

HB 506-FN - AS INTRODUCED

2025 SESSION

25-0556

09/02

HOUSE BILL ***506-FN***

AN ACT relative to background checks during motions to return firearms and ammunition.

SPONSORS: Rep. D. Mannion, Rock. 25; Rep. Gorski, Hills. 2; Rep. Roy, Rock. 31; Rep. Tenczar, Hills. 1; Sen. McGough, Dist 11

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill provides a procedure for conducting a discretionary background check prior to the return of firearms and/or ammunition in a court proceeding.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

25-0556

09/02

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to background checks during motions to return firearms and ammunition.

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

1 New Section; Criminal Background Checks; Motions for the Return of Firearms and Ammunition.

Amend RSA 159-D by inserting after section 3 the following new section:

159-D:4 Motions for the Return of Firearms and Ammunition.

I. In any matter pending before a court in New Hampshire where firearms and/or ammunition have been seized or removed from an individual in connection with a restraining order issued under RSA 173-B or RSA 633:3-a, an order pertaining to a criminal proceeding such as a bail order, or any other order issued pursuant to the statutory or equitable authority of a court, the individual whose firearms

and/or ammunition property has been seized or removed shall be entitled to the prompt return of his or her property upon the termination or expiration of the relevant order, unless such individual is explicitly prohibited from receiving said property by a state or federal statute.

II. A court shall not be required to request, conduct, or receive the results of a background check prior to returning firearm property to its owner. Should any New Hampshire court require, at its discretion, that a background check be conducted on an individual prior to the return of his or her firearm property, the following conditions shall apply:

(a) Upon receipt of a motion or other request for the return of firearms, whether written or oral, the court shall request a National Instant Criminal Background Check System (NICS) check with the New Hampshire department of safety within 2 business days.

(b) The department of safety shall initiate a NICS check and shall provide a conclusive response to the court within 10 business days of receiving the court's request stating either "proceed" or "deny." A "deny" response shall only be provided if the NICS check depicts that the individual is clearly prohibited from possessing a firearm pursuant to state or federal law. If the NICS check is inconclusive and the department of safety cannot explicitly demonstrate that the individual is prohibited from possessing a firearm within 10 business days of the court's request, the department of safety may provide a "proceed" response to the requesting court.

(c) If the department of safety issues a "deny" response, it must provide a specific citation to statute, such as one of the prohibited categories included in 18 U.S.C. section 922(g), and a narration of the specific facts relied upon for finding that the individual is prohibited from possessing a firearm. The narration supporting a "deny" response shall be held in a confidential record with the court and only accessible to court staff, the individual seeking the return of firearms, and his or her designated legal counsel.

(d) Should the court receive a "deny" response from the department of safety, the individual seeking the return of firearms property shall be promptly notified and may, within 10 business days of receiving notice, request that the court hold a hearing on the matter. Any such hearing shall be scheduled within 10 business days of the court's receiving such a request. At the hearing, the department of safety shall attend and shall hold the burden to demonstrate, by clear and convincing evidence, that the individual seeking the return of firearms property is prohibited from receiving said property under state or federal law. Should the department of safety fail to attend or to meet its burden, the court shall order that the firearms property at issue be returned.

(e) Should any person seeking the return of firearms be aggrieved by an order made by the trial court pursuant to the department of safety's determination pursuant to subparagraph II(c), or the court's determination after conducting a hearing as set forth in subparagraph II(d), such person shall be entitled to appeal the court's decision within 30 days, and have his or her case heard by the New

Hampshire supreme court. In any such case, a transcript of the proceedings and the trial court’s record shall be transmitted to the supreme court in full, without any fee charged to the petitioner.

2 Effective Date. This act shall take effect January 1, 2026.

LBA
25-0556
1/4/25

**HB 506-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to background checks during motions to return firearms and ammunition.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	<u>Department of Safety Position Costs</u> \$56K in FY 2026, \$76K in FY 2027, and \$78K in FY 2028 <u>Judicial Branch Costs</u> Unknown		
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

The Office of Legislative Budget Assistant is unable to provide a complete fiscal note for this bill, as introduced, as it is awaiting information from the Judicial Branch. The Branch was originally contacted on 12/16/24 for a fiscal note worksheet. When completed, a revised fiscal note will be forwarded to the House Clerk's Office.

METHODOLOGY:

This bill provides for conducting a discretionary background check prior to the court ordered return of firearms. The bill seeks to set time parameters by which the court must hold hearings on the return of firearms that have been seized pursuant to RSA 173-B and 633:3, domestic

violence/stalking criminal order of protection (“CBPO”) or any other order as issued by the court. Furthermore, the bill specifies how the Department of Safety shall operate relative to conducting checks and providing the court with responses to those checks and what information shall be contained in those responses. The bill also allows for an appeals process. The Department states it would need one new position (program assistant II, SOC 43-04) to handle the additional workload anticipated from this bill. Including salary, benefits, and necessary equipment, and a start date of January 1, 2026, it is estimated this position would cost \$56,000 in FY 2026, \$76,000 in FY 2027, and \$78,000 in FY 2028. This bill provides neither authority nor authorization for new personnel.

It is unknown if this bill will impact costs to the Judicial Branch.

AGENCIES CONTACTED:

Department of Safety and Judicial Branch