

CHAPTER 312  
HB 1682-FN-A - FINAL VERSION

16Feb2022... 0112h  
31Mar2022... 1099h  
04/21/2022 1572s  
04/21/2022 1593s  
26May2022... 2116EBA

2022 SESSION

22-3119  
08/04

HOUSE BILL

***1682-FN-A***

AN ACT                    establishing the law enforcement conduct review committee in the New Hampshire police standards and training council and making an appropriation therefor.

SPONSORS:            Rep. Welch, Rock. 13

COMMITTEE:          Criminal Justice and Public Safety

---

ANALYSIS

This bill establishes the law enforcement conduct review committee in the New Hampshire police standards and training council and makes an appropriation therefor.

-----

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                                 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 312  
HB 1682-FN-A - FINAL VERSION

16Feb2022... 0112h  
31Mar2022... 1099h  
04/21/2022 1572s  
04/21/2022 1593s  
26May2022... 2116EBA

22-3119  
08/04

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                    establishing the law enforcement conduct review committee in the New Hampshire police standards and training council and making an appropriation therefor.

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

1            312:1 Findings and Policy; Police Standards and Training Council. Amend RSA 106-L:1 to read as  
2 follows:

3            106-L:1 Findings and Policy.

4            *I. The legislature finds that the administration of criminal justice is of statewide concern; that*  
5 *police and corrections work are important to the health, safety, and welfare of the people of this state; that*  
6 *police and corrections work are of such a nature as to require education and training of a professional*  
7 *character; and that it is in the public interest that such education and training be made available to*  
8 *persons who seek to become police and corrections officers, persons who are serving as police and*  
9 *corrections officers in a temporary or probationary capacity, and persons already in regular service.*

10            *II. Further, the legislature finds that law enforcement officers are vested with responsibilities that*  
11 *require high standards of moral character, integrity, knowledge and trust. In support of these heightened*  
12 *responsibilities and to continuously strive for public confidence in law enforcement officers, the law*  
13 *enforcement conduct review committee is created at New Hampshire police standards and training*  
14 *council.*

15            312:2 Definitions; Police Standards and Training Council. Amend RSA 106-L:2 to read as follows:

16            106-L:2 Definitions. In this chapter:

17            I. ~~["Police officer" means any appointed or elected employee of a police department or any~~  
18 ~~appointed employee of a sheriff's department, the fish and game department, the department of safety, or~~  
19 ~~any special agent appointed by the state liquor commission which is administered by the state or any of its~~  
20 ~~political subdivisions and who is responsible for the prevention, detection or prosecution of crime or the~~  
21 ~~enforcement of the penal, traffic, highway, boating, liquor, or bingo and lucky 7 laws of this state or any of~~  
22 ~~its political subdivisions.] "Committee" means the law enforcement conduct review committee.~~

23            II. "Council" means the police standards and training council.

24            III. "Director" means the director of the police standards and training council.

25            IV. *"Law enforcement officer" means any individual who is:*

26                    *(a) Employed by a local, municipal, county, or state governmental agency, or public*  
27 *university, in the state of New Hampshire;*

28                    *(b) Certified or certifiable by the police standards and training council; and*

(c) *Responsible for the prevention, detection, or prosecution of crimes and the enforcement of the laws of the state and of its political subdivisions; and at least one of the following:*

(1) *Has full general arrest powers, or*

(2) *Is a certified or certifiable state corrections officer, or*

(3) *Is a certified or certifiable state probation-parole officer.*

V. *"Misconduct" means:*

(a) *An officer has been convicted of one or more the following:*

(1) *A crime which constitutes a felony in this or any other state;*

(2) *A misdemeanor for which there was a sentence of incarceration, regardless of whether all or part of the sentence was suspended;*

(3) *Driving while intoxicated in this or any other state;*

(4) *A crime of moral turpitude. "Moral turpitude" means an illegal act involving dishonesty, deceit, theft, or willful misrepresentation, or a crime which tends to bring discredit on the police or corrections service. A crime of moral turpitude shall include those crimes listed in POL 402.02(a)(4); or*

(b) *A sustained finding that the officer has engaged in conduct negatively reflecting on the officer's trustworthiness or credibility, including but not limited to:*

(1) *A deliberate and material lie during a civil, administrative, or criminal proceeding, in a police report, an internal investigation, or an investigation conducted by the New Hampshire police standards and training council;*

(2) *A falsification of records or evidence in an investigation or official proceeding; or*

(3) *A misrepresentation or tampering with official records or reports, tampering with witnesses or falsifying evidence; or*

(c) *A sustained finding that during the course of the officer's official duties, the officer engaged in discriminatory conduct on the basis of age, sex, sexual orientation, gender identity, race, religious creed, color, marital status, familial status, physical or mental disability, or national origin prohibited by RSA 354-A; or*

(d) *A sustained finding that the officer engaged in conduct, whether on or off duty, that would adversely reflect on their fitness to perform law enforcement or corrections duties to include engaging in racist conduct or making racist statements; or*

(e) *A sustained finding that the officer engaged in acts or omissions of conduct which would cause a reasonable person to have doubts about the individual's honesty, fairness, and respect for the rights of others and for the laws of the state or nation; or*

(f) *A sustained finding that the officer knowingly committed an egregious dereliction of duty resulting in a preventable fatality or serious bodily injury or resulting in the deprivation of constitutional rights or leads to the failure of someone to be prosecuted for a felony; or*

(g) *A sustained finding that during the course of the officer's official duties, the officer engaged in the use of excessive and illegal force.*

CHAPTER 312  
HB 1682-FN-A - FINAL VERSION  
- Page 3 -

[IV-] VI. "State corrections officer" means any sworn classified employee of the New Hampshire department of corrections who is responsible for the physical custody and security of inmates at a state correctional institution and is authorized by law to use force to prevent escapes from such institution.

VII. *"Sustained finding" means a final determination on the merits of an allegation only after the completion of the grievance or legal appeal process, and after the officer has exhausted all appellate rights, unless the grievance or legal process determines that the alleged misconduct was unfounded, not sustained, or that the officer was exonerated.*

[V-] VIII. "State probation-parole officer" means any sworn employee of the New Hampshire department of corrections who is responsible for the supervision of probationers and parolees, who has an assigned caseload, and who has the authority to arrest for violations of the rules of probation or parole.

IX. *"Valid complaint" means a statement in writing made by a person who identifies themselves to the council or any law enforcement agency that alleges a certified law enforcement officer, state corrections officer, or probation parole officer has committed an act or acts of misconduct.*

X. *"Valid investigation" means an investigation conducted pursuant to a law enforcement agency's established or accepted procedures. An investigation shall not be valid if:*

- (a) The agency has not adopted an effective internal affairs program;*
- (b) The agency refuses, without any legitimate basis, to conduct an investigation;*
- (c) The agency intentionally did not report allegations to the council as required;*
- (d) The agency attempts to cover up the misconduct or takes an action intended to discourage or intimidate a complainant;*
- (e) The agency's executive officer is the officer accused of the misconduct; or*
- (f) The agency's findings or conclusions are clearly not supported by the evidence or contain material errors or omissions of fact or law.*

XI. *"Administrative suspension" means a temporary and non-disciplinary suspension of the certification of a police officer, corrections officer, or probation-parole officer for regulatory purposes pending an investigation or hearing.*

312:3 Membership; Police Standards and Training Council. Amend RSA 106-L:3, I-II to read as follows:

I. There is established a police standards and training council. It shall consist of the following members:

- (a) Two members shall be ~~[chiefs of police in towns]~~ *a chief of police in a town or for a university;*
- (b) Two members shall be chiefs of police in cities;
- (c) Two members shall be county sheriffs;
- (d) Two members shall be judges of courts with criminal jurisdiction;
- (e) ~~[The chancellor of the community college system of New Hampshire, or designee;]~~ *A professor from a New Hampshire college or university whose primary teaching responsibilities are in the field of criminal justice or similar course of study;*
- (f) *A law enforcement officer of a town or city employed at a rank below lieutenant;*

CHAPTER 312  
HB 1682-FN-A - FINAL VERSION  
- Page 4 -

1           ~~[(f)]~~ **(g)** The director of the division of state police, or designee;

2           ~~[(g)]~~ **(h)** The attorney general, or designee;

3           ~~[(h)]~~ **(i)** The commissioner of the department of corrections, or designee; and

4           ~~[(i)]~~ **(j)** ~~[Two]~~ **Four** public members, ~~[neither]~~ **none** of whom shall be a certified police officer,  
5 lawyer, or judge, and ~~[neither]~~ **none** of whom shall have a spouse, sibling, or parent, by birth, adoption, or  
6 marriage, who is a certified police officer, lawyer, or judge.

7           II. Except for the members appointed pursuant to subparagraphs ~~[(e)-(h)]~~ **[(g)-(i)]** who shall serve  
8 during their continuance in office, members of the council shall be appointed by the governor for terms of  
9 2 years. No member shall serve beyond the time that the office or employment which qualified such  
10 member for appointment. Any vacancy on the council shall be filled for the unexpired term in the same  
11 manner as the original appointment is held. Persons filling vacancies shall be appointed to serve out the  
12 unexpired term and shall have the same qualifications for office as the member whose vacancy they are  
13 filling.

14           312:4 Executive Branch Jurisdiction; Police Standards and Training Council. Amend RSA 106-L:4 to  
15 read as follows:

16           106-L:4 Executive Branch Jurisdiction. The police standards and training council, **its committees,**  
17 **and its employees** ~~[is]~~ **are** an executive branch ~~[council]~~ **agency pursuant to RSA 21-G:6-b, III.** The  
18 council, the director, and employees hired by the director performing the functions required by this chapter  
19 shall be subject to RSA 7:8, RSA 541-B, and RSA 99-D, and contracts by them shall be subject to  
20 attorney general review and review and approval by the governor and executive council.

21           312:5 Powers; Police Standards and Training Council. Amend RSA 106-L:5, III to read as follows:

22           III. For the purposes of a disciplinary hearing, **investigate, review investigative reports,** subpoena  
23 and examine witnesses under oath, take oaths or affirmations, and reduce to writing testimony given at  
24 any hearing. Any person whose rights or privileges may be affected at such a disciplinary hearing may  
25 appear with witnesses and be represented by counsel. A disciplinary hearing shall be public; however, a  
26 portion of the hearing may be closed to the public only if the party seeking closure can prove with  
27 specificity that the portion of the hearing will reveal confidential information that creates a compelling  
28 interest outweighing the public's presumed right of access. The council may, in a nonpublic session, hear  
29 and consider the request for closure and rule on such request.

30           312:6 Powers; Police Standards and Training Council. Amend RSA 106-L:5, V to read as follows:

31           V. Certify persons as being qualified under the provisions of this chapter to be police officers,  
32 state corrections officers, state probation-parole officers, or certified border patrol agents for the purposes  
33 of RSA 594:26, and establish rules under RSA 541-A for the **investigation,** suspension, or revocation of  
34 the certification of such persons in the case of egregious misconduct or failure to comply with council  
35 standards.

36           312:7 Powers; Police Standards and Training Council. Amend RSA 106-L:5, XIV to read as follows:

37           XIV. Make such investigations as may be necessary to determine whether **law enforcement**  
38 **officers and** governmental units are complying with the provisions of this chapter.

39           312:8 Powers; Police Standards and Training Council. Amend RSA 106-L:5, XX to read as follows:

CHAPTER 312  
HB 1682-FN-A - FINAL VERSION  
- Page 5 -

XX. The director may grant authority to any certified full-time police officer *or attorney* employed by the council *to serve* as *an* assistant director, [or] law enforcement training specialist, *or investigator* to enforce the provisions of this chapter and any rules adopted under this chapter, and cooperate and exchange information with any local, state, or federal law enforcement agency relative to the qualification and moral fitness of applicants for employment or continued employment as police officers or corrections officers. ***Certified full-time law enforcement officers employed by the council shall maintain their law enforcement certification during their employment with the council, shall have statewide law enforcement authority, and shall be recognized as a peace officer as defined by RSA 594:1, III.***

312:9 New Paragraphs; Powers; Police Standards and Training Council. Amend RSA 106-L:5 by inserting after paragraph XXII the following new paragraphs:

XXIII. The council shall assess whether law enforcement agencies are in compliance with this chapter and whether they have sufficient policies and procedures to handle internal affairs investigations governing allegations of misconduct.

XXIV. Upon receipt of written notification of the arrest of a law enforcement officer by the council, to include a copy of the charging document, the director may impose an immediate and temporary administrative suspension of the involved officer's certification. The aggrieved officer may file a written petition with the council to be heard at the next regularly scheduled council meeting on the administrative action. The administrative suspension or the failure of the officer to request such hearing shall not be prejudicial. Until such time that the matter is heard and decided on by the council, or resolved by informal process approved by the council, the administrative suspension shall remain in place.

XXV. The council may impose any of the following sanctions on a law enforcement officer's certification upon its final finding on clear and convincing evidence that a law enforcement officer committed misconduct or violated any administrative rule:

(a) A written warning;

(b) A suspension, that may run concurrent with the length and time of any suspension imposed by the employing law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by the employing agency with such a program;

(c) A suspension independent and unilateral from any locally imposed suspension and with the option of recertification at the discretion of the council; or

(d) A permanent revocation.

XXVI. Nothing in this chapter shall replace or hinder the ability of a law enforcement agency to investigate, discipline, or take any action against an employee consistent with their rules, regulations, and collective bargaining agreements within the context of the employer/employee relationship. Further, nothing in this chapter shall limit the ability of the department of justice or county attorney with jurisdiction to investigate or prosecute any criminal conduct.

312:10 New Subdivision; Law Enforcement Conduct Review Committee. Amend RSA 106-L by inserting after section 16 the following new subdivision:

Law Enforcement Conduct Review Committee

**CHAPTER 312**  
**HB 1682-FN-A - FINAL VERSION**  
**- Page 6 -**

106-L:17 The Law Enforcement Conduct Review Committee.

I. There is established the law enforcement conduct review committee. The governor shall appoint members of the law enforcement conduct review committee and name its chairperson. This committee shall be administratively attached to New Hampshire police standards and training council and shall report to the director or his or her designee. Such committee shall be composed of 4 law enforcement members and 3 public members, none of whom shall be employed as a certified police officer, lawyer, or judge, and none of whom shall have a spouse, sibling, or parent, by birth, adoption, or marriage, who is a certified police officer, lawyer, or judge.

II. The quorum required for the committee to transact business shall be 5 members, of whom at least 3 are law enforcement officers, and 2 are public members. The committee shall meet at least 4 times a year to address their responsibilities. Their meetings shall be conducted in nonpublic session. A staff attorney hired by and reporting to the director shall provide guidance to the committee, shall direct investigations as authorized by the committee or the director, and shall be responsible to present recommended findings in front of the council on behalf of the committee. No committee member may serve concurrently as a member of the council. Each member shall be appointed for 2 years and no appointed member may serve more than 3 consecutive terms. No member shall participate in any proceedings before the committee involving his, her, or their own conduct or the conduct of his, her, or their agency.

III. The council shall post a link to the law enforcement conduct review committee on the council's public website.

106-L:18 Responsibilities of the Committee.

I. The committee shall review all valid complaints alleging misconduct and, if determined necessary, shall:

(a) Cause or direct an investigation of the alleged misconduct to be conducted by the law enforcement agency that employs the subject officer;

(b) Confirm that any investigation by a law enforcement agency was valid;

(c) Review the record and findings of an investigation by a law enforcement agency and, if the investigation was not valid;

(d) Authorize the staff attorney to direct the complaint to be investigated with assistance from investigators;

(e) After such investigation, direct the staff attorney to present a recommended finding to the council at a public hearing of the council on behalf of the committee; and

(f) Provide a recommended sanction upon a sustained finding of misconduct by the council.

II. Upon receipt of a valid complaint alleging that a law enforcement officer committed a criminal act or acts while acting as a law enforcement officer, the committee shall report its findings to the director immediately, who shall refer the complaint to the New Hampshire attorney general's office, public integrity unit for investigation.

III. The committee shall dismiss a complaint of misconduct when:

(a) The complainant lacks standing;

**CHAPTER 312**  
**HB 1682-FN-A - FINAL VERSION**  
**- Page 7 -**

- 1 (b) The council lacks jurisdiction over the complaint;
- 2 (c) The complaint is insufficient or there is insufficient cause to proceed;
- 3 (d) The complaint alleges a minor agency policy violation that does not meet the definition of
- 4 misconduct; or
- 5 (e) The statute of limitations has expired under RSA 106-L:23.

6 106-L:19 Law Enforcement Agencies; Duty to Adopt a Valid Internal Affairs Program.

7 I. Within 9 months of the effective date of this section, each law enforcement agency shall adopt  
8 an internal affairs program in order to conduct internal investigations and manage complaints regarding  
9 their agency's law enforcement officers.

10 II. An internal affairs program shall include all of the following:

11 (a) A written policy that defines code of conduct and/or misconduct and defines the internal  
12 investigation process.

13 (b) A written procedure for accepting a properly filed complaint against a law enforcement  
14 officer.

15 (c) A written procedure to assign an investigator to conduct an investigation as determined by  
16 the written policy to determine whether an officer has committed an act or acts of misconduct.

17 (d) A written policy, or provisions in the applicable collective bargaining agreement, that  
18 outline for its officers the acts of misconduct enumerated in this chapter, the expectations of employment  
19 or prohibited activities of the agency, and the due process rights for its officers.

20 (e) Due process for the accused officer, including addressing discipline based on just cause,  
21 establishing a set range of discipline for offenses, and consideration of mitigating and aggravating  
22 circumstances.

23 III. The chief executive officer of every law enforcement agency in the state shall be responsible  
24 for the implementation of this section and shall file copies of all written policies required by this section  
25 with the police standards and training council.

26 IV. The council shall create an effective internal affairs program model policy that may be used  
27 by law enforcement agencies to meet the requirements of this section.

28 106-L:20 Law Enforcement Agencies; Duty to Report an Allegation of Misconduct.

29 I. The chief executive officer of a law enforcement agency shall report to the committee, through  
30 the director or designee, within 15 business days if any of the following occur in regard to a law  
31 enforcement officer of the agency:

32 (a) The agency has received a valid complaint of misconduct, and:

33 (1) That the agency is conducting, or has conducted a valid internal investigation of the  
34 allegation as defined in this chapter and in accord with their internal affairs policy;

35 (2) That the agency has an outside law enforcement agency conducting or has  
36 conducted a valid internal investigation into the matter as defined in this chapter; or

37 (3) That the agency is requesting a valid internal investigation be conducted into the  
38 matter by investigators designated by the director or the committee.



**CHAPTER 312**  
**HB 1682-FN-A - FINAL VERSION**  
**- Page 8 -**

1 (b) The results of a valid internal investigation has resulted in a sustained finding of  
2 misconduct; or

3 (c) That an officer resigned from the agency while under investigation for misconduct.

4 II. As part of the report, the executive officer of the agency shall provide a copy of any all relevant  
5 documents associated with the valid investigation, including the agency's investigative report, and any  
6 findings and decisions. Such documents shall not be subject to RSA 91-A, except as provided in this  
7 chapter.

8 III. The committee shall review the report to determine if the local agency has conducted a valid  
9 investigation. If the committee determines that there is not a valid internal affairs program at the local  
10 agency, the committee may recommend a separate investigation be conducted by police standards and  
11 training investigators.

12 106-L:21 Investigations.

13 I. Each law enforcement agency shall conduct or cause a valid investigation of any complaint  
14 alleging that a law enforcement officer employed by the agency committed an act or acts of misconduct.  
15 An agency shall conclude the investigation even if the officer resigns from the agency during the course of  
16 the investigation.

17 II. A law enforcement agency or the governing executive body of that agency shall refer to the  
18 committee any misconduct complaints made against a law enforcement officer who is the executive  
19 officer of that agency.

20 III. The committee shall accept valid complaints alleging a law enforcement officer committed  
21 misconduct and shall refer any complaints regarding allegations of misconduct to the executive officer of  
22 the agency who employs that officer, and that agency shall conduct a valid investigation.

23 IV. A staff attorney, at the direction of the committee or director, shall cause an investigation to  
24 be conducted if the allegation is in regard to a law enforcement officer who is the executive officer of the  
25 agency.

26 V. The committee shall review all documents related to a law enforcement agency's investigation  
27 into misconduct and may receive or solicit additional information from the local law enforcement agency or  
28 any other person in order to determine whether the law enforcement agency conducted a valid  
29 investigation. If the committee determines that a law enforcement agency's investigation of the officer's  
30 conduct did not constitute a valid investigation or was not fully completed the committee or the director  
31 shall direct the complaint to be investigated.

32 106-L:22 Accessibility and Confidentiality.

33 I. It is the purpose of this section both to protect the reputation of law enforcement officers from  
34 public disclosure of unwarranted complaints against them and to fulfill the public right to know of any  
35 action taken against a law enforcement officer when that action is based on a sustained finding of  
36 misconduct.

37 II. Meetings of the committee concerning an individual complaint shall not be open to the public.  
38 Records of the committee as well as investigations conducted by the committee shall be work product and  
39 shall not be made public or be discoverable under RSA 91-A except as provided in this subdivision. If the

**CHAPTER 312**  
**HB 1682-FN-A - FINAL VERSION**  
**- Page 9 -**

1 committee recommends to the council that a finding of misconduct be sustained then such decision of the  
2 committee shall be public and the council shall schedule a public hearing.

3 III. The council shall prepare and maintain a register of all complaints reviewed by the committee  
4 which shall be open to public inspection and copying containing the following information:

5 (a) The date and the nature of the complaint, but not including the identity of the law  
6 enforcement officer or employing agency; and

7 (b) A summary of the disposition of the completed investigation.

8 IV. All hearings of the council concerning complaints of misconduct shall be conducted in  
9 accordance with RSA 106-L:5, III. At the time of the hearing, the committee's investigative report and any  
10 records relied on by the committee to present its recommendation to the council shall be available for  
11 public inspection. After the council issues its final decision, the decision and all records or information  
12 relied on or presented to the council shall be public. However, any hearing or record, or any portion  
13 thereof, described in this paragraph may be sealed or redacted if the council determines with specificity  
14 that any such record will reveal confidential information that creates a compelling interest outweighing the  
15 public's presumed right of access.

16 V. A person charged with committing an act or acts of misconduct may inspect and copy the  
17 investigation file that results in the charges against him or her, except for any attorney work product or  
18 other privileged information.

19 VI. Any person aggrieved by a final order of the council granting or denying in whole or in part the  
20 relief sought may obtain review of such order in the manner prescribed in RSA 541.

21 VII. Notwithstanding any other provision of law set forth in this chapter, a prosecutor in a criminal  
22 proceeding may review and disclose any such information or records related to a sustained finding of  
23 misconduct in the possession of any law enforcement agency, the council, or the committee subject to the  
24 procedure set forth in RSA 105:13-b in order to determine whether any such information contains  
25 potentially exculpatory materials consistent with the prosecutor's constitutional, legal, or ethical  
26 obligations.

27 106-L:23 Statute of Limitations.

28 I. The committee shall not review any complaint or allegation of misconduct that is alleged to  
29 have occurred prior to the effective date of this section.

30 II. A valid complaint shall be filed within 2 years after the act or acts of alleged misconduct.  
31 When alleged misconduct was not discovered, and could not reasonably have been discovered at the  
32 time of the alleged misconduct, the complaint shall be filed within 2 years of the time it was discovered, or  
33 in the exercise of reasonable diligence should have been discovered.

34 III. Notwithstanding paragraph II, any grievance alleging misconduct under RSA 106-L:2, V(b)(1)  
35 may be filed at any time.

36 312:11 Appropriation. The sum of \$175,000 for the fiscal year ending June 30, 2023 is hereby  
37 appropriated to the police standards and training council. Such appropriation shall be used for the  
38 purpose of hiring one full-time staff attorney and 2 full-time investigators. The governor is authorized to  
39 draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

**CHAPTER 312**  
**HB 1682-FN-A - FINAL VERSION**  
**- Page 10 -**

1           312:12 Effective Date. This act shall take effect January 1, 2023.

Approved: July 01, 2022  
Effective Date: January 01, 2023

