

Senate Education Committee

Cameron Lapine 271-2104

SB 39-FN, relative to criminal history checks for school transportation monitors.

Hearing Date: January 10, 2023

Time Opened: 9:15 a.m.

Time Closed: 9:37 a.m.

Members of the Committee Present: Senators Ward, Gendreau, Lang, Prentiss and Fenton

Members of the Committee Absent: None

Bill Analysis: This bill requires transportation monitors to undergo criminal background checks before being employed by public schools.

Sponsors:

Sen. Gannon

Sen. Avard

Sen. Birdsell

Sen. Prentiss

Sen. Ward

Sen. Innis

Sen. Watters

Sen. Altschiller

Sen. Gray

Sen. Ricciardi

Sen. Carson

Sen. Pearl

Rep. Vose

Rep. Piemonte

Who supports the bill: Senator David Watters (Senate District 4), Senator James Gray (Senate District 6), Senator Sharon Carson (Senate District 14), Patricia Anastasia, Senator Debra Altschiller (Senate District 24), Senator Ruth Ward (Senate District 8), and Senator Dan Innis (Senate District 7).

Who opposes the bill: None.

Who is neutral on the bill: Diana Fenton (Department of Education).

Summary of testimony presented in support:

Senator Ruth Ward

Senate District 8

- Senator Ward introduced SB 39-FN on behalf of Senator Bill Gannon.

John Marasco

Director, Division of Motor Vehicles

- Director Marasco said that Ms. Fenton covered all of his points.

- Director Marasco said that the Division fully supports SB 39-FN. He said that through conversations with the Department of Education, they realized that the Division did not have oversight for transportation monitors because they are not the individuals behind the wheel of the bus.
- Director Marasco said that they did not want to create confusion for people who believe there is a two-tiered system with someone checking for offenses beyond Section V.

Summary of testimony presented in opposition: None.

Neutral Information Presented:

Diana Fenton

Department of Education

- Ms. Fenton said that SB 39-FN is a request of the Department, with the support of the Division. She said that it is designed to address a perceived gap in child safety as a result of a 2020 statutory change.
- Ms. Fenton described the history of the criminal records background check as it relates to the Department. She said that the background check used to be a function of employment in RSA 189:13-A, and an individual would go through a federal and state background check at the time of their application. She said that the district would check for disqualifying offenses under Section V of the statute.
- Ms. Fenton said that Section V offenses prohibit working in the world of education state-wide and the Department has no discretion. She said that individual school districts do have the discretion to look beyond Section V and to take the whole criminal history into account.
- Ms. Fenton said that the Department has recognized that there is a requirement for child safety in educator licensing.
- Ms. Fenton said that the Department has the authority to perform background checks at the first time an applicant applies for licensure. She said that the Department is limited to checking for Section V offenses. She said that there is a two-tiered system where the Department looks at Section V offenses and the school district can look at other elements, such as an infraction for driving while intoxicated, in an applicant's history.
- Ms. Fenton said that, in 2020, to help address the school bus driver shortage, legislation was passed creating RSA 189:13-B to create an exception for school bus drivers and transportation monitors. She said that this made it so that school districts would not be running individual checks on individuals but would, instead, be relying on a Division of Motor Vehicles check at the time of licensure while the Department looked for Section V violations.
- Ms. Fenton said that neither the Department nor the Division realized in 2020 that the Division does not have licensing authority over transportation monitors. She said that this is a group of people who have one-on-one contact with children who are currently outside of the two-tiered system.
- Ms. Fenton said that she was aware of an email from the transportation lobbying association expressing concerns. She said that the Department does not want to impact the ability of monitors to move between districts as needed. She said that the

Department was willing to work with the transportation lobbying association to find a compromise.

- Senator Lang asked if Sections 1 and 2 of SB 39-FN were strictly focused on mobility between districts.
 - Ms. Fenton said that that was correct. She said that the idea was for there to be a state-wide clearance so a transportation monitor in Groveton could work on a field trip for a school in Keene if they were needed.
- Sen. Lang asked if, for example, Franklin and Winnisquam could share bus drivers based on their schedule.
 - Ms. Fenton said that that was her understanding of the 2020 law. She said that there is a recognized bus driver shortage and there is a need for mobility. She said that they intended to have two entities to have oversight: the Department and the Division.
- Sen. Lang asked what a transportation monitor was, exactly.
 - Ms. Fenton said that she was not the best person to answer the question. She said that it was her understanding that a transportation monitor was someone who is on a bus to help regulate the behavior of students. She said that it is an important group and the Department doesn't want to remove their ability to move between districts as needed.
- Sen. Lang asked if the issues with transportation monitors and background checks could be handled via an MOU between districts.
 - Ms. Fenton said that in theory an MOU could address the issue. She said that school districts have more discretion about Section V offenses. She said that there is a reality that there is an immediate need for school bus drivers and transportation monitors and there is not always an MOU on hand to meet the need.
- Senator Prentiss asked for more information on the concerns of the transportation industry.
 - Ms. Fenton said that she couldn't speak for the transportation industry. She said that their concern was around undercutting the work done in RSA 189:13-b. She said that the Department's concern is about a small population who are outside of the purview of the Division. She said that when the 2020 law passed, everyone assumed that the Division had authority over transportation monitors, but upon review, transportation monitors are outside of the Division's jurisdiction.
- Senator Ward said that different SAUs might have different regulations. She asked if there was a central clearing house for positions where an SAU could learn the particular screening protocols for a particular district.
 - Ms. Fenton said that the central clearing house would be the Department, for Section V offenses. She said that RSA 189:13-a clearly says that each district can make their own policies. She said that superintendents have large discretion to decide what is appropriate for their district.

Becky Wilson

NH School Board Association

- Ms. Wilson said that some transportation monitors are monitoring full buses on normal routes and some monitor individual children with special needs who may be going out of district for their IEP. She said that some of the children may be non-verbal.
- Ms. Wilson said that the skills, training, and needs of transportation monitors differ.

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Date Hearing Report completed: January 11, 2023