

HB 159-FN - AS INTRODUCED

2025 SESSION

25-0701

09/05

HOUSE BILL

159-FN

AN ACT authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

SPONSORS: Rep. Roy, Rock. 31; Rep. Lascelles, Hills. 14; Rep. Mandelbaum, Rock. 21

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill authorizes the state to report mental health data for firearms background check purposes and provides processes for the confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

In the Year of Our Lord Two Thousand Twenty Five

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

I. Notwithstanding any other provision of law, including the requirement of a closed hearing and file under RSA 135-C:43, when a judge orders a nonemergency involuntary admission pursuant to RSA 135-C:34-54 or a commitment pursuant to RSA 171-B:2, and the order is one that qualifies under 18 U.S.C. section 922(g)(4), the court shall retain a record of the court order and promptly

1 cause the disposition to be entered in the NICS Indices. When a person is found not guilty by reason
2 of insanity, or incompetent to stand trial and found by the court to be a danger to himself or herself
3 or others pursuant to RSA 135-E or 135:17-a, as provided in this section, the department of safety
4 shall promptly cause that disposition to be entered in the NICS Indices, in accordance with
5 paragraph II.

6 II. The court or the department of safety shall report only the person's name, an identifier
7 signifying the applicable prohibition under 18 U.S.C. section 922(g), the person's social security
8 number, and date of birth.

9 III. If a court determines that a person is not competent to stand trial and finds that the
10 person is also a danger to themselves or others, but, after 90 days, the person is not committed
11 pursuant to RSA 171-B:2, 135-C:34-54, or 135-E:5, upon the motion of any party or sua sponte, the
12 court may transmit that finding to the department of safety for entry into the NICS Indices.

13 159-G:4 Notifications; Confiscation of Firearms.

14 I. Before the close of the hearing conducted pursuant to RSA 135:17-a, RSA 135-C:34-54,
15 RSA 135-E:5, or RSA 171-B:2, the court shall inquire of the person if he or she currently owns or has
16 access to any firearms, and if so, where they are located. If the person answers affirmatively, the
17 court shall inform the person that the court may order law enforcement to confiscate those firearms
18 or ammunition. In addition, the court shall offer the opportunity for the person to make voluntary
19 arrangements to relinquish possession of his or her firearms or ammunition to law enforcement or to
20 another individual in accordance with paragraph III.

21 II. On the conclusion of a proceeding under RSA 135:17-a establishing dangerousness under
22 RSA 159-G:3, or on an order of commitment under RSA 135-C:34-54, 135-E:5, or 171-B:2, or upon the
23 entry of a judgment of not guilty by reason of insanity, the court shall notify the person that such
24 person is prohibited under federal law from purchasing, possessing, carrying, or transporting a
25 firearm unless a petition for relief from disability is subsequently granted pursuant to RSA 159-H.

26 III. The court may simultaneously with any order of commitment issue an order:

27 (a) Directing the person to make arrangements to voluntarily relinquish possession of
28 any firearms or ammunition he or she owns to law enforcement;

29 (b) Directing the person to transfer any firearms to another person with whom the
30 person committed does not cohabitate, who is not himself or herself a prohibited person, and to
31 whom the court determines such transfer should be permitted; or

32 (c) Directing law enforcement to confiscate any firearms or ammunition owned by the
33 person no later than 48 hours after the order is issued.

34 IV. Firearms voluntarily relinquished or confiscated by law enforcement may be transferred
35 to a federally licensed firearms dealer, at the person's own expense, for further disposition at the
36 request of the owner and upon order of the court. Retrieval and disposal of any firearms not

1 transferred to an individual or federally licensed firearms dealer shall be through the process as set
2 forth in RSA 595-A:6.

3 159-G:5 Notifications; Confiscation of Firearms.

4 I. On the conclusion of a proceeding under RSA 135:17-a establishing dangerousness under
5 RSA 159-G:3, or on an order of commitment under RSA 135-C:34-54, 135-E:5, or 171-B:2, or upon the
6 entry of a judgment of not guilty by reason of insanity, the court shall notify the person that such
7 person is prohibited under federal law from purchasing, possessing, carrying, or transporting a
8 firearm unless a petition for relief from disability is subsequently granted pursuant to RSA 159-H.
9 The court shall inquire of the person if they currently own or have access to any firearms, and if so,
10 where they are located.

11 II. The court may simultaneously with any order of commitment issue an order to law
12 enforcement to confiscate any firearms or ammunition owned by the person. Law enforcement shall
13 carry out the order of the court as soon as possible, but in no case later than 48 hours after the order
14 is issued. The person may transfer any firearms to another person with whom the person committed
15 does not cohabitate and who is not themselves a prohibited person, and upon an order of the court
16 permitting such transfer. The department of safety shall provide the court with the information
17 necessary to make this notification. Alternatively, the firearms may be transferred to a federally
18 licensed firearms dealer, at the person's own expense, for further disposition at the request of the
19 owner and upon order of the court. Retrieval and disposal of any firearms not transferred to an
20 individual or federally licensed firearms dealer shall be through the process as set forth in RSA 595-
21 A:6.

22 159-G:6 Exclusions.

23 I. Neither the court nor the department of safety shall transmit information on persons
24 seeking voluntary treatment or on persons involuntarily hospitalized for assessment or evaluation.

25 II. Information the court or the department of safety causes to be transmitted to NICS
26 pursuant to this chapter shall not be considered as public records pursuant to RSA 91-A.

27 III. The records entered into the NICS Indices pursuant to this chapter shall only be used
28 for purposes of determining eligibility to purchase, possess, carry, or transfer a firearm or
29 ammunition. Information furnished shall not include confidential medical or treatment records,
30 confidential tax or financial data, or library records.

31 IV. Neither the court nor the department of safety shall submit the name of any person to
32 NICS signifying a prohibition under 18 U.S.C. section 922(g) except pursuant to the processes
33 outlined in this chapter.

34 159-G:7 Appointment of Attorney. Unless otherwise provided in statute, a person may be
35 appointed an attorney by the court for the purposes of any hearing referred to in this chapter.

36 4 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-
37 A:5 by inserting after paragraph I-a the following new paragraph:

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1 I-b. Information caused to be transmitted by the court to the National Instant Criminal
2 Background Check System pursuant to RSA 159-G:5, II.

3 5 New Chapter; Relief from Disabilities. Amend RSA by inserting after chapter 159-G the
4 following new chapter:

5 CHAPTER 159-H

6 RELIEF FROM DISABILITIES

7 159-H:1 Relief from Disabilities Petition. Any person who has a non-emergency involuntary
8 commitment under RSA 135-C:34-54 or has been found not guilty by reason of insanity or
9 incompetent to stand trial and found by the court to be a danger to himself or herself or others
10 pursuant to RSA 171-B:2, 135-E:5 or 135:17-a, as outlined in RSA 159-G, and who is subject to the
11 firearm disabilities of 18 U.S.C. section 922(g)(4), may petition for a review of the person's mental
12 capacity to possess or purchase a firearm no sooner than the following time frames. Individuals
13 found not guilty by reason of insanity may file for relief with the court 6 months after the finding of
14 not guilty by reason of insanity status, unless the person was committed to an institution pursuant
15 to RSA 651:8-b, in which case the person may file for relief 15 days after absolute discharge.
16 Individuals found incompetent to stand trial and found by the court to be a danger to themselves or
17 others under RSA 135:17-a, as outlined in RSA 159-G, may file for relief with the court 6 months
18 after the finding of incompetency, unless the person was committed to an institution pursuant to
19 RSA 171-B:2 or RSA 135-C:34-54, in which case the person may file for relief 15 days from when an
20 absolute discharge order has been filed with the probate court. A person committed under RSA 135-
21 E:5 may petition for relief 15 days after absolute discharge.

22 159-H:2 Psychiatric Examination. Upon receipt of a petition for relief, the court shall schedule a
23 hearing no later than 60 days after the date the petition was filed. Simultaneously, the court shall
24 order an independent psychiatric examination be completed no more than 45 days from the date of
25 the court's order. The independent psychiatrist shall provide the court with an opinion as to
26 whether the person is disabled by a mental illness and is likely to act in a manner dangerous to
27 public safety.

28 159-H:3 Hearing; Order; Appeals.

29 I. The petitioner may present evidence and call witnesses at the hearing on the petition.
30 The court shall make written findings of fact and conclusions of law on the issues before it and issue
31 a final order. The court may only consider applications for relief due to mental health adjudications
32 or commitments that occurred in New Hampshire. The court shall review the circumstances
33 regarding the firearms disabilities imposed by 18 U.S.C. section 922(g)(4), and records consisting of
34 at minimum mental health and any criminal record, if applicable, and the person's reputation
35 developed through character witness testimony, witness statements, or other character evidence.

36 II. The court shall grant the relief requested in the petition if the judge finds by clear and
37 convincing evidence that the petitioner will not be likely to act in a manner that is dangerous to

1 public safety and that granting the relief would not be contrary to the public interest. If the final
2 order grants relief, the court shall, as soon as possible, request that the NICS entry be redacted and
3 shall notify the United States Attorney General that the basis for the record being made available no
4 longer applies. The petitioner may appeal a final order denying relief within 30 days of the order to
5 the New Hampshire supreme court. The supreme court shall review the case de novo and has
6 discretion to review additional evidence.

7 III. If the motion for relief is denied, unless a court finds good cause for considering a
8 petition for relief sooner, the person may petition the court for relief again after 2 years have
9 elapsed.

10 6 Application Required. The attorney general shall make application for approval of section 5 of
11 this act to the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or other such
12 agency as may be required by federal law in order to ensure New Hampshire citizens are provided
13 with the ability to have their rights restored. RSA 159-G shall not take effect until the attorney
14 general receives federal approval of the restoration of rights process.

15 7 Contingency. Sections 2 - 5 of this act shall take effect on the date the attorney general
16 certifies to the secretary of state and director of the office of legislative services that the state has
17 received approval from the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives,
18 pursuant to section 6 of this act. If the attorney general does not receive such approval, sections 2 -
19 5 of this act shall not take effect.

20 8 Appropriation; New Hampshire Judicial Branch. The sum of \$1 for the fiscal year ending
21 June 30, 2025, is hereby appropriated to the New Hampshire judicial branch for the cost of
22 independent psychiatrist evaluations. The governor is authorized to draw a warrant for said sum
23 out of any money in the treasury not otherwise appropriated.

24 9 Repeal. RSA 126-AA:2, VI, relative to submission of information to NICS, is repealed.

25 10 Effective Date.

26 I. Sections 2 - 5 of this act shall take effect as provided in section 7 of this act.

27 II. The remainder of this act shall take effect 60 days after passage.

HB 159-FN- FISCAL NOTE
AS INTRODUCED

AN ACT authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

FISCAL IMPACT: This bill does not provide funding.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
Revenue Fund(s)	None			
Expenditures*	\$0	Judicial Branch Costs Indeterminable, but likely to exceed \$82K in FY 26, \$84K in FY 27, and \$87K in FY 28		
Funding Source(s)	General Fund			
Appropriations*	\$1	\$0	\$0	\$0
Funding Source(s)	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

The Judicial Branch states this bill would increase the volume of information that needs to be recorded and reported out of the domestic violence and protective order registries. The Branch states the National Center for States Courts' weighted caseload study for New Hampshire found that there were insignificant registry staff for the current workloads and adding additional critical reporting would require additional resources to be dedicated. The Branch states the current and additional workload can be handled by adding one (1) new staff member at an estimated total cost of \$82,000 in FY 2026, \$84,000 in FY 2027, and \$87,000 in FY 2028. Also, the Branch states that it does not currently pay for psychiatric evaluations when performed and may need to hire additional staff and receive additional funding to cover these costs. The Branch states these costs are indeterminable. This bill provides a general fund appropriation of \$1 in FY 2025 to the Judicial Branch for independent psychiatrist evaluations.

This bill is not expected to impact the budgets of either the Department of Safety or the Department of Justice.

AGENCIES CONTACTED:

Judicial Branch, Department of Safety, and Department of Justice