

SB 476-FN - AS AMENDED BY THE HOUSE

23May2024... 2153h

2024 SESSION

24-2908

11/10

SENATE BILL

476-FN

AN ACT

making a capital appropriation to the department of corrections toward the replacement of the New Hampshire state prison for men and authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

SPONSORS:

Sen. Gray, Dist 6; Sen. Ward, Dist 8; Sen. Watters, Dist 4; Sen. Bradley, Dist 3; Sen. Avar, Dist 12; Sen. Pearl, Dist 17; Sen. D'Allesandro, Dist 20; Sen. Innis, Dist 7; Sen. Rosenwald, Dist 13; Sen. Soucy, Dist 18; Sen. Ricciardi, Dist 9; Sen. Gendreau, Dist 1; Sen. Murphy, Dist 16; Sen. Carson, Dist 14; Sen. Fenton, Dist 10; Sen. Chandley, Dist 11; Rep. Wallace, Rock. 8; Rep. Horrigan, Straf. 10

COMMITTEE:

Capital Budget

AMENDED ANALYSIS

This bill makes a bonded appropriation of funds for architectural, engineering, programming, and design and construction documents for the New Hampshire state prison for men, and authorizes the state to report mental health data for firearms background check purposes and provides for processes for the confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT making a capital appropriation to the department of corrections toward the replacement of the New Hampshire state prison for men and authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

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

1 1 Replacement of the New Hampshire State Prison For Men; Appropriation and Bonds
2 Authorized.

3 I. There is hereby appropriated \$40,000,000 to be deposited in the New Hampshire state
4 prison fund under 21-H:17 for architectural, engineering, programming, and design and construction
5 documents for a replacement correctional facility of the New Hampshire state prison for men.

6 II. To provide funds for the appropriation in paragraph I, the state treasurer is hereby
7 authorized to borrow upon the credit of the state not exceeding the sum of \$40,000,000 and for said
8 purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in
9 accordance with RSA 6-A.

10 2 Short Title. Sections 3-10 shall be known as "The Chief Bradley Haas Mental Health
11 Firearms Reporting Act".

12 3 Sale of Firearms; Criminal History Record Check, Mental Health Record Check, and
13 Protective Order Check. Amend RSA 159-D:1 to read as follows:

14 159-D:1 Sale of Firearms; Criminal History Record ***Check, Mental Health Record Check***, and
15 Protective Order Check.

16 The department of safety may become the point of contact for the federal government for the
17 purposes of the National Instant Criminal Background Check System (NICS).

18 4 New Chapter; Mental Health Reporting for Firearm Background Checks. Amend RSA by
19 inserting after chapter 159-E the following new chapter:

CHAPTER 159-F

MENTAL HEALTH REPORTING FOR FIREARM BACKGROUND CHECKS

21 159-F:1 Short Title.

22 This chapter shall be known as "Bradley's Law" in honor of retired Police Chief Bradley Haas
23 who was shot and killed while defending the lives and safety of the patients and staff of the New
24 Hampshire Hospital.
25

26 159-F:2 Mental Health Reporting Authorized.

SB 476-FN - AS AMENDED BY THE HOUSE
- Page 2 -

1 I. In compliance with the federal NICS Improvement Amendments Act of 2007, Public Law
2 110-180 and the Brady Handgun Violence Prevention Act of 1993, Public Law 103-159, the New
3 Hampshire judicial branch and the department of safety are authorized to report to the National
4 Instant Criminal Background Check System (NICS) records concerning persons who have been
5 disqualified from possessing or receiving a firearm under 18 U.S.C. section 922(g)(4) because they
6 have been:

7 (a) Adjudicated as not guilty of a crime by reason of insanity;

8 (b) Adjudicated as incompetent to stand trial and found by the court to be a danger to
9 themselves or others pursuant to RSA 171-B:2, 135-E:5 or 135:17-a; or

10 (c) Involuntarily committed to a mental health facility pursuant to RSA 135-C:34-54.

11 159-F:3 Entry Into the National Instant Criminal Background Check System.

12 I. Notwithstanding any other provision of law, including the requirement of a closed hearing
13 and file under RSA 135-C:43, when a judge orders a nonemergency involuntary admission pursuant
14 to RSA 135-C:34-54 or a commitment pursuant to RSA 171-B:2, and the order is one that qualifies
15 under 18 U.S.C. section 922(g)(4), the court shall retain a record of the court order and promptly
16 cause the disposition to be entered in the NICS Indices. When a person is found not guilty by reason
17 of insanity, or incompetent to stand trial and found by the court to be a danger to himself or herself
18 or others court pursuant to RSA 135-E or 135:17-a, as provided in this section, the department of
19 safety shall promptly cause that disposition to be entered in the NICS Indices, in accordance with
20 paragraph II.

21 II. The court or the department of safety shall report only the person's name, an identifier
22 signifying the applicable prohibition under 18 U.S.C. section 922(g), the person's social security
23 number, and date of birth.

24 III. If a court determines that a person is not competent to stand trial and finds that the
25 person is also a danger to themselves or others, but, after 90 days, the person is not committed
26 pursuant to RSA 171-B:2, 135-C:34-54, or 135-E:5, upon the motion of any party or sua sponte, the
27 court may transmit that finding to the department of safety for entry into the NICS Indices.

28 159-F:4 Notifications; Confiscation of Firearms.

29 I. Before the close of the hearing conducted pursuant to RSA 135:17-a, RSA 135-C:34-54,
30 RSA 135-E:5, or RSA 171-B:2, the court shall inquire of the person if he or she currently owns or has
31 access to any firearms, and if so, where they are located. If the person answers affirmatively, the
32 court shall inform the person that the court may order law enforcement to confiscate those firearms
33 or ammunition. In addition, the court shall offer the opportunity for the person to make voluntary
34 arrangements to relinquish possession of his or her firearms or ammunition to law enforcement or to
35 another individual in accordance with paragraph III.

36 II. On the conclusion of a proceeding under RSA 135:17-a establishing dangerousness under
37 RSA 159-F:3, or on an order of commitment under RSA 135-C:34-54, 135-E:5, or 171-B:2, or upon the

1 entry of a judgment of not guilty by reason of insanity, the court shall notify the person that such
2 person is prohibited under federal law from purchasing, possessing, carrying, or transporting a
3 firearm unless a petition for relief from disability is subsequently granted pursuant to RSA 159-G.

4 III. The court may simultaneously with any order of commitment issue an order:

5 (a) Directing the person to make arrangements to voluntarily relinquish possession of
6 any firearms or ammunition he or she owns to law enforcement;

7 (b) Directing the person to transfer any firearms to another person with whom the
8 person committed does not cohabitate, who is not himself or herself a prohibited person, and to
9 whom the court determines such transfer should be permitted; or

10 (c) Directing law enforcement to confiscate any firearms or ammunition owned by the
11 person no later than 48 hours after the order is issued.

12 IV. Firearms voluntarily relinquished or confiscated by law enforcement may be transferred
13 to a federally licensed firearms dealer, at the person's own expense, for further disposition at the
14 request of the owner and upon order of the court. Retrieval and disposal of any firearms not
15 transferred to an individual or federally licensed firearms dealer shall be through the process as set
16 forth in RSA 595-A:6.

17 159-F:4 Notifications; Confiscation of Firearms.

18 I. On the conclusion of a proceeding under RSA 135:17-a establishing dangerousness under
19 RSA 159-F:3, or on an order of commitment under RSA 135-C:34-54, 135-E:5, or 171-B:2, or upon the
20 entry of a judgment of not guilty by reason of insanity, the court shall notify the person that such
21 person is prohibited under federal law from purchasing, possessing, carrying, or transporting a
22 firearm unless a petition for relief from disability is subsequently granted pursuant to RSA 159-G.
23 The court shall inquire of the person if they currently own or have access to any firearms, and if so,
24 where they are located.

25 II. The court may simultaneously with any order of commitment issue an order to law
26 enforcement to confiscate any firearms or ammunition owned by the person. Law enforcement shall
27 carry out the order of the court as soon as possible, but in no case later than 48 hours after the order
28 is issued. The person may transfer any firearms to another person with whom the person committed
29 does not cohabitate and who is not themselves a prohibited person, and upon an order of the court
30 permitting such transfer. The department of safety shall provide the court with the information
31 necessary to make this notification. Alternatively, the firearms may be transferred to a federally
32 licensed firearms dealer, at the person's own expense, for further disposition at the request of the
33 owner and upon order of the court. Retrieval and disposal of any firearms not transferred to an
34 individual or federally licensed firearms dealer shall be through the process as set forth in RSA 595-
35 A:6.

36 159-F:5 Exclusions.

I. Neither the court nor the department of safety shall transmit information on persons seeking voluntary treatment or on persons involuntarily hospitalized for assessment or evaluation.

II. Information the court or the department of safety causes to be transmitted to NICS pursuant to this chapter shall not be considered as public records pursuant to RSA 91-A.

III. The records entered into the NICS Indices pursuant to this chapter shall only be used for purposes of determining eligibility to purchase, possess, carry, or transfer a firearm or ammunition. Information furnished shall not include confidential medical or treatment records, confidential tax or financial data, or library records.

IV. Neither the court nor the department of safety shall submit the name of any person to NICS signifying a prohibition under 18 U.S.C. section 922(g) except pursuant to the processes outlined in this chapter.

195-F:6 Appointment of Attorney.

Unless otherwise provided in statute, a person may be appointed an attorney by the court for the purposes of any hearing referred to in this chapter.

5 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-A:5 by inserting after paragraph I-a the following new paragraph:

I-b. Information caused to be transmitted by the court to the National Instant Criminal Background Check System pursuant to RSA 159-F:5, II.

6 New Chapter; Relief from Disabilities. Amend RSA by inserting after chapter 159-F the following new chapter:

CHAPTER 159-G

RELIEF FROM DISABILITIES

159-G:1 Relief from Disabilities Petition.

Any person who has a non-emergency involuntary commitment under RSA 135-C:34-54 or has been found not guilty by reason of insanity or incompetent to stand trial and found by the court to be a danger to himself or herself or others pursuant to RSA 171-B:2, 135-E:5 or 135:17-a, as outlined in RSA 159-F, and who is subject to the firearm disabilities of 18 U.S.C. section 922 (g)(4), may petition for a review of the person's mental capacity to possess or purchase a firearm no sooner than the following time frames. Individuals found not guilty by reason of insanity may file for relief with the court 6 months after the finding of not guilty by reason of insanity status, unless the person was committed to an institution pursuant to RSA 651:8-b, in which case the person may file for relief 15 days after absolute discharge. Individuals found incompetent to stand trial and found by the court to be a danger to themselves or others under RSA 135:17-a, as outlined in RSA 159-F, may file for relief with the court 6 months after the finding of incompetency, unless the person was committed to an institution pursuant to RSA 171-B:2 or RSA 135-C:34-54, in which case the person may file for relief 15 days from when an absolute discharge order has been filed with the probate court. A person committed under RSA 135-E:5 may petition for relief 15 days after absolute discharge.

SB 476-FN - AS AMENDED BY THE HOUSE
- Page 5 -

1 159-G:2 Psychiatric Examination.

2 Upon receipt of a petition for relief, the court shall schedule a hearing no later than 60 days after
3 the date the petition was filed. Simultaneously, the court shall order an independent psychiatric
4 examination be completed no more than 45 days from the date of the court's order. The independent
5 psychiatrist shall provide the court with an opinion as to whether the person is disabled by a mental
6 illness and is likely to act in a manner dangerous to public safety.

7 159-G:3 Hearing; Order; Appeals.

8 I. The petitioner may present evidence and call witnesses at the hearing on the petition.
9 The court shall make written findings of fact and conclusions of law on the issues before it and issue
10 a final order. The court may only consider applications for relief due to mental health adjudications
11 or commitments that occurred in New Hampshire. The court shall review the circumstances
12 regarding the firearms disabilities imposed by 18 U.S.C. section 922(g)(4), and records consisting of
13 at minimum mental health and any criminal record, if applicable, and the person's reputation
14 developed through character witness testimony, witness statements, or other character evidence.

15 II. The court shall grant the relief requested in the petition if the judge finds by clear and
16 convincing evidence that the petitioner will not be likely to act in a manner that is dangerous to
17 public safety and that granting the relief would not be contrary to the public interest. If the final
18 order grants relief, the court shall, as soon as possible, request that the NICS entry be redacted and
19 shall notify the United States Attorney General that the basis for the record being made available no
20 longer applies. The petitioner may appeal a final order denying relief within 30 days of the order to
21 the New Hampshire supreme court. The supreme court shall review the case de novo and has
22 discretion to review additional evidence.

23 III. If the motion for relief is denied, unless a court finds good cause for considering a
24 petition for relief sooner, the person may petition the court for relief again after 2 years have
25 elapsed.

26 7 Application Required. The attorney general shall make application for approval of section 6 of
27 this act to the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or other such
28 agency as may be required by federal law in order to ensure New Hampshire citizens are provided
29 with the ability to have their rights restored. RSA 159-F shall not take effect until the attorney
30 general receives federal approval of the restoration of rights process.

31 8 Contingency. Sections 3-6 of this act shall take effect on the date the attorney general certifies
32 to the secretary of state and director of the office of legislative services that the state has received
33 approval from the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, pursuant to
34 section 7 of this act. If the attorney general does not receive such approval, sections 3-6 of this act
35 shall not take effect.

36 9 Appropriation; New Hampshire Judicial Branch. The sum of \$1 for the fiscal year ending
37 June 30, 2025, is hereby appropriated to the New Hampshire judicial branch for the cost of

SB 476-FN - AS AMENDED BY THE HOUSE

- Page 6 -

1 independent psychiatrist evaluations. The governor is authorized to draw a warrant for said sum
2 out of any money in the treasury not otherwise appropriated.

3 10 Repeal. RSA 126-AA:2, VI, relative to submission of information to NICS, is repealed.

4 11 Effective Date.

5 I. Section 1 of this act shall take effect 30 days after its passage.

6 II. Sections 3 - 6 of this act shall take effect as provided in section 8 of this act.

7 III. The remainder of this act shall take effect 60 days after passage.

**SB 476-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to establishing bonding authority for and appropriation of funds for

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures	\$0	\$4,600,000	\$4,468,000	\$4,336,000
<i>Funding Source(s)</i>	General Fund			
Appropriations	\$0	\$40,000,000	\$0	\$0
<i>Funding Source(s)</i>	None General Obligation Bond			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ Yes
- Does this bill authorize new positions to implement this bill? ☒ No

METHODOLOGY:

This bill appropriates \$40,000,000 to the New Hampshire State Prison Fund for the purpose of architectural, engineering, programming, and design and construction documents for a replacement facility of the men's state prison. The bill allows the State Treasurer to borrow on the credit of the State a sum not exceeding \$40,000,000 and issue bonds and notes.

To determine the potential increase in general fund expenditures the Treasury Department makes the following assumptions:

- the bond would be issued in the Spring of 2025,
- a fixed interest of 5.5%
- amortization over 20 years with debt service payments structured to accommodate the first principal payment in the following fiscal year after the debt issuance
- pay down 60% of bonded principal amount in first 10 years and the remaining 40% in the remaining 10 years.

Based on these assumptions, the Department has calculated the total cost to bond would be \$40,000,000 of principal and \$20,900,000 of interest over the life of the bond. General fund expenditures would increase by \$4,600,000 in FY 2025, \$4,468,000 in FY 2026 and \$4,336,000

AGENCIES CONTACTED:

Treasury Department