

**CHAPTER 26**  
**HB 1162 - FINAL VERSION**

11Mar2020... 0438h  
06/16/2020 1417s

2020 SESSION

20-2202  
05/04

**HOUSE BILL 1162**

AN ACT relative to adoption and parentage; the office of the child advocate; reimbursement of court ordered services for juveniles; the legal representation of children in the juvenile justice system; the best interest of the child under RSA 169-C and the duties of the oversight commission on children's services; insurance coverage for children's early intervention services; expanding the family-centered early supports and services (FCESS) program to children under the age of 3 who are born substance-exposed; the child abuse and neglect central registry; establishing a kinship navigator program; missing children; dispositional hearings under RSA 169-B; and the rebuttable presumption of harm under the child protection act.

SPONSORS: Rep. Butler, Carr. 7; Rep. Mulligan, Graf. 12; Rep. St. John, Hills. 27; Rep. Hennessey, Graf. 1; Rep. Rice, Hills. 37; Rep. Berrien, Rock. 18; Sen. Reagan, Dist 17; Sen. Bradley, Dist 3; Sen. Watters, Dist 4; Sen. Hennessey, Dist 5

COMMITTEE: Children and Family Law

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**AMENDED ANALYSIS**

This bill:

- I. Expands the categories of individuals eligible to adopt and clarifies adoption and parenting laws for unmarried couples who share parenting responsibilities and for families formed through assisted reproduction.
- II. Recodifies the statutes governing the office of the child advocate, clarifies the authority and independence of the office, and expands the jurisdiction of the office to include a broader range of agencies that serve children.
- III. Establishes an oversight commission on children's services.
- IV. Removes the requirement that parents and guardians reimburse the state for services provided to a child or family under RSA 169-B, RSA 169-C, or RSA 169-D.
- V. Provides for the appointment of counsel for children in out-of-home placements under RSA 169-B and RSA 169-D.
- VI. Amends the purpose statement of RSA 169-C, the child protection act, and directs the oversight commission on children's services to study the child protection act and related statutes that promote the best interest of the child.
- VII. Clarifies the law regarding insurance benefits for children's early intervention services.
- VIII. Directs the department of health and human services to administer a family-centered early supports and services program for children with developmental delays, including children under 3 with prenatal substance exposure.
- IX. Expands the type of employers permitted to require that employees submit their names to the child abuse and neglect central registry as a condition of employment.
- X. Provides that founded reports of abuse and neglect shall be retained indefinitely.
- XI. Directs the department of health and human services to establish a kinship navigator program.
- XII. Raises the maximum age of a missing child as defined in RSA 169-E from a person under 16 years of age to a person under 18 years of age.

XIII. Provides that, if a minor diagnosed with a serious emotional disturbance or other behavioral health issues is committed to the department of health and human services for the remainder of their minority, the minor shall be referred to a care management entity under RSA 135-F for a care plan intended to reduce the period of commitment.

XIV. Adds stepparent to the definition of parent under RSA 169-C; establishes a rebuttable presumption of harm for purposes of determining neglect under the child protection act; and directs the department of health and human services to provide training regarding the statute's application.

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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.

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## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty*

AN ACT relative to adoption and parentage; the office of the child advocate; reimbursement of court ordered services for juveniles; the legal representation of children in the juvenile justice system; the best interest of the child under RSA 169-C and the duties of the oversight commission on children's services; insurance coverage for children's early intervention services; expanding the family-centered early supports and services (FCESS) program to children under the age of 3 who are born substance-exposed; the child abuse and neglect central registry; establishing a kinship navigator program; missing children; dispositional hearings under RSA 169-B; and the rebuttable presumption of harm under the child protection act.

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

26:1 Adoption; Who May Adopt. Amend RSA 170-B:4 to read as follows:

170-B:4 Who May Adopt. Any of the following adults may adopt:

I. [~~Husband and wife together~~] ***Two adults together.***

II. An unmarried adult.

III. The unmarried parent of the adoptee.

IV. A married [~~person~~] ***adult*** without that person's spouse joining as a petitioner, if the adoptee is not the petitioner's spouse; and if any one of the following circumstances apply:

(a) The petitioner's spouse is a parent of the adoptee and assents to the adoption;

(b) The petitioner and [~~his or her~~] ***the petitioner's*** spouse are legally separated;

(c) The failure of the petitioner's spouse to join in the petition is excused by the court by reason of prolonged unexplained absence, unavailability, or circumstances constituting an unreasonable withholding of assent; or

(d) The petitioner's spouse assents to the adoption and the adoptee is over the age of 18.

***V. An unmarried adult with the assent of at least one of the adoptee's parents and with the intention to share parenting responsibilities with one of the adoptee's parents.***

***VI. A person or persons who are parents of a child conceived via assisted reproduction as defined in RSA 168-B:1, II for the purpose of confirming the legal relationship between child and parent.***

26:2 New Paragraph; Adoption; Persons Not Required to Surrender Amended. Amend RSA 170-B:7 by inserting after paragraph IV the following new paragraph:

IV-a. Any parent of the adoptee with whom the petitioner and that parent intend to share parenting responsibilities.

26:3 Adoption; Consequences of Surrender. Amend RSA 170-B:11, II to read as follows:

II. Except in [~~the case of stepparent adoptions~~] ***cases where one parent will remain a parent***, upon approval of a surrender of a minor executed by the parent, the court shall issue an order granting temporary care, custody, and control of the child to the prospective adoptive parents or where applicable, to the department or agency. The temporary order shall impose upon the prospective adoptive parents or the department or agency, the responsibility for the support and medical and other care of the minor child. The temporary order shall not be valid for longer than 6 months, unless otherwise ordered by the court, and, with the exception of adoptions in which

the department or an agency is involved, shall cease upon the granting of the interlocutory decree of adoption. In adoptions in which the department or an agency is involved, during the interlocutory period, the department or agency shall continue to have a legal relationship giving it responsibility for oversight of the support, medical, and other care of the minor child.

26:4 Adoption; Assessment. Amend RSA 170-B:18, III to read as follows:

III. Notwithstanding the provisions of RSA 170-B:18, I and II, the court may proceed to hearing and decree without an assessment where ~~[the petitioner or petitioner's spouse is the birth parent of the minor child to be adopted]~~ **one of the adoptee's parents will remain a parent.** If the court has waived or limited the extent of an assessment pursuant to RSA 170-C:9, II, the court may order the petitioners to consult with a child-placing agency licensed pursuant to RSA 170-E to consider whether adoption is in the best interests of the minor child subject to the petition and themselves.

26:5 Adoption; Hearing. Amend RSA 170-B:19, IV(a) to read as follows:

(a) May issue a final decree of adoption, where ~~[the petitioner or the petitioner's spouse is a birth parent of the minor adoptee]~~ **one of the adoptee's parents will remain a parent;**

26:6 Adoption; Effect of Petition and Decree of Adoption; Inheritance. Amend RSA 170-B:25 to read as follows:

170-B:25 Effect of Petition and Decree of Adoption; Inheritance.

I. Upon the issuance of the final decree of adoption, the adoptee shall be considered the child of the adopting parent or parents, entitled to the same rights and privileges and subject to the same duties and obligations as if such adoptee had been born of the adopting parent or parents.

II. Until the issuance of the final decree of adoption, the adoptee shall be considered the child of such adoptee's birth parent or parents only with respect to inheritance rights or privileges; but, when a child is adopted by ~~[a stepparent, the child's relationship to such child's birth parent who is married to the stepparent]~~ **an individual who intends to share parenting responsibilities with one of the adoptee's parents, the child's relationship to such parent** shall in no way be altered by reason of the adoption.

III. Notwithstanding any provision of law to the contrary, upon the issuance of a final decree of adoption in which only one spouse is petitioner **and the adoptee is over the age of 18**, the adopted child shall be the child of the adopting spouse. Such child's relationship to the ~~[birth]~~ **assenting** parent ~~[of the same sex as the non-adopting spouse]~~ shall not be altered if the child and the ~~[birth]~~ parent so agree. Such child shall no longer be deemed to be the child of such child's **other birth or legal** parent ~~[of the same sex as the adopting spouse]~~.

IV. Until the issuance of a final decree of adoption, all reciprocal rights of inheritance between the adoptee and the adoptee's birth parents and their respective collateral or lineal relatives shall continue to exist.

V. Upon the issuance of a final decree of adoption, all reciprocal rights of inheritance between the adoptee and the adoptive parents and their respective collateral or lineal relatives shall contemporaneously begin.

VI. Nothing contained in this section shall limit in any way the right of any person to provide for the disposition of his or her property by will. The rights of a child adopted after the making of a will by the adoptive parent or parents shall be the same as the rights of an after-born child. When the adoptive parent is ~~[a stepparent, married to a birth parent]~~ **an individual who intends to share parenting responsibilities with one of the adoptee's parents**, nothing contained in this section shall affect the rights of inheritance between the child and such child's ~~[birth]~~ **legal** parent or their collateral or lineal relatives. In the absence of specific language to the contrary, an adoptee shall be considered the same as a birth child, issue or heir of the body.

26:7 New Paragraph; Surrogacy; Parent-Child Relationship. Amend RSA 168-B:2 by inserting after paragraph VI the following new paragraph:

VII.(a) Any person who is a parent pursuant to RSA 168-B:2, II, without the assistance of a gestational carrier (as gestational carrier arrangements are governed by RSA 168-B:12), may petition the court for a parentage order declaring that the intended parent or parents are the sole parents of a child resulting from assisted reproduction. Such a petition may be brought in the court in the county where the intended parent or parents reside, or where the resulting child is born or is expected to be born. Such a petition may be brought either before, during, or subsequent to the pregnancy. The court shall, within 30 days, grant the petition upon a finding that the child was conceived through assisted reproduction as defined in RSA 168-B:1, II, with the use of donor gametes or donor embryos, if applicable, and with the intent to parent. Sworn affidavits demonstrating the same shall be sufficient to permit such a finding and a hearing shall not be required unless the court requires additional information which cannot reasonably be ascertained without a hearing. Parentage orders issued under this paragraph shall conclusively establish or affirm, where applicable, the parent-child relationship.

(b) Upon the request of any party, such parentage order shall direct that any record of birth and the certificate of birth name the intended parent or parents as the sole parent or parents of the resulting child.

(b) Upon the request of any party, such parentage order shall direct that any record of birth and the certificate of birth name the intended parent or parents as the sole parent or parents of the resulting child and that such record of birth and certificate of birth shall

not name the donor or donor's spouse or partner, if any, as the parent or parents of the resulting child.

(c) All proceedings pursuant to this paragraph shall be closed to the public, and papers and records pertaining to such proceedings shall be subject to inspection only upon consent of all the parties or upon a showing of good cause supported by a court order.

26:8 Adoption; Definition of Birth Mother. Amend RSA 170-B:2, IV to read as follows:

IV. "Birth mother" means a woman who gestates an embryo conceived by natural or artificial insemination, in vitro fertilization, or preembryo transfer, or becomes a parent pursuant to ~~[RSA 168-B:23, IV]~~ **RSA 168-B:12**.

26:9 New Chapter; Office of the Child Advocate. Amend RSA by inserting after chapter 21-U the following new chapter:

## CHAPTER 21-V

### OFFICE OF THE CHILD ADVOCATE

21-V:1 Definitions. In this chapter, and unless the specific context indicates otherwise:

I. "Agency" means any department, institution, bureau, or office of the state, as well as other public and private children and youth service organizations providing services under contract or agreement with an executive agency; provided that "agency" shall not include the judicial council or any entity for which the council provides services.

II. "Child advocate" means the administrative head of the office of the child advocate.

III. "Critical incident" means:

(a) A fatality of a child, including, but not limited to, circumstances of accident, child abuse, child neglect, homicide or other violence, natural cause, overdose, suicide, or terminal illness.

(b) A near fatality or serious bodily or emotional injury of a child.

(c) Abduction of a child.

(d) Human trafficking of a child, including, but not limited to, labor trafficking, sex trafficking, or child sexual abuse images.

(e) The death of a parent or guardian of a child.

(f) An accident involving division staff with a child, parent, or provider.

(g) Suicide or attempted suicide by a child.

(h) Rape or other sexual assault of a child.

(i) Serious physical injury or risk thereof to a child.

(j) Serious psychological injury or risk thereof of a child.

(k) An inquiry made by the governor's office, the department of health and human service's commissioner's office, or the division child advocate's office regarding a child.

(l) Circumstances which result in a reasonable belief that the division failed in its duty to protect a child and, as a result, the child was at imminent risk of, or suffered serious bodily or emotional injury or death.

(m) A media report of a child.

(n) Any restraint or seclusion of a child.

(o) Any other incident that may seriously affect the health and well-being of a child.

IV. "Child" or "youth" means a person under the age of 21 who is in the custody of or receiving services from the division, or who was in the custody of or received services from the division within the past 3 years, or whose siblings, parents, or other caretakers have been the subject of a report to the division within the past 3 years, or who is receiving services from any executive agency.

V. "Division" means the department of health and human services, division for children, youth and families.

VI. "Executive agency" means a state agency within the executive branch that provides services to children.

VII. "Office" means the office of the child advocate.

VIII. "Oversight" means review, monitoring, and evaluation of any executive agency, and all contracted programs, providers, services, and activities of those executive agencies as well as executive agencies' policies, procedures, and practices and implementation and amendment of such policies, procedures, and practices related to the care of, or services to, children.

IX. "Oversight commission" means the oversight commission on children's services established under RSA 21-V:10.

X. "Record" means all records, documents, books, papers, files, photographs, microfilms, sound recordings, magnetic storage media, drafts, computer data, court documents, reports, electronic databases, emails and any other form of communication, and all other materials, regardless of physical form or characteristics, created, generated, recorded, received, possessed, or controlled by or on behalf of executive agencies.

21-V:2 Office of the Child Advocate Established. There shall be an office of the child advocate which shall be an independent agency, attached to the department of administrative services pursuant to RSA 21-G:10 for administrative purposes only. The office shall:

I. Notwithstanding any other provision of law, operate with full independence from any state official, department, or agency in the performance of its duties.

II. Provide independent oversight of executive agencies to:

- (a) Ensure that children involved with an agency, and in particular, children served by the child welfare or juvenile justice systems, receive timely, safe, and effective services and that their best interests are being protected.
- (b) Strengthen the state by working in collaboration with agencies and other necessary parties on cases under review.
- (c) Ensure that children placed in the care of the state or receiving services under the supervision of an agency in any public or private facility, receive humane and dignified treatment at all times, with full respect for the child's personal dignity, right to privacy, and right to adequate and appropriate healthcare and education in accordance with state and federal law.
- (d) Examine, on a system-wide basis, the care and services that agencies provide children, and provide recommendations to improve the quality of those services in order to provide each child the opportunity to live a full and productive life.
- (e) Advise the public, governor, commissioners, speaker of the house of representatives, senate president, and oversight commission about how the state may improve its services to and for children and their families.
- (f) Periodically review and investigate any aspect of an agency's policies, procedures, and practices and work collaboratively with the agency to improve policies, procedures, practices, and programs affecting children.

III. Upon its own initiative or upon receipt of a complaint, review and if deemed necessary:

- (a) Investigate the actions of any agency and make appropriate referrals; provided that department of health and human services specific complaints shall be handled by the ombudsman pursuant to RSA 126-A:4, III.
- (b) Investigate those complaints in which the child advocate determines that a child or family may be in need of assistance from the office or a systemic issue in the state's provision of services is raised by the complaint.
- (c) Provide assistance to a child or family whom the child advocate determines is in need of assistance, including seeking resolution of complaints, which may include, but not be limited to, referring a complaint to the appropriate agency or entity, making a recommendation to such agency or entity for action related to the complaint, and sharing information in any proceeding before any court or agency in the state in which matters related to the division's child protection and juvenile justice services are at issue.

IV. Regularly consult with executive agencies and the oversight commission.

V. Provide information and referral services to the public regarding all child-serving state services, particularly child protection and juvenile justice services.

VI. Perform educational outreach and advocacy initiatives in furtherance of the mission and responsibilities of the office.

VII. Periodically review the facilities and procedures of any and all institutions or residences, public or private, where a child has been placed by an agency.

VIII. Apply for and accept grants, gifts, bequests of funds from other states, federal and interstate agencies, independent authorities and private firms, individuals, and foundations, for the purpose of carrying out the responsibilities, and consistent with the mission, of the office.

21-V:3 Child Advocate; Appointment; Term; Vacancy; Removal.

I. The office of the child advocate shall be under the supervision of the child advocate. The child advocate shall be the administrative head of the office and shall be a full-time, unclassified position, responsible for the duties of the office.

II. The child advocate shall be appointed by the governor and executive council, upon the recommendation of the oversight commission.

III. The child advocate shall serve a term of 4 years and until a successor is appointed and qualified. Any vacancy in the position shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

IV. Upon any vacancy in the position of the child advocate, and until such time as a candidate has been appointed by the governor and council, the associate child advocate shall serve as the acting child advocate and be entitled to the compensation, privileges, and powers of the child advocate.

V. Any person appointed to the position of child advocate shall be selected without regard to political affiliation and on the basis of integrity and demonstrated ability, and shall possess a professional graduate degree in law, social work, public health, or a related field and be qualified by reason of education, experience, and expertise to perform the duties of the office.

VI. The child advocate may be removed from office for cause pursuant to RSA 4:1.

VII. The child advocate shall appoint an associate child advocate, and may, subject to appropriation, appoint such other personnel as the child advocate deems necessary for the efficient management of the office. The duties of these personnel shall be performed under and by the advice and direction of the child advocate.

21-V:4 Access to Information and Facilities.

I. The office shall have access to the following information:

- (a) All case records, all third party records, including the healthcare and education records of any child receiving services from an executive agency, and all records submitted to the courts.
- (b) Executive agencies' policies and procedures, including draft policies and procedures.
- (c) Executive agencies' records or reports, including draft records and reports.
- (d) Autopsy reports from the chief medical examiner, which shall be provided in a timely manner upon the request of the child advocate.

II. The office shall be entitled to prompt electronic access to division records within the scope of its mission.

III. The office, in performance of its duties under this chapter, may communicate privately with any child or person who has received, is receiving, or should have received services from the state. Such communications shall be confidential and not be subject to disclosure except as provided in RSA 21-V:5.

**21-V:5 Confidentiality of Information.**

I. The office shall maintain the confidentiality of all case records, third party records, and court records pursuant to RSA 169-C:25 and RSA 170-G:8-a, and all other related confidentiality laws.

II. The office investigations and oversight activities, and the information gathered in such investigations and oversight activities, including the identity of any complainant, shall be exempt from the public disclosure provisions of RSA 91-A. Such investigations, oversight activities, and information shall be privileged and exempt from use or disclosure in any criminal or civil matter or administrative proceeding.

III. The child advocate of the office may disclose confidential information about a child to any individual or entity responsible for, or providing services to, the child. Any disclosures of confidential information shall be the minimum necessary to ensure proper care and treatment for the child or to identify, prevent, or treat the abuse or neglect of a child.

IV. The child advocate shall have the same authority as the commissioner of the department of health and human services to publicly release information pursuant to RSA 126-A:5, XII in furtherance of the mission and responsibilities of the office.

V. Notwithstanding any provision of law to the contrary, if the child advocate determines that the health, safety, and welfare of children are at risk, the child advocate may publicly disclose the details of investigation findings, subject to the following limitations:

- (a) Names, addresses, or other identifying information of individuals who are the subject of any confidential proceeding or statutory confidential provision shall not be released to the public.
- (b) Investigation findings shall not be released if there is a pending law enforcement investigation or prosecution, except as provided in paragraph III.

**21-V:6 Power of Subpoena.** The office shall have the authority to subpoena witnesses, records, documents, reports, reviews, recommendations, correspondence, data, and other evidence that the office reasonably believes is relevant.

**21-V:7 Incidents and Fatalities.**

I. The division shall provide the office with a copy of all critical incident reports or other reports related to actual physical injury to children or a significant risk of such harm, as well as other incidents which may affect the safety and well-being of children in the custody or control of the department of health and human services, including but not limited to reports related to the restraint and seclusion of any child under the care and protection of the division, not later than 48 hours after the occurrence.

II. The division shall provide the office with notice of any child fatality or serious injury of a child under its care or supervision or whose safety and the safety of the child's siblings has been or is being assessed, immediately by telephone. The division shall further provide the office with written report of such fatality or serious injury not later than 48 hours after the occurrence.

**21-V:8 Annual Report.** Beginning November 1, 2020, and each November 1 thereafter, the child advocate shall submit an annual report of the activities and findings of the office, and present his or her recommendations to the oversight commission. The report shall also be provided to the commissioner of any executive agency that is the subject of a report prepared by the office, the governor, the speaker of the house of representatives, the senate president, and the state library. The child advocate shall make the annual report available to the public on the office of the child advocate's website.

**21-V:9 Confidentiality and Admissibility.** No person employed or contracted by or volunteering for the office shall be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving exercise of his or her official duties except as may be necessary to enforce this chapter. All related memoranda, work product, notes, or case files of the office are confidential and are not subject to discovery, subpoena, or other means of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. This limitation shall not apply to information obtained by any employee, contractor, or volunteer of the office regarding a crime or fraud, or a communication of imminent risk of serious harm, nor shall it apply to communications regarding the general operation of the office and the processes employed.

**21-V:10 Oversight Commission on Children's Services Established.**

I. There shall be an oversight commission on children's services, which shall consist of the following members:

- (a) Two members of the senate, appointed by the senate president.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) Four members representing the executive branch, appointed by the governor.
- (d) Two members representing the judicial branch, appointed by the chief justice of the supreme court.
- (e) Two representatives of the New Hampshire Association of Chiefs of Police, one of whom serves as chief of police for a city and one of whom serves as chief of police for a town.
- (f) Two members of child advocacy organizations, appointed by the senate president.
- (g) Two members of child advocacy organizations, appointed by the speaker of the house of representatives.
- (h) An individual who was formerly a recipient of child protection, juvenile justice, or voluntary services through the division, appointed by the governor.
- (i) An individual who has served or is serving as a foster parent, appointed by the governor.

II. Legislative members of the commission shall serve a term coterminous with their term in office. Members appointed under subparagraphs (c)-(i) shall serve 3-year terms. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The oversight commission shall:

- (a) Recommend at least 3 qualified candidates to the governor, in rank order, for appointment to the position of child advocate; except that in the case of reappointment, a single recommendation shall be sufficient.
- (b) Provide oversight to the office in its effort to support an effective, comprehensive, and coordinated system of services and programs for children, youth, and families.
- (c) Review with the office the efficacy of selected programs and services of executive agencies, including the characteristics of target populations, trends affecting program costs and participation, and alternative approaches to programmatic and administrative concerns.
- (d) Collaborate with the office to identify and implement best practices on behalf of children and families.
- (e) Monitor and review implementation of the memorandum of understanding entered into by the department of health and human services and the department of justice regarding the collaboration between the agencies in the investigation and prosecution of abuse and neglect cases.

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

26:10 Applicability; Oversight Commission on Children's Services. To the extent practicable, members of the oversight commission on children's services established in RSA 170-G:19 on the effective date of section 9 of this act shall serve the remainder of their terms on the oversight commission established in RSA 21-V:10.

26:11 Repeal. RSA 170-G:18 and RSA 170-G:19, relative to the office of the child advocate, are repealed.

26:12 Delinquent Children; Petition. Amend RSA 169-B:6, I to read as follows:

I. Any person may file a petition, alleging the delinquency of a minor, with a judge or clerk of the court in the judicial district in which the minor is found or resides or where the offense is alleged to have occurred. The petition shall be in writing and verified under oath. The following notice shall be printed on the front of the petition in bold in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include a notice ~~of liability for parents and other individuals chargeable by law for the child's support and necessities~~ **of financial responsibility for services, programs, and placement provided under this chapter.**

26:13 Delinquent Children; Issuance of Summons and Notice. Amend RSA 169-B:7, III to read as follows:

III. The summons shall contain a notice of the right to representation by counsel and the available procedures for obtaining counsel. The summons shall also state as follows: ~~["Pursuant to RSA 169-B:40, parents and other individuals chargeable by law for the minor's support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements."] "With limited exception, the department of health and human services shall be responsible for the cost of services provided under this chapter.~~ RSA 186-C regarding children with disabilities grants minors and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided."

26:14 Delinquent Children; Release Prior to Arraignment. Amend RSA 169-B:11, II to read as follows:

II. If such a person is not available, the court may release the minor under the supervision of a relative or friend; or may release the minor to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a

crisis home, a shelter care facility, a group home [~~with expenses charged according to RSA 169-B:40~~], or an alcohol crisis center certified to accept juveniles; or

26:15 Delinquent Children; Release or Detention Pending Adjudicatory Hearing. Amend RSA 169-B:14, I(c) to read as follows:

(c) Released to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility [~~with expenses charged according to RSA 169-B:40~~]; or

26:16 Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19, I(f) to read as follows:

(f) Release the minor to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility [~~with expenses charged according to RSA 169-B:40~~].

26:17 Delinquent Children; Determination of Competence. Amend RSA 169-B:20, V to read as follows:

V. A competency evaluation may be conducted by an entity approved by the commissioner of health and human services, which may include an agency other than the Philbrook center, a psychiatrist, or psychologist licensed in the state of New Hampshire. The commissioner shall adopt standards establishing the process for approval as an examiner as well as the qualifications required for approval, which shall be based on generally accepted standards for forensic psychiatrists and psychologists. [~~The expense of such evaluation shall be borne by the department of health and human services as provided in RSA 169-B:40, I(a) and shall not be subject to reimbursement under RSA 169-B:40, I(c).~~]

26:18 Delinquent Children; Mental Health and Substance Abuse Evaluation. Amend RSA 169-B:21 to read as follows:

169-B:21 Mental Health and Substance Abuse Evaluation.

I. Any court, finding that a minor has committed the alleged offense may, before making a final disposition, order the minor, minor's parents, guardian, or person with custody or control to submit to a mental health or substance abuse evaluation to be completed within 60 days. Any substance abuse evaluation of the parent guardian, or person having custody of the child shall be conducted by a provider contracted with the bureau of substance abuse services, or a provider paid by the parent, guardian, or person having custody of the child. The cost of such evaluation shall be paid by private insurance, if available, or otherwise by the [~~person undergoing the evaluation, to whom the evaluation shall be provided free or at reduced cost if the person is of limited means~~] **department**. A written report of the evaluation shall be given to the court before the dispositional hearing. If the parents, guardian, minor, or person having custody or control objects to the mental health or substance abuse evaluation, they shall object in writing to the court having jurisdiction within 5 days after notification of the time and place of the evaluation. The court shall hold a hearing to consider the objection prior to ordering such evaluation. Upon good cause shown, the court may excuse the parents, guardian, minor, or person having custody or control from the provisions of this section.

II. Whenever such an evaluation has been made for consideration at a previous hearing, it shall be jointly reviewed by the court and the evaluating agency before the case is heard. The evaluating facility, agency, or individual shall keep records, but no reports or records of information contained therein shall be made available other than to the court and parties, except upon the written consent of the person examined or treated and except as provided in RSA 169-B:35. [~~The expense of such evaluation shall be borne as provided in RSA 169-B:40.~~]

III. In the case of a minor found guilty of possession of marijuana or hashish, the court, finding that a minor has committed the alleged offense, shall refer the minor for a substance abuse assessment to be completed prior to the dispositional hearing. The court may waive the requirement of an assessment if it has access to a similar assessment completed in the previous year or, based on substantial evidence, the court does not find there is a need for an assessment. The assessment shall be completed by a licensed drug and alcohol counselor. [~~In the event the parent, guardian, or person having custody of the child is of limited means, the evaluation shall be provided for free or at reduced cost.~~] The results of the assessment shall be submitted to the court and, if indicated, the court shall order that the minor obtain appropriate treatment. The minor shall furnish the court with evidence of participation and completion of the substance abuse assessment.

26:19 Delinquent Children; Liability for Expenses. RSA 169-B:40 is repealed and reenacted to read as follows:

169-B:40 Liability for Expenses Incurred.

I.(a) Whenever an order creating liability for expenses is issued by the court under this chapter, any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

(b) Subparagraph (a) shall not apply to expenses incurred for special education and related services, or to expenses incurred for evaluation, care, and treatment of the minor at the Philbrook center, or to expenses incurred for the cost of accompanied transportation.

(c) Notwithstanding subparagraph (a), the department shall have the right to require parents or other people responsible for the minor's support and necessities to assign to the state any insurance benefits that may be available to pay for a mental health evaluation under



RSA 169-B:21.

(d) Liability for placement expenses for any court ordered placement of any minor mother under this chapter shall include liability for placement expenses for the child or children of such minor mother if the minor mother and child or children are placed at the same facility.

II. Notwithstanding any provision of law to the contrary, the department of health and human services shall not be responsible for the payment of the cost of assigned counsel for any party under this chapter.

III. The office of reimbursements acting on behalf of Laconia developmental services and the New Hampshire hospital is authorized to compromise or reduce any expense to be charged to the state.

26:20 Child Protection Act; Issuance of Summons and Notice. Amend RSA 169-C:8, III to read as follows:

III. The summons shall contain a notice that the child shall have a guardian ad litem, appointed by the court. The summons shall also state as follows: ~~["Parents and other individuals chargeable by law for the child's support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements."] "With limited exception, the department of health and human services shall be responsible for the cost of services provided under this chapter. RSA 186-C regarding children with disabilities grants children and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided."~~

26:21 Child Protection Act; Liability for Expenses. RSA 169-C:27 is repealed and reenacted to read as follows:

169-C:27 Liability for Expenses.

I.(a) Whenever an order creating liability for expenses is issued by the court under this chapter, any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

(b) Subparagraph (a) shall not apply to:

- (1) Expenses incurred for special education and related services;
- (2) Expenses incurred for evaluation, care, and treatment of the child at the New Hampshire hospital; or
- (3) Expenses incurred for the cost of accompanied transportation.

(c) Liability for placement expenses for any court ordered placement of any minor mother under this chapter shall include liability for placement expenses for the child or children of such minor mother if the minor mother and child or children are placed at the same facility.

II. Voluntary services provided to a child, family, or household in a case that was unfounded but with reasonable concern, as defined in RSA 169-C:3, XXIX, shall be the responsibility of the department. Payment for such services shall be made from available TANF reserve funds or other funds appropriated for such purpose.

III. Notwithstanding any provision of law to the contrary, the department shall not be responsible for the payment of the cost of assigned counsel for any party under this chapter.

IV. The office of reimbursements acting on behalf of Laconia developmental services and the New Hampshire hospital is authorized to compromise or reduce any expense to be charged to the state.

26:22 Children in Need of Services; Petition. Amend RSA 169-D:5, I-a to read as follows:

I-a. The petition shall be in writing and verified under oath. The following notice shall be printed on the front of the petition in bold in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include ~~[a notice of liability for parents and other individuals chargeable by law for the child's support and necessities, which shall state: "In accordance with RSA 169-D:29, parents and others chargeable by law for the child's support and necessities are required to reimburse the state for the cost of voluntary or court ordered services. The amount that you will be required to reimburse the state will be based on your ability to pay. You have a right, upon written request, to receive a statement from the department of the cost of services incurred in the case to date. Upon our receipt of notice of a proposed service or placement, you must contact your insurance carrier within 48 hours to see if coverage is available to pay for the proposed service or placement and notify the department of the results. If insurance coverage is available, you must cooperate with your insurance carrier and comply with their requirements for direct payment to the provider."]~~ **the following notice: "If you have private insurance coverage, you may be required to cooperate with your insurance carrier and assign benefits to the department of health and human services for covered services provided to your child or family in this proceeding."**

26:23 Children in Need of Services; Brochure. RSA 169-D:5, VIII is repealed and reenacted to read as follows:

VIII. The department shall develop a brochure that describes the department's responsibility for the cost of services provided under this chapter. The brochure shall include a statement that the department may require a parent or guardian to assign insurance benefits to the department for services provided under this chapter. The brochure shall also clarify that the legally liable school district is responsible

for any special education costs. The brochure shall be available to the public and shall be distributed at the earliest available opportunity to parents and others responsible for the minor's support who are requesting or receiving voluntary or court ordered services. The department also shall provide its case workers with information and training on the requirements of this chapter.

26:24 Children in Need of Services; Summons. Amend RSA 169-D:6, III to read as follows:

III. The summons shall state as follows: ~~["Pursuant to RSA 169-D:29, parents and other individuals chargeable by law for the child's support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements."] "With limited exception, the department of health and human services shall be responsible for the cost of services provided under this chapter.~~ RSA 186-C regarding children with disabilities grants children and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided."

26:25 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I(b)(2)(A) to read as follows:

(2)(A) Where the petition alleges that the child is a habitual runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d), releasing the child to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility ~~[with expenses charged in accordance with RSA 169-D:29].~~

26:26 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I(e) to read as follows:

(e) Requiring any child to attend structured after-school or evening programs which address some of the child's compliance issues, as well as supervise the child during the time of the day in which the child most values his or her freedom and the time which is most often used to perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or otherwise by the ~~[child, parent, guardian, or person having custody of the child, or may be available to the child free of charge based on the limited means of the family or based on the program's receipt of other funding. Payment shall be made pursuant to RSA 169-D:29 only]~~ **department. Services shall be** for those programs that have been certified pursuant to RSA 170-G:4, XVIII.

26:27 Children in Need of Services; Determination of Competence. Amend RSA 169-D:18-a, III to read as follows:

III. Whenever such an evaluation has been made previously for consideration at a prior proceeding, it shall be jointly reviewed by the court and the evaluating agency before the case is heard. The evaluator shall keep records of having conducted the evaluation, but no reports or records shall be made available, other than to the court and parties, except upon the written consent of the child or his legal representative, parent or guardian or pursuant to RSA 169-B:35. ~~[The expense of such evaluation is to be borne as provided in RSA 169-B:40.]~~

26:28 Children in Need of Services; Liability for Expenses. RSA 169-D:29 is repealed and reenacted to read as follows:

169-D:29 Liability for Expenses.

I.(a) Whenever an order creating liability for expenses is issued by the court under this chapter, any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

(b) Subparagraph (a) shall not apply to expenses incurred for special education and related services, or to expenses incurred for evaluation, care, and treatment of the child at the Philbrook center or to expenses incurred for the cost of accompanied transportation.

(c) Liability for placement expenses for any court ordered placement of any minor mother under this chapter shall include liability for placement expenses for the child or children of such minor mother if the minor mother and child or children are placed at the same facility.

II. Services, programs, and placements payable by the department under this section shall include diversion services and services provided through a voluntary service plan.

III. Notwithstanding paragraphs I and II, the parents or other persons responsible by law for the minor's support and necessities shall promptly notify the department of any insurance benefits that may be available to pay for all or a portion of the services provided. If insurance coverage is available, the parents or other persons responsible by law for the minor's support and necessities shall cooperate with the insurance carrier and assign such insurance benefits to the department for services delivered by the department.

IV. The office of reimbursements acting on behalf of Laconia developmental services and the New Hampshire hospital is authorized to compromise or reduce any expense to be charged to the state.

26:29 Repeal. RSA 169-B:2-a, I(d), relative to the payment of fines or restitution by the parent, is repealed.

26:30 Statement of Findings. The general court hereby finds that:

I. The state's removal of a child from the home is one of the most significant actions it ever undertakes. Such interventions are associated with the risk of a number of negative consequences for the child and the public, including:

(a) The weakening of protective connections with parents, other family, school, and community.

(b) Exiting school before high school graduation.

- (c) Homelessness.
- (d) Future delinquency and adult criminal involvement.

II. Due process and other constitutional principles, as well as the statutory requirements of the Americans with Disabilities Act and RSA 169-B and 169-D, require that the removal of a child from the home last for no longer than is necessary to accomplish the rehabilitative and public protection purposes of the juvenile justice system.

III. Therefore, courts should carefully and frequently monitor whether there is a continued justification for the separation of children from their families and communities. The courts' ability to effectively conduct this monitoring is enhanced by the continuing participation of counsel for children, who can bring relevant information to the court's attention and advocate for children's release to their homes and communities.

IV. It is also necessary for the protection of the welfare of children who have been placed outside their homes that any problems with the conditions of their placement or the appropriateness of their treatment be promptly brought to the attention of the courts and other authorities. Continuing legal representation during periods of placement facilitate this important monitoring function.

26:31 New Paragraph; Delinquent Children; Appointment of Counsel. Amend RSA 169-B:12 by inserting after paragraph V the following new paragraph:

VI. Whenever a juvenile is detained, committed, or otherwise placed outside his or her home, the court shall appoint counsel if such appointment has not previously been made in the proceedings. Such appointment shall be made at a time sufficiently in advance of the decision to place the juvenile outside the home to allow counsel to provide effective representation on the issue of placement, and such appointment shall continue until the court no longer has jurisdiction over the juvenile pursuant to this chapter. The court shall not accept a waiver of counsel when appointment is required by this paragraph.

26:32 New Section; Delinquent Children; Continuous Legal Representation of Vulnerable Children. Amend RSA 169-B by inserting after section 12 the following new section:

169-B:12-a Continuous Legal Representation of Vulnerable Children.

I. While a case under this chapter is pending, the department of health and human services shall notify the court whenever it becomes aware that the respondent child:

- (a) Is subjected to restraint or seclusion, as defined in RSA 126-U:1, IV and V-a;
- (b) Is known or suspected to be the victim of abuse, neglect, or any crime involving actual or threatened physical or psychological injury, or the risk thereof; or
- (c) Is no longer in the legal custody of his or her parents.

II. Whenever the court receives a notice pursuant to paragraph I regarding a child who has been placed outside the home, the court shall ensure that the child is continually represented until the court no longer has jurisdiction over the child pursuant to this chapter.

When placing a child outside the home, the court shall determine whether it has received a notice pursuant to paragraph I and, in those cases in which it has received such notice, the court shall ensure that the child is continually represented until the court no longer has jurisdiction over the child pursuant to this chapter. The court shall take the same action if it receives information from any credible source that any of the circumstances in paragraph I is present.

26:33 Children In Need of Services; Appointment and Waiver of Counsel. Amend RSA 169-D:12, II to read as follows:

II. The court may accept a waiver of counsel from a child alleged to be in need of services only when:

- (a) The parent, guardian, or custodian did not file the petition;
- (b) Both the child and parent, guardian, or custodian agree to waive counsel; ~~and~~
- (c) In the court's opinion, the waiver is made competently, voluntarily, and with full understanding of the consequences; *and*
- (d) The petition does not allege that the child is in need of services pursuant to RSA 169-D:2, II(d).*

***III. Whenever the petition alleges that a child is in need of services pursuant to RSA 169-D:2, II(d) and the court places the child outside his or her home, the court shall ensure that the child is continuously represented by counsel until the case is closed pursuant to RSA 169-D:3, III. Appointment of counsel pursuant to this paragraph shall be made at a time sufficiently in advance of the decision to place the child outside the home to allow counsel to provide effective representation on the issue of placement.***

26:34 Children In Need of Services; Appointment Waiver of Counsel. Amend RSA 169-D:12, III to read as follows:

III. Whenever ~~the petition alleges that a child is in need of services pursuant to RSA 169-D:2, II(d) and~~ the court places the child outside his or her home, the court shall ensure that the child is continuously represented by counsel until the case is closed pursuant to RSA 169-D:3, III. Appointment of counsel pursuant to this paragraph shall be made at a time sufficiently in advance of the decision to place the child outside the home to allow counsel to provide effective representation on the issue of placement.

26:35 New Section; Children in Need of Services; Continuous Legal Representation of Vulnerable Children. Amend RSA 169-D by inserting after section 12 the following new section:

169-D:12-a Continuous Legal Representation of Vulnerable Children.

I. While a case under this chapter is pending, the department of health and human services shall notify the court whenever it becomes aware that the respondent child:

- (a) Is subjected to restraint or seclusion, as defined in RSA 126-U:1, IV and V-a;
- (b) Is known or suspected to be the victim of abuse, neglect, or any crime involving actual or threatened physical or psychological injury, or the risk thereof; or
- (c) Is no longer in the legal custody of his or her parents.

II. Whenever the court receives a notice pursuant to paragraph I regarding a child who has been placed outside the home, the court shall ensure that the child is continually represented until the court no longer has jurisdiction over the child pursuant to this chapter.

When placing a child outside the home, the court shall determine whether it has received a notice pursuant to paragraph I and, in those cases in which it has received such notice, the court shall ensure that the child is continually represented until the court no longer has jurisdiction over the child pursuant to this chapter. The court shall take the same action if it receives information from any credible source that any of the circumstances in paragraph I is present.

26:36 Repeal. The following are repealed:

I. RSA 169-B:12-a, relative to representation of vulnerable children in delinquency proceedings.

II. RSA 169-D:12-a, relative to representation of vulnerable children in CHINS proceedings.

26:37 Child Protection Act; Statement of Purpose. Amend RSA 169-C:2 to read as follows:

169-C:2 Purpose.

I. It is the primary purpose of this chapter, through the mandatory reporting of suspected instances of child abuse or neglect, to provide protection to children whose life, health or welfare is endangered. ***The best interest of the child shall be the primary consideration of the court in all proceedings under this chapter.***

II. It is a further purpose of this chapter to establish a judicial framework to protect the rights of all parties involved in the adjudication of child abuse or neglect cases. Each child coming within the provisions of this chapter shall receive, preferably in the child's own home, the care, emotional security, guidance, and control that will promote the child's best interest; and, if the child should be removed from the control of his or her parents, guardian, or custodian, adequate care shall be secured for the child. This chapter seeks to coordinate efforts by ***parents and*** state and local authorities, in cooperation with private agencies and organizations, citizens' groups, and concerned individuals, to:

- (a) Protect the safety of the child.
- (b) Take such action as may be necessary to prevent the abuse or neglect of children.
- (c) ~~[Preserve the unity of the family]~~ ***Determine if the preservation of family unity is in the best interest of the child.***
- (d) Provide protection, treatment, and rehabilitation, as needed, to children placed in alternative care.
- (e) Provide assistance to parents to deal with and correct problems in order to avoid removal of children from the family.

III. This chapter shall be liberally construed to the end that its purpose may be carried out, to wit:

- (a) To encourage the mental, emotional, and physical development of each child coming within the provisions of this chapter, by providing the child with the protection, care, treatment, counseling, supervision, and rehabilitative resources which the child needs and has a right to receive.
- (b) To achieve the foregoing purposes and policies, whenever ~~[possible]~~ ***it is in the best interest of the child***, by keeping a child in contact with his or her home community and in a family environment by preserving the unity of the family and separating the child from his or her parents only when the safety of the child is in danger or when it is clearly necessary for the child's welfare or the interests of the public safety and when it can be clearly shown that a change in custody ~~[and control will plainly better]~~ ***will be in the best interest of*** the child; and
- (c) To provide effective judicial procedures through which the provisions of this chapter are executed and enforced and which recognize and enforce the constitutional and other rights of the parties and assures them a fair hearing.

26:38 New Subparagraph; Oversight Commission on Children's Services; Study of Child Protection Statutes. Amend RSA 170-G:19, III by inserting after subparagraph (e) the following new subparagraph:

(f) Review the child protection act under RSA 169-C, identify other statutes that promote the best interest of the child, determine compliance with applicable federal regulations governing child protection, and identify any statutory changes needed to improve child protection in New Hampshire.

26:39 Coverage for Children's Early Intervention Services; Individual. Amend RSA 415:6-n to read as follows:

415:6-n Coverage for Children's Early Intervention Therapy Services. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for medical, rehabilitation, or hospital expenses, shall provide to

certificate holders of such insurance, who are residents of this state, coverage for expenses arising from the services of licensed and credentialed occupational therapists, physical therapists, speech-language pathologists, and clinical social workers working with children from birth to 36 months of age with an identified developmental disability and/or delay as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist receives a referral from the child's primary care ~~[physician]~~ **provider** if applicable. The benefits ~~[included in this section may be subject to deductibles, copayments, coinsurance, or other terms and conditions of the policy, and]~~ **in this section shall not be subject to deductibles, copayments, or coinsurance; provided that the benefits included in this section** may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third birthday. **For a health care contract that meets the definition of a "high deductible plan" set forth in 26 U.S.C. section 223(c)(2), a carrier shall be exempt from the deductible provisions of this section and may apply a deductible to children's early intervention therapy services until an enrollee's deductible has been satisfied for the year.** Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

26:40 Coverage for Children's Early Intervention Services; Group. Amend RSA 415:18-s to read as follows:

415:18-s Coverage for Children's Early Intervention Services. Each insurer that issues or renews any policy of group accident or health insurance providing benefits for medical, rehabilitation, or hospital expenses, shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for expenses arising from the services of licensed and credentialed occupational therapists, physical therapists, speech-language pathologists, and clinical social workers working with children from birth to 36 months of age with an identified developmental disability and/or delay as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist receives a referral from the child's primary care ~~[physician]~~ **provider** if applicable. The benefits ~~[included in this section may be subject to deductibles, copayments, co-insurance, or other terms and conditions of the policy, and]~~ **in this section shall not be subject to deductibles, copayments, or coinsurance; provided that the benefits included in this section** may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third birthday. **For a health care contract that meets the definition of a "high deductible plan" set forth in 26 U.S.C. section 223(c)(2), a carrier shall be exempt from the deductible provisions of this section and may apply a deductible to children's early intervention therapy services until an enrollee's deductible has been satisfied for the year.** Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

26:41 Coverage for Children's Early Intervention Services; Health Service Corporations. Amend RSA 420-A:17-g to read as follows:

420-A:17-g Coverage for Children's Early Intervention Services. Every health service corporation and every other similar corporation licensed under the laws of another state that issues or renews any policy of group accident or health insurance providing benefits for medical, rehabilitation, or hospital expenses, which provides coverage for outpatient services shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for expenses arising from the services of licensed and credentialed occupational therapists, physical therapists, speech-language pathologists, and clinical social workers working with children from birth to 36 months of age with an identified developmental disability and/or delay as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist receives a referral from the child's primary care ~~[physician]~~ **provider** if applicable. The benefits ~~[included in this section may be subject to deductibles, copayments, co-insurance, or other terms and conditions of the policy, and]~~ **in this section shall not be subject to deductibles, copayments, or coinsurance; provided that the benefits included in this section** may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third birthday. **For a health care contract that meets the definition of a "high deductible plan" set forth in 26 U.S.C. section 223(c)(2), a carrier shall be exempt from the deductible provisions of this section and may apply a deductible to children's early intervention therapy services until an enrollee's deductible has been satisfied for the year.** Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

26:42 Coverage for Children's Early Intervention Services; Health Maintenance Organizations. Amend RSA 420-B:8-r to read as follows:

420-B:8-r Coverage for Children's Early Intervention Services. Every health maintenance organization and every similar corporation licensed under the laws of another state that issues or renews any policy, plan, or contract of individual or group health insurance providing benefits for medical, rehabilitation, or hospital expenses, shall provide to each individual or group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for expenses arising from the services of licensed and credentialed occupational therapists, physical therapists, speech-language pathologists, and clinical social workers working with children from birth to 36 months of age with an identified developmental disability and/or delay as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist receives a referral from the child's primary care ~~[physician]~~ **provider** if applicable. The benefits ~~[included in this section may be subject to deductibles, copayments, co-insurance, or other terms and conditions of the policy, and]~~ **in this section shall not be subject to deductibles, copayments, or coinsurance; provided that the**

**benefits included in this section** may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third birthday. **For a health care contract that meets the definition of a "high deductible plan" set forth in 26 U.S.C. section 223(c)(2), a carrier shall be exempt from the deductible provisions of this section and may apply a deductible to children's early intervention therapy services until an enrollee's deductible has been satisfied for the year.** Notwithstanding any provision of law or rule to the contrary, the coverage under this section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

26:43 New Section; Services for the Developmentally Disabled; Family-Centered Early Supports and Services Program. Amend RSA 171-A by inserting after section 18 the following new section:

171-A:18-a Family-Centered Early Supports and Services Program. The department shall administer a family-centered early supports and services (FCESS) program designed for children birth up to age 3 who have a diagnosed, established condition that has a high probability of resulting in delay, are experiencing developmental delays, or are at risk for substantial developmental delays if supports and services are not provided. All children under the age of 3 who are born substance-exposed shall be considered at risk for substantial developmental delays and shall be referred to FCESS. In this section, a "substance-exposed newborn" means a newborn who was exposed to alcohol, or other drugs in utero, which may have adverse effects, whether or not this exposure is detected at birth through a drug screen or withdrawal symptoms. The department shall adopt rules under RSA 541-A relative to the FCESS program, including application procedures, program administration, and eligibility criteria consistent with this section.

26:44 Child Protection Act; Reporting Law; Central Registry. Amend RSA 169-C:35, II and III to read as follows:

II. Upon receipt by the department of a written request and verified proof of identity, an individual shall be informed by the department whether that individual's name is listed in the founded reports maintained in the central registry. It shall be unlawful for any employer other than **those providing services pursuant to RSA 169-B, RSA 169-C, RSA 169-D, and RSA 135-C, and** those specified in RSA 170-E and RSA 170-G:8-c to require as a condition of employment that the employee submit his or her name for review against the central registry of founded reports of abuse and neglect. Any violation of this provision shall be punishable as a violation.

III. Founded reports of abuse and neglect shall be retained ~~[for a period of 7 years]~~ **indefinitely**, subject to an individual's right to petition for the earlier removal of his or her name from the central registry as provided in this section.

26:45 New Section; Services for Children, Youth and Families; Department of Health and Human Services; Kinship Navigator Program. Amend RSA 170-G by inserting after section 4-f the following new section:

170-G:4-g Kinship Navigator Program. The department shall establish a kinship navigator program to offer information, referral, and follow up services to grandparents and other relatives raising children to link them to available services and benefits. The program also may be used to promote effective partnerships among public and private agencies to ensure that the needs of kinship caregiver families are met and to provide education and outreach to the community regarding kinship caregiver families. Any program established by the department shall meet the federal criteria for kinship navigator programs in 42 U.S.C. section 627.

26:46 Missing Children; Age. Amend RSA 169-E:1 to read as follows:

169-E:1 Definition. For the purposes of this chapter "missing child" means any person under the age of ~~[+6]~~ **18** years missing from his **or her** normal and ordinary place of residence and whose whereabouts cannot be determined by a person responsible for the child's care.

26:47 Delinquent Children; Dispositional Hearing. Amend the introductory paragraph of RSA 169-B:19, I to read as follows:

I. The department of health and human services shall provide the court with costs of the recommended services, placements and programs. If the court finds that a minor is delinquent, the court ~~[may]~~ **shall** order the least restrictive of the following dispositions, which the court finds is the most appropriate:

26:48 Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19, I(j) to read as follows:

(j) Commit the minor to the custody of the department of health and human services for the remainder of minority. Commitment under this subparagraph may only be made following written findings of fact by the court, supported by clear and convincing evidence, that commitment is necessary to protect the safety of the minor or of the community, and may only be made if the minor has not waived the right to counsel at any stage of the proceedings. **If there is a diagnosis or other evidence that a minor committed under this subparagraph may have a serious emotional disturbance or other behavioral health disorder, the minor shall, with the consent of the minor and the minor's family, be referred to a care management entity pursuant to RSA 135-F:4, III. The care management entity shall develop and oversee the implementation of a care plan for the minor, intended to reduce the period of commitment.**

Commitment may not be based on a finding of contempt of court if the minor has waived counsel in the contempt proceeding or at any stage of the proceedings from which the contempt arises. Commitment may include, but is not limited to, placement by the department of health and human services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI, administrative release to parole pursuant to RSA 621:19, or administrative release consistent with the cap on youth development center population under RSA 621:10, provided that the appropriate juvenile probation and parole officer is notified. Commitment under this subparagraph shall not

be ordered as a disposition for a violation of RSA 262 or 637, possession of a controlled drug without intent to sell under RSA 318-B, or violations of RSA 634, 635, 641, or 644, which would be a misdemeanor if committed by an adult. However, commitment may be ordered under this subparagraph for any offense which would be a felony or class A misdemeanor if committed by an adult if the minor has previously been adjudicated under this chapter for at least 3 offenses which would be felonies or class A misdemeanors if committed by an adult. A court shall only commit a minor based on previous adjudications if it finds by clear and convincing evidence that each of the prior offenses relied upon was not part of a common scheme or factual transaction with any of the other offenses relied upon, that the adjudications of all of the prior offenses occurred before the date of the offense for which the minor is before the court, and that the minor was represented by counsel at each stage of the prior proceedings following arraignment.

26:49 Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19, III-a(e) to read as follows:

(e) When a dispositional order is extended beyond the minor's ~~seventeenth~~ **eighteenth** birthday, the court may enforce its order with a finding of criminal contempt. Notwithstanding RSA 169-B:35, the state may utilize any relevant portion of a juvenile's records in a criminal contempt proceeding.

26:50 Release and Discharge from the Youth Services Center. Amend RSA 621:19, III-a to read as follows:

III-a. In every case in which there is a diagnosis or other evidence that a minor at the center may have a serious emotional disturbance or other behavioral health disorder, the center shall, with the consent of the minor and the minor's family, refer the minor to a care management entity, as defined in RSA 135-F:4, III, for evaluation and recommendations for behavioral health services to be coordinated and supervised by that entity before and after discharge from the facility. ***Such referral shall be made upon the minor's confinement at the center and, in no event, later than 7 days after the confinement begins.*** Discharge plans shall incorporate the recommendations of the care management entity whenever appropriate. In any case where the recommendations of the care management entity are not incorporated into the discharge planning process, the minor, the minor's family, and counsel for the minor shall be notified in writing of the decision and of the basis for the decision. 26:26:

26:51 Statement of Findings and Purpose.

I. In December 2016, the Center for the Support of Families issued the New Hampshire Child Welfare Quality Assurance Review of the Division of Children, Youth and Families, a report with recommendations for improving the state's child protection system. The report included the following findings:

(a) That "the child welfare system in New Hampshire is set up to focus primarily on assessing and acting on the immediate safety of children as affected by abuse and neglect, with correspondingly less attention to the serious risks of harm to children that, unchecked, may lead to serious harm or injury to children."

(b) That New Hampshire has a restrictive child protection statute that sets a high bar for determining neglect and risk of harm, there is a restrictive interpretation of the statute, and there is a concern by the staff of the division for children, youth, and families that it is not able to take needed action to protect children at risk.

(c) That "reports were often determined unfounded even when evidence of the alleged incidents existed or where DCYF rated the risk of harm to children as very high, high, or moderate, unless there was evidence of serious injury. A statute that is stringent in defining risk of harm, weak on addressing neglect and emotional harm, and the subject of very strict interpretations is a contributor to this finding."

II. The report by the Center for the Support of Families also recommended that the state "revise policy and/or statute to clarify that if the evidence in an assessment indicates that a child has been exposed to conditions that place the child at risk of future harm, the report should be determined founded and services for the family put into place."

III. The general court concurs with the above findings and recommendations and, in response, enacts the following protections for the children of New Hampshire who are at risk of harm from abuse and neglect when there is exposure to substance misuse, domestic violence, or psychological maltreatment.

26:52 Child Protection Act; Definition of Parent Amended. Amend RSA 169-C:3, XXI to read as follows:

XXI. "Parent" means mother, father, adoptive parent, ***stepparent***, but such term shall not include a parent as to whom the parent-child relationship has been terminated by judicial decree or voluntary relinquishment.

26:53 New Paragraph; Child Protection Act; Definition of Psychological Maltreatment Added. Amend RSA 169-C:3 by inserting after paragraph XXV the following new paragraph:

XXV-a. "Psychological maltreatment" means pervasive and emotionally abusive behavior, which shall include, but not be limited to, patterns of threatening, berating, or demeaning behavior.

26:54 New Section; Child Protection Act; Rebuttable Presumption of Harm. Amend RSA 169-C by inserting after section 12-e the following new section:

169-C:12-f Rebuttable Presumption of Harm. There shall be a rebuttable presumption that a child's health has suffered or is likely to suffer serious impairment by exposure to any of the following conduct:

- I. Evidence of a parent's, guardian's, or custodian's substance misuse that is adversely affecting a child's care or supervision, when that parent, guardian, or custodian is not actively engaged in treatment;
- II. Evidence of a parent's, guardian's, or custodian's impaired driving or operating of a motor vehicle while a child is in the vehicle; or
- III. Evidence of a parent's, guardian's, or custodian's exposure of a child to:
  - (a) Physical violence directed at a sibling, the other parent, or another person living in the home; or
  - (b) Psychological maltreatment directed at the child, a sibling, the other parent, or another person living in the home.
- IV. The rebuttable presumption of harm established in paragraph III shall not apply to victims of domestic violence who are subject to an abuse or neglect petition filed pursuant to this chapter as a result of an incident or incidents in which that parent, guardian, or caregiver was the victim.

26:55 Training. Prior to January 1, 2021, the department of health and human services, division for children, youth, and families (DCYF), in partnership with the New Hampshire Coalition Against Domestic and Sexual Violence, shall provide training to DCYF child protection staff, Court Appointed Special Advocates, family court judges, and other system partners regarding the implementation of sections 51-54 of this act.

26:56 Repeal. RSA 169-C:12-f as inserted by section 54 of this act, relative to the rebuttable presumption of harm under the child protection act, is repealed.

26:57 Effective Date.

- I. Sections 9-11, 39-43, and 45-50 of this act shall take effect 60 days after its passage.
- II. Sections 30, 32, 33, 35, 44, 51-53 and 55 of this act shall take effect July 1, 2020.
- III. Sections 1-8, 12-29, and RSA 169-C:12-f, III as inserted by section 54 of this act of shall take effect January 1, 2021.
- IV. Sections 31, 34, and 36 of this act shall take effect July 1, 2021.
- V. Section 56 of this act shall take effect July 1, 2024.
- VI. The remainder of this act shall take effect upon its passage.

Approved: July 20, 2020

Effective Date:

- I. Sections 9-11, 39-43, and 45-50 shall take effect September 18, 2020.
- II. Sections 30, 32, 33, 35, 44, 51-53 and 55 shall take effect July 1, 2020.
- III. Sections 1-8, 12-29, and RSA 169-C:12-f, III as inserted by section 54 shall take effect January 1, 2021.
- IV. Sections 31, 34 and 36 shall take effect July 1, 2021.
- V. Section 56 shall take effect July 1, 2024.
- VI. Remainder shall take effect July 20, 2020.

Approved: July 20, 2020

Effective Date:

- I. Sections 9-11, 39-43, and 45-50 shall take effect September 18, 2020.
- II. Sections 30, 32, 33, 35, 44, 51-53 and 55 shall take effect July 1, 2020.
- III. Sections 1-8, 12-29, and RSA 169-C:12-f, III as inserted by section 54 shall take effect January 1, 2021.
- IV. Sections 31, 34 and 36 shall take effect July 1, 2021.
- V. Section 56 shall take effect July 1, 2024.
- VI. Remainder shall take effect July 20, 2020.