

## HB 1619-FN - AS INTRODUCED

2024 SESSION

24-2474

09/08

HOUSE BILL ***1619-FN***

AN ACT relative to the status of convicted persons.

SPONSORS: Rep. Gerhard, Merr. 25

COMMITTEE: Criminal Justice and Public Safety

## ANALYSIS

This bill makes various amendments to the uniform act on the status of convicted persons, including clarifying that former felons shall have the right to possess firearms and repealing the prohibition on those serving certain sentences from having the right to vote, and instead allows them to apply to vote in the place they last had as a domicile.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24-2474

09/08

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Four*

AN ACT relative to the status of convicted persons.

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

1 Proceedings in Criminal Cases; Uniform Act on Status of Convicted Persons; Definitions. Amend RSA 607-A:1 to read as follows:

607-A:1 [~~Definition~~] ***Definitions.***

***I. "Convicted person" shall mean any person who has had his or her civil rights restored by "final discharge." Convicted persons shall be deemed to have had their rights restored by virtue of this chapter upon final discharge. All persons who achieve final discharge shall now be considered a convicted person.***

***II. "Felon" means any person who, after being convicted of a felony, is serving any period of incarceration, whereas such person has not yet had his or her civil rights restored. Until a restoration of rights is achieved by the convicted person, the person shall be considered a "felon" under this section. Once a person has had his or her rights restored, the person shall immediately be considered a "convicted person"***

*as defined by paragraph I of this section. The annulment process may still bar a convicted person from receiving certain types of licensure and shall not be construed to guarantee any kind of license or employment.*

**III.** In this chapter, "felony" means:

~~[I]~~ **(a)** A crime committed against the laws of this state or of the federal government for which a sentence of death or imprisonment in the state prison or a federal prison or penitentiary; or

~~[II]~~ **(b)** A crime committed against the laws of another state for which a sentence of death or imprisonment in a prison or penitentiary is imposed, if the act would permit a sentence of death or imprisonment in the state prison in this state had it been committed in this state.

**IV.** *A "former felon" may still be required to undergo the annulment of his or her criminal record for certain licensure and employment, although the right to bear arms under part I, article 2-a of the New Hampshire constitution shall be restored.*

**V.** *"Final discharge" means the release of a prisoner from incarceration, or upon application to the governor as outlined in RSA 607-A:5, II. Any person who is on probation or parole shall be considered to be finally discharged for the purposes of this chapter.*

2 Proceedings in Criminal Cases; Uniform Act on Status of Convicted Persons; Rights Lost. Amend RSA 607-A:2, I to read as follows:

~~I.~~~~(a)~~ ~~[A]~~ **Any person *serving a sentence* [sentenced] for a felony *conviction*, from the time of his or her sentence until his or her final discharge *from such sentence, shall temporarily lose his or her right to* [may not]:**

~~[(1)]~~ ~~Vote in an election, but if execution of sentence is suspended with or without the defendant being placed on probation or he or she is paroled after commitment to imprisonment, the correctional facility shall provide the offender written notice that he or she may vote during the period of the suspension or parole; or]~~

~~[(2)]~~ **(a)** Seek the nomination of a political party or become a candidate for or hold public office.

**(b) *Serve on any jury.***

~~[(b)]~~ ~~In this paragraph, "final discharge" means the release of a prisoner from incarceration. A person who is on probation or parole shall be considered to be finally discharged for the purpose of this section.]~~

3 Proceedings in Criminal Cases; Uniform Act on Status of Convicted Persons; Rights Retained by Former Felon. Amend RSA 607-A:3 to read as follows:

607-A:3 Rights Retained by **Former Felon** ~~[Convicted Person]~~. Except as otherwise provided by this chapter or by the constitution of this state, a person *previously* convicted of a ~~[crime]~~ **felony** ~~[does]~~ **shall** not suffer civil death or corruption of blood or sustain loss of civil rights or forfeiture of estate or property, but retains all of his *or her* rights, political, personal, civil, and otherwise, including the right to hold public office or employment, to vote, **serve on any jury, the right to keep and bear arms in defense of that person, the person's family, the person's property, and the state**, to hold, receive, and transfer property, to enter into contracts, to sue and be sued, and to hold offices of private trust in accordance with law.

4 Proceedings in Criminal Cases; Uniform Act on Status of Convicted Persons; Certificate of Discharge. Amend RSA 607-A:5, I to read as follows:

I. If the sentence was imposed in this state, the order, certificate, or other instrument of discharge given to a person sentenced for a felony upon his *or her* discharge after completion of service of his *or her* sentence or after service under probation or parole shall state that the defendant's rights to vote and to hold any future public office, of which

he **or she** was deprived by this chapter, are thereby restored and that he **or she** suffers no other disability by virtue of his **or her** conviction and sentence except as otherwise provided by this chapter. A copy of the order or other instrument of discharge shall be filed with the clerk of the court of conviction, **or upon request by any person.** *This statute shall be construed to be in accordance with 18 U.S.C. section 922(g)(1). This chapter shall be interpreted to mean that where state law contains any provision purporting to restore civil rights either upon application by the defendant or automatically upon the completion of a sentence, it shall be given effect. It is not necessary that the state issue an individualized certificate reflecting the judgment of state officials regarding an individual defendant. This chapter shall be interpreted to provide uniformity in regard to the restoration of an individual's rights upon reaching final discharge.*

5 Proceedings in Criminal Cases; Uniform Act on Status of Convicted Persons; Uniformity of Interpretation. Amend RSA 607-A:6 to read as follows:

607-A:6 Uniformity of Interpretation. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it, **and specifically in accordance with 18 U.S.C. section 922(g)(1).**

6 New Section; Proceedings in Criminal Cases; Uniform Act on Status of Convicted Persons. Amend RSA 607-A by inserting after section 8 the following new section:

607-A:9 Clarification.

Notwithstanding any provision to the contrary, this chapter shall be interpreted to automatically restore the status of a convicted person's citizenship to their pre-convicted status to full enjoyment of all civil rights to include:

- I. Right to freely associate;
- II. Right to incorporate; and
- III. Right to purchase, keep, and bear arms in defense of themselves, their families, their property and the state.

7 New Paragraph; Voters and Checklists; Eligibility; Voter; Office Holder. Amend RSA 654:1 by inserting after paragraph I-a the following new paragraph:

I-b. A person incarcerated in the state may claim domicile for voting purposes in the municipality where that person has last previously established a fixed and principal residence to which the person intends to return.

8 Effective Date. This act shall take effect 60 days after its passage.

LBA  
24-2474  
12/11/23

**HB 1619-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to the status of convicted persons.

**FISCAL IMPACT:**     State             County             Local             None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
<b>Revenue</b>	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			

<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source(s)</i>	General Fund			
<b>Appropriations</b>	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? [X] No
- Does this bill authorize new positions to implement this bill? [X] No

The Office of Legislative Budget Assistant is awaiting information from the Judicial Branch. The Judicial Branch were originally contacted on 11/27/23 for a fiscal note worksheet. If information is received, a revised fiscal note will be forward to the House Clerk’s Office.

**METHODOLOGY:**

This bill makes various amendments to the uniform act on the status of convicted persons, including clarifying that former felons shall have the right to possess firearms and repealing the prohibition on those serving certain sentences from having the right to vote, and instead allows them to apply to vote in the place they last had as a domicile.

The Department of Corrections (DOC) indicates, in order to comply with this bill, four additional Administrator I positions would be required. Three positions would be located in Concord and one would be located in Berlin. The positions would act as liaisons between cities and towns and DOC residents in order to register residents to vote, obtain absentee ballots and facilitate all other elements outlined in the NH Secretary of State’s "Manual of Procedures for State Elections". These positions would also provide voting process education to all residents. Currently residents only possess DOC issued IDs and it is unclear if this identification would be acceptable to register to vote. The DOC states is has many residents with last known addresses that are out of state and these interstate compact residents would need to be registered to vote in NH. There would be a fiscal impact to the cities of Berlin and Concord to provide absentee ballots, voter registration process information, and validating that they are citizens of the USA and have the right to vote. The Department estimates the cost of the additional positions would be \$444,000 in FY 2025, \$440,000 in FY 2026 and \$456,000 in FY 2027. These amounts include salary, benefits, equipment and operating expenses.

The Department of Justice states it is not clear if this bill would result in any additional costs to the Department. The most significant potential cost could be litigation expenses were the legality of this legislation to be challenged relative to 18 U.S.C. 922 regarding the right to bear arms. The Department indicates there are no revenues associated with the bill. It is uncertain what challenges to the state would occur as related to this bill. The Department notes that litigation costs may range from \$0-\$100,000 depending on the complexity of the case.

It is assumed that any fiscal impact would occur after FY 2024.

**AGENCIES CONTACTED:**

Departments of Corrections and Justice, and Judicial Branch