
29 read as follows:

30 169-B:31 Case Closure and Review of Disposition. Upon making a finding that the purposes of
31 this chapter have been met with regard to the minor named in the petition, or for such other reason
32 the court may deem appropriate and consistent with the purposes of this chapter, the court may
33 order a case closed. Any case remaining open for 12 months after the date of the disposition shall be
34 reviewed by the court annually and closed, unless the court finds by a preponderance of the evidence
35 that the continued provision of services and court involvement are necessary and shall be fruitful to
36 rehabilitate the minor or protect the public interest. All such findings shall be in writing and shall

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1 include the basis upon which those findings were made. *Upon request by the child, the court*
2 *shall also review any case in which the child remains at the youth development center*
3 *more than 6 months after the order of commitment without having been released on parole*
4 *or having been returned to the youth development center following revocation of parole.*
5 *Successive requests for review shall be granted upon request by the child but the court may*
6 *deny such requests without a hearing if a review was held less than 90 days prior to receipt*
7 *of a request for review.*

8 249:23 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read
9 as follows:

10 (d) Procedures for revocation of parole[~~;~~and]

11 (e) Conditions under which the department may return a parolee to a secure facility
12 pending action by the board[-] ; **and**

13 **(f) Procedures for providing effective notice to children subject to parole**
14 **revocation proceedings of the right to counsel, for determining if a waiver of the right to**
15 **counsel by a child is knowing, voluntary, and intelligent, and for the accurate**
16 **determination of the existence of a disability which would interfere with a child's ability to**
17 **understand the proceedings, make decisions, or otherwise handle the proceedings without**
18 **the assistance of counsel.**

19 249:24 Sununu Youth Services Center Report.

20 I. On or before January 1, 2014, the department of health and human services shall report
21 its recommendations to the fiscal committee of the general court as to the most appropriate, cost
22 effective, long and short-term uses of the Sununu Youth Services Center. The department's
23 assessment shall include an analysis of:

24 (a) The advantages and disadvantages of the current use of the facility;

25 (b) Potential alternative uses for the facility;

26 (c) The viability of using another facility to provide secure detention/committed services
27 given the declining census at the center; and

28 (d) Ways that the current costs to run the facility could be reduced.

29 II. In conducting its assessment, the department shall consult with the community, child
30 welfare, court, and juvenile justice stakeholders to solicit their input as to the most appropriate and
31 fiscally responsible options for addressing the needs of committed and detained youth.

32 249:25 Contingency. If HB 433 of the 2013 regular legislative session becomes law, then RSA
33 169-B:2, XIV as inserted by section 17 of this act shall be renumbered as RSA 169-B:19, XV.

34 249:26 Effective Date.

35 I. Sections 1-15 of this act shall take effect September 1, 2013.

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

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1 Approved: July 24, 2013

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3 Effective Date: I. Sections 1 – 15 shall take effect September 1, 2013.

4 II. Remainder shall take effect September 22, 2013