

SB 108 - AS INTRODUCED

2021 SESSION

21-0867

06/08

SENATE BILL        ***108***

AN ACT            relative to school resource officers.

SPONSORS:        Sen. Whitley, Dist 15; Sen. Perkins Kwoka, Dist 21; Rep. Cornell, Hills. 18; Rep.  
Mullen, Hills. 7

COMMITTEE:      Education

---

ANALYSIS

This bill clarifies the duties and responsibilities of school resource officers.

-----

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

1       1 Purpose Statement. It is the intent of the legislature to enhance school safety and  
2 performance by increasing transparency around the responsibilities and performance of school  
3 resource officers, distinguishing the role of teachers, staff, and school administrator from that of  
4 resource officers, and continuing the state's commitment to the behavioral health needs of students,  
5 including the system of care under RSA 135:F.

6       2 School Resource Officers. Amend RSA 186:11, XXXVIII to read as follows:

7       XXXVIII. School Resource Officers.

8           (a) Require each school district in the state to which a school resource officer is assigned  
9 to develop and implement a policy which shall include, at a minimum, a requirement for a signed  
10 memorandum of understanding (**MOU**) between the school district and the law enforcement agency  
11 from which the school resource officer is deployed **and a requirement that a copy of the MOU be**  
12 **provided to the commissioner of the department of education and be made publicly**  
13 **available on the school district's website.**

14           (b) *Require any MOU between a school district and a law enforcement agency to*  
15 *include, but not be limited to, the following:*

16                   (1) *The purpose of the school resource officer program.*

17                   (2) *Restrictions on the school resource officer's involvement in student*  
18 *discipline in response to criminal and non-criminal student misconduct.*

19                   (3) *The division of authority between school officials and school resource*  
20 *officers in emergency and non-emergency situations,*

21                   (4) *A plan for supervising the school resource officer's performance.*

22                   (5) *A process for filing complaints by students, parents, teachers, and other*  
23 *school officials concerning misconduct by a school resource officer.*

24                   (6) *The type and extent to which information may be shared between the*  
25 *school district and the law enforcement agency.*

26                   (7) *Guidelines for the student resource officer's conduct regarding student*  
27 *searches and seizures.*

28                   (8) *Procedures for interviewing or questioning a student, arrest of a student,*  
29 *and reading Miranda rights to students in certain circumstances.,*

30                   (9) *Restrictions on the school resource officer's use of physical force or*  
31 *restraints on a student.*

1                   (10) *A requirement that school resource officer be certified as such by the*  
2 *New Hampshire police standards and training council and maintain such certification by*  
3 *completing in-service training each year.*

4           3 New Chapter; School Resource Officers. Amend RSA by inserting after chapter 189-A the  
5 following new chapter:

6                                   CHAPTER 189-B

7                                   SCHOOL RESOURCE OFFICERS

8           189-B:1 School Resource Officer Programs.

9           I. A school resource officer program shall promote school safety and school-based  
10 disciplinary consequences as the principal response to problem behaviors by students, except when  
11 immediate police involvement is necessary to address a substantial and imminent risk of serious  
12 bodily harm to students, school staff, or the public.

13           II. Absent a substantial and imminent risk of serious bodily harm to students, teachers, or  
14 school safety, and absent the situations where formal law enforcement intervention is appropriate,  
15 school administrators shall have final authority over the handling and resolution of incidents  
16 involving students at a school, including incidents involving disorderly conduct, disruption of schools  
17 or public assembly, trespass, loitering, profanity, and fighting that does not involve physical injury  
18 or a weapon.

19           III. Schools shall use behavioral health services to respond to the needs of students,  
20 including the system of care under RSA 135-F and services under RSA 167:3-1.

21           IV. No student shall be arrested at school, except where the student poses a substantial and  
22 imminent threat to students, teachers, or public safety; or a judicial warrant specifically directs the  
23 arrest of the student in a school; in all other instances the execution of an arrest warrant shall be  
24 undertaken at a location other than a school. In the event that an arrest is executed on school  
25 grounds, the school principal or most senior administrator shall be consulted prior to the arrest  
26 where possible and the student's parent or guardian shall be notified of the child's arrest as soon  
27 as possible.

28           V. Absent a substantial and imminent risk of serious bodily harm to students, teachers, or  
29 school safety, an school resource officer may not conduct or participate in a search of a student's  
30 person, possessions, or locker unless there is probable cause to believe that the search will result in  
31 evidence that the child has committed or is committing a criminal offense.

32           (a) An school resource officer shall consult the school principal or most senior  
33 administrator at the school prior to conducting a probable cause search.

34           (b) A school resource officer shall not ask school officials or other students to search a  
35 student's person, possessions, or locker. Any evidence obtained in violation of this provision shall be  
36 inadmissible in any subsequent court proceeding.

1 (c) A school resource officer shall not be present when a school official conducts a search  
2 of a student's person, possessions, or locker in the absence of probable cause that the search will turn  
3 up evidence that the child has committed or is committing a criminal offense.

4 VI. Absent a substantial and imminent risk of serious bodily harm to students, teachers, or  
5 school safety, any questioning by a student resource officer of a student that the student resource  
6 officer knew or should have known would elicit criminal information shall comply with the following:

7 (a) A school resource office shall consult the school principal or most senior school  
8 administrator prior to any questioning of a student that the school resource officer knew or should  
9 have known would elicit criminal information.

10 (b) A student resource officer shall not ask a school official to question a student in an  
11 effort to circumvent these protections.

12 (c) A school resource officer shall not be present or participate in the questioning of a  
13 student by a school administrator.

14 (d) A student's parent or guardian shall be contacted prior to the student being  
15 questioned by a school resource officer as part of any criminal investigation.

16 VII. School resource officers shall not conduct strip searches of children. Absent a  
17 substantial and imminent risk of serious bodily harm to students, teachers, or school safety, other  
18 physically invasive searches of children shall not be conducted by a school resource officer.

19 VIII. Absent a substantial and imminent risk of serious bodily harm to students, teachers,  
20 or school safety, an school resource officer shall not use physical force or restraints, including  
21 handcuffs, tasers, mace, or other physical or chemical restraints, on a child.

22 189-B:2 Submission of Complaints. Any school district with a school resource officer program  
23 shall establish a process for any student, parent, teacher, or school administrator to submit a  
24 complaint, orally or in writing, of alleged abuses or misconduct by a school resource officer. The  
25 process for submitting a complaint shall be publicly available on the school district's website. Such  
26 process shall comply with the following requirements:

27 (a) Parents may submit a complaint in their native language.

28 (b) The complaint shall be confidential and protect the identity of the complainant to the  
29 extent consistent with the student resource officer's due process rights.

30 (c) The process shall provide for an independent investigation of the allegations in the  
31 complaint.

32 (d) The school district shall investigate and resolve all complaints and furnish the  
33 complainant with a written explanation of the investigation and resolution, within 30 days.

34 (e) Where serious allegations of abuse or misconduct are raised, the school district shall  
35 remove the school resource officer from contact with students pending resolution of the investigation.

36 (f) Where allegations of abuse or misconduct are substantiated, the student resource  
37 officer shall be suspended or permanently removed from school assignments.

1 (g) Every student, parent, and guardian in the school system shall be informed of the  
2 complaint process.

3 (h) Students, parents, and guardians shall be given an opportunity to review any  
4 proposed changes to the complaint process prior to its adoption.

5 (i) No action shall be taken against a student, teacher, or administrator for filing a  
6 complaint unless the complainant knowingly files a false complaint.

7 189-B:3 Data Collection.

8 I. Any school district employing a student resource officer shall collect and make publicly  
9 available, without disclosing personally identifiable information, the following data:

10 (a) The number of incidents resulting in a student's arrest for conduct on school grounds  
11 or at a school-sponsored event, broken down by school, offense, student's age, grade level, race,  
12 ethnicity, sex, gender identity, and disability status; and disposition of the case.

13 (b) The number of incidents resulting in other forms of law enforcement intervention,  
14 including searches and seizures by school resource officers, questioning by school resource officers,  
15 issuance of a citation, ticket, or summons, filing of a delinquency petition, or referral to a probation  
16 officer for juvenile conduct on school grounds or at a school-sponsored event, broken down by school,  
17 offense or reason, type of law enforcement intervention, student's age, grade level, race, ethnicity,  
18 sex, gender identity, and disability status; and disposition of the case.

19 (c) The number of suspensions or other disciplinary consequences imposed on students  
20 for conduct that a student resource officer responded to, broken down by school, offense or infraction,  
21 student's age, grade level, race, ethnicity, sex, gender identity, and disability status; and disciplinary  
22 consequence imposed.

23 (d) The number and types of complaints lodged against school resource officers,  
24 including any action taken by the school district in response to the complaint.

25 II. The school district shall update the data required under paragraph I and make such data  
26 publicly available no less than on a quarterly basis.

27 4 Effective Date. This act shall take effect 60 days after its passage.