

Amendment to SB 262-FN

1 Amend RSA 644:23 as inserted by section 1 of the bill by replacing it with the following:

2  
3 644:23 Property Interest in Abandoned Personal Materials.

4 I. In this section:

5 (a) "Abandoned personal materials" means physical items owned, possessed, or used by  
6 an individual and physically left intentionally or unintentionally in private or public places.

7 (b) "Government" means the federal government, the state government, and its political  
8 subdivisions, and state and municipal agencies and departments, including employees, agents, and  
9 contractors.

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

11 (d) "Informational content" includes DNA/RNA, genetic sequences and any portion  
12 thereof.

13 II.(a) The informational content contained in or on abandoned personal material is the  
14 property of the individual to whom it pertains regardless of the abandonment of the item in or on  
15 which the informational content exists.

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

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

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

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

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

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

31 IV. If the government acquires, collects, retains, or uses the informational content pursuant  
32 to paragraph III, directly or indirectly, it shall acquire, collect, retain, or use such informational

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1 content only for the specific purpose for which it was acquired, collected, or retained. The  
2 government may use the informational content acquired pursuant to paragraph III in another  
3 active case if it has reasonable and articulable suspicion to believe that the source of the  
4 informational content is a suspect in that case.

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