

Amendment to SB 262-FN

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

2
3 AN ACT relative to the property interest in abandoned personal materials.
4

5 Amend RSA 644:23 as inserted by section 1 of the bill by replacing it with the following:
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7 644:23 Property Interest in Abandoned Personal Materials.

8 I. In this section:

9 (a) "Abandoned personal materials" means physical items owned, possessed or used by
10 an individual and abandoned intentionally or unintentionally in private or public places.

11 (b) "Government" means the federal government, the state government, and its political
12 subdivisions, and state and municipal agencies and departments, including employees, agents, and
13 contractors.

14 (c) "Individual" means a living human being.

15 (d) "Informational content" includes an individual's name, date or place of birth, social
16 security number, address, employment history, credit history, financial information, account
17 numbers, cellular telephone numbers, voice over Internet protocol or landline telephone numbers,
18 biometric identifiers, including fingerprints, facial photographs, or images, retinal scans,
19 DNA/RNA, genetic sequences, the content of messages, and other identifying data.

20 II.(a) The informational content contained in or on abandoned personal material is the
21 property of the individual to whom it pertains regardless of its abandonment.

22 (b) Subject to the exceptions in paragraph III, no government shall acquire, collect,
23 retain, or use that informational content. Nothing in this section shall prevent or exclude law
24 enforcement, pursuant to existing legal authority, from taking physical possession of property
25 containing abandoned personal material.

26 (c) Informational content obtained in violation of this section shall not be admissible in
27 a criminal, civil, administrative, or other proceeding, except as proof of a violation of this section.

28 III. Notwithstanding the provisions of paragraph II, nothing in this section shall limit the
29 acquisition, collection, retention, or use of the informational content of abandoned personal
30 materials:

31 (a) Pursuant to a warrant supported by probable cause pursuant to Part I, Art. 19 of the
32 New Hampshire constitution or a judicially recognized exception to the warrant requirement;

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1 (b) By a law enforcement agency at a crime scene or through examination and analysis
2 of such crime scene materials by forensic laboratories; or

3 (c) By the judicial branch or any state regulatory or other agency within the branch's or
4 agency's statutory adjudicatory or regulatory function.

5 IV. If the government acquires, collects, retains, or uses the informational content pursuant
6 to paragraph III, directly or indirectly, it shall acquire, collect, retain, or use such informational
7 content only for the specific purpose for which it was acquired, collected, or retained.

8 V. If federal law preempts any provision of this section, such provision shall not apply to
9 the federal government.

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AMENDED ANALYSIS

This bill establishes a property interest in abandoned personal materials and procedures for government concerning such materials.