

HB 489 - AS INTRODUCED

2015 SESSION

15-0512
01/04

HOUSE BILL **489**

AN ACT relative to annulment of mental health records.

SPONSORS: Rep. Hannon, Straf 25; Rep. Schleien, Hills 37; Rep. Beaudoin, Straf 9; Rep. Hogan, Hills 34; Sen. Fuller Clark, Dist 21

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes a procedure to annul a mental health record.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to annulment of mental health records.

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

1 1 New Section; Annulment of Mental Health Records. Amend RSA 135-C by inserting after
2 section 53 the following new section:

3 135-C:53-a Petition for Annulment of Mental Health Record.

4 I. In this section, “mental health record” means any information, documents, records, and
5 recordings created by any court, person, agency, or entity that may be utilized for the purpose of
6 seeking an appointment of guardianship, involuntary treatment, involuntary admission, or
7 involuntary commitment of any person.

8 II. A person may file a petition to have his or her mental health record annulled after an
9 unsuccessful petition for the termination or expiration of:

10 (a) An appointment of guardianship.

11 (b) An involuntary treatment order.

12 (c) An involuntary admission order.

13 (d) An involuntary commitment order.

14 III. The petition shall be filed in the court that ordered or denied the guardianship,
15 involuntary treatment, admission, or commitment. The petition shall include a copy of the
16 petitioner’s release or termination from guardianship, involuntary treatment, admission, or
17 commitment or the denial of the petition and shall be served upon the parties that filed the original
18 petition resulting in the guardianship, involuntary treatment, admission, or commitment order.

19 IV. The court shall grant the relief requested if the original petition was denied, or in the
20 case of a granted order, the court shall grant the relief requested unless it finds that the respondent
21 has established by clear and convincing evidence that the petitioner is in such a mental condition as
22 a result of mental illness as to create a potentially serious likelihood of danger to himself or others
23 and that the granting of the relief requested would be contrary to the public interest.

24 V. The petitioner’s mental health record pursuant to any petition under this section shall be
25 sealed and confidential. The hearing shall be in closed court, unless the petitioner requests
26 otherwise, and shall be recorded.

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

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

30 (a) The person whose record is annulled shall be treated in all respects as if he or she
31 had never been involuntary treated, admitted, committed, or had a guardian appointed on his or her

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1 behalf.

2 (b) The person's mental health record pertaining to annulment shall be sealed and
3 confidential and available only to the person whose record was annulled, to his or her attorney, and
4 to a subsequent court presiding over a subsequent petition under this section, or as otherwise
5 required by law.

6 (c) The court shall order every person, agency, or entity in possession of any portion of
7 the mental health record that such information is sealed and confidential and shall not be utilized in
8 any manner inconsistent with this section.

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

14 2 Effective Date. This act shall take effect 60 days after its passage.