

Amendment to HB 1711-FN

1 Amend RSA 159-F:3 and 159-F:4 as inserted by section 3 of the bill by replacing it with the  
2 following:

3

4 159-F:3 Entry Into the National Instant Criminal Background Check System.

5 I. Notwithstanding any other provision of law, including the requirement of a closed hearing  
6 and file under RSA 135-C:43, when a judge orders a nonemergency involuntary admission pursuant  
7 to RSA 135-C:34-54 or a commitment pursuant to RSA 171-B:2, and the order is one that qualifies  
8 under 18 U.S.C. section 922(g)(4), the court shall retain a record of the court order and promptly  
9 cause the disposition to be entered in the NICS Indices. When a person is found not guilty by reason  
10 of insanity, or incompetent to stand trial and found by the court to be a danger to himself or herself  
11 or others court pursuant to RSA 135-E or 135:17-a, as provided in this section, the department of  
12 safety shall promptly cause that disposition to be entered in the NICS Indices, in accordance with  
13 paragraph II.

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

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

21 159-F:4 Notifications; Confiscation of Firearms.

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

29 II. On the conclusion of a proceeding under RSA 135:17-a establishing dangerousness under  
30 RSA 159-F:3, or on an order of commitment under RSA 135-C:34-54, 135-E:5, or 171-B:2, or upon the  
31 entry of a judgment of not guilty by reason of insanity, the court shall notify the person that such

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1 person is prohibited under federal law from purchasing, possessing, carrying, or transporting a  
2 firearm unless a petition for relief from disability is subsequently granted pursuant to RSA 159-G.

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

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

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

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

11 IV. Firearms voluntarily relinquished or confiscated by law enforcement may be transferred  
12 to a federally licensed firearms dealer, at the person's own expense, for further disposition at the  
13 request of the owner and upon order of the court. Retrieval and disposal of any firearms not  
14 transferred to an individual or federally licensed firearms dealer shall be through the process as set  
15 forth in RSA 595-A:6.

16  
17 Amend the bill by replacing section 5 with the following:

18  
19 5 New Chapter; Relief from Disabilities. Amend RSA by inserting after chapter 159-F the  
20 following new chapter:

CHAPTER 159-G

RELIEF FROM DISABILITIES

21 159-G:1 Relief from Disabilities Petition.

22  
23 Any person who has a non-emergency involuntary commitment under RSA 135-C:34-54 or has  
24 been found not guilty by reason of insanity or incompetent to stand trial and found by the court to be  
25 a danger to himself or herself or others pursuant to RSA 171-B:2, 135-E:5 or 135:17-a, as outlined in  
26 RSA 159-F, and who is subject to the firearm disabilities of 18 U.S.C. section 922 (g)(4), may petition  
27 for a review of the person's mental capacity to possess or purchase a firearm no sooner than the  
28 following time frames. Individuals found not guilty by reason of insanity may file for relief with the  
29 court 6 months after the finding of not guilty by reason of insanity status, unless the person was  
30 committed to an institution pursuant to RSA 651:8-b, in which case the person may file for relief 15  
31 days after absolute discharge. Individuals found incompetent to stand trial and found by the court  
32 to be a danger to themselves or others under RSA 135:17-a, as outlined in RSA 159-F, may file for  
33 relief with the court 6 months after the finding of incompetency, unless the person was committed to  
34 an institution pursuant to RSA 171-B:2 or RSA 135-C:34-54, in which case the person may file for  
35 relief 15 days from when an absolute discharge order has been filed with the probate court. A person  
36 committed under RSA 135-E:5 may petition for relief 15 days after absolute discharge.  
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1           159-G:2 Psychiatric Examination.

2           Upon receipt of a petition for relief, the court shall schedule a hearing no later than 60 days after  
3 the date the petition was filed. Simultaneously, the court shall order an independent psychiatric  
4 examination be completed no more than 45 days from the date of the court's order. The independent  
5 psychiatrist shall provide the court with an opinion as to whether the person is disabled by a mental  
6 illness and is likely to act in a manner dangerous to public safety.

7           159-G:3 Hearing; Order; Appeals.

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

15           II. The court shall grant the relief requested in the petition if the judge finds by clear and  
16 convincing evidence that the petitioner will not be likely to act in a manner that is dangerous to  
17 public safety and that granting the relief would not be contrary to the public interest. If the final  
18 order grants relief, the court shall, as soon as possible, request that the NICS entry be redacted and  
19 shall notify the United States Attorney General that the basis for the record being made available no  
20 longer applies. The petitioner may appeal a final order denying relief within 30 days of the order to  
21 the New Hampshire supreme court. The supreme court shall review the case de novo and has  
22 discretion to review additional evidence.

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