

List of Exhibits:

- A: NH Rev. Stat. § 622:40 – 622:48 (Department of Corrections: Secure Psychiatric Unit)
- B: West, Nancy, "Lawsuit Likely in NH's Imprisoning of Non-Criminal Mentally Ill Patients," *In Depth New Hampshire*, May 17, 2016.
- C: Coulter, Beatrice, "My Turn: The Trouble with New Hampshire's Secure Psychiatric Unit," *Concord Monitor*, February 28, 2016.
- D: NH Rev. Stat. Section § 151:19 (New Hampshire's Patients' Bill of Rights)
- E: NH HB 382: Chapter 139 (2005).
- F: Interim Report on R.S.A. 21-H:14a (HB 382, Chapter 139:1, Laws of 2005) *from* The Commission to Study the Location of the Secure Psychiatric Unit, 2005.
- G: Correspondence to The Honorable Joseph E. Stone dated Nov. 7. 2006 from William Wren, John Stephen, and Kelly Ayotte.
- H: NH HB 1602: Chapter 96 (2010).
- I: Final Report on HB 1602, Chapter 96, Laws of 2010 from the Committee to Study Establishing a Secure Multi-Program Forensic Psychiatric Hospital and Developing a Proposal to Expedite Construction and Operation of Such a Treatment Facility.
- J: NH HB 1541-FN (2016) to amend R.S.A. 622:45.
- K: NH SB 339-FN (2015) to amend R.S.A. 651-C:2, I
- L: New Hampshire ADA Mental Health Settlement Fact Sheet, *Amanda D., et. al. v. Hassan, et. al.; United States v. New Hampshire, No. 1:12-CV-53 (SM)*.



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RSA 622:40**Copy Citation**

Statutes current through Chapter 330 of the 2016 Regular Session.

[LEXIS™ New Hampshire Revised Statutes Annotated](#) [Title LX Correction and Punishment](#) [Chapter 622 The State Prisons](#) [Secure Psychiatric Unit](#)**622:40. Definitions.**

In this subdivision:

- I.** "Commissioner" means the commissioner of the department of corrections under [RSA 21-H:2](#).
- II.** "Department" means the department of health and human services.
- III.** [Repealed.]
- IV.** "Unit" means the secure psychiatric unit.

History1985, 337:1, [1995, 310:170](#), XI, eff. Nov. 1, 1995.

▼ Annotations

Notes**Amendments****—1995.**

Paragraph III: Repealed.

Severability**—1995 amendment.**1995, 310, which amended this section, was subject to a severability clause. See [1995, 310:186](#).**Construction of amendments****—1995.**


1995, 310:187, eff. Nov. 1, 1995, provided:

"Nothing in this act is intended to, nor shall it be construed as, mandating or assigning any new, expanded, or modified program or responsibility for any political subdivision in violation of part I, article 28-a of the constitution of the state of New Hampshire."

Research References & Practice Aids**Hierarchy Notes:**[RSA Tit. LX](#)[RSA Tit. LX, Ch. 622](#)[RSA Tit. LX, Ch. 622, \[Undesignated\]](#)

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Statutes current through Chapter 330 of the 2016 Regular Session.

[LEXIS™ New Hampshire Revised Statutes Annotated](#) **[Title LX Correction and Punishment](#)** **[Chapter 622 The State Prisons](#)** **[Secure Psychiatric Unit](#)****622:41. Unit Established.**There is hereby established a secure psychiatric unit to receive and provide appropriate treatment for persons transferred under [RSA 622:45](#) to a secure environment.**History**

1985, 337:1, eff. July 1, 1985.

▼ Annotations

NOTES TO DECISIONS**Cited:**

Cited in 1986 Op. Att'y Gen. 69.

Research References & Practice Aids**Hierarchy Notes:**[RSA Tit. LX](#)[RSA Tit. LX, Ch. 622](#)[RSA Tit. LX, Ch. 622, \[Undesignated\]](#)LEXIS™ New Hampshire Revised Statutes Annotated
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[LEXIS™ New Hampshire Revised Statutes Annotated](#) **[Title LX Correction and Punishment](#)** **[Chapter 622 The State Prisons](#)** **[Secure Psychiatric Unit](#)****622:42. Coordination of Responsibility. [Repealed.]**

[Repealed 1995, 310:166, eff. Nov. 1, 1995.]

▼ Annotations

Notes**Former section(s).**

Former [RSA 622:42](#), which was derived from 1985, 337:1, related to cooperative agreements between the commissioner of corrections and the department of health and human services for the operation of the secure psychiatric unit.

Construction of repeal

1995, 310:187, eff. Nov. 1, 1995, provided "Nothing in this act is intended to, nor shall it be construed as, mandating or assigning any new, expanded, or modified program or responsibility for any political subdivision in violation of part I, article 28-a of the constitution of the state of New Hampshire."

Severability of repeal

1995, 310, which amended this section, was subject to a severability clause. See [1995, 310:186](#).

Research References & Practice Aids**Hierarchy Notes:**[RSA Tit. LX](#)[RSA Tit. LX, Ch. 622](#)[RSA Tit. LX, Ch. 622, \[Undesignated\]](#)

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Statutes current through Chapter 330 of the 2016 Regular Session.

LEXIS™ New Hampshire Revised Statutes Annotated Title LX Correction and Punishment Chapter 622 The State Prisons Secure Psychiatric Unit**622:43. Staffing.****I.** There are hereby established the following unclassified positions:

(a) A medical director, who shall be a board certified psychiatrist and shall be under the administrative supervision of the commissioner. The medical director shall be responsible for the provision, supervision, and administration of the medical and psychiatric services of the department of corrections and the unit.

(b) A psychiatrist, who shall be board eligible and who shall provide psychiatric and medical services under the supervision of the medical director.

(c) A non-medical director, who shall administer programs and services of the division of medical and psychiatric services and the unit.

II. The positions established by paragraph I shall carry with them an annual salary as set forth in RSA 94:1-a.**III.** The commissioner shall appoint qualified personnel, who shall serve at the pleasure of the commissioner, to the positions established by paragraph I of this section.**History**1985, 337:1, 1993, 321:4, 5, eff. July 1, 1993.

▼ Annotations

Notes**Amendments****—1993.**

Paragraph I(a): Deleted "unit" preceding "director" in the first sentence.

Paragraph I(c): Deleted "unit" preceding "director" and substituted "of the division of medical and psychiatric services and" for "at" preceding "the unit".

NOTES TO DECISIONS**Cited:**Cited in Disabilities Rights Ctr., Inc. v. Commissioner, N.H. Dep't of Corrections, 143 N.H. 674, 732 A.2d 1021, 1999 N.H. LEXIS 56 (1999).**Research References & Practice Aids****Hierarchy Notes:**RSA Tit. LXRSA Tit. LX, Ch. 622RSA Tit. LX, Ch. 622, [Undesignated]

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Statutes current through Chapter 330 of the 2016 Regular Session.

LEXIS™ New Hampshire Revised Statutes Annotated **Title LX Correction and Punishment** **Chapter 622 The State Prisons** **Secure Psychiatric Unit****622:44. Rulemaking.**

I. The commissioner shall adopt rules, pursuant to RSA 541-A, which provide for effective treatment for persons found to be dangerous to themselves or others and committed or transferred pursuant to [RSA 622:45](#) to an environment which provides for safety and security for the public, the staff, and those committed.

II. The rules shall reflect the general policy that persons committed or transferred to the unit, who may be convicted offenders, persons found not guilty because of insanity, pre-trial detainees, or persons civilly committed, shall retain all their individual rights, except where safety or security mandates restriction.

History

1985, 337:1, eff. July 1, 1985.

▼ Annotations

Research References & Practice Aids**Research References and Practice Aids****Cross References.**Powers of commissioner generally, see [RSA21-H:8](#).Rulemaking powers of commissioner generally, see [RSA 21-H:13](#).Standards for discharge, see [RSA622:48](#).Standards for treatment, see [RSA622:46](#).**Hierarchy Notes:**[RSA Tit. LX](#)[RSA Tit. LX, Ch. 622](#)[RSA Tit. LX, Ch. 622, \[Undesignated\]](#)

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Statutes current through Chapter 330 of the 2016 Regular Session.

LEXIS™ New Hampshire Revised Statutes Annotated **Title LX Correction and Punishment** **Chapter 622 The State Prisons** **Secure Psychiatric Unit****622:45. Commitment.**

Commitment may occur as follows:

I. Any person subject to an involuntary admission to the state mental health services system pursuant to RSA 135-C or any person subject to involuntary admission pursuant to RSA 171-B may at any time be transferred to the unit upon a determination that the person would present a serious likelihood of danger to himself or to others if admitted to or retained in a receiving facility in the state mental health services system. The admission to the unit may be ordered by:

- (a) A probate court pursuant to RSA 135-C:34–54; or
- (b) An administrator of a designated receiving facility to which a person has been involuntarily admitted pursuant to an involuntary emergency admission or an involuntary admission; or
- (c) A probate court pursuant to RSA 171-B or an administrator of a receiving facility to which a person has been involuntarily admitted pursuant to RSA 171-B.

II. Except upon an order of court under subparagraph I(a) or in an emergency, no admission or transfer to the unit shall occur without the prior approval of the commissioner and the commissioner of the department of health and human services, or their designees. In such instances, if the person to be admitted or transferred objects to the transfer, the person may request a hearing or review of the decision by the commissioner of the department of health and human services or designee in accordance with rules adopted pursuant to RSA 541-A. The review or hearing may occur following the admission or transfer where immediate admission or transfer has been determined necessary to protect the person or others. If the commissioner of the department of health and human services upholds the objection of a person to be transferred, the transfer shall not be made. If the commissioner of the department of health and human services upholds the objection of a person already transferred, the person shall promptly be delivered to a receiving facility named by the commissioner of the department of health and human services.

III. Except where ordered by a court of competent jurisdiction, if the commissioner objects to a proposed admission or transfer approved by the commissioner of the department of health and human services, the commissioners may agree to have the disagreement resolved by a mutually acceptable third party.

IV. Any person admitted or transferred to the unit shall be under the care and custody of the commissioner and the medical unit director and shall be subject to the rules of the commissioner until the person is transferred to a receiving facility in the state mental health services system. No person may be retained within the unit longer than the period of the order of involuntary admission to the state mental health services system.

V. A person in the custody of the commissioner who needs treatment for a mental illness may be transferred to the unit following a due process hearing. If the person requires immediate transfer, the due process review shall occur within a reasonable time following the transfer.

History

1985, 337:1. 1994, 248:9, eff. June 2, 1994. 408:10, 14, eff. Jan. 1, 1995. 1995, 310:167, eff. Nov. 1, 1995.

▼ Annotations

Notes**Amendments****—1995.**

Paragraph II: Substituted "commissioner of the department of health and human services" for "director" wherever it appeared, deleted "admission or" preceding "transfer" and substituted "the person" for "he" thereafter and deleted "or his" preceding "designee" in the second sentence and deleted "admitted or" preceding "transferred" in the fifth sentence.

Paragraph III: Deleted "director" following "approved by the" and substituted "commissioner of the department of health and human services, the commissioners" for "and director" preceding "may agree".

—1994.

Paragraph I: Chapter 248 substituted " RSA 135-C" for " RSA 135-B" in the first sentence of the introductory paragraph and " RSA 135-C:34– 54" for " RSA 135-B:26– 41" in subpar. (a).

Chapter 408 inserted "or any person subject to involuntary admission pursuant to RSA 171-B" following "RSA 135-C" in the first sentence of the introductory paragraph, substituted "admission" for "hospitalization" following "emergency" and made a minor change in punctuation in subpar. (b) and added subpar. (c).

Severability

—1995 amendment.

1995, 310, which amended this section, was subject to a severability clause. See [1995, 310:186](#).

Construction of amendments

—1995.

1995, 310:187, eff. Nov. 1, 1995, provided:

"Nothing in this act is intended to, nor shall it be construed as, mandating or assigning any new, expanded, or modified program or responsibility for any political subdivision in violation of part I, article 28-a of the constitution of the state of New Hampshire."

Applicability of 1994, 408 amendment.

1994, 408:13, eff. Jan. 1, 1995, provided that the amendment to this section by section 14 of the act shall apply to acts leading to a felony charge which occur on or after Jan. 1, 1995.

Contingent 1994 amendment.

1994, 408:10, provided for amendment of this section. However, under the terms of [1994, 408:15](#), I, eff. Jan. 1, 1995, the amendment did not take effect.

NOTES TO DECISIONS

Burden of proof for transfer to unit

In order to effect a transfer from within the state mental health services system to the secure psychiatric unit (SPU), a probate court need determine only by a preponderance of the evidence, and not beyond a reasonable doubt, that the individual would be a danger to himself or others if admitted or retained in a receiving facility in the state mental health services system. [In re Champagne, 128 N.H. 791, 519 A.2d 310, 1986 N.H. LEXIS 357 \(N.H. 1986\)](#).

Research References & Practice Aids

Research References and Practice Aids

Cross References.

Adoption of rules by commissioner generally, see [RSA 622:44](#).

Discharge, see [RSA 622:48](#).

Hierarchy Notes:

[RSA Tit. LX](#)

[RSA Tit. LX, Ch. 622](#)

[RSA Tit. LX, Ch. 622, \[Undesignated\]](#)

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Statutes current through Chapter 330 of the 2016 Regular Session.

LEXIS™ New Hampshire Revised Statutes Annotated Title LX Correction and Punishment Chapter 622 The State Prisons Secure Psychiatric Unit**622:46. Treatment Standards.**

I. The commissioner shall establish clinical and treatment standards for the operation of the unit in consultation with the commissioner of the department of health and human services. The commissioners shall review, at least annually, any interagency agreements and the mental health program at the unit to determine which provisions, standards, or practices should be revised to improve treatment.

II. The governor shall appoint the director ex officio to the advisory committee of the New Hampshire department of corrections pursuant to [RSA 21-G:11](#).

History

1985, 337:1. 1995, 310:168, eff. Nov. 1, 1995.

▼ Annotations

Notes**Amendments****—1995.**

Paragraph I: Substituted “commissioner of the department of health and human services” for “director” following “consultation with” in the first sentence and “commissioners” for “commissioner and the director” preceding “shall review” in the second sentence.

Severability**—1995 amendment.**

1995, 310, which amended this section, was subject to a severability clause. See [1995, 310:186](#).

Construction of amendments**—1995.**

1995, 310:187, eff. Nov. 1, 1995, provided:

“Nothing in this act is intended to, nor shall it be construed as, mandating or assigning any new, expanded, or modified program or responsibility for any political subdivision in violation of part I, article 28-a of the constitution of the state of New Hampshire.”

NOTES TO DECISIONS**Requirement of treatment plans**

Treatment plans must be implemented for individuals in the secure psychiatric unit (SPU) in order to meet the requirements of this section. [In re Champagne, 128 N.H. 791, 519 A.2d 310, 1986 N.H. LEXIS 357 \(N.H. 1986\)](#).

Since treatment plans must be implemented for individuals transferred to the secure psychiatric unit (SPU) pursuant to this section, and RSA 135-B:44 requires that persons confined within the mental health services system be provided with a treatment plan and follow-up treatment after that plan is established, the statutory scheme does not violate the equal protection provisions of the state and federal constitutions by treating similar classes of persons differently, depending upon their admittance to a facility controlled by the mental health services system or to a facility controlled by the department of corrections. [In re Champagne, 128 N.H. 791, 519 A.2d 310, 1986 N.H. LEXIS 357 \(N.H. 1986\)](#).

Research References & Practice Aids**Research References and Practice Aids****Cross References.**

Adoption of rules by commissioner generally, see [RSA 622:44](#).

Discharge, see [RSA 622:48](#).

Rights regarding treatment of civilly committed persons generally, see RSA 135-C:55 et seq.

Hierarchy Notes:

[RSA Tit. LX](#)

[RSA Tit. LX, Ch. 622](#)

[RSA Tit. LX, Ch. 622, \[Undesignated\]](#)

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[LEXIS[™] New Hampshire Revised Statutes Annotated](#) [Title LX Correction and Punishment](#) [Chapter 622 The State Prisons](#) [Secure Psychiatric Unit](#)**622:47. Medical Records.**

Notwithstanding the provisions of [RSA 329:26](#) and RSA330-A:32, medical and mental health records concerning current patients shall be exchanged between other state medical and mental health facilities and the unit to facilitate treatment.

History

1985, 337:1, eff. July 1, 1985. [1998, 234:16](#), eff. Oct. 31, 1998.

▼ Annotations**Notes****Amendments****—1998.**

Substituted " RSA 330-A:32" for " RSA 330-A:19".

Research References & Practice Aids**Hierarchy Notes:**[RSA Tit. LX](#)[RSA Tit. LX, Ch. 622](#)[RSA Tit. LX, Ch. 622, \[Undesignated\]](#)

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RSA 622:48

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Statutes current through Chapter 330 of the 2016 Regular Session.

LEXIS™ New Hampshire Revised Statutes Annotated Title LX Correction and Punishment Chapter 622 The State Prisons Secure Psychiatric Unit

622:48. Discharge.

I. When a person committed or transferred to the unit no longer requires the security provided by the unit, the commissioner shall initiate his discharge as follows:

(a) A person who was in pre-trial or post-trial confinement when admitted to the unit shall be returned to the sending facility or other appropriate facility;

(b) The commissioner or designee may transfer to the state mental health services system, or the state developmental services system only if the person was admitted or transferred to the unit pursuant to RSA 171-B, any person admitted or transferred to the unit, pursuant to RSA 622:45, I, upon a determination that the person no longer presents a serious likelihood of danger to self or others if such person were to be confined within a receiving facility in the state mental health services system or the state developmental services delivery system. If the commissioner of health and human services objects to a proposed transfer, the commissioners may agree to have the disagreement resolved by a mutually acceptable third party, or if none is acceptable, by the attorney general.

(c) The commissioner or designee may transfer to the state mental health services system any person committed to the unit under RSA 651:9-a upon a determination by a physician that the person presents a potentially serious likelihood of danger to self or others as a result of mental illness, but the person no longer requires the degree of safety and security provided by the unit. No transfer may occur under this subparagraph without the prior approval of the commissioner of the department of health and human services and administrative due process pursuant to rules adopted by the commissioner under RSA 541-A. If the commissioner of health and human services objects to a proposed transfer, the commissioners may agree to have the disagreement resolved by a mutually acceptable third party. No transfer may occur under this subparagraph without the prior approval of the superior court. Any person transferred under this subparagraph shall, for purposes of treatment, be under the care and custody of the commissioner of health and human services but shall for all other purposes, including, but not limited to, discharge, granting of privileges, parole, and recommitment, remain under the jurisdiction of the commissioner of the department of corrections and the superior court.

(d) When a person is transferred to another facility pursuant to subparagraphs (b) or (c), the commissioner or designee shall provide notice to the attorney general in accordance with RSA 135:17-b.

II. Any person who was committed or transferred to the unit may participate in prison pre-release programs if the commissioner deems it appropriate. However, persons who object and who do not have a state prison sentence shall not be placed in state prison programs.

III. Any person committed to the unit by criminal proceedings may be discharged by a justice of the superior court under RSA 622:51 whenever further detention at the unit is unnecessary, but any person so discharged who was under sentence of imprisonment at the time of his commitment, the period of which has not expired, shall be remanded to prison.

History

1985, 337:1. 1986, 220:1, 2. 1994, 408:11, eff. Jan. 1, 1995. 1995, 310:169, eff. Nov. 1, 1995. 2012, 151:4, eff. August 6, 2012.

▼ Annotations

Notes

Amendments

-2012.

The 2012 amendment added I(d).

-1995.

Paragraph I: Rewrote subpars. (b) and (c).

-1994.

Paragraph I(b): Rewrote the first sentence and added "or if none is acceptable, by the attorney general" following "party" in the second sentence.

-1986.

Paragraph I(c): Deleted "the" preceding "administrative due process" in the second sentence, added the fourth sentence and rewrote the fifth sentence.

Paragraph III: Added.

Severability

—1995 amendment.

1995, 310, which amended this section, was subject to a severability clause. See [1995, 310:186](#).

Construction of amendments

—1995.

1995, 310:187, eff. Nov. 1, 1995, provided:

"Nothing in this act is intended to, nor shall it be construed as, mandating or assigning any new, expanded, or modified program or responsibility for any political subdivision in violation of part I, article 28-a of the constitution of the state of New Hampshire."

Applicability of 1994 amendment.

1994, 408:13, eff. Jan. 1, 1995, provided that the amendment to this section by section 11 of the act shall apply to acts leading to a felony charge which occur on or after Jan. 1, 1995.

Research References & Practice Aids

Research References and Practice Aids

Cross References.

Action for discharge by person admitted, see [RSA 135-C:53](#).

Adoption of rules by commissioner generally, see [RSA 622:44](#).

Granting of off-grounds privileges, see [RSA 622:49](#).

Parole generally, see [RSA 622:50](#).

Procedure for conduct of hearings relating to commitment, detention or parole, see [RSA 622:52](#).

Releases from state prison generally, see [RSA 651:25](#).

Hierarchy Notes:

[RSA Tit. LX](#)

[RSA Tit. LX, Ch. 622](#)

[RSA Tit. LX, Ch. 622, \(Undesignated\)](#)

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Lawsuit Likely in NH's Imprisoning of Non-Criminal Mentally Ill Patients



Frankie Berger, director of advocacy at the Treatment Advocacy Center in Arlington, Va.

A national group that helps people with severe mental illnesses is pushing to stop New Hampshire from housing civilly committed patients who haven't committed a crime at the Secure Psychiatric Unit at the state prison for men.

Frankie Berger, director of advocacy at the nonprofit Treatment Advocacy Center, said the practice violates patients' civil rights and must stop immediately.

"We had no idea this type of thing was happening," Berger said. "Honestly, it's appalling and shocking what we've learned so far. We need to see it fixed."

The Arlington, Va.-based center is taking immediate action to investigate and press for action that could result in a federal civil rights lawsuit, Berger said.

Berger disagreed with the Department of Corrections' contention that the Secure Psychiatric Unit is a hospital.

There's no oversight, no reporting, she said. "I don't know how that can possibly be a hospital."

Jeff Lyons, spokesman for the Department of Corrections, said the way New Hampshire law is written, civilly committed patients who haven't committed or been convicted of a crime, but are danger to themselves or

others, must be housed in the Secure Psychiatric Unit.

"They are placed in the Secure Psychiatric Unit because they exhibit more violent tendencies than the other patients at the New Hampshire Hospital," Lyons said.

The New Hampshire Hospital, located about three miles from the state prison in Concord, is a less restrictive, but locked campus. It is the state's main psychiatric hospital and is run by the Department of Health and Human Services.

"Until such time as there is another option in New Hampshire, this is where they will be housed," Lyons said of the Secure Psychiatric Unit.

The Department of Corrections has agreed in the past with study committees about the need to build a new secure wing on the grounds of the New Hampshire Hospital, Lyons said.

The department does consider the Secure Psychiatric Unit to be a hospital. "We have the same medical and mental health treatment," Lyons said.

State Rep. Renny Cushing, D-Hampton, submitted legislation this session – as he has in the past – that would require alternative housing besides prison for mentally ill patients who haven't committed a crime, but are considered dangerous.

The House Health and Human Services Committee ultimately decided to study the problem again during the summer.

"I don't think it comes as a surprise that a national organization with expertise in this area comes to the conclusion that New Hampshire is violating patients' rights," Cushing said.

The Legislature recognized the problem in 2005 and 2010, he said. "Reports then acknowledged the potential for legal action against the state," Cushing said.

"It's long past time that the state of New Hampshire stop taking people who have never been charged with or convicted of a crime and sending them to prison. We should be sending them to hospitals, not prison," Cushing said.

Berger agreed that the practice of commingling patients who haven't committed a crime with convict criminals has to stop. "It doesn't matter how many laws the Legislature passes in New Hampshire to say it's legal. That doesn't make it legal," Berger said. "It is unconstitutional."

Berger said she learned of the practice through an opinion piece written by registered nurse Beatrice Coulter for a local newspaper condemning the practice.

Coulter worked for four days at the Secure Psychiatric Unit before resigning over what she saw as unethical treatment, especially given that civilly committed patients who hadn't committed a crime were housed there.

Coulter has since formed a group called Advocates for the Ethical Treatment of Mental Illness. "I think all of these practices need an outside agency to look at the Secure Psychiatric Unit," Coulter said recently.

The state Department of Corrections has said in the past that the number of patients who haven't been convicted of crimes that are housed in the unit can vary daily.

At different times, estimates have ranged from seven to 16 patients being house at SPU who hadn't been convicted of a crime. Some stay only a matter of days and others may stay for years.

The unit population includes patients who haven't committed a crime, those who have been deemed incompetent to stand trial, those found not guilty by reason of insanity and mentally ill patients who have committed serious crimes such as murder and rape.

The state's most dangerous sex offenders are housed there. Ten mentally ill women are also housed at the Secure Psychiatric Unit on the otherwise all-male campus.

"We are going to do everything we can to stop this," Berger said.

Federal lawsuits in other states have prompted changes relative to the treatment of people with mental illness in prisons.

"But the New Hampshire example is by far the most egregious one that I've heard of," Berger said. "It's so bad that it is something that needs to be stopped right away. We're going to move on it as soon as possible."

My Turn: The trouble with New Hampshire's Secure Psychiatric Unit

◦

By BEATRICE COULTER

For the Monitor

Sunday, February 28, 2016

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Earlier this month, a hearing was held debating HB 1541 before the House Committee on Health, Human Services and Elderly Affairs.

The bill, introduced by Rep. Renny Cushing, would prohibit the placement of non-adjudicated civilly committed individuals in the Secure Psychiatric Unit (or SPU) at the New Hampshire Prison for Men. I attended the hearing. I also testified. I am a registered nurse with extensive experience working with acute psychiatric populations.

Last year, I accepted a nursing position on SPU. I resigned four days into my employment. By my clinical and ethical standards, I found it unacceptable.

For a number of years I coordinated involuntary hospitalizations in an urban hospital crisis unit. No one was ever civilly committed to a prison in the absence of having been adjudicated. The legal firewalls to prevent unlawful incarceration versus an involuntary hospitalization were understood by all responsible for the process.

Striking the balance between public safety and treatment in the least restrictive environment can be a challenge. However, it is not a license to abandon civil liberties and quality treatment.

Detention in a prison is not treatment. It is custodial management. It also is inconsistent with the concept of "milieu" referring to a therapeutic environment. Department of Corrections leaders are not subject matter experts on the treatment of the mentally ill. We must be vigilant to protect vulnerable individuals from a corrections paradigm being substituted for a behavioral health treatment one.

At the hearing, SPU was characterized by a DOC official as a "hospital." My experience with forensic hospitals is that they are licensed by the state to operate as a hospital, are accredited, usually by the joint commission, and are under the umbrella of the Department of Health and Human Services. It is usually the combination these factors that make a facility eligible for reimbursement.

I am not aware that SPU possesses any of these characteristics. Once a facility is eligible for reimbursement, it

is subject to quality assurance reviews by outside entities. Utilization of SPU for non-adjudicated individuals is a creation of crisis, failed policy and fiscal starvation.

There are currently individuals who have languished in SPU for years in the absence of criminal charges or adjudication. The lack of a forensic treatment facility does not give this practice legitimacy.

In the current health care climate, it is stunning to hear of hospitalizations of such duration. An independent review of treatment plans and objectives should commence to examine the need for such prolonged hospitalizations. If no clinical progress is being made, then transfer to a licensed, accredited forensic hospital should be discussed by the treatment team with the family or guardian.

If SPU were receiving reimbursement, I suspect many questions would be asked about such remarkable lengths of stays. Psychiatry practiced in state institutions across the country has a long, dark history of practices that have violated human and civil rights. At those times in history, these practices were vigorously defended by state officials as needed tools to manage violence and promote public safety.

History also shows us that grassroots activism and litigation were the only remedies to end such treatment.

It appears that litigation will probably be the only remedy to promote the needed policy change in respect to SPU. We need to be addressing options rather than wasting time defending this failed practice.

It is time to confront the growing utilization and acuity of those needing psychiatric care and fund it responsibly. It is also time to begin demonstrating compassion. We do not have a forensic hospital in New Hampshire. Let us begin the conversation and plan for the future.

For history has already demonstrated to us where we need to be on this issue.

(Beatrice Coulter, a registered nurse, lives in Concord.)

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Document: RSA 151:19  Actions ▾[◀ Previous](#)[Next ▶](#)**RSA 151:19****Copy Citation**

Statutes current through Chapter 330 of the 2016 Regular Session.

LEXIS™ New Hampshire Revised Statutes Annotated **Title XI Hospitals and Sanitaria** **Chapter 151 Residential Care and Health Facility**
Licensing **Patients' Bill of Rights****151:19. Definitions.**

As used in this subdivision:

- I.** "Commissioner" means the commissioner of the department of health and human services.
- I-a.** "Discharge" means movement of a patient from a facility to a non-institutional setting or the termination of services by a home health care provider when the discharging facility or home health care provider ceases to be legally responsible for the care of the patient.
- II.** "Facility" means any hospital, building, residence, or other place or part thereof, licensed under the provisions of [RSA 151:2](#). For the purposes of [RSA 151:21](#), [RSA 151:25](#), and [RSA 151:26](#), "facility" shall not include home health care providers, or private homes where home care services are provided.
- III, IV.** [Repealed.]
- V.** "Patient's personal representative" means a person, other than the licensee of, an employee of, or a person having a direct or indirect ownership interest in, a facility, who is designated in writing by a patient or patient's legal guardian for a specific, limited purpose or for the general purpose of assisting the patient in the exercise of any rights.
- VI.** "Patients' rights" or "rights" means those rights established under [RSA 151:21](#) or [RSA 151:21-b](#), as applicable.
- VII.** "Transfer" means movement of a patient from one facility to another facility when the legal responsibility for the care of the patient changes from the transferring to the receiving facility. Transfer shall not include the temporary movement of a patient from a facility to a hospital or other location for emergency medical treatment, as long as the facility is in compliance with [RSA 151:25](#). In the event a facility refuses to readmit a patient in accordance with [RSA 151:25](#) following a therapeutic leave, a transfer shall be deemed to have occurred when the decision not to readmit is made. Transfer shall not include movement of a client from a home care to an institutional setting or the shifting of service provision from one home health care provider to another.

History1981, 453:1. 1983, 274:7, 10, 12. [1993, 243:1](#), eff. Aug. 14, 1993. [1995, 310:102](#), eff. Nov. 1, 1995. [2001, 111:1](#), 2, 5, eff. Aug. 25, 2001. [2013, 265:1](#), 2, eff. January 1, 2014.

▼ Annotations

Notes**Amendments****—2013.**

The 2013 amendment, in I-a, added "or the termination of services by a home health care provider" and "or home health care provider"; in II, deleted "or other facility" following "means any hospital" in the first sentence and rewrote the second sentence, which formerly read: "For the purposes of [RSA 151:21](#), this definition of facility shall not include private homes where home care services are provided"; added "or [RSA 151:21-b](#), as applicable" in VI; and added the last sentence of VII.

—2001.

Paragraph I-a: Added.


Paragraph III: Repealed.

Paragraph VII: Added.

—1995.

Paragraph I: Rewritten to the extent that a detailed comparison would be impracticable.

—1993.

Document: RSA 151:21 |  Actions ▾

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RSA 151:21**Copy Citation**

Statutes current through Chapter 330 of the 2016 Regular Session.

LEXIS™ New Hampshire Revised Statutes Annotated Title XI Hospitals and Sanitaria Chapter 151 Residential Care and Health Facility Licensing Patients' Bill of Rights**151:21. Patients' Bill of Rights.**

The policy describing the rights and responsibilities of each patient admitted to a facility, except those admitted by a home health care provider, shall include, as a minimum, the following:

- I.** The patient shall be treated with consideration, respect, and full recognition of the patient's dignity and individuality, including privacy in treatment and personal care and including being informed of the name, licensure status, and staff position of all those with whom the patient has contact, pursuant to [RSA 151:3-b](#).
- II.** The patient shall be fully informed of a patient's rights and responsibilities and of all procedures governing patient conduct and responsibilities. This information must be provided orally and in writing before or at admission, except for emergency admissions. Receipt of the information must be acknowledged by the patient in writing. When a patient lacks the capacity to make informed judgments the signing must be by the person legally responsible for the patient.
- III.** The patient shall be fully informed in writing in language that the patient can understand, before or at the time of admission and as necessary during the patient's stay, of the facility's basic per diem rate and of those services included and not included in the basic per diem rate. A statement of services that are not normally covered by medicare or medicaid shall also be included in this disclosure.
- IV.** The patient shall be fully informed by a health care provider of his or her medical condition, health care needs, and diagnostic test results, including the manner by which such results will be provided and the expected time interval between testing and receiving results, unless medically inadvisable and so documented in the medical record, and shall be given the opportunity to participate in the planning of his or her total care and medical treatment, to refuse treatment, and to be involved in experimental research upon the patient's written consent only. For the purposes of this paragraph "health care provider" means any person, corporation, facility, or institution either licensed by this state or otherwise lawfully providing health care services, including, but not limited to, a physician, hospital or other health care facility, dentist, nurse, optometrist, podiatrist, physical therapist, or psychologist, and any officer, employee, or agent of such provider acting in the course and scope of employment or agency related to or supportive of health care services.
- V.** The patient shall be transferred or discharged after appropriate discharge planning only for medical reasons, for the patient's welfare or that of other patients, if the facility ceases to operate, or for nonpayment for the patient's stay, except as prohibited by Title XVIII or XIX of the Social Security Act. No patient shall be involuntarily discharged from a facility because the patient becomes eligible for medicaid as a source of payment.
- VI.** The patient shall be encouraged and assisted throughout the patient's stay to exercise the patient's rights as a patient and citizen. The patient may voice grievances and recommend changes in policies and services to facility staff or outside representatives free from restraint, interference, coercion, discrimination, or reprisal.
- VII.** The patient shall be permitted to manage the patient's personal financial affairs. If the patient authorizes the facility in writing to assist in this management and the facility so consents, the assistance shall be carried out in accordance with the patient's rights under this subdivision and in conformance with state law and rules.
- VIII.** The patient shall be free from emotional, psychological, sexual and physical abuse and from exploitation, neglect, corporal punishment and involuntary seclusion.
- IX.** The patient shall be free from chemical and physical restraints except when they are authorized in writing by a physician for a specific and limited time necessary to protect the patient or others from injury. In an emergency, restraints may be authorized by the designated professional staff member in order to protect the patient or others from injury. The staff member must promptly report such action to the physician and document same in the medical records.
- X.** The patient shall be ensured confidential treatment of all information contained in the patient's personal and clinical record, including that stored in an automatic data bank, and the patient's written consent shall be required for the release of information to anyone not otherwise authorized by law to receive it. Medical information contained in the medical records at any facility licensed under this chapter shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per-page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.
- XI.** The patient shall not be required to perform services for the facility. Where appropriate for therapeutic or diversional purposes and agreed to by the patient, such services may be included in a plan of care and treatment.
- XII.** The patient shall be free to communicate with, associate with, and meet privately with anyone, including family and resident groups, unless to do so would infringe upon the rights of other patients. The patient may send and receive unopened personal mail. The patient has the right to have regular access to the unmonitored use of a telephone.
- XIII.** The patient shall be free to participate in activities of any social, religious, and community groups, unless to do so would infringe upon the rights of other patients.
- XIV.** The patient shall be free to retain and use personal clothing and possessions as space permits, provided it does not infringe on the rights of other patients.

XV. The patient shall be entitled to privacy for visits and, if married, to share a room with his or her spouse if both are patients in the same facility and where both patients consent, unless it is medically contraindicated and so documented by a physician. The patient has the right to reside and receive services in the facility with reasonable accommodation of individual needs and preferences, including choice of room and roommate, except when the health and safety of the individual or other patients would be endangered.

XVI. The patient shall not be denied appropriate care on the basis of race, religion, color, national origin, sex, age, disability, marital status, or source of payment, nor shall any such care be denied on account of the patient's sexual orientation.

XVII. The patient shall be entitled to be treated by the patient's physician of choice, subject to reasonable rules and regulations of the facility regarding the facility's credentialing process.

XVIII. The patient shall be entitled to have the patient's parents, if a minor, or spouse, or next of kin, or a personal representative, if an adult, visit the facility, without restriction, if the patient is considered terminally ill by the physician responsible for the patient's care.

XIX. The patient shall be entitled to receive representatives of approved organizations as provided in [RSA 151:28](#).

XX. The patient shall not be denied admission to the facility based on medicaid as a source of payment when there is an available space in the facility.

XXI. Subject to the terms and conditions of the patient's insurance plan, the patient shall have access to any provider in his or her insurance plan network and referral to a provider or facility within such network shall not be unreasonably withheld pursuant to [RSA 420-J:8](#), XIV.

History

1981, 453:1. 1989, 43:1. [1990, 18:1-6](#). 140:2, XI. [1991, 365:10](#). [1992, 78:1](#), eff. June 19, 1992. [1997, 108:6](#), eff. Jan. 1, 1998. 331:3-8, eff. Aug. 22, 1997. [1998, 199:2](#), eff. Jan. 1, 1999. 388:5, 6, eff. Nov. 25, 1998. [2001, 85:1](#), eff. Aug. 18, 2001. [2009, 252:1](#), eff. September 14, 2009. [2013, 265:3](#), eff. January 1, 2014.

▼ Annotations

Notes

Amendments

—2013.

The 2013 amendment added "except those admitted by a home health care provider" in the introductory paragraph and made a stylistic change.

—2009.

The 2009 amendment added XXI.

—2001.

Paragraph X: Deleted "for a reasonable cost" preceding "upon request" in the third sentence, and added the new fourth sentence.

—1998.

Paragraph I: Chapter 199 added "and including being informed of the name, licensure status, and staff position of all those with whom the patient has contact, pursuant to [RSA 151:3-b](#)" following "personal care".

Paragraph V: Chapter 388 added the second sentence.

Paragraph XX: Added by ch. 388.

—1997.

Chapter 331 made minor gender neutral changes throughout the section and rewrote par. IV.

Chapter 108 rewrote par. XVI to the extent that a detailed comparison would be impracticable.

—1992.

Rewritten to the extent that a detailed comparison would be impracticable.

—1991.

Paragraph I: Inserted "except for patients in acute care hospitals licensed under this chapter" preceding "receipt" in the second sentence and rewrote the third sentence.

—1990.

Paragraph I: Chapter 18 inserted "verbally and in writing" following "provided" in the second sentence.

Paragraph II: Chapter 18 inserted "in language that he can understand" following "writing".

Paragraph IV: Chapter 18 inserted "if the facility ceases to operate" preceding "or for nonpayment".

Paragraph VII: Chapter 18 substituted "emotional, sexual" for "mental" preceding "and physical abuse" and added "and from exploitation, neglect, corporal punishment and involuntary seclusion" thereafter in the first sentence of the introductory paragraph.

Paragraph IX: Chapter 18 inserted "personal and clinical" preceding "record" and "by law" following "authorized" in the first sentence.

Paragraph XII: Chapter 18 inserted "including family and resident groups" following "anyone" in the first sentence and added the third sentence.



Home > Bills > Text and information > 2005

HB382 (2005)

(New Title) establishing a committee to develop a strategic capital plan for department of corrections' facilities.

Status: SIGNED BY GOVERNOR No/unknown committee assignment (Details)

Length: 532 words.

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Revisions of this bill in our system:

2010-01-21

	House	Senate
Public hearing:	2005-02-14 00:00:00	2005-04-20 00:00:00 LOB 3
Executive session:	(unscheduled)	(unscheduled)
Floor vote:	2005-03-09 00:00:00	2005-04-28 00:00:00

CHAPTER 139

HB 382 – FINAL VERSION

09Mar2005... 0362h

04/28/05 1222s

04/28/05 1284s

2005 SESSION

05-0322

09/04

HOUSE BILL **382**

AN ACT establishing a committee to develop a strategic capital plan for department of corrections' facilities.

SPONSORS: Rep. Welch, Rock 8; Rep. Charron, Rock 7

COMMITTEE: Criminal Justice and Public Safety

AMENDED ANALYSIS

This bill establishes a committee to develop a strategic capital plan for department of corrections' facilities.

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.

09Mar2005... 0362h

04/28/05 1222s

04/28/05 1284s

05-0322

09/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT establishing a committee to develop a strategic capital plan for department of corrections' facilities.

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

139:1 New Section; Department of Corrections; Strategic Capital Plan Committee. Amend RSA 21-H by inserting after section 14 the following new section:

21-H:14-a Strategic Capital Plan Committee.

I. There is established a committee to develop a strategic capital plan for department of corrections' facilities.

II.(a) The members of the committee shall be as follows:

(1) Five members of the house of representatives, at least one of whom shall be a member of the criminal justice and public safety committee, at least one of whom shall be a member of the public works and highways committee, and at least one of whom shall be a member of the finance committee, appointed by the speaker of the house of representatives.

(2) Two members of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee. The terms of members of the committee shall be coterminous with their terms of office.

III. The committee shall develop a strategic capital plan for all department of corrections' facilities. The committee's duties shall include, but not be limited to, considering:

(a) The suitability of current structures and facilities used by the state for incarceration and rehabilitation of offenders.

(b) Acquiring a suitable site for a women's prison or a new prison complex. Such a complex would involve the centralization of resources and maximize efficiency in the coordination of services to women inmates. The committee should also consider the demographics of Goffstown's older population in particular and the lack of bed space. The committee should decide whether to provide the opportunity to partner with the counties and the federal government to accept their inmates in any new women's prison facility.

(c) Consolidation of certain facilities to create a more efficient delivery of services.

(d) Whether the secure psychiatric unit should continue to be a part of the department of corrections' responsibilities.

(e) The addition of 500 beds in the northern correctional facility and what effect that might have on the corrections system.

(f) Whether the department of corrections should enter into a contract to house offenders from other states.

IV. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. The committee shall make reports on or before November 1 of each year beginning with November 1, 2005 of its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library.

139:2 Repeal. RSA 21-H:14-a, relative to the strategic capital plan committee, is repealed.

139:3 Effective Date.

I. Section 2 of this act shall take effect November 1, 2011.

II. The remainder of this act shall take effect upon its passage.

(Approved: June 17, 2005)

(Effective Date: I. Section 2 shall take effect November 1, 2011.

II. Remainder shall take effect June 17, 2005)

Bill as Introduced

HB 382 - AS INTRODUCED

2005 SESSION

05-0322

09/04

HOUSE BILL **382**

AN ACT establishing a commission to develop a strategic capital plan for department of corrections' facilities.

SPONSORS: Rep. Welch, Rock 8; Rep. Charron, Rock 7

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes a commission to develop a strategic capital plan for department of corrections' facilities.

This bill was requested by the commission established by 2004, 67.

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 Five

AN ACT establishing a commission to develop a strategic capital plan for department of corrections' facilities.

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

1 1 Commission Established. There is established a commission to develop a strategic capital
2 plan for department of corrections' facilities.

3 2 Membership and Compensation.

4 I. The members of the commission shall be as follows:

5 (a) Five members of the house of representatives, at least one of whom shall be a
6 member of the criminal justice and public safety committee, at least one of whom shall be a member
7 of the public works and highways committee, and at least one of whom shall be a member of the
8 finance committee, appointed by the speaker of the house of representatives.

9 (b) Two members of the senate, appointed by the president of the senate.

10 (c) The commissioner of the department of corrections, or designee.

11 (d) The commissioner of the department of transportation, or designee.

12 (e) Three public members with corrections experience, appointed by the governor.

13 II. Members of the commission shall receive mileage at the legislative rate when attending
14 to the duties of the commission.

15 3 Duties. The commission shall develop a strategic capital plan for all department of corrections'
16 facilities. The commission's duties shall include, but not be limited to, considering:

17 I. The suitability of current structures and facilities used by the state for incarceration and
18 rehabilitation of offenders.

19 II. Acquiring a suitable site for a women's prison or a new prison complex. Such a complex
20 would involve the centralization of resources and maximize efficiency in the coordination of services
21 to women inmates. The commission should also consider the demographics of Goffstown's older
22 population in particular and the lack of bed space. The commission should decide whether to provide
23 the opportunity to partner with the counties and the federal government to accept their inmates in
24 any new women's prison facility.

25 III. Consolidation of certain facilities to create a more efficient delivery of services.

26 IV. Whether the secure psychiatric unit should continue to be a part of the department of
27 corrections' responsibilities.

28 V. The addition of 500 beds in the northern correctional facility and what effect that might
29 have on the corrections system.

HB 382 - AS INTRODUCED
- Page 2 -

1 VI. Whether the department of corrections should enter into a contract to house offenders
2 from other states.

3 4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among
4 the members. The first meeting of the commission shall be called by the first-named house member.
5 The first meeting of the commission shall be held within 45 days of the effective date of this section.
6 Nine members of the commission shall constitute a quorum.

7 5 Report. The commission shall make an interim report on or before November 1, 2005 and a
8 final report on or before November 1, 2006 of its findings and any recommendations for proposed
9 legislation to the speaker of the house of representatives, the president of the senate, the house
10 clerk, the senate clerk, the governor, and the state library.

11 6 Effective Date. This act shall take effect upon its passage.

Amendments

Amendment to HB 382

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a committee to develop a strategic capital plan for department of
4 corrections' facilities.

5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Section; Department of Corrections; Strategic Capital Plan Committee. Amend
9 RSA 21-H by inserting after section 14 the following new section:

10 21-H:14-a Strategic Capital Plan Committee.

11 I. There is established a committee to develop a strategic capital plan for department of
12 corrections' facilities.

13 II.(a) The members of the committee shall be as follows:

14 (1) Five members of the house of representatives, at least one of whom shall be a
15 member of the criminal justice and public safety committee, at least one of whom shall be a member
16 of the public works and highways committee, and at least one of whom shall be a member of the
17 finance committee, appointed by the speaker of the house of representatives.

18 (2) Two members of the senate, appointed by the president of the senate.

19 (3) The commissioner of the department of corrections, or designee.

20 (4) The commissioner of the department of transportation, or designee.

21 (5) One representative from the department of health and human services with
22 expertise in behavioral health, appointed by the commissioner of health and human services.

23 (6) One member of the state commission on the status of women, appointed by the
24 governor.

25 (7) Three public members with corrections experience, appointed by the governor.

26 (b) Legislative members of the committee shall receive mileage at the legislative rate
27 when attending to the duties of the committee.

28 III. The committee shall develop a strategic capital plan for all department of corrections'
29 facilities. The committee's duties shall include, but not be limited to, considering:

30 (a) The suitability of current structures and facilities used by the state for incarceration
31 and rehabilitation of offenders.

32 (b) Acquiring a suitable site for a women's prison or a new prison complex. Such a

Amendment to HB 382

- Page 2 -

1 complex would involve the centralization of resources and maximize efficiency in the coordination of
2 services to women inmates. The committee should also consider the demographics of Goffstown's
3 older population in particular and the lack of bed space. The committee should decide whether to
4 provide the opportunity to partner with the counties and the federal government to accept their
5 inmates in any new women's prison facility.

6 (c) Consolidation of certain facilities to create a more efficient delivery of services.

7 (d) Whether the secure psychiatric unit should continue to be a part of the department of
8 corrections' responsibilities.

9 (e) The addition of 500 beds in the northern correctional facility and what effect that
10 might have on the corrections system.

11 (f) Whether the department of corrections should enter into a contract to house offenders
12 from other states.

13 IV. The members of the committee shall elect a chairperson from among the members. The
14 first meeting of the committee shall be called by the first-named house member. The first meeting of
15 the committee shall be held within 45 days of the effective date of this section. Eight members of the
16 committee shall constitute a quorum.

17 V. The commission shall make reports on or before November 1 of each year beginning with
18 November 1, 2005 of its findings and any recommendations for proposed legislation to the speaker of
19 the house of representatives, the president of the senate, the house clerk, the senate clerk, the
20 governor, and the state library.

21 2 Repeal. RSA 21-H:14-a, relative to the strategic capital plan committee, is repealed.

22 3 Effective Date.

23 I. Section 2 of this act shall take effect November 1, 2017.

24 II. The remainder of this act shall take effect upon its passage.

Amendment to HB 382
- Page 3 -

2005-0362h

AMENDED ANALYSIS

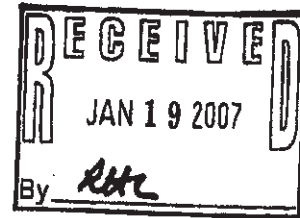
This bill establishes a committee to develop a strategic capital plan for department of corrections' facilities.



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD



MEMORANDUM

DATE: January 10, 2007

TO: Honorable John H. Lynch, Governor
Honorable Teri N. Norelli, Speaker of the House
Honorable Sylvia B. Larsen, President of the Senate
Honorable Karen O. Wadsworth, House Clerk
Tammy Wright, Senate Clerk
Michael York, State Librarian

FROM: Rep. Laura C. Pantelakos, Chair *L.P.*
528 Dennett Street
Portsmouth, NH 03801-3621
Tel: (603) 436-2148

SUBJECT: Interim Report on RSA 21-H:14-a (HB 382, Chapter 139:1, Laws of 2005)

Pursuant to RSA 21-H:14-a (HB 382, Chapter 139:1, Laws of 2005), enclosed please find the Interim Report of the Strategic Capital Plan Committee.

If you have any questions or comments regarding this report, please do not hesitate to contact me

LCP:ta
Enclosure

cc: Committee Members

Strategic Capital Plan Committee
(RSA 21-H:14-a, HB 382, Chapter 139:1, Laws of 2005)
Interim Report
January 11, 2007

Over the course of the past year, the Committee met with and received information from Commissioner William Wrenn and representatives of the Department of Corrections.

After assessing the capital needs of the Department, the Committee asked the Commissioner to develop a Six Year Plan for capital projects.

At the November 14, 2006 meeting, the Department presented the committee with a Six Year Plan that, in addition to calling for maintenance projects at all corrections facilities, included the following capital projects which the Committee endorsed:

I. Secure Psychiatric Unit

As a result of the May 19, 2006 Order issued by the Merrimack County Superior Court in the Holliday case, the top priority of the Department is the restructuring of the Residential Treatment Unit at the State Prison for Men in Concord. The two-phase plan (Phase I to be completed by May 2007) calls for a 44-bed RTU as a separate and distinct unit within the Secure Psychiatric Unit. The plan also calls for 63 new positions which will be filled by current vacancies and reclassifications within the Department.

II. Northern Correctional Facility – Berlin

The Department also seeks to expand the NCF by 500 beds to complete the original design of the facility. This expansion would also include the construction of a 50-bed halfway house. In addition, the Department seeks to build two minimum security units, one in Berlin and one in Concord at the State Prison for Men, thus allowing for a better, more balanced management of the inmate population and allowing for the ultimate closing of the Lakes Region Facility in Laconia.

III. State Prison for Women

The Department also addressed the concerns of the current inadequacy of the facility:

- facility originally built as a country jail, now used as a prison
- facility is leased from Hillsborough County
- facility is currently over capacity; extra inmates housed at Shea Farm halfway house
- facility does not allow for adequate programming space for inmates

The Department would seek to build a new women's prison facility to address these inadequacies. The committee would like to see that any future women's facility also house county-convicted inmates.

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 382

BILL TITLE: establishing a commission to develop a strategic capital plan for department of corrections' facilities.

DATE: February 17, 2005

LOB ROOM: 204

Amendments:

Sponsor: Rep. Karl I. Gilbert

OLS Document #: 2005 0362h

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Karl I. Gilbert

Seconded by Rep. William V. Knowles

Vote: 18-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Karl I. Gilbert

Seconded by Rep. William V. Knowles

Vote: 18-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 18-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 382

BILL TITLE: establishing a commission to develop a strategic capital plan for department of corrections' facilities.

DATE: 2-17-05

LOB ROOM: 204

Amendments:

Sponsor: Rep. *Gilbert*

OLS Document #: 2005-0362h

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Gilbert*

Seconded by Rep. *Knowles*

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 18-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

CRIMINAL JUSTICE AND PUBLIC SAFETYBill #: HB 382Title: establishing a commission to develop a Strategic Capital Plan for Department of Corrections facilitiesPH Date: / / Exec Session Date: 2 / 17 / 05Motion: Amendment #: 2005-03625

MEMBER	<i>Amendment</i>	YEAS	<i>OPA</i>	NAYS
Welch, David A, Chairman	✓	✓		
Dowling, Patricia A, V Chairman	✓	✓		
Tholl, John E				
Fesh, Bob M	✓	✓		
Weare, E Albert	✓	✓		
Gilbert, Karl I	✓	✓		
Stevens, Stanley E, Clerk	✓	✓		
Bicknell, Elbert I	✓	✓		
Oliver, James H	✓	✓		
Winchell, George D	✓	✓		
Manning, John J	✓	✓		
Charron, Gene P	✓	✓		
Ulery, Jordan G				
Villeneuve, Maurice	✓	✓		
Knowles, William V	✓	✓		
Berube, Roger R	✓	✓		
Callaghan, Frank D				
Movsesian, Lori A	✓	✓		
Pantelakos, Laura C				
Robertson, Timothy N	✓	✓		
Hammond, Lee M	✓	✓		
Sullivan, Peter M	✓	✓		
	18	18		0 0
TOTAL VOTE:				
Printed: 1/13/2005				

Committee Report

COMMITTEE REPORT

COMMITTEE: Criminal Justice and Public Safety

BILL NUMBER: HB 382

TITLE: establishing a commission to develop a strategic capital plan for department of corrections' facilities.

DATE: February 17, 2005

CONSENT CALENDAR YES ☒ NO ☐

- ☐ OUGHT TO PASS
- ☒ OUGHT TO PASS WITH AMENDMENT
- ☐ INEXPEDIENT TO LEGISLATE
- ☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT (Include Committee Vote)

This bill establishes a committee to develop a strategic capital plan for Department of Corrections facilities. The fourteen member committee will consider the suitability of structures and facilities for the incarceration and rehabilitation of offenders; the consolidation of certain facilities and services, whether the secure psychiatric unit should continue to be a part of the Department of Corrections responsibilities and whether the Department of Corrections should enter into a contract to house offenders from other states. The Strategic Capital Plan Committee will sunset on November 1, 2017. The presumption is that a plan will have been formulated and prioritized and the Legislature should have begun implementation.

Vote 18-0.

Rep. Karl I. Gilbert
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 382, establishing a commission to develop a strategic capital plan for department of corrections' facilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: This bill establishes a committee to develop a strategic capital plan for Department of Corrections facilities. The fourteen member committee will consider the suitability of structures and facilities for the incarceration and rehabilitation of offenders; the consolidation of certain facilities and services, whether the secure psychiatric unit should continue to be a part of the Department of Corrections responsibilities and whether the Department of Corrections should enter into a contract to house offenders from other states. The Strategic Capital Plan Committee will sunset on November 1, 2017. The presumption is that a plan will have been formulated and prioritized and the Legislature should have begun implementation. **Vote 18-0.**



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

O.T.P.A 18-0
DW

HB 382.

This Bill establishes a committee
To develop a strategic capital plan
for department of connections
facilities.

The fourteen member committee
will consider the suitability of
structures and facilities for the
incarceration and rehabilitation of
offenders; the consolidation of
certain ~~fac~~ facilities and services;
whether the Secure Psychiatric unit
should continue to be a part of the
department of connections responsibilities;
whether the department of connections
should enter into a contract to house
offenders from other states.

Testimony

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 382 Date February 14, 2005
Committee Criminal Justice & Public Safety

**** Please Print All Information ****

[illegible]

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 382

BILL TITLE: establishing a commission to develop a strategic capital plan for department of corrections' facilities.

DATE: February 14, 2005

LOB ROOM: 204 **Time Public Hearing Called to Order:** 10:10 AM

Time Adjourned: 10:45 AM

(please circle if present)

Committee Members: Reps. Welch, Dowling, Tholl, Fesh, Gilbert, Bicknell, Stevens, Weare, Oliver, Winchell, Manning, Charron, Ulery, Villeneuve, Knowles, Berube, Callaghan, Movsesian, Pantelakos, T. Robertson, Hammond and P. Sullivan.

Bill Sponsors: Rep. Welch and Charron

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Prime Sponsor – Rep. Welch – Supports bill. Bill filed to address issues in corrections system. Wants subcommittee to form statutory committee with sunset date of twelve years.

***Theresa deLangis, Director, Commission on Status of Women** – Supports bill. Copies of written testimony.

Stephen J. Curry – Department of Corrections – Supports bill. System is antiquated. System is overcrowded. Population is 400 greater than can be handled correctly. Women's prison designed as short-term facility – not suited to housing long-term inmates. Berlin prison is adequate – designed appropriately. State-of-the-art facility. Could be expanded. The other facilities need improvement. Information system needs upgrading – to computer based. Currently paper based. There are 130 vacancies out of 1100 personnel – hiring freeze. Need to take long look at infrastructure.

Gary Smith, President of State Employees Association – Sgt. In Department of Corrections – Berlin prison – Supports bill. Correctional employees want to provide rehab. Services, but don't have the resources.

Michael Skibbie – Disability Rights Center – Supports bill. Wants to include representative from mental illness field on the commission. Bureau of Behavioral Health – H.H. S.

HB 382 (Continued to Page Two)

Don Gorman - Supports bill. Rep. Welch asked him to testify. Hiring freeze is putting incredible strain on correctional officers, 12 hour shifts and mandatory overtime.

Respectfully Submitted:

Lori A. Movsesian, Acting Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 382

BILL TITLE: establishing a commission to develop a strategic capital plan for department of corrections' facilities.

DATE: 2-14-09

LOB ROOM: 204

Time Public Hearing Called to Order: 10:10

Time Adjourned: 10:45

(please circle if present)

Committee Members: Reps. Welch, Dowling, Tholl, Fesh, Gilbert, Bicknell, Stevens, Weare, Oliver, Winchell, Manning, Charron, Ulery, Villeneuve, Knowles, Berube, Callaghan, Movsesian, Pantelakos, T. Robertson, Hammond and P. Sullivan.

Bill Sponsors: Rep. Welch and Charron

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

HB 382

called to order! 10:10

adjourned! 10:45

Prime Sponsor: Rep. Welch - supports bill

- bill filed to address issues in corrections system
- wants subcommittee to form ~~temporary~~ statutory committee with sunset date of 12 years.

^{Director}
Theresa deLangis - Commission on Status of Women

- supports bill
- copies of written testimony

Steve Curry - Commissioner of Dept. of Corrections

- supports bill
- System is antiquated
- system is overcrowded - population is 400 greater than can be handled correctly.
- women's prison designed as short-term facility - not suited to housing long-term inmates
- Berlin prison is adequate - designed appropriately - state-of-the-art facility - could be expanded.
- the other facilities need improvement.
- information system needs upgrading - to computer based - currently paper based.
- 130 vacancies out of 1100 personnel - hiring freeze.
- need to take long look at infrastructure.

(2)

Gary Smith - President of State Employees Assoc.

- Sgt. in Dept. of Corrections - Berlin prison
- Supports bill
- correctional employees want to provide ^{rehab.} services, but don't have the resources

Michael Skibbie - Disabilities Rights Center

- supports bill
- wants to include representative from mental illness field on the commission. Bureau of Behavioral Health - H.H.S.

Don Gorman - supports

- Rep. Welch asked him to testify.
- hiring freeze is putting incredible strain on correctional officers, 12 hr. shifts + mandatory overtime.

Sub-Committee Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 382

BILL TITLE: establishing a commission to develop a strategic capital plan for department of corrections' facilities.

DATE: February 15, 2005

Subcommittee Members: Reps. Gilbert, Knowles and Pantelakos

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A ITL, Interim Study (Please circle one.)

Moved by Rep. Told following members: Rep. of Behavioral Health & Human Services member of Commission of Status of Women with sunset of November 1, 2017.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Gilbert
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 382

BILL TITLE: establishing a commission to develop a strategic capital plan for department of corrections' facilities.

DATE: 2-15-05

Subcommittee Members: Reps. Gilbert, Knowles, Pantelakos

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: ~~OTP~~ OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Rep. of Behavioral
Health HHS.
member of commission
of status of women
w/ sunset of 11-1-17

Amendment to HB 382

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a committee to develop a strategic capital plan for department of
4 corrections' facilities.
5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Section; Department of Corrections; Strategic Capital Plan Committee. Amend
9 RSA 21-H by inserting after section 14 the following new section:

10 21-H:14-a Strategic Capital Plan Committee.

11 I. There is established a committee to develop a strategic capital plan for department of
12 corrections' facilities.

13 II.(a) The members of the committee shall be as follows:

14 (1) Five members of the house of representatives, at least one of whom shall be a
15 member of the criminal justice and public safety committee, at least one of whom shall be a member
16 of the public works and highways committee, and at least one of whom shall be a member of the
17 finance committee, appointed by the speaker of the house of representatives.

18 (2) Two members of the senate, appointed by the president of the senate.

19 (3) The commissioner of the department of corrections, or designee.

20 (4) The commissioner of the department of transportation, or designee.

21 (5) One representative from the department of health and human services with
22 expertise in behavioral health, appointed by the commissioner of health and human services.

23 (6) One member of the state commission on the status of women, appointed by the
24 governor.

25 (7) Three public members with corrections experience, appointed by the governor.

26 (b) Legislative members of the committee shall receive mileage at the legislative rate
27 when attending to the duties of the committee.

28 III. The committee shall develop a strategic capital plan for all department of corrections'
29 facilities. The committee's duties shall include, but not be limited to, considering:

30 (a) The suitability of current structures and facilities used by the state for incarceration
31 and rehabilitation of offenders.

32 (b) Acquiring a suitable site for a women's prison or a new prison complex. Such a

Amendment to HB 382

- Page 2 -

1 complex would involve the centralization of resources and maximize efficiency in the coordination of
2 services to women inmates. The committee should also consider the demographics of Goffstown's
3 older population in particular and the lack of bed space. The committee should decide whether to
4 provide the opportunity to partner with the counties and the federal government to accept their
5 inmates in any new women's prison facility.

6 (c) Consolidation of certain facilities to create a more efficient delivery of services.

7 (d) Whether the secure psychiatric unit should continue to be a part of the department of
8 corrections' responsibilities.

9 (e) The addition of 500 beds in the northern correctional facility and what effect that
10 might have on the corrections system.

11 (f) Whether the department of corrections should enter into a contract to house offenders
12 from other states.

13 IV. The members of the committee shall elect a chairperson from among the members. The
14 first meeting of the committee shall be called by the first-named house member. The first meeting of
15 the committee shall be held within 45 days of the effective date of this section. Eight members of the
16 committee shall constitute a quorum.

17 V. The commission shall make reports on or before November 1 of each year beginning with
18 November 1, 2005 of its findings and any recommendations for proposed legislation to the speaker of
19 the house of representatives, the president of the senate, the house clerk, the senate clerk, the
20 governor, and the state library.

21 2 Repeal. RSA 21-H:14-a, relative to the strategic capital plan committee, is repealed.

22 3 Effective Date.

23 I. Section 2 of this act shall take effect November 1, 2017.

24 II. The remainder of this act shall take effect upon its passage.

Amendment to HB 382
- Page 3 -

2005-0362h

AMENDED ANALYSIS

This bill establishes a committee to develop a strategic capital plan for department of corrections' facilities.