

HB 525-FN – AS AMENDED BY THE HOUSE

08Jan2014... 2373h

2013 SESSION

13-0752
05/04

HOUSE BILL ***525-FN***

AN ACT raising the age of minority for juvenile delinquency proceedings from 17 to 18 years of age.

SPONSORS: Rep. Bickford, Straf 3

COMMITTEE: Children and Family Law

ANALYSIS

This bill changes the age of minority for juvenile delinquency proceedings from 17 to 18 years of age.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 raising the age of minority for juvenile delinquency proceedings from 17 to 18 years of age.

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

1 1 Statement of Findings. The general court hereby finds that to promote public safety and to
2 comply with the Prison Rape Elimination Act of 2003, Public Law 108-79, and the Civil Rights of
3 Institutionalized Persons Act, Public Law 96-247, the juvenile age should be raised from under 17
4 years of age to under 18 years of age.

5 2 Department of Corrections; Definition of Adult. Amend RSA 21-H:2, I to read as follows:

6 I. "Adult" means ~~[, notwithstanding RSA 21:44,]~~ any person ~~[17]~~ **18** years of age or older or
7 any person under the age of ~~[17]~~ **18** who has been certified as an adult pursuant to RSA 169-B:24.

8 3 Department of Corrections; Definition of Delinquent. Amend RSA 21-H:2, IV to read as
9 follows:

10 IV. "Delinquent" or "delinquent child" means ~~[, notwithstanding RSA 21:44,]~~ a person who
11 has committed an offense before reaching the age of ~~[17]~~ **18** years which would be a felony or
12 misdemeanor under the criminal code of this state if committed by an adult.

13 4 Delinquent Children; Definition of Delinquent. Amend RSA 169-B:2, IV to read as follows:

14 IV. "Delinquent" means a person who has committed an offense before reaching the age of
15 ~~[17]~~ **18** years which would be a felony or misdemeanor under the criminal code of this state if
16 committed by an adult, and is expressly found to be in need of counseling, supervision, treatment, or
17 rehabilitation as a consequence thereof.

18 5 Delinquent Children; Definition of Minor. Amend RSA 169-B:2, VI to read as follows:

19 VI. "Minor" means a person under the age of ~~[17]~~ **18**.

20 6 Delinquent Children; Jurisdiction. Amend RSA 169-B:4, I to read as follows:

21 I. The court shall have jurisdiction over any minor with respect to whom a petition is filed
22 under this chapter after the minor's ~~[seventeenth]~~ **eighteenth** and before the minor's ~~[eighteenth]~~
23 **nineteenth** birthday for an alleged delinquency offense committed before the minor's ~~[seventeenth]~~
24 **eighteenth** birthday.

25 7 Delinquent Children; Jurisdiction. Amend the introductory paragraph of RSA 169-B:4, II to
26 read as follows:

27 II. The court may retain jurisdiction over any minor during the period after the minor's
28 ~~[seventeenth]~~ **eighteenth** birthday as justice may require for any minor who, prior to the minor's
29 ~~[seventeenth]~~ **eighteenth** birthday, was adjudicated delinquent and:

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1 8 Delinquent Children; Jurisdiction. Amend RSA 169-B:4, II (b) to read as follows:

2 (b) Who has, prior to the minor's [~~seventeenth~~] **eighteenth** birthday, consented to the
3 court's retention of jurisdiction; and

4 9 Delinquent Children; Jurisdiction. Amend the introductory paragraph of RSA 169-B:4, IV to
5 read as follows:

6 IV. The court shall close the case when the minor reaches age [~~17~~] **18** or, if jurisdiction is
7 extended pursuant to paragraph II, when:

8 10 Delinquent Children; Jurisdiction. Amend RSA 169-B:4, VII to read as follows:

9 VII. In any instance in which the statute of limitations has not tolled and no juvenile
10 petition has been filed based upon acts committed before the minor's [~~seventeenth~~] **eighteenth**
11 birthday, the state may proceed against the person in the criminal justice system after that person's
12 eighteenth birthday.

13 11 Delinquent Children; Dispositional Hearing; Age of Juvenile. Amend RSA 169-B:19, III-a(a)
14 to read as follows:

15 III-a.(a) Prior to the [~~seventeenth~~] **eighteenth** birthday of a minor who had been
16 adjudicated delinquent for committing a violent crime as defined in RSA 169-B:35-a, I(c), or who had
17 been petitioned to court on 4 or more occasions and adjudicated delinquent in 4 separate
18 adjudicatory hearings which alleged misdemeanor or felony offenses, the prosecutor or the
19 department of health and human services may file a motion with the court to extend jurisdiction
20 pursuant to RSA 169-B:4, V. The department of youth development services may file a motion to
21 extend jurisdiction for any minor committed to its custody pursuant to RSA 169-B:19, I(j). The
22 department of corrections shall be served a copy of the motion and be a party to the proceeding.

23 12 Delinquent Children; Petition by County Attorney or Attorney General; Age of Juvenile.
24 Amend RSA 169-B:25 to read as follows:

25 169-B:25 Petition by County Attorney or Attorney General. If facts are presented to the county
26 attorney or attorney general establishing that a person under the age of [~~17~~] **18** has been guilty of
27 conduct which constitutes a felony or would amount to a felony in the case of an adult and if such
28 person is not within the jurisdiction of this state, the county attorney or attorney general may file a
29 petition with the judge of the municipal or district court which would otherwise have jurisdiction
30 under the provisions of this chapter. The petition shall set forth the nature of the offense with which
31 the person is charged and shall specify the person's whereabouts if known. On receipt of such
32 petition, the court may summarily authorize the county attorney or attorney general to proceed
33 against such person under regular criminal procedures, and without regard to the provisions of this
34 chapter. Pending determination by the superior court as provided in this section and pending final
35 disposition of the matter, such persons shall be bailable with sufficient sureties as in the case of
36 adults and, in default thereof, may be committed to the custody of the juvenile probation and parole
37 officer or detained at a county correctional facility unless detention elsewhere is ordered by the

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1 superior court. The superior court shall determine, after hearing, whether such person shall be
2 treated as a juvenile under the provisions of this section or whether the case shall be disposed of
3 according to regular criminal procedures.

4 13 Juvenile Delinquency; Petition by Minor; Age. Amend RSA 169-B:26 to read as follows:

5 169-B:26 Petition by Minor. At any time prior to hearing pursuant to RSA 169-B:16, a minor
6 who is charged with an act of delinquency committed after the minor's [~~sixteenth~~] **seventeenth**
7 birthday may petition the court to be tried as an adult and to have such case dealt with in the same
8 manner as any other criminal prosecution.

9 14 Delinquent Children; Juvenile Court Records; Age. Amend RSA 169-B:35, III(a) and (b) to
10 read as follows:

11 (a) Police officers and prosecutors involved in the investigation and prosecution of
12 criminal acts shall be authorized to access police records concerning juvenile delinquency, including
13 the files of persons who at the time of the inquiry are over the age of [~~17~~] **18**, and to utilize for the
14 purposes of investigation and prosecution of criminal cases police investigative files on acts of
15 juvenile delinquency, including information from police reports, exemplars, and forensic
16 investigations.

17 (b) Prosecutors involved in the prosecution of criminal acts shall be authorized to access
18 police records concerning juvenile delinquency or records of adjudications of delinquency, including
19 the files of persons who at the time of the inquiry are over the age of [~~17~~] **18**, if the prosecutor has
20 reason to believe that the individual may be a witness in a criminal case. The prosecutor may
21 disclose the existence of an adjudication for juvenile delinquency only when such disclosure is
22 constitutionally required or after the court having jurisdiction over the criminal prosecution orders
23 its disclosure.

24 15 Parole of Delinquents; Effect of Recommitment; Age of Delinquent. Amend RSA 170-H:11 to
25 read as follows:

26 170-H:11 Effect of Recommitment. Any delinquent whose parole is revoked shall be returned to
27 the custody of the commissioner. The offender may at any time prior to his or her [~~seventeenth~~]
28 **eighteenth** birthday be paroled again. If not paroled, a delinquent shall remain in custody until his
29 or her [~~seventeenth~~] **eighteenth** birthday.

30 16 Youth Development Center; Definition of Child. Amend RSA 621:3, II to read as follows:

31 II. "Child," "minor," or "juvenile" means a person under the age of [~~17~~] **18** years.

32 17 Youth Development Center; Definition of Delinquent. Amend RSA 621:3, V to read as
33 follows:

34 V. "Delinquent" or "delinquent child" means a minor who has committed an offense before
35 reaching the age of [~~17~~] **18** years which would be a felony or misdemeanor under the criminal code of
36 this state if committed by an adult.

37 18 Youth Development Center; Definition of Child. Amend RSA 621:3, VII to read as follows:

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1 VII. “Minority” means the period of time before the age of [~~17~~] **18** years and terminates on
2 the [~~seventeenth~~] **eighteenth** birthday.

3 19 Youth Development Center; Effect of Release; Conditions of Release; Age of Minor. Amend
4 RSA 621:24 and the introductory paragraph of RSA 621:25 to read as follows:

5 621:24 Effect of Release. No administrative release or parole of a child shall operate as a
6 discharge of the child from the center. The department shall continue to have control of children on
7 administrative release to parole or parole until they reach the age of [~~17~~] **18** years, and the control
8 conferred by the department upon others shall be conferred upon them as agents of the department,
9 except where a child is discharged under RSA 621:19.

10 621:25 Remands and Changes in Conditions of Release. The board or the commissioner, subject
11 to the approval of the board, may modify or cancel any arrangements or conditions relative to
12 release, other than discharge of a child, or may order a child remanded to the center, until the child
13 reaches the age of [~~17~~] **18** years or is discharged under RSA 621:19. Under the direction of the board
14 and subject to rules adopted by the commissioner the department shall:

15 20 Effective Date. This act shall take effect July 1, 2015.

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HB 525-FN - FISCAL NOTE

AN ACT raising the age of minority for juvenile delinquency proceedings from 17 to 18 years of age.

FISCAL IMPACT:

The Department of Health and Human Services states this bill, as introduced, will increase state expenditures by \$2,643,746 in FY 2014, and \$5,287,493 in FY 2015 and each year thereafter. The Judicial Branch, states this bill may increase expenditures by an indeterminable amount in FY 2014 and each year thereafter. The Judicial Council, Department of Corrections, and New Hampshire Association of Counties states this bill may decrease expenditures by an indeterminable amount in FY 2014 and each year thereafter. There will be no impact on county or local revenue or local expenditures.

METHODOLOGY:

The Department of Health and Human Services, Division for Children, Youth and Families states this bill amends various sections of the RSAs 21-H, 169-B, 170-H, and 621 to raise the age of minority for juvenile delinquency proceedings from 17 to 18 years of age. The Department assumes the cost to provide services, placements, and programs to 17 year olds will be comparable to the cost of providing services, placements, and programs to 16 year olds. The cost to provide services, placements, and programs to 266 16 year olds in FY 2012 was \$5,287,493. Assuming that a comparable number of 17 year olds will enter, or remain in the juvenile justice system as a result of this bill, and those 17 year olds will have similar service needs, the Department estimates this bill will increase expenditures by \$2,643,746, of which federal funds would total \$1,416,255 in FY 2014 (with an effective date of January 1, 2014), and increase expenditures by \$5,287,493, of which federal funds would total \$2,832,510 in FY 2015 and each year thereafter. On average, the state/federal cost share for these services, placements, and programs is 46.43% general funds and 51.48% federal funds. Additional revenue to support these costs (2.09%) comes from the "Children's Revolving Fund" account. While the increased number of youth receiving services could result in the need for additional personnel resources, the Department believes that it could manage the increased delinquency caseloads with existing resources provided that the recent changes to the CHINS statute and the corresponding reduction in caseloads remain in effect.

The Judicial Branch states the most recent data readily available for the number of 17 year old offenders in District and Superior courts is from 2003. The Branch states for purposes of this

fiscal note, they assume case volume against 17 year olds has and will remain constant at the 2003 level. It is also assumed that all of the criminal cases against 17 year olds, whether class B or class A misdemeanors in the District Court or felonies in the Superior Court, would be brought as juvenile cases under this bill. The Branch also assumes that each criminal case results in one juvenile petition. Due to the fact that some offenders will have more than one misdemeanor and/or felony charge, the number of juvenile cases resulting from the proposed bill is indeterminable. The Branch estimates increased costs for current cases in the District Court at \$469,448, and decreased costs for current cases in the Superior Court at \$39,213, for a net additional cost of \$430,235. The impact in FY 2014 would be approximately \$215,118 due to an effective date of on January 1, 2014.

The Judicial Council states low-level criminal behavior and very serious criminal behavior are likely to result in the same levels of expenditures as experienced today for the indigent defense system. The Judicial Council states with respect to felony-level criminal behavior, an indeterminate number of felonies now brought as adult criminal cases would instead be brought as juvenile delinquency matters. To the extent that this proposed statute might increase the number of cases in which defendants will stand charged with delinquencies and become eligible for appointed counsel at State expense, the state would be subject to expenditures of approximately \$275 for each delinquency case handled by the public defender or contract attorney. If the case were for some reason to go to assigned counsel, the cost would be \$60 per hour with a cap of \$1,700. To the extent that this proposed statute might decrease the number of cases in which defendants will stand charged with felonies and become eligible for appointed counsel at state expense, the state would be subject to fewer felony-level expenditures, which equal approximately \$756.25 for each "felony 2" case handled by a public defender or contract attorney, and \$2,282.50 for each "felony 1" case. If the case were for some reason to go to assigned counsel, the cost would be \$60 per hour with a cap of \$4,100. The Judicial Council states the costs associated with appeals and expert services would be unchanged.

The Department of Corrections states the number of individuals who would be affected by the change in the age of minority cannot be predicted. The Department of Corrections states there is no impact for individuals found guilty of a misdemeanor since the term of incarceration for a misdemeanor is one year and sentences of one year or less are served in county correctional facilities. The Department is not able to determine the impact of felony cases. The Department of Corrections states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2012 was \$35,071. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2012 was \$608.

The New Hampshire Association of Counties states to the extent any 17 year old individuals would have been incarcerated in the county correctional facility prior to this proposed change, county expenditures will decrease. The average annual statewide incarceration cost for inmates in county correctional facilities is approximately \$35,000. The Association is unable to determine the actual decrease in expenditures.

The Department of Justice states it could absorb any costs resulting from this bill without additional funds.