31 32

## Amendment to SB 244

1	Amend the title of the bill by replacing it with the following:
2	
3 4	AN ACT establishing a procedure for the annulment of a mental health record and establishing a commission to study mental health and firearms.
5	
6	Amend the bill by replacing all after the enacting clause with the following:
7	
8	1 New Subdivision; Annulment of Mental Health Records in the National Instant Criminal
9	Background Check System. Amend RSA 159-D by inserting after section 3 the following new
10	subdivision:
11	Annulment of Mental Health Records
12	in the National Instant Criminal Background Check System (NICS)
13	159-D:4 Petition for Removal from the NICS Index and Annulment of Mental Health Record.
14	I. A person may file a petition to have his or her name and mental health information
15	removed from the NICS Index, and/or have his or her mental health record annulled after the
16	following:
17	(a) Termination of the appointment of guardianship;
18	(b) Expiration of the involuntary treatment order; or
19	(c) Expiration of the involuntary commitment order.
20	II. The petition shall be filed in the court that ordered the guardianship, involuntary
21	treatment, or commitment. The petition shall include a copy of the petitioner's criminal record from
22	the department of safety and shall be served upon the parties that filed the original petition.
23	III. The petitioner shall serve notice of the petition on the local law enforcement agency in
24	the municipality in which the petitioner lives, the municipality in which he or she was living at the
25	time of the commitment order, and the municipality in which the acts that were the subject of the
26	order occurred. Within 30 days, those notified may file an appearance and notice of assent to the
27	relief sought or an objection stating the grounds upon which the objection is based that would justify
28	an extension or renewal of the original order.
29	IV. The court shall grant the relief requested unless it finds that the respondent has
30	established by clear and convincing evidence that the petitioner is in such a mental condition as a
31	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.

#### Amendment to SB 244 - Page 2 -

	- 1 age 2 -
1	V. The evaluation reports, recommendations, medical and mental health records, and all
2	other court documents and records related to any petition filed pursuant to this section shall be kept
3	separately from the public court file and shall be confidential. The hearing shall be in closed court,
4	unless the petitioner requests otherwise, and shall be recorded.
5	VI. Any party who is aggrieved by any ruling of the court may appeal de novo to superior
6	court and thereafter to the supreme court on issues of law.
7	VII. After an order granting an annulment pursuant to this section has become final, the
8	court shall, as soon as is practicable, but in no case later than 10 business days thereafter, forward a
9	copy of the order to the department of safety and seal any files or records created as a result of this
10	section. Such files or records shall not be reopened unless the petitioner becomes subject to this
11	chapter again within 3 years. The department of safety shall seek removal of all the information
12	stored with the NICS Index about the petitioner, as soon as practicable, but in no case later than 15
13	business days after receipt of the order. The department of safety shall dispose of all confidential
14	information pursuant to RSA 159-D:2.
15	VIII. Upon entry of an order of annulment of a mental health record:
16	(a) The person whose record is annulled shall be treated in all respects as if he or she
17	had never been involuntarily treated, committed, or found not competent, or had a guardian
18	appointed on his or her behalf.
19	(b) The court records, medical records, and mental health records relating to annulment
20	shall be sealed and available only to the person whose record was annulled, to his or her attorney,
21	and to a subsequent court presiding over a subsequent petition under this section, or as otherwise
22	required by law.
23	(c) In any application for employment, license, or other civil right or privilege, or in any
24	appearance as a witness in any proceeding or hearing, a person may be questioned about a previous
25	mental health record only in terms such as "Have you ever been involuntarily treated, committed, or
26	found not competent, or had a guardian appointed on your behalf for any reason that has not been
27	annulled by a court?"
28	2 New Subdivision; Commission to Study Mental Health and Firearms. Amend RSA 159 by
29	inserting after section 26 the following new subdivision:
30	Commission to Study Mental Health and Firearms
31	159:27 Commission to Study Mental Health and Firearms.
32	I. There is established a commission to study mental health and firearms. The commission

(a) The commissioner of the department of safety, or designee.

shall consist of the following members:

- (b) The commissioner of the department of health and human services, or designee.
- (c) One member from the judicial branch, appointed by the chief justice of the New Hampshire supreme court.

# Amendment to SB 244 - Page 3 -

- 1 (d) One member from the Disability Rights Center, appointed by the president of that 2 organization.
  - (e) One member from the New Hampshire Psychiatric Society, appointed by the president of that organization.
- 5 (f) One member from the National Alliance on Mental Illness (NAMI)-New Hampshire, 6 appointed by the president of that organization.
- 7 (g) One member from the New Hampshire Civil Liberties Union, appointed by the 8 president of that organization.
- 9 (h) One member from the National Rifle Association, appointed by the president of that organization.
- 11 (i) One member from the New Hampshire Firearms Coalition, appointed by the president of that organization.
- 13 (j) Two members from Gun Owners of New Hampshire, appointed by the president of that organization.
- 15 (k) One member from Pro Gun New Hampshire, appointed by the president of that organization.
- 17 (l) One member of the Second Amendment Sisters-New Hampshire Chapter, appointed by that organization.
  - (m) One member of the National Shooting Sports Foundation, appointed by that organization.
- 21 (n) One member from the New Hampshire Association of Chiefs of Police, appointed by 22 the president of that organization.
  - (o) One member of the New Hampshire Wildlife Federation, appointed by that organization.
    - (p) Two members appointed by the governor.

3

4

19

20

23

24

25

26

27

28

29

30

31

32

33

34

35

- II. The commission shall study any issue relating to the National Instant Criminal Background Check System (NICS) and the federal statutes and rules governing NICS, including, but not limited to, providing access to an attorney prior to the inclusion of a person's information in NICS and the liability of New Hampshire's firearms businesses under the state's existing background check reporting requirements. The commission may also study any other issue which the commission deems relevant to its purpose.
- III. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the commissioner of the department of safety or designee. The first meeting of the commission shall be held within 45 days of the effective date of this section. Ten members of the commission shall constitute a quorum.
- IV. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house

# Amendment to SB 244 - Page 4 -

- 1 clerk, the senate clerk, the governor, and the state library on or before December 31, 2014.
- 2 3 Repeal. RSA 159:27, relative to the commission to study mental health and firearms, is 3 repealed.
  - 4 Effective Date.
- 5 I. Sections 1 and 3 of this act shall take effect January 1, 2015.
- 6 II. The remainder of this act shall take effect upon its passage.

7

4

1

2014-1101s

## 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.