

<p><b>Subject:</b> <i>Allowing the Department of Education to run a criminal history records check on first-time teaching applicants and teacher preparation program teacher candidates.</i></p>	<p><b>Legal Reference—SB 134</b></p> <ul style="list-style-type: none"><li>• RSA 189:13-a</li><li>• RSA 189:13-c</li></ul> <p><b>Legal Reference—SB 147</b></p> <ul style="list-style-type: none"><li>• RSA 189:13-c</li></ul>
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*This Technical Advisory continues the New Hampshire Department of Education’s communication regarding new legislation, which was passed during the 2020-2021 legislative session.*

*SB 134 and SB 147 allow the Department to conduct and review the criminal history record checks of first-time teaching applicants for offenses, which would prohibit the individual from being employed as a teacher in New Hampshire. Additionally, for first-time teaching applicants, the Department will check their individual names against the DCYF central registry for findings of abuse prior to issuing an individual a teaching credential. The Department will also conduct and review the criminal history record checks of teacher preparation program candidates for offenses, which would prohibit employment and issue a clearance to these individuals.*

*Both of these bills were passed into law in August and both become effective January 1, 2022.*

During the 2020-2021 legislative session, SB 134 was passed, which creates a new section, RSA 189:13-c, which authorizes the Department of Education to conduct a criminal history records check on two groups of individuals: (1) first-time teaching applicants, and (2) teacher preparation program teacher candidates. Due to the significance of this statutory change, each will be discussed in turn.

*First-Time Teaching Applicants:*

Pursuant to this statutory change, as part of the overall credentialing process, the Department of Education will now be conducting a criminal history records check on all first-time teaching applicants. The criminal history records check is limited to only first-time teaching applicants to include out-of-state educators who are seeking reciprocity. The new law is not applicable to renewals nor is it applicable to an individual who is applying for a new or additional endorsement. The criminal history records check that will be conducted by the Department of Education will be strictly limited to the offenses which are listed in paragraph V of RSA 189:13-a—commonly referred to as the “Section V violations.” Those offenses are provided in their entirety here:

RSA 630:1—Capitol Murder

RSA 630:1-a—First Degree Murder

RSA 630:1-b—Second Degree Murder

RSA 630:2—Manslaughter

RSA 632-A:2—Aggravated Felonious Sexual Assault  
RSA 632-A:3—Felonious Sexual Assault  
RSA 632-A:4—Sexual Assault (misdemeanor level)  
RSA 633:1—Kidnapping  
RSA 633:7—Human Trafficking  
RSA 639:2—Incest  
RSA 639:3—Endangering the Welfare of Child or Incompetent  
RSA 645:1, II or III—Indecent Exposure and Lewdness  
RSA 645:2—Prostitution and Related Offenses  
RSA 649-A:3—Child Pornography  
RSA 649-A:3-a—Possession of Child Sexual Abuse Images  
RSA 649-A:3-b—Possession of Child Sexual Abuse Images  
RSA 649-B:3—Computer Pornography and Child Exploitation Prevention  
RSA 649-B:4—Certain Uses of Computer Services Prohibited  
RSA 650:2—Obscene Matter Offenses

Under the new law, RSA 189:13-c, if a first-time teaching applicant has any of those enumerated offenses on their criminal history, that individual will *not* be issued a New Hampshire teaching credential. This new authorization for the Department of Education will ensure that the Department will not issue a credential to an individual who is unemployable pursuant to RSA 189:13-a.

To be clear however, the Department’s criminal history records check on first-time teaching applicants does not alleviate the responsibility of the individual school district to also conduct a criminal history records check upon hiring an individual, as is required by RSA 189:13-a. As allowed for by statute, the school district’s criminal history records check on an individual for purposes of employment can be and should be subject to a more extensive review of any and all offenses, if any, which may be on an individual’s criminal history—not exclusively the Section V violations.

In essence, what will ultimately be created is a two-tiered clearance system. The Department will conduct an initial, base check as part of the credentialing process to ensure that a first-time teaching applicant does not have any of the Section V violations on his or her criminal record, and is therefore employable pursuant to RSA 189:13-a. Prior to hiring that individual, the respective district will then conduct another criminal history records check and, if a criminal history is present, conduct a more thorough and in-depth review to determine if the applicant is appropriate to be in that particular position at that respective district.

*Teacher Preparation Program Candidates:*

The Department will also begin to assist institutions of higher education by conducting the criminal history records check on teacher preparation students. Teacher preparation program students are referred to as “candidates” in the new law and are defined as “a student at an institution of higher education in New Hampshire who has been selected to participate in a K-12 educator preparation program.” Similar to the process set forth above for first-time teaching applicants, the Department will review a teacher prep program candidate’s criminal history for any of the Section V violations, which would ultimately prohibit that individual from becoming employed as an educator in the State of New Hampshire. The Department will then issue a “clearance” to the teacher prep program candidate. This clearance will be valid for a period of 3 years.

School districts which allow teacher preparation students entrance into their districts for observation purposes or to work with students in any capacity will have a choice to either: (1) rely on the clearance from the Department or (2) the district *may* run an additional background check on teacher preparation students and review the records for any offense, if any, which fall outside of the Section V violations. While the student is a teacher preparation candidate, this check by the district is optional and entirely at the discretion of each individual district. However, once a student preparation candidate is placed in a district as a student teacher, then the school district must conduct a criminal history record check on the individual pursuant to RSA 189:13-a, in accordance with the regular process of employment.

*DCYF Central Registry:*

Due to the passage of SB 147, the Department of Education will now have access to the central registry that is maintained by the Division for Children, Youth, and Families (DCYF). Therefore, for first-time teaching applicants, in addition to conducting the criminal history record check, the Department will also conduct a check of the central registry list to ensure that the teacher applicant does not have any founded reports of child abuse.

These legislative changes were done to strengthen the Department’s child safety protocols and to ensure that individuals who are issued a credential to teach are employable pursuant to the statute.

The complete language of SB 134 can be accessed in its entirety here:

[http://gencourt.state.nh.us/bill\\_status/billText.aspx?sy=2021&id=922&txtFormat=html](http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2021&id=922&txtFormat=html)

The complete language of SB 147 can be accessed in its entirety here:

[http://gencourt.state.nh.us/bill\\_status/billText.aspx?sy=2021&id=924&txtFormat=pdf&v=current](http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2021&id=924&txtFormat=pdf&v=current)

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