

HB 1315 – AS INTRODUCED

2014 SESSION

14-2479
10/06

HOUSE BILL **1315**

AN ACT relative to confidentiality of police personnel files.

SPONSORS: Rep. DiSilvestro, Hills 9; Rep. D. Eaton, Ches 3; Rep. O'Neil, Hills 9; Rep. R. Walsh, Hills 11

COMMITTEE: Judiciary

ANALYSIS

This bill provides for representation by counsel, opportunity to respond, and appeal by the police officer of the judge's decision in the use of a police personnel file in a criminal case.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to confidentiality of police personnel files.

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

1 1 Police; Confidentiality of Personnel Files. Amend RSA 105:13-b to read as follows:

2 105:13-b Confidentiality of Personnel Files.

3 I. Exculpatory evidence in a police personnel file of a police officer who is serving as a
4 witness in any criminal case shall be disclosed to the defendant. The duty to disclose exculpatory
5 evidence that should have been disclosed prior to trial under this paragraph is an ongoing duty that
6 extends beyond a finding of guilt.

7 II. ~~[If a determination cannot be made as to whether evidence is exculpatory, an in camera~~
8 ~~review by the court shall be required.] **To determine whether or not evidence is exculpatory, an**~~
9 ~~**in camera review by the court shall be required. The party requesting the in camera review**~~
10 ~~**shall give sufficient notice to the police officer whose file is being reviewed. The police**~~
11 ~~**officer shall be offered an opportunity to respond to the proffer of the prosecutor and may**~~
12 ~~**be represented by counsel.**~~

13 III. No personnel file of a police officer who is serving as a witness or prosecutor in a
14 criminal case shall be opened for the purposes of obtaining or reviewing non-exculpatory evidence in
15 that criminal case, unless the sitting judge makes a specific ruling that probable cause exists to
16 believe that the file contains evidence relevant to that criminal case. If the judge rules that probable
17 cause exists, the judge shall order the police department employing the officer to deliver the file to
18 the judge. The judge shall examine the file in camera and make a determination as to whether it
19 contains evidence relevant to the criminal case. Only those portions of the file which the judge
20 determines to be relevant in the case shall be released to be used as evidence in accordance with all
21 applicable rules regarding evidence in criminal cases. The remainder of the file shall be treated as
22 confidential and shall be returned to the police department employing the officer. **Because a**
23 **judge's determination is relevant to the particular criminal case brought before the judge,**
24 **no governmental agency shall establish a list of such proceedings. The decision of the**
25 **judge may be appealed to a court of competent jurisdiction.**

26 2 Effective Date. This act shall take effect 60 days after its passage.