

Amendment to HB 646-FN

1 Amend the bill by replacing section 5 with the following:

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3 5 Dispositional Hearing. Amend RSA 169-B:19, I(j) to read as follows:

4 (j) Commit the minor to the custody of the department of health and human services for
5 the remainder of minority. Commitment under this subparagraph may only be made following
6 written findings of fact by the court, supported by clear and convincing evidence, that commitment
7 is necessary to protect the safety of the minor or of the community, and may only be made if the
8 minor has not waived the right to counsel at any stage of the proceedings. Commitment may not be
9 based on a finding of contempt of court if the minor has waived counsel in the contempt proceeding
10 or at any stage of the proceedings from which the contempt arises. Commitment may include, but is
11 not limited to, placement by the department of health and human services at a facility certified for
12 the commitment of minors pursuant to RSA 169-B:19, VI, administrative release to parole pursuant
13 to RSA 621:19, or administrative release consistent with the cap on youth development center
14 population under RSA 621:10, provided that the appropriate juvenile probation and parole officer is
15 notified. ***Commitment under this subparagraph shall not be ordered as a disposition for a***
16 ***violation of RSA 637, possession of a controlled drug without intent to sell under RSA 318-***
17 ***B, or violations of RSA 262, 634, 635, 641, or 644, which would be a misdemeanor if***
18 ***committed by an adult. However, commitment may be ordered under this subparagraph***
19 ***for any offense which would be a felony or class A misdemeanor if committed by an adult***
20 ***if the minor has previously been adjudicated under this chapter for at least 3 offenses***
21 ***which would be felonies or class A misdemeanors if committed by an adult. A court may***
22 ***only commit a minor based on previous adjudications if it finds by clear and convincing***
23 ***evidence that each of the prior offenses relied upon was not part of a common scheme or***
24 ***factual transaction with any of the other offenses relied upon, that the adjudications of***
25 ***all of the prior offenses occurred before the date of the offense for which the minor is***
26 ***committed, and that the minor was represented by counsel at each stage of the prior***
27 ***proceedings following arraignment.***

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29 Amend the bill by replacing all after section 8 with the following:

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31 9 Youth Services Center; Population. Amend RSA 621:10, I to read as follows:

32 I. No residential facility at or under the control of the youth development center shall

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1 exceed, for a period of more than 24 hours, Sundays and holidays excluded, the maximum capacity
2 for the facility as fixed by a population oversight panel composed of the fire marshal, the
3 commissioner of the department of health and human services, and the assistant commissioner of
4 transportation; ***provided that, beginning September 1, 2018, such maximum capacity shall***
5 ***not exceed 72 residents.***

6 10 Alternative Placement Capacity for Youth; Reporting Requirement. The commissioner shall
7 ensure that sufficient alternative placement capacity is in place for those children who prior to this
8 act would have been placed at the Sununu youth services center. On or before September 1, 2017, a
9 plan for development of such capacity shall be provided to the fiscal committee of the general court,
10 and the plan shall be updated on a monthly basis until it is fully implemented. The plan shall
11 provide for an increase in the state's capacity for placement in Medicaid-eligible settings of not less
12 than 60 minors who will no longer be eligible for placement at the Sununu youth services center.
13 The increase in capacity shall be implemented no later than January 1, 2018, and include a rate
14 structure which supports the staffing ratios and other resources necessary for the safe and effective
15 treatment of such children in residential and other treatment settings.

16 11 Lease of Property; Sununu Youth Services Center. Notwithstanding RSA 10, the
17 commissioner of the department of administrative services shall offer for lease those portions of the
18 Sununu youth services center building that are not needed to care for maximum capacity of 72
19 residents established in section 9 of this act. The effective date of the lease shall be on or after
20 September 1, 2018.

21 12 Applicability.

22 I. RSA 169-B:19, I(j), as amended by section 5 of this act, shall apply to cases pending on
23 May 1, 2018 in which a dispositional order has not yet been entered.

24 II. RSA 169-B:31-c, as inserted by section 6 of this act, shall apply to cases commenced after
25 July 1, 2016.

26 III. RSA 621:19, I-a, as amended by section 7 of this act, shall apply to minors confined
27 pursuant to a commitment order at the Sununu youth services center or any successor facility after
28 January 1, 2018.

29 IV. RSA 621:19, IV, as inserted by section 8 of this act, shall apply to cases in which a
30 minor is committed to the Sununu youth services center or any successor facility after January 1,
31 2018.

32 13 Effective Date.

33 I. Sections 2 and 5 of this act shall take effect May 1, 2018.

34 II. Sections 6 and 10 of this act shall take effect upon its passage.

35 III. The remainder of this act shall take effect January 1, 2018.

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2017-0347h

AMENDED ANALYSIS

This bill:

- I. Limits the cases for which secure detention may be ordered under RSA 169-B.
- II. Requires the commissioner of health and human services to maintain certification of at least one residential treatment facility.
- III. Limits the period of secure detention following an adjudicatory hearing under RSA 169-B.
- IV. Requires most delinquency cases, other than those involving serious violent offenses, to be closed within 2 years of adjudication.
- V. Provides for the release of a child from the youth services center 3 months from the date of commitment, unless a longer commitment period is required to protect the safety of the child or community, in which case, the board shall periodically review the case and appoint counsel for the child.
- VI. Requires the department of health and human services to review the case of every child committed to the youth services center on a quarterly basis to determine whether a less restrictive placement is possible.
- VII. Reduces the capacity of the youth services center and increases placement of children under RSA 169-B at alternative shelters and facilities.