SB 244 - AS AMENDED BY THE SENATE

03/27/14 1114s

$2014 \ \text{SESSION}$

14-2665 04/10

SENATE BILL	244
AN ACT	establishing a procedure for the annulment of a mental health record and establishing a commission to study mental health and firearms.
SPONSORS:	Sen. Watters, Dist 4; Rep. Goley, Hills 8
COMMITTEE:	Judiciary

AMENDED ANALYSIS

This bill establishes a procedure to annul a mental health record and to have such record removed from the National Instant Criminal Background Check System, and establishes a commission to study firearms and mental health.

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removed from current law appears [in brackets and struckthrough.]Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Fourteen

AN ACT establishing a procedure for the annulment of a mental health record and establishing a commission to study mental health and firearms.

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

1 1 New Subdivision; Annulment of Mental Health Records in the National Instant Criminal 2 Background Check System. Amend RSA 159-D by inserting after section 3 the following new 3 subdivision:

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Annulment of Mental Health Records

in the National Instant Criminal Background Check System (NICS)

159-D:4 Petition for Removal from the NICS Index and Annulment of Mental Health Record.

I. A person may file a petition to have his or her name and mental health information removed from the NICS Index, and/or have his or her mental health record annulled after the following:

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(a) Termination of the appointment of guardianship;

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(b) Expiration of the involuntary treatment order; or(c) Expiration of the involuntary commitment order.

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II. The petition shall be filed in the court that ordered the guardianship, involuntary treatment, or commitment. The petition shall include a copy of the petitioner's criminal record from the department of safety and shall be served upon the parties that filed the original petition.

16 III. The petitioner shall serve notice of the petition on the local law enforcement agency in 17 the municipality in which the petitioner lives, the municipality in which he or she was living at the 18 time of the commitment order, and the municipality in which the acts that were the subject of the 19 order occurred. Within 30 days, those notified may file an appearance and notice of assent to the 20 relief sought or an objection stating the grounds upon which the objection is based that would justify 21 an extension or renewal of the original order.

IV. The court shall grant the relief requested unless it finds that the respondent has established by clear and convincing evidence that the petitioner is in such a mental condition as a result of mental illness as to create a potentially serious likelihood of danger to himself or others and that the granting of the relief requested would be contrary to the public interest.

V. The evaluation reports, recommendations, medical and mental health records, and all other court documents and records related to any petition filed pursuant to this section shall be kept separately from the public court file and shall be confidential. The hearing shall be in closed court, unless the petitioner requests otherwise, and shall be recorded.

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1 VI. Any party who is aggrieved by any ruling of the court may appeal de novo to the superior 2 court and thereafter to the supreme court on issues of law.

3 VII. After an order granting an annulment pursuant to this section has become final, the court shall, as soon as is practicable, but in no case later than 10 business days thereafter, forward a 4 copy of the order to the department of safety and seal any files or records created as a result of this 56 section. Such files or records shall not be reopened unless the petitioner becomes subject to this $\overline{7}$ chapter again within 3 years. The department of safety shall seek removal of all the information 8 stored with the NICS Index about the petitioner, as soon as practicable, but in no case later than 15 9 business days after receipt of the order. The department of safety shall dispose of all confidential 10 information pursuant to RSA 159-D:2.

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VIII. Upon entry of an order of annulment of a mental health record:

(a) The person whose record is annulled shall be treated in all respects as if he or she
had never been involuntarily treated, committed, or found not competent, or had a guardian
appointed on his or her behalf.

15 (b) The court records, medical records, and mental health records relating to annulment 16 shall be sealed and available only to the person whose record was annulled, to his or her attorney, 17 and to a subsequent court presiding over a subsequent petition under this section, or as otherwise 18 required by law.

19 (c) In any application for employment, license, or other civil right or privilege, or in any 20 appearance as a witness in any proceeding or hearing, a person may be questioned about a previous 21 mental health record only in terms such as "Have you ever been involuntarily treated, committed, or 22 found not competent, or had a guardian appointed on your behalf for any reason that has not been 23 annulled by a court?"

24 4 Effective Date.

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II. The remainder of this act shall take effect upon its passage.