

Rep. Harriott-Gathright, Hills. 10
Rep. Roy, Rock. 31
May 22, 2024
2024-2153h
11/02

Floor Amendment to SB 476-FN

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

2

3 AN ACT making a capital appropriation to the department of corrections toward the
4 replacement of the New Hampshire state prison for men and authorizing the state to
5 report mental health data for firearms background check purposes and providing for
6 processes for confiscation of firearms following certain mental health-related court
7 proceedings and for relief from mental health-related firearms disabilities.
8

9 Amend the bill by replacing all after section 1 with the following:

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11 2 Short Title. Sections 3-10 shall be known as "The Chief Bradley Haas Mental Health
12 Firearms Reporting Act".

13 3 Sale of Firearms; Criminal History Record Check, Mental Health Record Check, and
14 Protective Order Check. Amend RSA 159-D:1 to read as follows:

15 159-D:1 Sale of Firearms; Criminal History Record **Check, Mental Health Record Check**, and
16 Protective Order Check.

17 The department of safety may become the point of contact for the federal government for the
18 purposes of the National Instant Criminal Background Check System (NICS).

19 4 New Chapter; Mental Health Reporting for Firearm Background Checks. Amend RSA by
20 inserting after chapter 159-E the following new chapter:

21

CHAPTER 159-F

22

MENTAL HEALTH REPORTING FOR FIREARM BACKGROUND CHECKS

23

159-F:1 Short Title.

24

25 This chapter shall be known as "Bradley's Law" in honor of retired Police Chief Bradley Haas
26 who was shot and killed while defending the lives and safety of the patients and staff of the New
27 Hampshire Hospital.

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159-F:2 Mental Health Reporting Authorized.

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30 I. In compliance with the federal NICS Improvement Amendments Act of 2007, Public Law
31 110-180 and the Brady Handgun Violence Prevention Act of 1993, Public Law 103-159, the New
32 Hampshire judicial branch and the department of safety are authorized to report to the National
33 Instant Criminal Background Check System (NICS) records concerning persons who have been
disqualified from possessing or receiving a firearm under 18 U.S.C. section 922(g)(4) because they
have been:

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1 (a) Adjudicated as not guilty of a crime by reason of insanity;

2 (b) Adjudicated as incompetent to stand trial and found by the court to be a danger to
3 themselves or others pursuant to RSA 171-B:2, 135-E:5 or 135:17-a; or

4 (c) Involuntarily committed to a mental health facility pursuant to RSA 135-C:34-54.

5 159-F:3 Entry Into the National Instant Criminal Background Check System.

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

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

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

22 159-F:4 Notifications; Confiscation of Firearms.

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

30 II. On the conclusion of a proceeding under RSA 135:17-a establishing dangerousness under
31 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
32 entry of a judgment of not guilty by reason of insanity, the court shall notify the person that such
33 person is prohibited under federal law from purchasing, possessing, carrying, or transporting a
34 firearm unless a petition for relief from disability is subsequently granted pursuant to RSA 159-G.

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

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

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

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

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

11 159-F:4 Notifications; Confiscation of Firearms.

12 I. On the conclusion of a proceeding under RSA 135:17-a establishing dangerousness under
13 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
14 entry of a judgment of not guilty by reason of insanity, the court shall notify the person that such
15 person is prohibited under federal law from purchasing, possessing, carrying, or transporting a
16 firearm unless a petition for relief from disability is subsequently granted pursuant to RSA 159-G.
17 The court shall inquire of the person if they currently own or have access to any firearms, and if so,
18 where they are located.

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

30 159-F:5 Exclusions.

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

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

35 III. The records entered into the NICS Indices pursuant to this chapter shall only be used
36 for purposes of determining eligibility to purchase, possess, carry, or transfer a firearm or

1 ammunition. Information furnished shall not include confidential medical or treatment records,
2 confidential tax or financial data, or library records.

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

6 195-F:6 Appointment of Attorney.

7 Unless otherwise provided in statute, a person may be appointed an attorney by the court for
8 the purposes of any hearing referred to in this chapter.

9 5 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-
10 A:5 by inserting after paragraph I-a the following new paragraph:

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

13 6 New Chapter; Relief from Disabilities. Amend RSA by inserting after chapter 159-F the
14 following new chapter:

CHAPTER 159-G

RELIEF FROM DISABILITIES

15 159-G:1 Relief from Disabilities Petition.

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

30 159-G:2 Psychiatric Examination.

31 Upon receipt of a petition for relief, the court shall schedule a hearing no later than 60 days after
32 the date the petition was filed. Simultaneously, the court shall order an independent psychiatric
33 examination be completed no more than 45 days from the date of the court's order. The independent
34 psychiatrist shall provide the court with an opinion as to whether the person is disabled by a mental
35 illness and is likely to act in a manner dangerous to public safety.
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1 159-G:3 Hearing; Order; Appeals.

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

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

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

20 7 Application Required. The attorney general shall make application for approval of section 6 of
21 this act to the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or other such
22 agency as may be required by federal law in order to ensure New Hampshire citizens are provided
23 with the ability to have their rights restored. RSA 159-F shall not take effect until the attorney
24 general receives federal approval of the restoration of rights process.

25 8 Contingency. Sections 3-6 of this act shall take effect on the date the attorney general certifies
26 to the secretary of state and director of the office of legislative services that the state has received
27 approval from the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, pursuant to
28 section 7 of this act. If the attorney general does not receive such approval, sections 3-6 of this act
29 shall not take effect.

30 9 Appropriation; New Hampshire Judicial Branch. The sum of \$1 for the fiscal year ending
31 June 30, 2025, is hereby appropriated to the New Hampshire judicial branch for the cost of
32 independent psychiatrist evaluations. The governor is authorized to draw a warrant for said sum
33 out of any money in the treasury not otherwise appropriated.

34 10 Repeal. RSA 126-AA:2, VI, relative to submission of information to NICS, is repealed.

35 11 Effective Date.

36 I. Section 1 of this act shall take effect 30 days after its passage.

37 II. Sections 3 - 6 of this act shall take effect as provided in section 8 of this act.

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1 III. The remainder of this act shall take effect 60 days after passage.

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AMENDED ANALYSIS

This bill makes a bonded appropriation of funds for architectural, engineering, programming, and design and construction documents for the New Hampshire state prison for men, and authorizes the state to report mental health data for firearms background check purposes and provides for processes for the confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.