

CHAPTER 151
SB 270 – FINAL VERSION

03/28/12 1407s

2012 SESSION

12-2835
04/01

SENATE BILL **270**

AN ACT relative to civil commitment of persons found incompetent to stand trial.

SPONSORS: Sen. Bradley, Dist 3; Sen. Barnes, Jr., Dist 17; Sen. Lambert, Dist 13; Sen. Boutin, Dist 16; Sen. Luther, Dist 12; Rep. Swinford, Belk 5; Rep. Charron, Rock 7; Rep. Villeneuve, Hills 18; Rep. Fields, Belk 2

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

I. Amends the notification procedures for persons charged with a violent crime and found incompetent to stand trial.

II. Requires the court to keep all reports, recommendations, medical records, or other documents related to the court's determination of competency separate from the public file, and permits release of such documents in certain circumstances.

III. Requires notice to the attorney general whenever any person who is involuntarily admitted is transferred to another facility.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to civil commitment of persons found incompetent to stand trial.

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

1 151:1 Commitment to Hospitals; Notification Authorized. Amend RSA 135:17-b to read as
2 follows:

3 135:17-b Notification Authorized.

4 **I.** Notwithstanding any provision of law to the contrary, in the event that a person who has
5 been charged with [~~murder, pursuant to RSA 630:1, I a, or I b, manslaughter, or aggravated~~
6 ~~felonious sexual assault,~~] **a violent crime**, found incompetent to stand trial pursuant to
7 RSA 135:17-a, and civilly committed pursuant to RSA 135-C **or RSA 171-B, or committed**
8 **pursuant to RSA 651:9-a**, is **transferred to another facility or** discharged to the community,
9 either conditionally or absolutely, the department of health and human services shall immediately
10 notify the attorney general, who shall notify the [~~family of the~~] victim[~~, or the victim of aggravated~~
11 ~~felonious sexual assault if an adult,~~] **as defined in RSA 21-M:8-k, I(a)** and, **in the event of a**
12 **discharge**, the law enforcement agency in the community to which the person is being discharged.
13 For purposes of this section, discharge shall include the initial authorization by the administrative
14 review committee of New Hampshire hospital to allow a person to leave the grounds of the hospital
15 unaccompanied by a hospital staff member.

16 **II. For purposes of this section, the term “violent crime” includes those crimes listed**
17 **in RSA 651:5, XIII and the following:**

- 18 (a) **RSA 173-B:9, violation of protective order.**
19 (b) **RSA 631:2, second degree assault.**
20 (c) **RSA 631:3, felony reckless conduct.**
21 (d) **RSA 631:4, criminal threatening involving the use of a deadly weapon.**
22 (e) **RSA 633:3-a, stalking.**
23 (f) **RSA 635:1, burglary.**
24 (g) **RSA 641:5, tampering with witnesses and informants.**
25 (h) **RSA 650-A:1, felonious use of firearms.**

26 151:2 New Section; Commitment to Hospitals; Information Related to Competency
27 Determinations. Amend RSA 135 by inserting after section 17-b the following new section:

28 135:17-c Information Related to Competency Determinations. All evaluation reports,
29 recommendations, medical records, or other documents related to the court’s determinations under

CHAPTER 151
SB 270 – FINAL VERSION
- Page 2 -

1 RSA 135:17-a, I, II, and III shall be kept separately from the public court file and shall not be
2 disclosed except as follows:

3 I. The court may order release with the written consent of the parties.

4 II. The competency report may be provided to the receiving facility or the secure psychiatric
5 unit pursuant to RSA 135:17-a, VII.

6 III. In any case in which the court finds that the defendant is not competent to stand trial
7 pursuant to RSA 135:17-a, I, or has not been restored to competency pursuant to RSA 135:17-a, IV,
8 the court shall make written findings which describe the evidence which was relied upon to make its
9 determination. Such written findings shall be part of the public court file. The prosecutor shall
10 provide a copy of the written findings to the victim, as defined in RSA 21-M:8-k.

11 151:3 New Paragraph; Involuntary Admission for Persons Found Not Competent to Stand Trial;
12 Transfers. Amend RSA 171-B:15 by inserting after paragraph II the following new paragraph:

13 III. In the event a person is transferred pursuant to this section, the commissioner or
14 designee shall provide notice to the attorney general pursuant to RSA 135-17-b.

15 151:4 New Subparagraph; Secure Psychiatric Unit; Discharge. Amend RSA 622:48, I by
16 inserting after subparagraph (c) the following new subparagraph:

17 (d) When a person is transferred to another facility pursuant to subparagraphs (b) or (c),
18 the commissioner or designee shall provide notice to the attorney general in accordance with RSA
19 135:17-b.

20 151:5 Effective Date. This act shall take effect 60 days after its passage.

21 Approved: June 7, 2012

22 Effective Date: August 6, 2012