

**HB 1711-FN - AS INTRODUCED**

2024 SESSION

24-3144  
09/08HOUSE BILL ***1711-FN***

AN ACT authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

SPONSORS: Rep. Roy, Rock. 31; Rep. Stone, Sull. 8; Rep. Meuse, Rock. 37; Rep. Monteil, Ches. 15

COMMITTEE: Criminal Justice and Public Safety

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ANALYSIS

This bill 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.

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

Matter removed from current law appears [~~in brackets and struckthrough~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24-3144  
09/08

## STATE OF NEW HAMPSHIRE

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

AN ACT authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

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

1 Short Title. This bill shall be known as "The Chief Bradley Haas Mental Health Firearms Reporting Act".

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

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

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

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

## CHAPTER 159-F

### MENTAL HEALTH REPORTING FOR FIREARM BACKGROUND CHECKS

159-F:1 Short Title.

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

159-F:2 Mental Health Reporting Authorized.

I. In compliance with the federal NICS Improvement Amendments Act of 2007, Public Law 110-180 and the Brady Handgun Violence Prevention Act of 1993, Public Law 103-159, the New Hampshire judicial branch and the department of safety are authorized to report to the National 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:

- (a) Adjudicated as not guilty of a crime by reason of insanity;
- (b) Adjudicated as incompetent to stand trial and found by the court to be a danger to themselves or others pursuant to RSA 171-B:2, 135-E:5 or 135:17-a; or
- (c) Involuntarily committed to a mental health facility pursuant to RSA 135-C:34-54.

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

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

II. The court or the department of safety shall report the person's name, an identifier signifying a prohibition under 18 U.S.C. section 922(g), and other nonclinical, identifying information, including the person's social security number and date of birth.

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

159-F:4 Notifications; Confiscation of Firearms.

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

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

#### 159-F:5 Exclusions.

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

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

III. The records entered into the NICS Indices pursuant to this chapter shall only be used for purposes of determining eligibility to purchase, possess, carry, or transfer a firearm or ammunition. Information furnished shall not include confidential medical or treatment records, confidential tax or financial data, or library records.

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

#### 195-F:6 Appointment of Attorney.

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

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

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

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

### CHAPTER 159-G

#### RELIEF FROM DISABILITIES

##### 159-G:1 Relief from Disabilities Petition.

Any person who has a non-emergency involuntary commitment under RSA 135-C:34-54 or has been found not guilty by reason of insanity or incompetent to stand trial and found by the court to be a danger to himself or herself or others pursuant to RSA 171-B:2, 135-E:5 or 135:17-a, as outlined in RSA 159-F, and who is subject to the firearm disabilities of 18 U.S.C. section 922 (g)(4), may petition for a review of the person's mental capacity to purchase a firearm. Individuals found not guilty by reason of insanity may file for relief with the court 6 months after the finding of not guilty by reason of insanity status, unless the person was committed to an institution pursuant to RSA 651:8-b, in which case the person may file for relief 6 months after absolute discharge. Individuals found incompetent to stand trial and found by the court to be a danger to themselves or others under RSA 135:17-a, as outlined in RSA 159-F, may file for relief with the court 6 months after the finding of incompetency, unless the person was committed to an institution pursuant to RSA 171-B:2 or RSA 135-C:34-54, in which case the person may

file for relief 6 months from when an absolute discharge order has been filed with the probate court. A person committed under RSA 135-E:5 may petition for relief 6 months after absolute discharge.

#### 159-G:2 Psychiatric Examination.

Upon receipt of a petition for relief, the court shall order an independent psychiatric examination from the department of health and human services, bureau of behavioral health to be completed prior to the hearing, which shall be scheduled in no more than 45 days from the date the court ordered the independent psychiatric evaluation.

The independent psychiatrist shall provide the court with an opinion as to whether the person is disabled by a mental illness and is likely to act in a manner dangerous to public safety.

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

I. The petitioner may present evidence and call witnesses at the hearing on the petition. The court shall make written findings of fact and conclusions of law on the issues before it and issue a final order. The court may only consider applications for relief due to mental health adjudications or commitments that occurred in New Hampshire.

The court shall review the circumstances regarding the firearms disabilities imposed by 18 U.S.C. section 922(g)(4), and records consisting of at minimum mental health and any criminal record, if applicable, and the person's reputation developed through character witness testimony, witness statements, or other character evidence.

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

III. If the motion for relief is denied, the person may petition the court for relief again after 2 years have elapsed.

6 Application Required. The attorney general shall make application for approval of section 5 of this act to the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or other such agency as may be required by federal law in order to ensure New Hampshire citizens are provided with the ability to have their rights restored.

RSA 159-F shall not take effect until the attorney general receives federal approval of the restoration of rights process.

7 Contingency. Sections 2 - 5 of this act shall take effect on the date the attorney general certifies to the secretary of state and director of the office of legislative services that the state has received approval from the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, pursuant to section 6 of this act. If the attorney general does not receive such approval, sections 2 - 5 of this act shall not take effect.

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

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

#### 10 Effective Date.

I. Sections 2 - 5 of this act shall take effect as provided in section 7 of this act.

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

LBA

24-3144

12/20/23

**HB 1711-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

**FISCAL IMPACT:**

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, **as introduced**, at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

**AGENCIES CONTACTED:**

Department of Safety, Department of Justice, Department of Health and Human Services, and Judicial Branch