

SB 273 – AS AMENDED BY THE HOUSE

16May2012... 2115h
16May2012... 2281h

2012 SESSION

12-2913
09/04

SENATE BILL **273**

AN ACT relative to vexatious litigants and relative to confidentiality of police personnel files.

SPONSORS: Sen. Houde, Dist 5

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill establishes certain requirements for persons who are determined by the court to be vexatious litigants.

This bill also clarifies the confidentiality provisions regarding use of police personnel files as evidence in criminal cases.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to vexatious litigants and relative to confidentiality of police personnel files.

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

1 1 New Section; Frivolous Lawsuits; Vexatious Litigants. Amend RSA 507 by inserting after
2 section 15 the following new section:

3 507:15-a Vexatious Litigants.

4 I. In this section, “vexatious litigant” means an individual who has been found by a judge to
5 have filed 3 or more frivolous lawsuits which have had a final disposition and which the judge finds,
6 by clear and convincing evidence, were initiated for the primary purpose of harassment.

7 II. The court may require a vexatious litigant to:

8 (a) Retain an attorney or other person of good character to represent him or her in all
9 actions; or

10 (b) Post a cash or surety bond sufficient to cover all attorney fees and anticipated
11 damages.

12 III. Upon petition, the supreme court shall, upon clear and convincing evidence, determine
13 that a person who has been determined by a lower court to be a vexatious litigant is no longer a
14 vexatious litigant.

15 2 Confidentiality of Police Personnel Files. Amend RSA 105:13-b to read as follows:

16 105:13-b Confidentiality of Personnel Files. [~~No personnel file on a police officer who is serving~~
17 ~~as a witness or prosecutor in a criminal case shall be opened for the purposes of that criminal case,~~
18 ~~unless~~] ***All exculpatory evidence in a personnel file on a police officer who is serving as a***
19 ***witness or prosecutor shall be provided to the prosecutor by the police department***
20 ***employing the officer and shall be released by the prosecutor to be used as evidence in***
21 ***accordance with all applicable rules regarding evidence in criminal cases. Non-***
22 ***exculpatory evidence shall only be released in that criminal case if*** the sitting judge makes a
23 specific ruling that probable cause exists to believe that the file contains evidence relevant to that
24 criminal case. If the judge rules that probable cause exists, the judge shall order the police
25 department employing the officer to deliver the file to the judge. The judge shall examine the file in
26 camera and make a determination whether it contains evidence relevant to the criminal case. Only
27 those portions of the file which the judge determines to be relevant in the case shall be released to be
28 used as evidence in accordance with all applicable rules regarding evidence in criminal cases. The

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1 remainder of the file shall be treated as confidential and shall be returned to the police department
2 employing the officer.

3 3 Effective Date.

4 I. Section 1 of this act shall take effect January 1, 2013.

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