

Committee Report

REGULAR CALENDAR

March 27, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on Criminal Justice and
Public Safety to which was referred HB 696-FN,**

**AN ACT establishing a protective order for vulnerable
adults. Having considered the same, report the same
with the recommendation that the bill OUGHT TO PASS.**

Rep. Robert Renny Cushing

FOR THE MAJORITY OF THE COMMITTEE

REGULAR CALENDAR

Criminal Justice and Public Safety

HB 696-FN, establishing a protective order for vulnerable adults. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Robert Renny Cushing for the **Majority** of Criminal Justice and Public Safety. This bill establishes a procedure to enable vulnerable adults to seek temporary and permanent relief from abuse, exploitation, and neglect. The bill is important and necessary because our criminal statutes do not provide adequate protection for our state's most vulnerable citizens; too often, by the time abuse, neglect, or exploitation can be proven, assets are long gone or the vulnerable adult has been subjected to unsafe conditions for far too long. Language in the bill is modeled on RSA 173-B Protection of Persons From Domestic Violence, which has been in place for 20 years, has withstood constitutional challenges, and has been an effective tool for stopping and preventing future abuse. Providing vulnerable adults with a similar tool will allow them access to a user-friendly and affordable method to obtain civil remedies. Contrary to claims by some, the purpose of the bill is not to confiscate weapons. As compared to RSA 173-B, relinquishment of firearms is not mandatory, but would take place only if an order of the court "makes a specific finding that it is necessary for the protection of a plaintiff." The majority recognizes that vulnerable adults may face the same risk of harm by a defendant as a victim of domestic violence and believes a vulnerable adult should be afforded the same ability to seek protection from the court. The penalties in this bill are similar to those in RSA 173-B, which the majority finds to be consistent and just. The bill has the support of the NH Attorney General's Office, AARP-New Hampshire, the Alzheimer's Association, the New Hampshire Bankers Association, the NH Chapter of the National Academy of Elder Law Attorneys and the Disabilities Rights Center-NH. The majority recommends ought to pass to send a clear message that in New Hampshire we will protect our vulnerable citizens from those who would abuse, exploit, and neglect them. **Vote 12-8.**

Original: House Clerk

Cc: Committee Bill File

**MAJORITY
COMMITTEE REPORT**

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 696-FN
Title:	establishing a protective order for vulnerable adults.
Date:	March 27, 2019
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS <<Amendment #>>

STATEMENT OF INTENT

HB 696 establishes a procedure to enable vulnerable adults to seek temporary and permanent relief from abuse, exploitation and neglect. The bill is important and necessary because our criminal statutes do not provide adequate protection for our state's most vulnerable citizens; too often, by the time abuse, neglect or exploitation can be proven, assets are long gone, or the vulnerable adult has been subjected to unsafe conditions for far too long. Language in the bill is modeled on RSA 173-B Protection of Persons From Domestic Violence, which has been in place for 20 years, has withstood constitutional challenges, and has been an effective tool for stopping and preventing future abuse. Providing vulnerable adults with a similar tool will allow them access to a user friendly and affordable method to obtain civil remedies. Contrary to claims by some, the purpose of the bill is not to confiscate weapons. As compared to RSA173-B, relinquishment of firearms is not mandatory but would take place only if an order of the court "makes a specific finding that it is necessary for the protection of a plaintiff." The majority recognizes that vulnerable adults may face the same risk of harm by a defendant as a victim of domestic violence and believes a vulnerable adult should be afforded the same ability to seek protection from the court. The penalties in HB 696 are similar to those in RSA 173-B, which the majority finds to be consistent and just. The bill has the support of the NH Attorney General's Office, AARP-New Hampshire, the Alzheimer's Association, the New Hampshire Bankers Association, the NH Chapter of the National Academy of Elder Law Attorneys and the Disabilities Rights Center-NH. The Majority recommends Ought to Pass to send a clear message that in New Hampshire we will protect our vulnerable citizens from those who would abuse, exploit and neglect them.

Vote 12-8.

Rep. Robert Renny Cushing
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: Criminal Justice + Public Safety

BILL NUMBER: HB696

TITLE: establish a protocol on R
inbound auto

DATE: 3/27/19 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

See Pen

COMMITTEE VOTE: 12-8

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. [Signature]
For the Committee

REGULAR CALENDAR

March 27, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Criminal Justice and Public Safety to which was referred HB 696-FN,

AN ACT establishing a protective order for vulnerable adults. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. John Burt

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 696-FN
Title:	establishing a protective order for vulnerable adults.
Date:	March 27, 2019
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE <<Amendment #>>

STATEMENT OF INTENT

This bill claims to add additional protections for elders and venerable adults. The language was lifted from some of the domestic violence statutes and includes some of the same due process violations that are present in that section of law. The criminal justice system is based on the innocent until proven guilty model, yet this bill creates several loopholes to the basic principles of American jurisprudence. The bill allows for ex-parte hearings, telephonic orders and the seizing of firearms without the defendant even being aware of the accusations that have been made. The bill as drafted violates numerous articles of the New Hampshire Constitution, including Article 2 the right to ‘..the enjoying and defending life and liberty; acquiring, possessing, and protecting, property;..’, Article 2-a ‘..right to keep and bear arms in defense of themselves, their families, their property and the state.’, Article 3 regarding the organization of society, Article 15, the rights of the accused, Article 20 the right to a jury trial “In all controversies concerning property, and in all suits between two or more persons except those in which another practice is and has been customary and except those in which the value in controversy does not exceed \$1,500 and no title to real estate is involved, the parties have a right to a trial by jury.” The bill allows for the taking of cars, homes and even pets in addition to firearms. The initial committee for the bill was Health and Human Services and those testifying pointed out that there are gaping holes in the civil legal procedures that need a thorough vetting by the Judiciary committee. The minority of the committee saw that the bill was unworkable in the current state and should either be retained or found inexpedient to legislate.

Rep. John Burt
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Criminal Justice and Public Safety

HB 696-FN, establishing a protective order for vulnerable adults. **INEXPEDIENT TO LEGISLATE.**

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**MINORITY
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Recommendation:	INEXPEDIENT TO LEGISLATE <<Amendment #>>

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Original: House Clerk
Cc: Committee Bill File

[Print](#) | [Close Window](#)

Subject: Minority Blurb HB 696
From: john@burtnh.com
Date: Wed, Mar 27, 2019 7:05 am
To: "Karen Karwocki" <karen.karwocki@leg.state.nh.us>

Good morning Karen,

I hope I do not need this but I am ready,

John

Representative John Burt for the minority of Criminal Justice,

HB696 claims to add additional protections for elders and venerable adults,. The language was lifted from some of the domestic violence statutes and includes some of the same due process violations that are present in that section of law. The criminal justice system is based on the innocent until proven guilty model, yet this bill creates several loopholes to the basic principles of American jurisprudence. The bill allows for ex-parte hearings, telephonic orders and the seizing of firearms without the defendant even being aware of the accusations that have been made. The bill as drafted violates numerous articles of the New Hampshire Constitution, including articles, 2 the right to ‘..the enjoying and defending life and liberty; acquiring, possessing, and protecting, property;..’, Article 2-a ‘..right to keep and bear arms in defense of themselves, their families, their property and the state.’, Article 3 regarding the organization of society, Article 15, the rights of the accused, Article 20 the right to a jury trial “In all controversies concerning property, and in all suits between two or more persons except those in which another practice is and has been customary and except those in which the value in controversy does not exceed \$1,500 and no title to real estate is involved, the parties have a right

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John A. Burt [NH State Representative](#)
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Tel: 603-624-5084 Cell: 603-289-0792
john@burtnh.com www.burtnh.com

[Criminal Justice and Public Safety Committee](#)
LOB Building Room 204

FaceBook, [John A Burt](#)
Click on my name.

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Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE: March 27, 2019

LOB ROOM: 204

MOTIONS: OUGHT TO PASS

Moved by Rep. Cushing

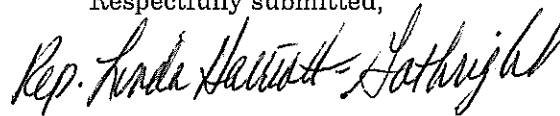
Seconded by Rep. Rodd

Vote: 12-8

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

A handwritten signature in cursive script that reads "Rep. Linda Harriott-Gathright".

Rep Linda Harriott-Gathright, Clerk



2019 SESSION

Criminal Justice and Public Safety

Bill #: HB 696 Motion: OTP AM #: 11:40 Exec Session Date: 3/27/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Cushing, Robert Renny Chairman	✓	✓	
Rodd, Beth Vice Chairman	✓		
Pantelakos, Laura C.	✓		
O'Hearne, Andrew S.	✓		
Harriott-Gathright, Linda C. Clerk	✓		
Opderbecke, Linn	✓		
Bordenet, John	✓		
Meuse, David	✓		
Murphy, Nancy A.	✓		
Newman, Ray E.	✓		
Radhakrishnan, Julie	✓		
Swinburne, Sandy L.	✓		
Welch, David A.		✓	
Fields, Dennis H.		✓	
Burt, John A.		✓	
Green, Dennis E.		✓	
McNally, Jody L.		✓	
Testerman, Dave		✓	
Wallace, Scott		✓	
Abbas, Daryl A.		✓	
TOTAL VOTE:	<u>12</u>	<u>8</u>	

Rung

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE: March 26, 2019

LOB ROOM: 204 Time Public Hearing Called to Order: 10:00 a.m.

Time Adjourned: 2:15 p.m.

Committee Members: Reps. Cushing, Rodd, Harriott-Gathright, O'Hearne, Opderbecke, Bordenet, Meuse, Murphy, R. Newman, Radhakrishman, Swinburne, Welch, Fields, Burt, Green, McNally, Testerman, Wallace and Abbas

Bill Sponsors:

Rep. Cushing

Rep. Long

Sen. Chandley

Rep. McMahon

Rep. Gordon

Sen. Carson

Rep. Campion

Rep. Marsh

Sen. Hennessey

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

James Gaffrey, Warner - opposed - Substitute voting right in place of confiscating guns not consistent with our laws.

Susan Olsen, President of Women Defense league - opposed - New laws will find recourse.

Rep. Testerman - Already laws in the books, putting this one on the books will cause confusion. Says already exists on the books. Strength RSA 161 Penalty 631:9 may want to join together.

Cheryl Steinberg, NH Legal Assistance - supports - Bill is important because of gaps in the system. Difference from last year. Its at the discrepancy of the judge. P6:3 courts specific finding.

Rep. McNally - Confused what they are doing says telephone order she does not like it.

Rep. Wallace - Can you explain why the criminal statue does not apply. Exploitation is different for criminal issues, it does not allow immediate relief.

Remember son that showed up at the hospital to shoot his mother.

Paul Marguis, NHFC - opposed - I have a son, and see a great need for the bill. He was abused by an aide when he didn't live with us. I see this as an opportunity to take away my rights as a gun owner. Reference to fire arms should be removed from bill.

Hon. Joe Hannon, Board of Directors for guns of NH - opposed - Law enforcement is not responsible for the return condition of guns. Statue will be abused by other family members for gains.

Alan Rice, Gun owners of America - opposed - Due process is taking property once in court, not removing guns before court.

Hon. JR Hoell, NH Firearms Coalition - opposed

*Doug McNult, AARP - supports -

Penny Dean - opposed

Steven Stefanek, - opposed

Respectfully submitted,

Rep. Linda Harriott-Gathright

Rep. Linda Harriott-Gathright, Clerk

(1)

support HB 696 Rep Cushing - Prime Sponsor

But? 3:14 Vulnerable definition

Abbas? 3:16 court procedures
Same as domestic violence

But case order is done - how do the person get firearms

Cushing ask for them back

But amend to add petition court

But what happens if I as a visitor be in violation?

Jays broad
David - Page 7:4

oppose (1) Rep Jeanine Notter vote etc
here about guns only not
Wall

support Rep Horrigan

Abbas Bill does not require the court to follow judicial
Do you support it

oppose Katherine Cooper NH ACDL

10:4

4:19 Have a problem learning plenty in caring for
animal when they can't take care themselves.

Welch - Court has the authority to appoint a guardian?
Katherine yes

oppose Hon. Dan Utter - Meiford
Same flaws as 687 - Mother in fact imagine
things that never happened. Says no investigator's
authority in the bill.
Et parte can get an order to go in and look,

support Heather Carroll Alzheimer Assoc
(2) 18:3M cost taxpayers

(2)

HB096

oppose

James Gaffrey self

Substitute voting right in place of confiscating guns
Not consistent with our laws.

oppose

(3)

Susan Olsen President of Women Defuse
New laws will find recourse
Appear as self

Testermen - already laws on the books, putting this
one on the books will cause confusion.

Says already exist on the books strength Es 161
Penalty 631:9 may want to join together.
may want.

Support

Cheryl Steinberg - we think this NH legal assistance
bill is important because of gaps in the system.

Difference from last year

Its at the discrepancy of the judge
P6:3 Courts specific findings

Mendaly - confused what they are doing says telephonic
order she does not like it.

Wallace: Can you explain why the criminal statute does not apply
Exploitation is different criminal issues. Cheryl
allow immediate relief. It does not

Remember son that showed up at the hospital to shoot his mother.

oppose

Paul Marquis - have a son, see a great need for the
bill. He was abuse by an aide when he did not
live with his. I see this as an opportunity to take
away my rights as a gun owner. Reference to fire
arm should be removed from bill.

oppose

Hon. Joe Hanson Board of Directors for Guns of NH
Law enforcement not responsible for the current condition
of guns. Statute created by other family members for gain.

(3)

HB696

oppose

Alan Rice Gun Owners of America
Due process is taking property once court, not removing guns before court!

oppose

Jim J. Howell NH Firearms Coalition
Recess til 1:30 pm

(4) 1:55 pm support

Doug McNult AARP
See Testimony

oppose

Penny Dean

oppose

Steven Stefanek self March
Article 14

Jim J. Howell ITC

Testimony

Criminal Justice Committee

Mr Chairman,

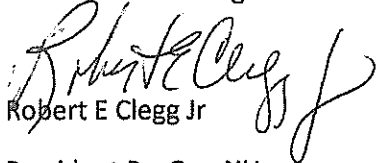
While the current version of HB 696 is better than the original, it still causes confusion and the likelihood of people being charged under different statutes because they only looked at one, not all of them. Creating a third statute that covers almost the same areas only with different penalties is similar to what the State of NH has done with building codes. The Department of Labor had its codes, the Department of Health and Human Services had ITS codes, Department of Environmental Services had their codes, the Fire Marshals office had their codes, the Electricians Board and the Plumbers Boards and the Mechanical Contractors all had their own codes.....and no one could ever guarantee their work would pass them all. In fact, it was impossible to have met all the codes before the Building Code Review Board and the adoption of a State Building Code. I make the comparison to show what I see is being done to the domestic violence and the elderly and adult abuse statutes in HB 696.

If we take the Elderly and Adult Services Chapter 161 and roll into it the elder issues found in HB 696, we would have a more comprehensible law on elderly and adult abuse. Adding the definitions of "vulnerable " would do much the same intent as HB 696 has done

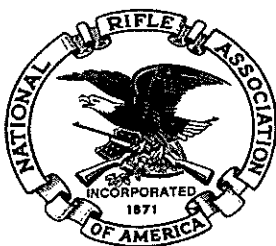
Creating new penalties in different areas troubles me. It allows for coercion by law enforcement or prosecutors more interested in conviction numbers than they are in real justice. Why not simply add the abuse of a vulnerable adult to Chapter 631? I have worked with Project Innocence for the past few years and I have met many who fell prey to situations such as prosecutorial misconduct; a prosecutor, working for an organized crime family, convicted 2 men and put one on Death Row using confusion, lies and false testimony. I do not need to remind you there are 160 exonerated, innocent people who have been released from death row. We do not know how many went to their death before they had the chance to prove corruption, once dead, there is no one trying for justice on their behalf.

If HB 696 were to pass, it would be the third statute to cover the same areas. With 3 different statutes to choose from when it comes time to plea deal an innocent person, what is to stop a prosecutor from telling a person "plead guilty because if I win in court I will be charging you under one of the other statutes"? Is it or can it be said to be double jeopardy? What happens to the innocent person who maintains their innocence against a corrupt prosecutor who does charge them after losing the first charge under a different statute? The real issue is money and, while the prosecutor has unlimited taxpayer money, the innocent rarely does. Let's not forget the person charged still must defend themselves and what if the new charge is just different enough to pass a judge's look?

Health and Human Services Committee did a great job with their portion of the bill but it is Criminal Justice committee that is charged with oversight of the penalties and keeping the criminal laws in such a manner as to mete out justice. I submit that is still a possibility. The Criminal Justice committee could amend the bill before exec'ing or it could retain the bill and work to make it a sensible law, in one place, so there is never a good reason for "not knowing". I ask the committee to consider one or the other.


Robert E Clegg Jr

President ProGun NH



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
11250 WAPLES MILL ROAD
FAIRFAX, VIRGINIA 22030-7400

Lauren E. LePage
State Director

MEMORANDUM OF OPPOSITION

Date: March 26, 2019

To: Honorable Members of the House Criminal Justice and Public Safety Committee

From: Lauren E. LePage

RE: HB 696

Honorable members of the House Criminal Justice and Public Safety Committee, on behalf of the National Rifle Association, I would like to express our opposition for HB 696 (Cushing – D); an act establishing a protective order for vulnerable adults.

This bill violates an individual's constitutional rights and allows for the seizure of firearms with an ex parte order, absent due process. In addition, orders to seize an individual's firearms can be issued on a basis that does not have a nexus to dangerousness – and for a reason that is completely unrelated to concerns that an individual is potentially dangerous with a firearm. The bill also requires the individual against whom the order is issued to go back to court to have their own constitutionally protected property returned, rather than simply returning the firearms and ammunition to the individual when the order expires. Lastly, law enforcement is immune from liability for any damages to firearms or ammunition stored with them for the duration of the order. There is no incentive for law enforcement to safeguard the valuable property of New Hampshire citizens.

On behalf of New Hampshire citizens and law-abiding gunowners, I respectfully urge the committee to oppose HB696. Please feel free to contact me at 703-267-1243 if you have additional questions or concerns. Thank you for your cooperation in this matter.



Testimony of Susan Olsen
before the
House Committee Criminal Justice & Public Safety
HB 696
March 26, 2019

Mr. Chair, members of the Committee. My name is Susan Olsen. and the committee knows me as the Legislative Director for Women's Defense League of NH, a volunteer organization that has provided firearms education and training to hundreds and hundreds of women since its founding 2014.

Today, however, I appear on my own behalf as someone who might someday find themselves in need of a protective order when - or if - I become a vulnerable adult. **HB 696** says that "*the purpose of this chapter is to enable vulnerable adults, to seek permanent and temporary relief from abuse, exploitation, and neglect.*" **NH RSA 161-F:42** says its "*is to provide protection for vulnerable adults who are abused, neglected, or exploited.*" **NH RSA 631:9 I** says "*Whoever commits any of the following acts against an elderly, disabled, or impaired adult, as defined in RSA 631:8, shall be guilty of financial exploitation and penalized.*" And finally, **NH RSA 173-B:3** says "*Any person may seek relief pursuant to RSA 173-B:5 I. by filing a petition, in the county or district where the plaintiff or defendant resides, alleging abuse by the defendant.*"

After studying each of these statutory provisions, by adding such issues as "Emotional abuse" of a vulnerable adult, "Physical abuse" of a vulnerable adult, "Sexual abuse" of a vulnerable adult, "Exploitation" of a vulnerable adult's person or property; "Neglect" of a vulnerable adult, **RSA 173 B** seems practically ready-made to come to my - or any other vulnerable adult's - rescue.

The temporary and permanent relief provisions in **HB 696** are taken from **173:B**; however, a reading of **173:B** actually provides aid, comfort and recourse to victims compared to **696's**, which seems solely bent on punishing perpetrators.

Enacting new law for the sake of enacting new law instead of building on known foundations leaves citizens like me frantically searching **NH RSAs** trying to understand how and where my circumstances might find recourse.

For these reasons, I urge the committee to find **HB 696** - despite what some might believe to be good intentions - **Inexpedient to Legislate**

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1096 Date 3/26
 Committee Crim J.

** Please Print All Information **

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Rep Latha Mangipudi	Hills 35 Nashua			<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep Liz McConnell	Brentwood 11			<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cheryl Dean	Northwood NH		Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Alvin See	London		Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MASON HURD	HILLSBORO, NH		SELF	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Dandas Mally	Mont Vernon		Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Kevin Pratt	115 Smith Pkwy		RAYMOND NH Raymond	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JAMES GAFFNEY	WARREN		Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Mike Sylvia			Bellknop 6	<input type="checkbox"/>	<input checked="" type="checkbox"/>
David F. Flynn	N. Sandwich NH		Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Judy Aron	Sullivan dist 7. Acworth			<input type="checkbox"/>	<input checked="" type="checkbox"/>
JAMES BARRETT	GREENVILLE		SELF	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Al Baldasaro	Republican Floor Leader			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Louise Spencer	Concord		Self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GARY WHITNEY	210 MILLBROOK RD GRAFTON		Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
My 2nd Rights TRUMP you Hunt Feeling					
JR Hoell	Dunbarton NH		NH Fire Arms Coalition	<input type="checkbox"/>	<input checked="" type="checkbox"/>
James W. Korman	Concord NH	(603) 568 8344	Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Pick Russell	Salem NH		Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 696-FN Date 3/26/19
 Committee Criminal Justice

** Please Print All Information **

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Jessica Call	ALTON		WIDLNA		X
Ed Friedman	Belmont			X	
Cheri Falk	W. Hon			X	
Maura Willing	Concord		self	X	
David					
Jos Fredrick	Belmont			X	
Liz-Anne Platt	Concord		self	X	
Melissa Hinebauch	Concord		self	X	
Deborah Jakubowski	London		self	X	
Nancy Brewer	Weare		self	X	
Gabe Taylor	Concord		self	X	
Kathy Cahill	Concord		self	X	
Mawreen Kelly Effermann	Concord		self	X	
House Spencer	Concord		self	X	
Ruth M Heath	Concord		self	X	
Mark Barker	Boscawen		self	X	
Tonda Groetzinger	Farmington NH		self		X
REP DENNIS GREEN					X
Kathy Spielman	Durham		self	X	
Jim McConnell	Swanzey		self		X
Robert F. Wilkowski	Newbury N.H.		self		X
Lochwood M Horakiss	Laconia		self		X
EDWARD MORSE	STRAFFORD		SELF		X

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 696 FN Date 3/26/19
 Committee _____

** Please Print All Information **

Name	Address	Phone	Representing	(check one)	
				Pro	Con
ROGER BEVINS	1275, NORTHAM 30 KE	942 8320	SELF		X
Paul Manavi	8 Mesonkeas Dr Litchfield NH	603 566 1745	NHFC		X
Regan Lampher	Nashua			X	
Steven Stefank	Wardlester				X
Rep Dick Ninch			Howa Republican official		X
Timothy Sturtevant	Allenstown NH				X
Pummy Deann	Concord NH				X
Alan Rice	Gun owners of America				✓
A.R. Lindner	Manchester				X
MARK R ARMSTRONG	Pow BROKE				X
Shannon Chandley	SD 11			✓	
Am Hooksett					X
Gina Beaulkus	Home Care, Hospice..			✓	
Ryan Donnell	Granite State Ind Livng			✓	
Rep Troy Merner	600 #7				X
Rep Heribel NUVEZ			HILLS 37		X
Bruce Coururier			Self		X
Rep David Fox			DERRY		X
Lucy Crichton	Concord		sub	X	
Rep Timothy Hovvya			Stafford 6	X	
Rep BOB GREENE			HILLS 37		X
ERIC McFARLIN	NEW DURHAM		SELF		X
Richard Russell	4604 ST Salem NH		SELF		X

Fiscal Note

HB 696-FN- FISCAL NOTE
 AS AMENDED BY THE HOUSE (AMENDMENT #2019-0395h)

AN ACT establishing a protective order for vulnerable adults.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill enacts a new chapter that provides a process enabling vulnerable adults to seek permanent and temporary relief from abuse, exploitation, and neglect. As part of this process, the Department of Health and Human Services is authorized, but not mandated, to file a petition in a county or district where the plaintiff or other defendant resides alleging abuse, exploitation, or neglect by the defendant. The Department states that, were it to directly file the petitions, there would likely be additional personnel costs as well as mileage expenses for Department lawyers, adult protective service workers, and any other witnesses necessary to properly prosecute the petition. In addition, the Department assumes that even in cases in which it is not the moving party filing the petition, its personnel would still be utilized as witnesses. The Department is unable to estimate the extent of any additional costs.

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2020	FY 2021
Class B Misdemeanor	\$53	\$54
Class A Misdemeanor	\$76	\$77
Routine Criminal Felony Case	\$481	\$486
Protective Order	\$166	\$167
Warrant Request	\$76	\$77
Appeals	Varies	Varies
<p>It should be noted that average case cost estimates for FY 2020 and FY 2021 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.</p>		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
<p>It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).</p>		
Department of Corrections		
FY 2018 Average Cost of Incarcerating an Individual	\$40,615	\$40,615
FY 2018 Annual Marginal Cost of a General Population Inmate	\$4,620	\$4,620
FY 2018 Average Cost of Supervising an Individual on Parole/Probation	\$571	\$571
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

The Department of Safety states the bill's fiscal impact will be under \$10,000. Any impact would be related to the expanded scope of current protective order procedures already in place for domestic violence protective orders.

The Department of Justice states the bill will have no fiscal impact as the offenses contemplated

by the bill would typically be prosecuted by county prosecutors. Any appeals from convictions would be handled by the Department, but could be done within its existing budget.

AGENCIES CONTACTED:

Departments of Corrections, Justice, Safety, and Health & Human Services, Judicial Branch, Judicial Council, and New Hampshire Association of Counties

Bill as
Introduced

HB 696-FN - AS AMENDED BY THE HOUSE

27Feb2019... 0395h

2019 SESSION

19-0014
01/10

HOUSE BILL

696-FN

AN ACT

establishing a protective order for vulnerable adults.

SPONSORS:

Rep. Cushing, Rock. 21; Rep. McMahon, Rock. 7; Rep. Campion, Graf. 12; Rep. Long, Hills. 10; Rep. Gordon, Graf. 9; Rep. Marsh, Carr. 8; Sen. Chandley, Dist 11; Sen. Carson, Dist 14; Sen. Hennessey, Dist 5

COMMITTEE:

Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes a procedure for protective orders for vulnerable adults.

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.

1 VI. "Exploitation" means the improper use of a vulnerable adult's person or property for
2 another person's profit or advantage, or the breach of a fiduciary relationship through the use of a
3 person or a person's property for any purpose not in the proper and lawful execution of a trust,
4 including, but not limited to, situations where a person obtains money, property, or services from a
5 vulnerable adult through the use of undue influence, harassment, duress, deception, fraud or under
6 any circumstances where the person knew or had reason to know that the vulnerable adult lacked
7 capacity to consent.

8 VII. "Foreign protective order" means an order enforceable under RSA 173-D:14.

9 VIII. "Neglect" means an act or omission which results or could result in the deprivation of
10 essential services or supports necessary to maintain the minimum mental, emotional, or physical
11 health and safety of a vulnerable adult.

12 IX. "Plaintiff" means the vulnerable adult to be protected by the protective orders and, if
13 the court grants the petition, the protected person.

14 X. "Vulnerable" means that the physical, mental, or emotional ability of a person is such
15 that he or she is unable to manage personal, home, or financial affairs in his or her own best
16 interest, or he or she is unable to act or unable to delegate responsibility to a responsible caretaker
17 or caregiver.

18 173-D:3 Jurisdiction and Venue.

19 I. The district division and the judicial branch family division of the circuit courts shall
20 have concurrent jurisdiction over all proceedings under this chapter.

21 II. If the plaintiff has left the household or premises to avoid further abuse, the plaintiff
22 shall have the option to commence proceedings pursuant to RSA 173-D:4 in the county or district
23 where the plaintiff temporarily resides.

24 III. Proceedings under this chapter may be transferred to another court upon the motion of
25 any party or of the court as the interests of justice or the convenience of the parties may require.

26 173-D:4 Commencement of Proceedings; Hearing.

27 I. A vulnerable adult, guardian, or attorney-in-fact of a vulnerable adult, or if authorized by
28 the vulnerable adult, the department, may seek relief pursuant to RSA 173-D:6 by filing a petition,
29 in the county or district where the plaintiff or defendant resides, alleging abuse, exploitation or
30 neglect by the defendant. Any person filing a petition containing false allegations of abuse shall be
31 subject to criminal penalties. Notice of the pendency of the action and of the facts alleged against
32 the defendant shall be given to the defendant, either personally or as provided in paragraph II. The
33 plaintiff shall be permitted to supplement or amend the petition only if the defendant is provided an
34 opportunity prior to the hearing to respond to the supplemental or amended petition. All petitions
35 filed under this section shall include the home and work telephone numbers of the defendant, if
36 known. Notice of the whereabouts of the plaintiff shall not be revealed except by order of the court
37 for good cause shown. Any answer by the defendant shall be filed with the court and a copy shall be
38 provided to the plaintiff by the court.

1 II. No filing fee or fee for service of process shall be charged for a petition or response under
 2 this section, and the plaintiff or defendant may proceed without legal counsel. Either a peace officer
 3 or the sheriff's department shall serve process under this section. Any proceeding under this
 4 chapter shall not preclude any other available civil or criminal remedy.

5 III. The clerks of the circuit courts shall supply forms for petitions and for relief under this
 6 chapter designed to facilitate pro se proceedings. All such petitions shall contain the following
 7 words: I swear that the foregoing information is true and correct to the best of my knowledge. I
 8 understand that making a false statement on this petition will subject me to criminal penalties.

9 IV.(a) The court shall hold a hearing within 30 days of the filing of a petition under this
 10 section or within 10 days of service of process upon the defendant, whichever occurs later.

11 (b) The time frame established in this paragraph may be extended for an additional 10
 12 days upon motion by either party for good cause shown. A recusal by the judge or any act of God or
 13 closing of the court that interferes with the originally scheduled hearing shall not be cause for the
 14 dismissal of the petition. The court shall reschedule any hearing under this section in an
 15 expeditious manner.

16 V. In any proceeding under this chapter, the court shall not be bound by the technical rules
 17 of evidence and may admit evidence which it considers relevant and material.

18 VI. In a proceeding under this chapter, a support person may accompany a party in court
 19 and, if the party is not represented by an attorney, may sit with the party at the table that is
 20 generally reserved for the party and the party's attorney. The support person is present to provide
 21 moral and emotional support for a person who alleges he or she is a victim of abuse. The support
 22 person is not present as a legal adviser and may not provide legal advice. The support person may
 23 assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she
 24 will not be injured or threatened by the other party during the proceedings if the person who
 25 alleges he or she is a victim of abuse and the other party are required to be present in close
 26 proximity. This section does not preclude the court from exercising its discretion to remove the
 27 support person from the courtroom if the court believes the support person is prompting, swaying,
 28 or influencing the party assisted by the support person.

29 173-D:5 Temporary Relief.

30 I. Upon a showing of an immediate and present danger of abuse, exploitation, or neglect,
 31 the court may enter temporary orders to protect the plaintiff with or without actual notice to
 32 defendant. The court may issue such temporary orders by telephone, facsimile or any other
 33 methods approved by court rules. Such telephonically issued orders shall be made by a circuit court
 34 judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be
 35 effective until the close of the next regular court business day. Such orders shall be returnable to
 36 the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise
 37 ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party
 38 against whom such relief is issued may file a written request with the clerk of the court and request

1 a hearing on such orders. Such hearing shall be held no less than 3 business days and no more
2 than 5 business days after the request is received by the clerk. Such hearings may constitute the
3 final hearing described in RSA 173-D:4, V. Such temporary relief may include:

4 (a) Protective orders:

5 (1) Restraining the defendant from abusing, exploiting, or neglecting the plaintiff.

6 (2) Restraining the defendant from entering the premises and curtilage where the
7 plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable
8 notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries,
9 medication, clothing, business equipment, and any other items as determined by the court.

10 (3) Restraining the defendant from withholding items of the plaintiff's personal
11 property which are specified in the order. A peace officer shall accompany the plaintiff or his/her
12 representative in retrieving such property to protect the plaintiff.

13 (4) Restraining the defendant from contacting the plaintiff or entering a specified
14 place frequented regularly by the plaintiff.

15 (5) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
16 regardless of their place of residence, or plaintiff's household members in any way.

17 (6) Restraining the defendant from taking, converting, or damaging property in
18 which the plaintiff may have a legal or equitable interest.

19 (7) Granting the plaintiff exclusive care, custody, or control of any animal owned,
20 possessed, leased, kept, or held by the plaintiff or by the plaintiff jointly with the defendant in
21 either household, and ordering the defendant to stay away from the animal and forbidding the
22 defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or
23 neglect, or disposing of the animal.

24 (b) Other relief, including but not limited to:

25 (1) In the case of financial exploitation, prohibiting the defendant from transferring
26 or otherwise encumbering any of his or her assets other than for necessary household expenses,
27 provided, however, that such prohibition shall not extend to, encumber, or otherwise limit the
28 rights of creditors, mortgagees, or secured parties in such property.

29 (2) Restraining the defendant from taking any action which would lead to the
30 disconnection of any and all utilities and services to the parties' household, or the discontinuance of
31 existing business or service contracts, including, but not limited to, mortgage or rental agreements.

32 (3) An order enjoining a party from specified behavior that the court determines is
33 necessary to protect the vulnerable adult.

34 (4) If the court makes a specific finding that it is necessary for the protection of the
35 plaintiff, the court may issue an order directing the defendant to relinquish to a police officer any
36 and all firearms and ammunition in the control, ownership, or possession of the defendant, or any
37 other person on behalf of the defendant for the duration of the protective order.

1 I. A finding of abuse, exploitation, or neglect shall mean the defendant represents a credible
2 threat to the safety of the plaintiff or physical, mental, or financial well-being. Upon a showing of
3 abuse, exploitation, or neglect of the plaintiff by a preponderance of the evidence, the court shall
4 grant such relief as is necessary to bring about a cessation of abuse, exploitation, or neglect. Such
5 relief may include:

6 (a) Protective orders:

7 (1) Restraining the defendant from abusing, exploiting or neglecting the plaintiff.

8 (2) Restraining the defendant from entering the premises and curtilage where the
9 plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry
10 by the plaintiff for the sole purpose of retrieving personal property specified by the court.

11 (3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's
12 place of employment, school, or any specified place frequented regularly by the plaintiff or by any
13 family or household member.

14 (4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
15 regardless of their place of residence, or plaintiff's household members in any way.

16 (5) Restraining the defendant from taking, converting, or damaging property in
17 which the plaintiff may have a legal or equitable interest.

18 (6) Granting the plaintiff exclusive care, custody, or control of any animal owned,
19 possessed, leased, kept, or held by the plaintiff or by the plaintiff jointly with the defendant in
20 either household, and ordering the defendant to stay away from the animal and forbidding the
21 defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or
22 neglect, or disposing of the animal.

23 (b) Other relief including, but not limited to:

24 (1) Granting the plaintiff the exclusive use and possession of the premises and
25 curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and
26 pays for the premises and the defendant has no legal duty to support the plaintiff and provided,
27 however, that such relief shall not extend to, extinguish, encumber, or otherwise limit the rights of
28 creditors, mortgagees, or secured parties in such property.

29 (2) Restraining the defendant from withholding items of the plaintiff's personal
30 property specified by the court. A peace officer shall accompany the plaintiff in retrieving such
31 property to protect the plaintiff.

32 (3) Granting to the plaintiff the exclusive right of use and possession of the
33 household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns
34 such personal property and the defendant has no legal duty to support the plaintiff.

35 (4) Ordering the defendant to make automobile, insurance, health care, utilities,
36 rent, or mortgage payments if the defendant has a legal or fiduciary duty to do so.

37 (5) Ordering the defendant to pay the plaintiff monetary compensation for losses
38 suffered as a direct result of the abuse, exploitation, or neglect which may include, but not be

1 limited to, misappropriated funds, loss of earnings or support, medical and dental expenses, damage
 2 to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

3 (6) If the court makes a specific finding that it is necessary for the protection of the
 4 plaintiff, issuing an order directing the defendant to relinquish to a police officer any and all
 5 firearms and ammunition in the control, ownership, or possession of the defendant, or any other
 6 person on behalf of the defendant for the duration of the protective order.

7 (7) Ordering the defendant to pay reasonable attorney's fees.

8 II. If the court makes a specific finding that it necessary for the protection of the plaintiff,
 9 the court may prohibit the defendant from purchasing, receiving, or possessing any deadly weapons
 10 and any and all firearms and ammunition for the duration of the order. The court may
 11 subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons
 12 specified in the protective order and any and all firearms and ammunition, if there is probable
 13 cause to believe such firearms and ammunition and specified deadly weapons are kept on the
 14 premises or curtilage of the defendant.

15 III. The court shall not deny the plaintiff protective orders based solely on a lapse of time
 16 between an act of abuse, exploitation, or neglect and the filing of a petition, provided that the
 17 underlying act presents a credible threat to the plaintiff's current safety or physical, mental, or
 18 financial well-being.

19 IV. No order made under this section shall supersede or affect any court order pertaining to
 20 the possession of a residence or household furniture as determined by a circuit court, or title to real
 21 or personal property.

22 V. The findings of fact with respect to the protective order shall be final, but questions of
 23 law may be transferred from the circuit court to the supreme court.

24 VI. Any order under this section shall be for a fixed period of time not to exceed one year,
 25 but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with
 26 notice to the defendant, for one year after the expiration of the first order and thereafter each
 27 extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the
 28 court. The court shall review the order and each renewal thereof and shall grant such relief as may
 29 be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the
 30 right to a hearing on the extension of any order under this paragraph to be held within 30 days of
 31 the extension. The court shall state in writing, at the respondent's request, its reason or reasons for
 32 granting the extension. The court shall retain jurisdiction to enforce and collect any financial
 33 compensation due to the plaintiff which accrued prior to the expiration of the protective order.

34 VII. Both parties shall be issued written copies of any orders issued by the court, and all
 35 orders shall bear the following language: "A willful violation of this order is a crime, as well as
 36 contempt of court. Violations of the protective provisions shall result in arrest and may result in
 37 imprisonment." Orders shall clearly state how any party can request a further hearing and how the
 38 plaintiff may bring a criminal complaint or a petition for contempt if there is a violation of any court

1 order.

2 VIII.(a) No order issued under this chapter shall be modified other than by the court.

3 (b) If either party wishes the defendant to be excused from any provisions of an order of
4 protection, the remedy is to petition the court for modification of such order.

5 (c) A defendant who is restrained from contacting the plaintiff or entering the premises
6 of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining
7 order has been modified by the court.

8 (d) This paragraph shall give unequivocal direction to peace officers that orders for
9 protection are to be enforced as written and that no action by a party relieves them of the duty to
10 enforce the order.

11 IX. Upon issuing an order against a defendant, in which a defendant is restrained from
12 having any contact with the plaintiff, the court shall advise the plaintiff that it would be unwise
13 and possibly unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the
14 defendant for any reason, the court shall advise the plaintiff that such contact be made only after
15 petitioning the court for a modification of the order. In an emergency situation, the plaintiff or
16 plaintiff's family may request that the local police department notify the defendant and the local
17 police may accompany the defendant to a designated location, such as a hospital, if appropriate.

18 X.(a) A copy of each protective order issued under this chapter shall be transmitted to the
19 administrative office of the courts by facsimile or computer. An emergency protective order issued
20 telephonically shall be transmitted by telephone or facsimile to the department of safety.

21 (b) The administrative office of the courts shall enter information regarding the
22 protective orders into the state database which shall be made available to police and sheriff
23 departments statewide. The department of safety shall make available information regarding
24 emergency protective orders issued telephonically to police and sheriff departments statewide.

25 (c) The administrative office of the courts shall update the database upon expiration or
26 termination of a protective order.

27 (d) Notwithstanding any other provision of law, the administrative office of the courts,
28 the department of health and human services, or the department of safety, their employees and
29 agents, and law enforcement officials shall not be held criminally or civilly liable for action taken
30 under this chapter or RSA 458:16, provided they are acting in good faith and without gross
31 negligence, and within the scope of their duties and authority.

32 XI. If a criminal records check conducted by the department of safety indicates that a
33 potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a
34 protective order issued under this chapter, the department of safety shall notify the administrative
35 office of the courts of the denial. The administrative office of the courts shall immediately notify the
36 plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the
37 protective order.

38 XII.(a) Within 15 days prior to the expiration of the protective orders, the defendant may

1 request, by motion to the court, the return of any and all firearms and ammunition and specified
 2 deadly weapons held by the law enforcement agency while the protective order was in effect. Upon
 3 receipt of such a motion, the court shall schedule a hearing no later than 15 days after the
 4 expiration of the order. The court shall provide written notice to the plaintiff who shall have the
 5 right to appear and be heard, and to the law enforcement agency which has control of the firearms,
 6 ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

7 (1) Establishing whether the defendant is subject to any state or federal law or
 8 court order that precludes the defendant from owning or possessing a firearm; and

9 (2) Under circumstances where the plaintiff has requested an extension of the
 10 protective order, whether the plaintiff has established by a preponderance of the evidence that the
 11 defendant continues to represent a credible threat to the safety of the plaintiff.

12 (b) If the court finds that the defendant is not subject to any state or federal law or
 13 court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's
 14 request to extend the protective order, the court shall issue a written order directing the law
 15 enforcement agency to return the requested firearms, ammunition, or deadly weapon to the
 16 defendant.

17 (c) Law enforcement agencies shall not release firearms and ammunition and specified
 18 deadly weapons without a court order granting such release. The law enforcement agency may
 19 charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified
 20 deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost
 21 incurred by the law enforcement agency for the storage of the firearms and ammunition and
 22 specified deadly weapons. The defendant may make alternative arrangements with a federally
 23 licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval
 24 of the court. Such firearms shall be turned over to the appropriate law enforcement agency for
 25 transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement
 26 agency responsible for their transfer to the storage facility pursuant to a court order as prescribed
 27 in this paragraph.

28 (d) No law enforcement agency shall be held liable for alleged damage or deterioration
 29 due to storage or transportation to any firearms and ammunition and specified deadly weapons held
 30 by a law enforcement agency, provided that due care is used.

31 173-D:7 Permissible Contact.

32 I. A protective order issued pursuant to RSA 173-D:5 or RSA 173-D:6 shall not be construed
 33 to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the
 34 defendant in an action brought under this chapter, or in any criminal proceeding concerning the
 35 abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the
 36 scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of
 37 the attorney: identifies himself or herself as a representative of the defendant; acknowledges the
 38 existence of the protective order and informs the plaintiff that he or she has no obligation to speak;

1 terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; and ensures
2 that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the
3 court has modified the protective order to permit such contact.

4 II. A no-contact provision in a protective order issued pursuant to RSA 173-D:5 or RSA 173-
5 D:6 shall not be construed to:

6 (a) Prevent contact between counsel for represented parties; or

7 (b) Prevent a party from appearing at a scheduled court or administrative hearing; or

8 (c) Prevent a defendant or defendant's counsel from sending the plaintiff copies of any
9 legal pleadings filed in court relating to the petition or related civil or criminal matters.

10 III. A violation of this section may result in a finding of contempt of court.

11 173-D:8 Guardian Ad Litem. In all proceedings under this chapter, the court may appoint a
12 guardian ad litem to represent the interests of the vulnerable adult. The guardian ad litem may
13 continue to serve after the final disposition of the case.

14 173-D:9 Notification.

15 I. A copy of any order made under this chapter which prohibits any person from abusing
16 another shall be promptly transmitted to the local law enforcement agency having jurisdiction to
17 enforce such order.

18 II. Temporary orders shall be promptly served on the defendant by a peace officer.
19 Subsequent orders shall be sent to the defendant's last address of record. The defendant shall be
20 responsible for informing the court of any changes of address. Law enforcement agencies shall
21 establish procedures whereby a peace officer at the scene of an alleged violation of such an order
22 may be informed of the existence and terms of such order.

23 III. Any court-ordered changes or modifications of the order shall be effective upon issuance
24 of such changes or modifications, and shall be mailed or otherwise provided to the appropriate local
25 law enforcement agency and transmitted to the department of safety within 24 hours of the entry of
26 such changes or modification.

27 173-D:10 Violation of Protective Order; Penalty.

28 I.(a) When the defendant violates either a temporary or permanent protective order issued
29 or enforced under this chapter, peace officers shall arrest the defendant and ensure that the
30 defendant is detained until arraignment, provided that in extreme circumstances, such as when the
31 health of the defendant would be jeopardized by the temporary detention, a judge in response to a
32 request by the arresting law enforcement officer or agency, may order an alternative to detention
33 pending arraignment. Such arrests may be made within 12 hours without a warrant upon probable
34 cause, whether or not the violation is committed in the presence of a peace officer.

35 (b) Subsequent to an arrest, the peace officer may seize any firearms and ammunition
36 in the control, ownership, or possession of the defendant and any deadly weapons which may have
37 been used, or were threatened to be used, during the violation of the protective order. If seized, the
38 law enforcement agency shall maintain possession of the firearms, ammunition, or deadly weapons

1 until the court issues an order directing that the firearms, ammunition, or deadly weapons be
 2 relinquished and specifying the person to whom the firearms and ammunition or deadly weapons
 3 will be relinquished.

4 II. The prosecution and sentencing for criminal contempt for a violation of a protective
 5 order shall not preclude the prosecution of or sentencing for other criminal charges underlying the
 6 contempt.

7 III. A person shall be guilty of a class A misdemeanor if such person knowingly violates a
 8 protective order issued under this chapter or any foreign protective order enforceable under the
 9 laws of this state. Charges made under this chapter shall not be reduced to a lesser charge, as
 10 permitted in other instances under RSA 625:9.

11 IV. Any person convicted under paragraph III, or who has been convicted in another
 12 jurisdiction of violating a protective order enforceable under the laws of this state, who, within 6
 13 years of such conviction or the completion of the sentence imposed for such conviction, whichever is
 14 later, subsequently commits and is convicted of one or more offenses involving abuse may be
 15 charged with an enhanced penalty for each subsequent offense as follows:

16 (a) There shall be no enhanced charge under this section if the subsequent offense is a
 17 class A felony or an unclassified felony;

18 (b) If the subsequent offense would otherwise constitute a class B felony, it may be
 19 charged as a class A felony;

20 (c) If the subsequent offense would otherwise constitute a class A misdemeanor, it may
 21 be charged as a class B felony;

22 (d) If the subsequent offense would otherwise constitute a class B misdemeanor, it may
 23 be charged as a class A misdemeanor;

24 (e) If the subsequent offense would otherwise constitute a violation, it may be charged
 25 as a class B misdemeanor.

26 V. A victim of abuse, exploitation, or neglect shall be entitled to all rights granted to victims
 27 of crime under RSA 21-M:8-k.

28 173-D:11 Protection by Peace Officers.

29 I. Whenever any peace officer has probable cause to believe that a person has been abused,
 30 exploited, or neglected, as defined in RSA 161-F:43 and RSA 173-D:2, that officer shall use all
 31 means within reason to prevent further abuse, exploitation, or neglect including, but not limited to:

32 (a) Confiscating any deadly weapons involved in the alleged abuse, exploitation or
 33 neglect.

34 (b) Transporting or obtaining transportation for the victim to a place of safety, local
 35 family member, or friend.

36 (c) Assisting the victim in removing toiletries, medication, clothing, and any other items
 37 determined by the court.

38 (d) Giving the victim immediate and written notice of the rights of victims and of the

1 remedies and services available to victims of abuse, exploitation and neglect. The written notice
2 shall include a statement substantially as follows:

3 "If you are the victim of abuse, exploitation and neglect and you believe that law enforcement
4 protection is needed for your physical safety, you have the right to request that the officer assist in
5 providing for your safety, including asking for an emergency telephonic order for protection. You
6 may also request that the officer assist you in obtaining from your premises and curtilage, toiletries,
7 medication, clothing, business equipment, and any other items as determined by the court, and in
8 locating and taking you to a local safe place including, but not limited to, a place of safety a family
9 member's or friend's residence, or a similar place of safety. If you are in need of medical treatment,
10 you have the right to request that the officer assist you in obtaining an ambulance. You may
11 request a copy of the report filed by the peace officer, at no cost, from the law enforcement
12 department."

13 173-D:12 Notice to the Victim.

14 I. Notwithstanding the peace officer's obligations in RSA 173-D:11, all peace officers shall
15 give victims of abuse, exploitation, and neglect immediate and adequate notice of their right to go to
16 the circuit court of their county to file a petition asking for protective orders against the abusive
17 person and to seek a private criminal complaint.

18 II. The clerk of the court shall be responsible for advising victims of their right to request
19 that the judge issue an order which may include:

20 (a) Restraining the defendant from abusing, exploiting, and/or neglecting the victim.

21 (b) Directing the defendant to leave and stay away from the victim's premises and
22 curtilage.

23 (c) Restraining the defendant from contacting the victim, or entering any specified place
24 frequented regularly by the victim.

25 (d) Restraining the defendant from abusing, in any way, the victim, household
26 members, or victim's relatives, regardless of their place of residence.

27 (e) Restraining the defendant from taking, converting, or damaging personal or real
28 property in which the victim may have a legal or equitable interest.

29 (f) Ordering the defendant to pay the victim monetary compensation for losses suffered
30 as a direct result of the abuse, exploitation, or neglect which may include, but not be limited to,
31 misappropriated funds, loss of earnings or support, medical and dental expenses, damage to
32 property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

33 (g) Ordering the removal of any and all firearms and ammunition in the control,
34 ownership, or possession of the defendant.

35 (h) Ordering the defendant to pay reasonable attorney's fees.

36 173-D:13 Emergency Care; Limitation and Liability. Any act or omission of any peace officer
37 rendering emergency care or assistance to a victim under this chapter including, but not limited to
38 transportation, shall not impose civil liability upon the peace officer or the peace officer's

1 supervisors or employer if the care or assistance is rendered in good faith, unless the act or omission
2 is a result of gross negligence or willful misconduct.

3 173-D:14 Orders Enforceable.

4 I. Any protective order issued under this chapter shall be effective throughout the state.

5 II. Any protective order issued by any other state, tribal, or territorial court related to
6 abuse, exploitation or neglect of a vulnerable adult, including an ex parte order, shall be deemed
7 valid if the issuing court had jurisdiction over the parties and matter under the law of the state,
8 tribe, or territory, and the person against whom the order was made was given reasonable notice
9 and opportunity to be heard. There shall be a presumption of validity where an order appears
10 facially valid.

11 III. Any valid protective order, as defined in paragraph II, shall be accorded full faith and
12 credit throughout the state.

13 IV. A person entitled to protection under a foreign protective order, as defined in paragraph
14 II, may file such order in any circuit court by filing with the court a certified copy of the order.
15 Such person shall swear under oath in an affidavit to the best of such person's knowledge that the
16 order is presently in effect as written. Such filing shall be without fee or cost. The clerk of the
17 circuit court shall forward such order to the administrative office of the courts which shall enter
18 such order in the state database. Such filing shall not be a precondition to arrest or enforcement of
19 a foreign order.

20 V. A peace officer may rely upon a copy of any protective order issued under this chapter or
21 upon a copy of a foreign protective order, as defined in this section, which has been provided to the
22 peace officer by any source.

23 VI. Law enforcement personnel may rely on the statement of the person protected by the
24 order that the order remains in effect as written.

25 173-D:15 Reporting and Referrals. Any law enforcement officer who investigates an alleged
26 incident of abuse, exploitation, or neglect of a vulnerable adult shall report the matter to the
27 department pursuant to RSA 161-F:46 and advise the person subject to such violence of the
28 availability of programs from which that person may receive services.

29 173-D:16 Severability. If any provision of this chapter or the application of such provision to
30 any person or circumstance is held invalid, the invalidity does not affect other provisions or
31 applications of the chapter which can be given effect without the invalid provisions or applications,
32 and to this end the provisions of this chapter are severable.

33 2 Effective Date. This act shall take effect January 1, 2020.

HB 696-FN- FISCAL NOTE
AS INTRODUCED

AN ACT establishing a protective order for vulnerable adults.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill enacts a new chapter that provides a process enabling vulnerable adults to seek permanent and temporary relief from abuse, exploitation, and neglect. As part of this process, the Department of Health and Human Services is authorized, but not mandated, to file a petition in a county or district where the plaintiff or other defendant resides alleging abuse, exploitation, or neglect by the defendant. The Department states that, were it to directly file the petitions, there would likely be additional personnel costs as well as mileage expenses for Department lawyers, adult protective service workers, and any other witnesses necessary to properly prosecute the petition. In addition, the Department assumes that even in cases in which it is not the moving party filing the petition, its personnel would still be utilized as witnesses. The Department is unable to estimate the extent of any additional costs.

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2020	FY 2021
Class B Misdemeanor	\$53	\$54
Class A Misdemeanor	\$76	\$77
Routine Criminal Felony Case	\$481	\$486
Protective Order	\$166	\$167
Warrant Request	\$76	\$77
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2020 and FY 2021 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2018 Average Cost of Incarcerating an Individual	\$40,615	\$40,615
FY 2018 Annual Marginal Cost of a General Population Inmate	\$4,620	\$4,620
FY 2018 Average Cost of Supervising an Individual on Parole/Probation	\$571	\$571
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

The Department of Safety states the bill's fiscal impact will be under \$10,000. Any impact would be related to the expanded scope of current protective order procedures already in place for domestic violence protective orders.

The Department of Justice states the bill will have no fiscal impact as the offenses contemplated

by the bill would typically be prosecuted by county prosecutors. Any appeals from convictions would be handled by the Department, but could be done within its existing budget.

AGENCIES CONTACTED:

Department of Corrections, Justice, Safety, and Health & Human Services, Judicial Branch, Judicial Council, and New Hampshire Association of Counties

Committee Report

REGULAR CALENDAR

February 12, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Health, Human Services and Elderly
Affairs to which was referred HB 696-FN,**

**AN ACT establishing a protective order for vulnerable
adults. Having considered the same, report the same
with the following amendment, and the recommendation
that the bill OUGHT TO PASS WITH AMENDMENT.**

Rep. Lucy Weber

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Health, Human Services and Elderly Affairs
Bill Number:	HB 696-FN
Title:	establishing a protective order for vulnerable adults.
Date:	February 12, 2019
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2019-0395 h

STATEMENT OF INTENT

This bill establishes a procedure to enable vulnerable adults to seek temporary and permanent relief from abuse, exploitation and neglect. The bill is necessary because our criminal statutes do not provide adequate protection for vulnerable adults; by the time abuse, neglect or exploitation can be proven, assets are long gone, or the vulnerable adult has been subjected to unsafe conditions for far too long. In answer to concerns raised at the public hearing, the amendment clarifies that the defendant can be ordered to pay bills for the plaintiff only if the defendant has a legal or fiduciary responsibility to do so, and that the court may only issue orders about possession of animals owned by the plaintiff or owned by the plaintiff jointly with the defendant. The court may not include an animal owned solely by the defendant in its order. Finally, the amendment provides firearms may be removed from the defendant only after a specific judicial finding is made that such removal is necessary for the protection of the vulnerable adult.

Vote 22-0.

Rep. Lucy Weber
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Health, Human Services and Elderly Affairs

HB 696-FN, establishing a protective order for vulnerable adults. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lucy Weber for Health, Human Services and Elderly Affairs. This bill establishes a procedure to enable vulnerable adults to seek temporary and permanent relief from abuse, exploitation and neglect. The bill is necessary because our criminal statutes do not provide adequate protection for vulnerable adults; by the time abuse, neglect or exploitation can be proven, assets are long gone, or the vulnerable adult has been subjected to unsafe conditions for far too long. In answer to concerns raised at the public hearing, the amendment clarifies that the defendant can be ordered to pay bills for the plaintiff only if the defendant has a legal or fiduciary responsibility to do so, and that the court may only issue orders about possession of animals owned by the plaintiff or owned by the plaintiff jointly with the defendant. The court may not include an animal owned solely by the defendant in its order. Finally, the amendment provides firearms may be removed from the defendant only after a specific judicial finding is made that such removal is necessary for the protection of the vulnerable adult. **Vote 22-0.**

Original: House Clerk

Cc: Committee Bill File

HB 696 establishing a protective order for vulnerable adults 22-0 Regular Calendar

This bill establishes a procedure to enable vulnerable adults to seek temporary and permanent relief from abuse, exploitation and neglect.

The bill is necessary because our criminal statutes do not provide adequate protection for vulnerable adults; by the time abuse, neglect or exploitation can be proven, assets are long gone, or the vulnerable adult has been subjected to unsafe conditions for far too long. In answer to concerns raised at the public hearing, the amendment clarifies that the defendant can be ordered to pay bills for the plaintiff only if the defendant has a legal or fiduciary responsibility to do so, and that the court may only issue orders about possession of animals owned by the plaintiff or owned by the plaintiff jointly with the defendant. The court may not include an animal owned solely by the defendant in its order. Finally, the amendment provides firearms may be removed from the defendant only after a specific judicial finding is made that such removal is necessary for the protection of the vulnerable adult.

Lucy Weber

Amendment to HB 696-FN

1 Amend RSA 173-D:4 through RSA 173-D:6 as inserted by section 1 of the bill by replacing them
2 with the following:

3

4 173-D:4 Commencement of Proceedings; Hearing.

5 I. A vulnerable adult, guardian, or attorney-in-fact of a vulnerable adult, or if authorized by
6 the vulnerable adult, the department, may seek relief pursuant to RSA 173-D:6 by filing a petition,
7 in the county or district where the plaintiff or defendant resides, alleging abuse, exploitation or
8 neglect by the defendant. Any person filing a petition containing false allegations of abuse shall be
9 subject to criminal penalties. Notice of the pendency of the action and of the facts alleged against
10 the defendant shall be given to the defendant, either personally or as provided in paragraph II. The
11 plaintiff shall be permitted to supplement or amend the petition only if the defendant is provided an
12 opportunity prior to the hearing to respond to the supplemental or amended petition. All petitions
13 filed under this section shall include the home and work telephone numbers of the defendant, if
14 known. Notice of the whereabouts of the plaintiff shall not be revealed except by order of the court
15 for good cause shown. Any answer by the defendant shall be filed with the court and a copy shall be
16 provided to the plaintiff by the court.

17 II. No filing fee or fee for service of process shall be charged for a petition or response under
18 this section, and the plaintiff or defendant may proceed without legal counsel. Either a peace officer
19 or the sheriff's department shall serve process under this section. Any proceeding under this
20 chapter shall not preclude any other available civil or criminal remedy.

21 III. The clerks of the circuit courts shall supply forms for petitions and for relief under this
22 chapter designed to facilitate pro se proceedings. All such petitions shall contain the following
23 words: I swear that the foregoing information is true and correct to the best of my knowledge. I
24 understand that making a false statement on this petition will subject me to criminal penalties.

25 IV.(a) The court shall hold a hearing within 30 days of the filing of a petition under this
26 section or within 10 days of service of process upon the defendant, whichever occurs later.

27 (b) The time frame established in this paragraph may be extended for an additional 10
28 days upon motion by either party for good cause shown. A recusal by the judge or any act of God or
29 closing of the court that interferes with the originally scheduled hearing shall not be cause for the
30 dismissal of the petition. The court shall reschedule any hearing under this section in an
31 expeditious manner.

Amendment to HB 696-FN

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1 V. In any proceeding under this chapter, the court shall not be bound by the technical rules
2 of evidence and may admit evidence which it considers relevant and material.

3 VI. In a proceeding under this chapter, a support person may accompany a party in court
4 and, if the party is not represented by an attorney, may sit with the party at the table that is
5 generally reserved for the party and the party's attorney. The support person is present to provide
6 moral and emotional support for a person who alleges he or she is a victim of abuse. The support
7 person is not present as a legal adviser and may not provide legal advice. The support person may
8 assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she
9 will not be injured or threatened by the other party during the proceedings if the person who
10 alleges he or she is a victim of abuse and the other party are required to be present in close
11 proximity. This section does not preclude the court from exercising its discretion to remove the
12 support person from the courtroom if the court believes the support person is prompting, swaying,
13 or influencing the party assisted by the support person.

14 173-D:5 Temporary Relief.

15 I. Upon a showing of an immediate and present danger of abuse, exploitation, or neglect,
16 the court may enter temporary orders to protect the plaintiff with or without actual notice to
17 defendant. The court may issue such temporary orders by telephone, facsimile or any other
18 methods approved by court rules. Such telephonically issued orders shall be made by a circuit court
19 judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be
20 effective until the close of the next regular court business day. Such orders shall be returnable to
21 the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise
22 ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party
23 against whom such relief is issued may file a written request with the clerk of the court and request
24 a hearing on such orders. Such hearing shall be held no less than 3 business days and no more
25 than 5 business days after the request is received by the clerk. Such hearings may constitute the
26 final hearing described in RSA 173-D:4, V. Such temporary relief may include:

27 (a) Protective orders:

28 (1) Restraining the defendant from abusing, exploiting, or neglecting the plaintiff.

29 (2) Restraining the defendant from entering the premises and curtilage where the
30 plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable
31 notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries,
32 medication, clothing, business equipment, and any other items as determined by the court.

33 (3) Restraining the defendant from withholding items of the plaintiff's personal
34 property which are specified in the order. A peace officer shall accompany the plaintiff or his/her
35 representative in retrieving such property to protect the plaintiff.

36 (4) Restraining the defendant from contacting the plaintiff or entering a specified
37 place frequented regularly by the plaintiff.

Amendment to HB 696-FN

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1 (5) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
2 regardless of their place of residence, or plaintiff's household members in any way.

3 (6) Restraining the defendant from taking, converting, or damaging property in
4 which the plaintiff may have a legal or equitable interest.

5 (7) Granting the plaintiff exclusive care, custody, or control of any animal owned,
6 possessed, leased, kept, or held by the plaintiff or by the plaintiff jointly with the defendant in
7 either household, and ordering the defendant to stay away from the animal and forbidding the
8 defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or
9 neglect, or disposing of the animal.

10 (b) Other relief, including but not limited to:

11 (1) In the case of financial exploitation, prohibiting the defendant from transferring
12 or otherwise encumbering any of his or her assets other than for necessary household expenses,
13 provided, however, that such prohibition shall not extend to, encumber, or otherwise limit the
14 rights of creditors, mortgagees, or secured parties in such property.

15 (2) Restraining the defendant from taking any action which would lead to the
16 disconnection of any and all utilities and services to the parties' household, or the discontinuance of
17 existing business or service contracts, including, but not limited to, mortgage or rental agreements.

18 (3) An order enjoining a party from specified behavior that the court determines is
19 necessary to protect the vulnerable adult.

20 (4) If the court makes a specific finding that it is necessary for the protection of the
21 plaintiff, the court may issue an order directing the defendant to relinquish to a police officer any
22 and all firearms and ammunition in the control, ownership, or possession of the defendant, or any
23 other person on behalf of the defendant for the duration of the protective order.

24 173-D:6 Relief.

25 I. A finding of abuse, exploitation, or neglect shall mean the defendant represents a credible
26 threat to the safety of the plaintiff or physical, mental, or financial well-being. Upon a showing of
27 abuse, exploitation, or neglect of the plaintiff by a preponderance of the evidence, the court shall
28 grant such relief as is necessary to bring about a cessation of abuse, exploitation, or neglect. Such
29 relief may include:

30 (a) Protective orders:

31 (1) Restraining the defendant from abusing, exploiting or neglecting the plaintiff.

32 (2) Restraining the defendant from entering the premises and curtilage where the
33 plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry
34 by the plaintiff for the sole purpose of retrieving personal property specified by the court.

35 (3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's
36 place of employment, school, or any specified place frequented regularly by the plaintiff or by any
37 family or household member.

Amendment to HB 696-FN

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1 (4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
2 regardless of their place of residence, or plaintiff's household members in any way.

3 (5) Restraining the defendant from taking, converting, or damaging property in
4 which the plaintiff may have a legal or equitable interest.

5 (6) Granting the plaintiff exclusive care, custody, or control of any animal owned,
6 possessed, leased, kept, or held by the plaintiff or by the plaintiff jointly with the defendant in
7 either household, and ordering the defendant to stay away from the animal and forbidding the
8 defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or
9 neglect, or disposing of the animal.

10 (b) Other relief including, but not limited to:

11 (1) Granting the plaintiff the exclusive use and possession of the premises and
12 curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and
13 pays for the premises and the defendant has no legal duty to support the plaintiff and provided,
14 however, that such relief shall not extend to, extinguish, encumber, or otherwise limit the rights of
15 creditors, mortgagees, or secured parties in such property.

16 (2) Restraining the defendant from withholding items of the plaintiff's personal
17 property specified by the court. A peace officer shall accompany the plaintiff in retrieving such
18 property to protect the plaintiff.

19 (3) Granting to the plaintiff the exclusive right of use and possession of the
20 household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns
21 such personal property and the defendant has no legal duty to support the plaintiff.

22 (4) Ordering the defendant to make automobile, insurance, health care, utilities,
23 rent, or mortgage payments if the defendant has a legal or fiduciary duty to do so.

24 (5) Ordering the defendant to pay the plaintiff monetary compensation for losses
25 suffered as a direct result of the abuse, exploitation, or neglect which may include, but not be
26 limited to, misappropriated funds, loss of earnings or support, medical and dental expenses, damage
27 to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

28 (6) If the court makes a specific finding that it is necessary for the protection of the
29 plaintiff, issuing an order directing the defendant to relinquish to a police officer any and all
30 firearms and ammunition in the control, ownership, or possession of the defendant, or any other
31 person on behalf of the defendant for the duration of the protective order.

32 (7) Ordering the defendant to pay reasonable attorney's fees.

33 II. If the court makes a specific finding that it necessary for the protection of the plaintiff,
34 the court may prohibit the defendant from purchasing, receiving, or possessing any deadly weapons
35 and any and all firearms and ammunition for the duration of the order. The court may
36 subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons
37 specified in the protective order and any and all firearms and ammunition, if there is probable

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1 cause to believe such firearms and ammunition and specified deadly weapons are kept on the
2 premises or curtilage of the defendant.

3 III. The court shall not deny the plaintiff protective orders based solely on a lapse of time
4 between an act of abuse, exploitation, or neglect and the filing of a petition, provided that the
5 underlying act presents a credible threat to the plaintiff's current safety or physical, mental, or
6 financial well-being.

7 IV. No order made under this section shall supersede or affect any court order pertaining to
8 the possession of a residence or household furniture as determined by a circuit court, or title to real
9 or personal property.

10 V. The findings of fact with respect to the protective order shall be final, but questions of
11 law may be transferred from the circuit court to the supreme court.

12 VI. Any order under this section shall be for a fixed period of time not to exceed one year,
13 but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with
14 notice to the defendant, for one year after the expiration of the first order and thereafter each
15 extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the
16 court. The court shall review the order and each renewal thereof and shall grant such relief as may
17 be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the
18 right to a hearing on the extension of any order under this paragraph to be held within 30 days of
19 the extension. The court shall state in writing, at the respondent's request, its reason or reasons for
20 granting the extension. The court shall retain jurisdiction to enforce and collect any financial
21 compensation due to the plaintiff which accrued prior to the expiration of the protective order.

22 VII. Both parties shall be issued written copies of any orders issued by the court, and all
23 orders shall bear the following language: "A willful violation of this order is a crime, as well as
24 contempt of court. Violations of the protective provisions shall result in arrest and may result in
25 imprisonment." Orders shall clearly state how any party can request a further hearing and how the
26 plaintiff may bring a criminal complaint or a petition for contempt if there is a violation of any court
27 order.

28 VIII.(a) No order issued under this chapter shall be modified other than by the court.

29 (b) If either party wishes the defendant to be excused from any provisions of an order of
30 protection, the remedy is to petition the court for modification of such order.

31 (c) A defendant who is restrained from contacting the plaintiff or entering the premises
32 of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining
33 order has been modified by the court.

34 (d) This paragraph shall give unequivocal direction to peace officers that orders for
35 protection are to be enforced as written and that no action by a party relieves them of the duty to
36 enforce the order.

37 IX. Upon issuing an order against a defendant, in which a defendant is restrained from

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1 having any contact with the plaintiff, the court shall advise the plaintiff that it would be unwise
2 and possibly unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the
3 defendant for any reason, the court shall advise the plaintiff that such contact be made only after
4 petitioning the court for a modification of the order. In an emergency situation, the plaintiff or
5 plaintiff's family may request that the local police department notify the defendant and the local
6 police may accompany the defendant to a designated location, such as a hospital, if appropriate.

7 X.(a) A copy of each protective order issued under this chapter shall be transmitted to the
8 administrative office of the courts by facsimile or computer. An emergency protective order issued
9 telephonically shall be transmitted by telephone or facsimile to the department of safety.

10 (b) The administrative office of the courts shall enter information regarding the
11 protective orders into the state database which shall be made available to police and sheriff
12 departments statewide. The department of safety shall make available information regarding
13 emergency protective orders issued telephonically to police and sheriff departments statewide.

14 (c) The administrative office of the courts shall update the database upon expiration or
15 termination of a protective order.

16 (d) Notwithstanding any other provision of law, the administrative office of the courts,
17 the department of health and human services, or the department of safety, their employees and
18 agents, and law enforcement officials shall not be held criminally or civilly liable for action taken
19 under this chapter or RSA 458:16, provided they are acting in good faith and without gross
20 negligence, and within the scope of their duties and authority.

21 XI. If a criminal records check conducted by the department of safety indicates that a
22 potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a
23 protective order issued under this chapter, the department of safety shall notify the administrative
24 office of the courts of the denial. The administrative office of the courts shall immediately notify the
25 plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the
26 protective order.

27 XII.(a) Within 15 days prior to the expiration of the protective orders, the defendant may
28 request, by motion to the court, the return of any and all firearms and ammunition and specified
29 deadly weapons held by the law enforcement agency while the protective order was in effect. Upon
30 receipt of such a motion, the court shall schedule a hearing no later than 15 days after the
31 expiration of the order. The court shall provide written notice to the plaintiff who shall have the
32 right to appear and be heard, and to the law enforcement agency which has control of the firearms,
33 ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

34 (1) Establishing whether the defendant is subject to any state or federal law or
35 court order that precludes the defendant from owning or possessing a firearm; and

36 (2) Under circumstances where the plaintiff has requested an extension of the
37 protective order, whether the plaintiff has established by a preponderance of the evidence that the

Amendment to HB 696-FN

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1 defendant continues to represent a credible threat to the safety of the plaintiff.

2 (b) If the court finds that the defendant is not subject to any state or federal law or
3 court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's
4 request to extend the protective order, the court shall issue a written order directing the law
5 enforcement agency to return the requested firearms, ammunition, or deadly weapon to the
6 defendant.

7 (c) Law enforcement agencies shall not release firearms and ammunition and specified
8 deadly weapons without a court order granting such release. The law enforcement agency may
9 charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified
10 deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost
11 incurred by the law enforcement agency for the storage of the firearms and ammunition and
12 specified deadly weapons. The defendant may make alternative arrangements with a federally
13 licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval
14 of the court. Such firearms shall be turned over to the appropriate law enforcement agency for
15 transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement
16 agency responsible for their transfer to the storage facility pursuant to a court order as prescribed
17 in this paragraph.

18 (d) No law enforcement agency shall be held liable for alleged damage or deterioration
19 due to storage or transportation to any firearms and ammunition and specified deadly weapons held
20 by a law enforcement agency, provided that due care is used.

21

22 Amend RSA 173-D:12 as inserted by section 1 of the bill by replacing it with the following:

23

24 173-D:12 Notice to the Victim.

25 I. Notwithstanding the peace officer's obligations in RSA 173-D:11, all peace officers shall
26 give victims of abuse, exploitation, and neglect immediate and adequate notice of their right to go to
27 the circuit court of their county to file a petition asking for protective orders against the abusive
28 person and to seek a private criminal complaint.

29 II. The clerk of the court shall be responsible for advising victims of their right to request
30 that the judge issue an order which may include:

31 (a) Restraining the defendant from abusing, exploiting, and/or neglecting the victim.

32 (b) Directing the defendant to leave and stay away from the victim's premises and
33 curtilage.

34 (c) Restraining the defendant from contacting the victim, or entering any specified place
35 frequented regularly by the victim.

36 (d) Restraining the defendant from abusing, in any way, the victim, household
37 members, or victim's relatives, regardless of their place of residence.

Amendment to HB 696-FN

- Page 8 -

- 1 (e) Restraining the defendant from taking, converting, or damaging personal or real
2 property in which the victim may have a legal or equitable interest.
- 3 (f) Ordering the defendant to pay the victim monetary compensation for losses suffered
4 as a direct result of the abuse, exploitation, or neglect which may include, but not be limited to,
5 misappropriated funds, loss of earnings or support, medical and dental expenses, damage to
6 property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.
- 7 (g) Ordering the removal of any and all firearms and ammunition in the control,
8 ownership, or possession of the defendant.
- 9 (h) Ordering the defendant to pay reasonable attorney's fees.

Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE: February 12, 2019

LOB ROOM: 205

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Freitas

Seconded by Rep. Snow

AM Vote: 22-0

Amendment # 2019-0395 h

Moved by Rep. Freitas

Seconded by Rep. Schapiro

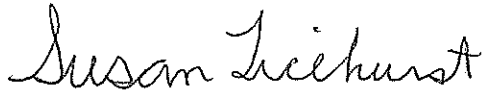
Vote: 22-0

CONSENT CALENDAR: NO

Statement of Intent:

Refer to Committee Report

Respectfully submitted,



Rep Susan Ticehurst, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE: 2-12-19

LOB ROOM: 205

MOTION: (Please check one box)

- OTP ITL Retain (1st year) Adoption of Amendment # 0395h
(if offered)
- Interim Study (2nd year)

Moved by Rep. Freitas Seconded by Rep. Snow Vote: 22-0

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # 0395h
(if offered)
- Interim Study (2nd year)

Moved by Rep. Freitas Seconded by Rep. Shapiro Vote: 22-0

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: _____ YES NO

Minority Report? _____ Yes No If yes, author, Rep: _____ Motion _____

Respectfully submitted: Susan Ticehurst
Rep Susan Ticehurst, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2/7/2019 12:10:51 PM
Roll Call Committee Registers
Report

2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: ^{hb} 696 Motion: OTP Amend AM #: 0395h Exec Session Date: 2-12-19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Weber, Lucy M. Chairman	✓		
Campion, Polly Kent Vice Chairman	✓		
MacKay, James R.	✓		
Snow, Kendall A.	✓		
Freitas, Mary C.	✓		
Ticehurst, Susan J. Clerk	✓		
Knirk, Jerry L.	✓		
Salloway, Jeffrey C.	✓		
Cannon, Gerri D.	✓		
Nutter-Upham, Frances E.	✓		
Osborne, Richard G.	✓		
Schapiro, Joe	✓		
Woods, Gary L.	✓		
McMahon, Charles E.	✓		
Nelson, Bill G.	✓		
Guthrie, Joseph A.	✓		
Fothergill, John J.	✓		
Marsh, William M.	✓		
Pearson, Mark A.	✓		
Acton, Dennis F.	✓		
DeClercq, Edward	✓		
Stapleton, Walter A.	✓		
TOTAL VOTE:	20	0	



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2/7/2019 12:10:51 PM
Roll Call Committee Registers
Report

2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: HB 696 Motion: OTPA AM #: 0395h Exec Session Date: 2-12-19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Weber, Lucy M. Chairman	✓		
Campion, Polly Kent Vice Chairman	✓		
MacKay, James R.	✓		
Snow, Kendall A.	✓		
Freitas, Mary C.	✓		
Ticehurst, Susan J. Clerk	✓		
Knirk, Jerry L.	✓		
Salloway, Jeffrey C.	✓		
Cannon, Gerri D.	✓		
Nutter-Upham, Frances E.	✓		
Osborne, Richard G.	✓		
Schapiro, Joe	✓		
Woods, Gary L.	✓		
McMahon, Charles E.	✓		
Nelson, Bill G.	✓		
Guthrie, Joseph A.	✓		
Fothergill, John J.	✓		
Marsh, William M.	✓		
Pearson, Mark A.	✓		
Acton, Dennis F.	✓		
DeClercq, Edward	✓		
Stapleton, Walter A.	✓		
TOTAL VOTE:	22	0	

Rep. Weber, Ches. 1
Rep. Marsh, Carr. 8
February 8, 2019
2019-0395h
01/10

Amendment to HB 696-FN

1 Amend RSA 173-D:4 through RSA 173-D:6 as inserted by section 1 of the bill by replacing them
2 with the following:

3

4 173-D:4 Commencement of Proceedings; Hearing.

5 I. A vulnerable adult, guardian, or attorney-in-fact of a vulnerable adult, or if authorized by
6 the vulnerable adult, the department, may seek relief pursuant to RSA 173-D:6 by filing a petition,
7 in the county or district where the plaintiff or defendant resides, alleging abuse, exploitation or
8 neglect by the defendant. Any person filing a petition containing false allegations of abuse shall be
9 subject to criminal penalties. Notice of the pendency of the action and of the facts alleged against
10 the defendant shall be given to the defendant, either personally or as provided in paragraph II. The
11 plaintiff shall be permitted to supplement or amend the petition only if the defendant is provided an
12 opportunity prior to the hearing to respond to the supplemental or amended petition. All petitions
13 filed under this section shall include the home and work telephone numbers of the defendant, if
14 known. Notice of the whereabouts of the plaintiff shall not be revealed except by order of the court
15 for good cause shown. Any answer by the defendant shall be filed with the court and a copy shall be
16 provided to the plaintiff by the court.

17 II. No filing fee or fee for service of process shall be charged for a petition or response under
18 this section, and the plaintiff or defendant may proceed without legal counsel. Either a peace officer
19 or the sheriff's department shall serve process under this section. Any proceeding under this
20 chapter shall not preclude any other available civil or criminal remedy.

21 III. The clerks of the circuit courts shall supply forms for petitions and for relief under this
22 chapter designed to facilitate pro se proceedings. All such petitions shall contain the following
23 words: I swear that the foregoing information is true and correct to the best of my knowledge. I
24 understand that making a false statement on this petition will subject me to criminal penalties.

25 IV.(a) The court shall hold a hearing within 30 days of the filing of a petition under this
26 section or within 10 days of service of process upon the defendant, whichever occurs later.

27 (b) The time frame established in this paragraph may be extended for an additional 10
28 days upon motion by either party for good cause shown. A recusal by the judge or any act of God or
29 closing of the court that interferes with the originally scheduled hearing shall not be cause for the
30 dismissal of the petition. The court shall reschedule any hearing under this section in an
31 expeditious manner.

Amendment to HB 696-FN

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1 V. In any proceeding under this chapter, the court shall not be bound by the technical rules
2 of evidence and may admit evidence which it considers relevant and material.

3 VI. In a proceeding under this chapter, a support person may accompany a party in court
4 and, if the party is not represented by an attorney, may sit with the party at the table that is
5 generally reserved for the party and the party's attorney. The support person is present to provide
6 moral and emotional support for a person who alleges he or she is a victim of abuse. The support
7 person is not present as a legal adviser and may not provide legal advice. The support person may
8 assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she
9 will not be injured or threatened by the other party during the proceedings if the person who
10 alleges he or she is a victim of abuse and the other party are required to be present in close
11 proximity. This section does not preclude the court from exercising its discretion to remove the
12 support person from the courtroom if the court believes the support person is prompting, swaying,
13 or influencing the party assisted by the support person.

14 173-D:5 Temporary Relief.

15 I. Upon a showing of an immediate and present danger of abuse, exploitation, or neglect,
16 the court may enter temporary orders to protect the plaintiff with or without actual notice to
17 defendant. The court may issue such temporary orders by telephone, facsimile or any other
18 methods approved by court rules. Such telephonically issued orders shall be made by a circuit court
19 judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be
20 effective until the close of the next regular court business day. Such orders shall be returnable to
21 the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise
22 ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party
23 against whom such relief is issued may file a written request with the clerk of the court and request
24 a hearing on such orders. Such hearing shall be held no less than 3 business days and no more
25 than 5 business days after the request is received by the clerk. Such hearings may constitute the
26 final hearing described in RSA 173-D:4, V. Such temporary relief may include:

27 (a) Protective orders:

28 (1) Restraining the defendant from abusing, exploiting, or neglecting the plaintiff.

29 (2) Restraining the defendant from entering the premises and curtilage where the
30 plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable
31 notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries,
32 medication, clothing, business equipment, and any other items as determined by the court.

33 (3) Restraining the defendant from withholding items of the plaintiff's personal
34 property which are specified in the order. A peace officer shall accompany the plaintiff or his/her
35 representative in retrieving such property to protect the plaintiff.

36 (4) Restraining the defendant from contacting the plaintiff or entering a specified
37 place frequented regularly by the plaintiff.

Amendment to HB 696-FN

- Page 3 -

1 (5) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
2 regardless of their place of residence, or plaintiff's household members in any way.

3 (6) Restraining the defendant from taking, converting, or damaging property in
4 which the plaintiff may have a legal or equitable interest.

5 (7) Granting the plaintiff exclusive care, custody, or control of any animal owned,
6 possessed, leased, kept, or held by the plaintiff or by the plaintiff jointly with the defendant in
7 either household, and ordering the defendant to stay away from the animal and forbidding the
8 defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or
9 neglect, or disposing of the animal.

10 (b) Other relief, including but not limited to:

11 (1) In the case of financial exploitation, prohibiting the defendant from transferring
12 or otherwise encumbering any of his or her assets other than for necessary household expenses,
13 provided, however, that such prohibition shall not extend to, encumber, or otherwise limit the
14 rights of creditors, mortgagees, or secured parties in such property.

15 (2) Restraining the defendant from taking any action which would lead to the
16 disconnection of any and all utilities and services to the parties' household, or the discontinuance of
17 existing business or service contracts, including, but not limited to, mortgage or rental agreements.

18 (3) An order enjoining a party from specified behavior that the court determines is
19 necessary to protect the vulnerable adult.

20 (4) If the court makes a specific finding that it is necessary for the protection of the
21 plaintiff, the court may issue an order directing the defendant to relinquish to a police officer any
22 and all firearms and ammunition in the control, ownership, or possession of the defendant, or any
23 other person on behalf of the defendant for the duration of the protective order.

24 173-D:6 Relief.

25 I. A finding of abuse, exploitation, or neglect shall mean the defendant represents a credible
26 threat to the safety of the plaintiff or physical, mental, or financial well-being. Upon a showing of
27 abuse, exploitation, or neglect of the plaintiff by a preponderance of the evidence, the court shall
28 grant such relief as is necessary to bring about a cessation of abuse, exploitation, or neglect. Such
29 relief may include:

30 (a) Protective orders:

31 (1) Restraining the defendant from abusing, exploiting or neglecting the plaintiff.

32 (2) Restraining the defendant from entering the premises and curtilage where the
33 plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry
34 by the plaintiff for the sole purpose of retrieving personal property specified by the court.

35 (3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's
36 place of employment, school, or any specified place frequented regularly by the plaintiff or by any
37 family or household member.

Amendment to HB 696-FN

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1 (4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
2 regardless of their place of residence, or plaintiff's household members in any way.

3 (5) Restraining the defendant from taking, converting, or damaging property in
4 which the plaintiff may have a legal or equitable interest.

5 (6) Granting the plaintiff exclusive care, custody, or control of any animal owned,
6 possessed, leased, kept, or held by the plaintiff or by the plaintiff jointly with the defendant in
7 either household, and ordering the defendant to stay away from the animal and forbidding the
8 defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or
9 neglect, or disposing of the animal.

10 (b) Other relief including, but not limited to:

11 (1) Granting the plaintiff the exclusive use and possession of the premises and
12 curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and
13 pays for the premises and the defendant has no legal duty to support the plaintiff and provided,
14 however, that such relief shall not extend to, extinguish, encumber, or otherwise limit the rights of
15 creditors, mortgagees, or secured parties in such property.

16 (2) Restraining the defendant from withholding items of the plaintiff's personal
17 property specified by the court. A peace officer shall accompany the plaintiff in retrieving such
18 property to protect the plaintiff.

19 (3) Granting to the plaintiff the exclusive right of use and possession of the
20 household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns
21 such personal property and the defendant has no legal duty to support the plaintiff.

22 (4) Ordering the defendant to make automobile, insurance, health care, utilities,
23 rent, or mortgage payments if the defendant has a legal or fiduciary duty to do so.

24 (5) Ordering the defendant to pay the plaintiff monetary compensation for losses
25 suffered as a direct result of the abuse, exploitation, or neglect which may include, but not be
26 limited to, misappropriated funds, loss of earnings or support, medical and dental expenses, damage
27 to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

28 (6) If the court makes a specific finding that it is necessary for the protection of the
29 plaintiff, issuing an order directing the defendant to relinquish to a police officer any and all
30 firearms and ammunition in the control, ownership, or possession of the defendant, or any other
31 person on behalf of the defendant for the duration of the protective order.

32 (7) Ordering the defendant to pay reasonable attorney's fees.

33 II. If the court makes a specific finding that it necessary for the protection of the plaintiff,
34 the court may prohibit the defendant from purchasing, receiving, or possessing any deadly weapons
35 and any and all firearms and ammunition for the duration of the order. The court may
36 subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons
37 specified in the protective order and any and all firearms and ammunition, if there is probable

Amendment to HB 696-FN

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1 cause to believe such firearms and ammunition and specified deadly weapons are kept on the
2 premises or curtilage of the defendant.

3 III. The court shall not deny the plaintiff protective orders based solely on a lapse of time
4 between an act of abuse, exploitation, or neglect and the filing of a petition, provided that the
5 underlying act presents a credible threat to the plaintiff's current safety or physical, mental, or
6 financial well-being.

7 IV. No order made under this section shall supersede or affect any court order pertaining to
8 the possession of a residence or household furniture as determined by a circuit court, or title to real
9 or personal property.

10 V. The findings of fact with respect to the protective order shall be final, but questions of
11 law may be transferred from the circuit court to the supreme court.

12 VI. Any order under this section shall be for a fixed period of time not to exceed one year,
13 but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with
14 notice to the defendant, for one year after the expiration of the first order and thereafter each
15 extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the
16 court. The court shall review the order and each renewal thereof and shall grant such relief as may
17 be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the
18 right to a hearing on the extension of any order under this paragraph to be held within 30 days of
19 the extension. The court shall state in writing, at the respondent's request, its reason or reasons for
20 granting the extension. The court shall retain jurisdiction to enforce and collect any financial
21 compensation due to the plaintiff which accrued prior to the expiration of the protective order.

22 VII. Both parties shall be issued written copies of any orders issued by the court, and all
23 orders shall bear the following language: "A willful violation of this order is a crime, as well as
24 contempt of court. Violations of the protective provisions shall result in arrest and may result in
25 imprisonment." Orders shall clearly state how any party can request a further hearing and how the
26 plaintiff may bring a criminal complaint or a petition for contempt if there is a violation of any court
27 order.

28 VIII.(a) No order issued under this chapter shall be modified other than by the court.

29 (b) If either party wishes the defendant to be excused from any provisions of an order of
30 protection, the remedy is to petition the court for modification of such order.

31 (c) A defendant who is restrained from contacting the plaintiff or entering the premises
32 of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining
33 order has been modified by the court.

34 (d) This paragraph shall give unequivocal direction to peace officers that orders for
35 protection are to be enforced as written and that no action by a party relieves them of the duty to
36 enforce the order.

37 IX. Upon issuing an order against a defendant, in which a defendant is restrained from

Amendment to HB 696-FN

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1 having any contact with the plaintiff, the court shall advise the plaintiff that it would be unwise
2 and possibly unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the
3 defendant for any reason, the court shall advise the plaintiff that such contact be made only after
4 petitioning the court for a modification of the order. In an emergency situation, the plaintiff or
5 plaintiff's family may request that the local police department notify the defendant and the local
6 police may accompany the defendant to a designated location, such as a hospital, if appropriate.

7 X.(a) A copy of each protective order issued under this chapter shall be transmitted to the
8 administrative office of the courts by facsimile or computer. An emergency protective order issued
9 telephonically shall be transmitted by telephone or facsimile to the department of safety.

10 (b) The administrative office of the courts shall enter information regarding the
11 protective orders into the state database which shall be made available to police and sheriff
12 departments statewide. The department of safety shall make available information regarding
13 emergency protective orders issued telephonically to police and sheriff departments statewide.

14 (c) The administrative office of the courts shall update the database upon expiration or
15 termination of a protective order.

16 (d) Notwithstanding any other provision of law, the administrative office of the courts,
17 the department of health and human services, or the department of safety, their employees and
18 agents, and law enforcement officials shall not be held criminally or civilly liable for action taken
19 under this chapter or RSA 458:16, provided they are acting in good faith and without gross
20 negligence, and within the scope of their duties and authority.

21 XI. If a criminal records check conducted by the department of safety indicates that a
22 potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a
23 protective order issued under this chapter, the department of safety shall notify the administrative
24 office of the courts of the denial. The administrative office of the courts shall immediately notify the
25 plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the
26 protective order.

27 XII.(a) Within 15 days prior to the expiration of the protective orders, the defendant may
28 request, by motion to the court, the return of any and all firearms and ammunition and specified
29 deadly weapons held by the law enforcement agency while the protective order was in effect. Upon
30 receipt of such a motion, the court shall schedule a hearing no later than 15 days after the
31 expiration of the order. The court shall provide written notice to the plaintiff who shall have the
32 right to appear and be heard, and to the law enforcement agency which has control of the firearms,
33 ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

34 (1) Establishing whether the defendant is subject to any state or federal law or
35 court order that precludes the defendant from owning or possessing a firearm; and

36 (2) Under circumstances where the plaintiff has requested an extension of the
37 protective order, whether the plaintiff has established by a preponderance of the evidence that the

Amendment to HB 696-FN

- Page 7 -

1 defendant continues to represent a credible threat to the safety of the plaintiff.

2 (b) If the court finds that the defendant is not subject to any state or federal law or
3 court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's
4 request to extend the protective order, the court shall issue a written order directing the law
5 enforcement agency to return the requested firearms, ammunition, or deadly weapon to the
6 defendant.

7 (c) Law enforcement agencies shall not release firearms and ammunition and specified
8 deadly weapons without a court order granting such release. The law enforcement agency may
9 charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified
10 deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost
11 incurred by the law enforcement agency for the storage of the firearms and ammunition and
12 specified deadly weapons. The defendant may make alternative arrangements with a federally
13 licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval
14 of the court. Such firearms shall be turned over to the appropriate law enforcement agency for
15 transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement
16 agency responsible for their transfer to the storage facility pursuant to a court order as prescribed
17 in this paragraph.

18 (d) No law enforcement agency shall be held liable for alleged damage or deterioration
19 due to storage or transportation to any firearms and ammunition and specified deadly weapons held
20 by a law enforcement agency, provided that due care is used.

21

22 Amend RSA 173-D:12 as inserted by section 1 of the bill by replacing it with the following:

23

24 173-D:12 Notice to the Victim.

25 I. Notwithstanding the peace officer's obligations in RSA 173-D:11, all peace officers shall
26 give victims of abuse, exploitation, and neglect immediate and adequate notice of their right to go to
27 the circuit court of their county to file a petition asking for protective orders against the abusive
28 person and to seek a private criminal complaint.

29 II. The clerk of the court shall be responsible for advising victims of their right to request
30 that the judge issue an order which may include:

31 (a) Restraining the defendant from abusing, exploiting, and/or neglecting the victim.

32 (b) Directing the defendant to leave and stay away from the victim's premises and
33 curtilage.

34 (c) Restraining the defendant from contacting the victim, or entering any specified place
35 frequented regularly by the victim.

36 (d) Restraining the defendant from abusing, in any way, the victim, household
37 members, or victim's relatives, regardless of their place of residence.

Amendment to HB 696-FN

- Page 8 -

1 (e) Restraining the defendant from taking, converting, or damaging personal or real
2 property in which the victim may have a legal or equitable interest.

3 (f) Ordering the defendant to pay the victim monetary compensation for losses suffered
4 as a direct result of the abuse, exploitation, or neglect which may include, but not be limited to,
5 misappropriated funds, loss of earnings or support, medical and dental expenses, damage to
6 property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

7 (g) Ordering the removal of any and all firearms and ammunition in the control,
8 ownership, or possession of the defendant.

9 (h) Ordering the defendant to pay reasonable attorney's fees.

Sub-
Committee
Actions

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE: February 12, 2019

Subcommittee Members: Reps. Weber, Campion, McMahon, Nelson, M. Pearson, Knirk, Freitas, R. Osborne, Woods, Stapleton, DeClercq and Salloway

Comments and Recommendations:

MOTIONS: OUGHT TO PASS

Moved by Rep. Rep. Freitas

Seconded by Rep. Rep. Woods

Vote: 12-0

Respectfully submitted,

Rep. Bill Nelson
Subcommittee Clerk

SUBCOMMITTEE WORK SESSION on HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE: 2/12/19

Subcommittee Members: Reps. Weber, Campion, McMahon, Nelson, M. Pearson, Knirk, Freitas, R. Osborne, Woods, DeClercq, Schapiro and Salloway

Comments and Recommendations:

MOTIONS: Amend-395
 OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. Freitas Seconded by Rep. Woods AM Vote: 12-0

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. Freitas Seconded by Rep. McMahon AM Vote: 12-0

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

Respectfully submitted,

Rep. Bill Weber
Subcommittee Chairman/Clerk

Amendment to HB 696-FN

1 Amend RSA 173-D:4 through RSA 173-D:6 as inserted by section 1 of the bill by replacing them
2 with the following:

3

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5 I. A vulnerable adult, guardian, or attorney-in-fact of a vulnerable adult, or if authorized by
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12 opportunity prior to the hearing to respond to the supplemental or amended petition. All petitions
13 filed under this section shall include the home and work telephone numbers of the defendant, if
14 known. Notice of the whereabouts of the plaintiff shall not be revealed except by order of the court
15 for good cause shown. Any answer by the defendant shall be filed with the court and a copy shall be
16 provided to the plaintiff by the court.

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18 this section, and the plaintiff or defendant may proceed without legal counsel. Either a peace officer
19 or the sheriff's department shall serve process under this section. Any proceeding under this
20 chapter shall not preclude any other available civil or criminal remedy.

21 III. The clerks of the circuit courts shall supply forms for petitions and for relief under this
22 chapter designed to facilitate pro se proceedings. All such petitions shall contain the following
23 words: I swear that the foregoing information is true and correct to the best of my knowledge. I
24 understand that making a false statement on this petition will subject me to criminal penalties.

25 IV.(a) The court shall hold a hearing within 30 days of the filing of a petition under this
26 section or within 10 days of service of process upon the defendant, whichever occurs later.

27 (b) The time frame established in this paragraph may be extended for an additional 10
28 days upon motion by either party for good cause shown. A recusal by the judge or any act of God or
29 closing of the court that interferes with the originally scheduled hearing shall not be cause for the
30 dismissal of the petition. The court shall reschedule any hearing under this section in an
31 expeditious manner.

Amendment to HB 696-FN

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1 V. In any proceeding under this chapter, the court shall not be bound by the technical rules
2 of evidence and may admit evidence which it considers relevant and material.

3 VI. In a proceeding under this chapter, a support person may accompany a party in court
4 and, if the party is not represented by an attorney, may sit with the party at the table that is
5 generally reserved for the party and the party's attorney. The support person is present to provide
6 moral and emotional support for a person who alleges he or she is a victim of abuse. The support
7 person is not present as a legal adviser and may not provide legal advice. The support person may
8 assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she
9 will not be injured or threatened by the other party during the proceedings if the person who
10 alleges he or she is a victim of abuse and the other party are required to be present in close
11 proximity. This section does not preclude the court from exercising its discretion to remove the
12 support person from the courtroom if the court believes the support person is prompting, swaying,
13 or influencing the party assisted by the support person.

14 173-D:5 Temporary Relief.

15 I. Upon a showing of an immediate and present danger of abuse, exploitation, or neglect,
16 the court may enter temporary orders to protect the plaintiff with or without actual notice to
17 defendant. The court may issue such temporary orders by telephone, facsimile or any other
18 methods approved by court rules. Such telephonically issued orders shall be made by a circuit court
19 judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be
20 effective until the close of the next regular court business day. Such orders shall be returnable to
21 the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise
22 ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party
23 against whom such relief is issued may file a written request with the clerk of the court and request
24 a hearing on such orders. Such hearing shall be held no less than 3 business days and no more
25 than 5 business days after the request is received by the clerk. Such hearings may constitute the
26 final hearing described in RSA 173-D:4, V. Such temporary relief may include:

27 (a) Protective orders:

28 (1) Restraining the defendant from abusing, exploiting, or neglecting the plaintiff.

29 (2) Restraining the defendant from entering the premises and curtilage where the
30 plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable
31 notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries,
32 medication, clothing, business equipment, and any other items as determined by the court.

33 (3) Restraining the defendant from withholding items of the plaintiff's personal
34 property which are specified in the order. A peace officer shall accompany the plaintiff or his/her
35 representative in retrieving such property to protect the plaintiff.

36 (4) Restraining the defendant from contacting the plaintiff or entering a specified
37 place frequented regularly by the plaintiff.

Amendment to HB 696-FN

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1 (5) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
2 regardless of their place of residence, or plaintiff's household members in any way.

3 (6) Restraining the defendant from taking, converting, or damaging property in
4 which the plaintiff may have a legal or equitable interest.

5 (7) Granting the plaintiff exclusive care, custody, or control of any animal owned,
6 possessed, leased, kept, or held by the plaintiff or by the plaintiff jointly with the defendant in
7 either household, and ordering the defendant to stay away from the animal and forbidding the
8 defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or
9 neglect, or disposing of the animal.

10 (b) Other relief, including but not limited to:

11 (1) In the case of financial exploitation, prohibiting the defendant from transferring
12 or otherwise encumbering any of his or her assets other than for necessary household expenses,
13 provided, however, that such prohibition shall not extend to, encumber, or otherwise limit the
14 rights of creditors, mortgagees, or secured parties in such property.

15 (2) Restraining the defendant from taking any action which would lead to the
16 disconnection of any and all utilities and services to the parties' household, or the discontinuance of
17 existing business or service contracts, including, but not limited to, mortgage or rental agreements.

18 (3) An order enjoining a party from specified behavior that the court determines is
19 necessary to protect the vulnerable adult.

20 (4) If the court makes a specific finding that it is necessary for the protection of the
21 plaintiff, the court may issue an order directing the defendant to relinquish to a police officer any
22 and all firearms and ammunition in the control, ownership, or possession of the defendant, or any
23 other person on behalf of the defendant for the duration of the protective order.

24 173-D:6 Relief.

25 I. A finding of abuse, exploitation, or neglect shall mean the defendant represents a credible
26 threat to the safety of the plaintiff or physical, mental, or financial well-being. Upon a showing of
27 abuse, exploitation, or neglect of the plaintiff by a preponderance of the evidence, the court shall
28 grant such relief as is necessary to bring about a cessation of abuse, exploitation, or neglect. Such
29 relief may include:

30 (a) Protective orders:

31 (1) Restraining the defendant from abusing, exploiting or neglecting the plaintiff.

32 (2) Restraining the defendant from entering the premises and curtilage where the
33 plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry
34 by the plaintiff for the sole purpose of retrieving personal property specified by the court.

35 (3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's
36 place of employment, school, or any specified place frequented regularly by the plaintiff or by any
37 family or household member.

Amendment to HB 696-FN

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1 (4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
2 regardless of their place of residence, or plaintiff's household members in any way.

3 (5) Restraining the defendant from taking, converting, or damaging property in
4 which the plaintiff may have a legal or equitable interest.

5 (6) Granting the plaintiff exclusive care, custody, or control of any animal owned,
6 possessed, leased, kept, or held by the plaintiff or by the plaintiff jointly with the defendant in
7 either household, and ordering the defendant to stay away from the animal and forbidding the
8 defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or
9 neglect, or disposing of the animal.

10 (b) Other relief including, but not limited to:

11 (1) Granting the plaintiff the exclusive use and possession of the premises and
12 curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and
13 pays for the premises and the defendant has no legal duty to support the plaintiff and provided,
14 however, that such relief shall not extend to, extinguish, encumber, or otherwise limit the rights of
15 creditors, mortgagees, or secured parties in such property.

16 (2) Restraining the defendant from withholding items of the plaintiff's personal
17 property specified by the court. A peace officer shall accompany the plaintiff in retrieving such
18 property to protect the plaintiff.

19 (3) Granting to the plaintiff the exclusive right of use and possession of the
20 household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns
21 such personal property and the defendant has no legal duty to support the plaintiff.

22 (4) Ordering the defendant to make automobile, insurance, health care, utilities,
23 rent, or mortgage payments if the defendant has a legal or fiduciary duty to do so.

24 (5) Ordering the defendant to pay the plaintiff monetary compensation for losses
25 suffered as a direct result of the abuse, exploitation, or neglect which may include, but not be
26 limited to, misappropriated funds, loss of earnings or support, medical and dental expenses, damage
27 to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

28 (6) If the court makes a specific finding that it is necessary for the protection of the
29 plaintiff, issuing an order directing the defendant to relinquish to a police officer any and all
30 firearms and ammunition in the control, ownership, or possession of the defendant, or any other
31 person on behalf of the defendant for the duration of the protective order.

32 (7) Ordering the defendant to pay reasonable attorney's fees.

33 II. If the court makes a specific finding that it necessary for the protection of the plaintiff,
34 the court may prohibit the defendant from purchasing, receiving, or possessing any deadly weapons
35 and any and all firearms and ammunition for the duration of the order. The court may
36 subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons
37 specified in the protective order and any and all firearms and ammunition, if there is probable

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1 cause to believe such firearms and ammunition and specified deadly weapons are kept on the
2 premises or curtilage of the defendant.

3 III. The court shall not deny the plaintiff protective orders based solely on a lapse of time
4 between an act of abuse, exploitation, or neglect and the filing of a petition, provided that the
5 underlying act presents a credible threat to the plaintiff's current safety or physical, mental, or
6 financial well-being.

7 IV. No order made under this section shall supersede or affect any court order pertaining to
8 the possession of a residence or household furniture as determined by a circuit court, or title to real
9 or personal property.

10 V. The findings of fact with respect to the protective order shall be final, but questions of
11 law may be transferred from the circuit court to the supreme court.

12 VI. Any order under this section shall be for a fixed period of time not to exceed one year,
13 but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with
14 notice to the defendant, for one year after the expiration of the first order and thereafter each
15 extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the
16 court. The court shall review the order and each renewal thereof and shall grant such relief as may
17 be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the
18 right to a hearing on the extension of any order under this paragraph to be held within 30 days of
19 the extension. The court shall state in writing, at the respondent's request, its reason or reasons for
20 granting the extension. The court shall retain jurisdiction to enforce and collect any financial
21 compensation due to the plaintiff which accrued prior to the expiration of the protective order.

22 VII. Both parties shall be issued written copies of any orders issued by the court, and all
23 orders shall bear the following language: "A willful violation of this order is a crime, as well as
24 contempt of court. Violations of the protective provisions shall result in arrest and may result in
25 imprisonment." Orders shall clearly state how any party can request a further hearing and how the
26 plaintiff may bring a criminal complaint or a petition for contempt if there is a violation of any court
27 order.

28 VIII.(a) No order issued under this chapter shall be modified other than by the court.

29 (b) If either party wishes the defendant to be excused from any provisions of an order of
30 protection, the remedy is to petition the court for modification of such order.

31 (c) A defendant who is restrained from contacting the plaintiff or entering the premises
32 of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining
33 order has been modified by the court.

34 (d) This paragraph shall give unequivocal direction to peace officers that orders for
35 protection are to be enforced as written and that no action by a party relieves them of the duty to
36 enforce the order.

37 IX. Upon issuing an order against a defendant, in which a defendant is restrained from

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1 having any contact with the plaintiff, the court shall advise the plaintiff that it would be unwise
2 and possibly unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the
3 defendant for any reason, the court shall advise the plaintiff that such contact be made only after
4 petitioning the court for a modification of the order. In an emergency situation, the plaintiff or
5 plaintiff's family may request that the local police department notify the defendant and the local
6 police may accompany the defendant to a designated location, such as a hospital, if appropriate.

7 X.(a) A copy of each protective order issued under this chapter shall be transmitted to the
8 administrative office of the courts by facsimile or computer. An emergency protective order issued
9 telephonically shall be transmitted by telephone or facsimile to the department of safety.

10 (b) The administrative office of the courts shall enter information regarding the
11 protective orders into the state database which shall be made available to police and sheriff
12 departments statewide. The department of safety shall make available information regarding
13 emergency protective orders issued telephonically to police and sheriff departments statewide.

14 (c) The administrative office of the courts shall update the database upon expiration or
15 termination of a protective order.

16 (d) Notwithstanding any other provision of law, the administrative office of the courts,
17 the department of health and human services, or the department of safety, their employees and
18 agents, and law enforcement officials shall not be held criminally or civilly liable for action taken
19 under this chapter or RSA 458:16, provided they are acting in good faith and without gross
20 negligence, and within the scope of their duties and authority.

21 XI. If a criminal records check conducted by the department of safety indicates that a
22 potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a
23 protective order issued under this chapter, the department of safety shall notify the administrative
24 office of the courts of the denial. The administrative office of the courts shall immediately notify the
25 plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the
26 protective order.

27 XII.(a) Within 15 days prior to the expiration of the protective orders, the defendant may
28 request, by motion to the court, the return of any and all firearms and ammunition and specified
29 deadly weapons held by the law enforcement agency while the protective order was in effect. Upon
30 receipt of such a motion, the court shall schedule a hearing no later than 15 days after the
31 expiration of the order. The court shall provide written notice to the plaintiff who shall have the
32 right to appear and be heard, and to the law enforcement agency which has control of the firearms,
33 ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

34 (1) Establishing whether the defendant is subject to any state or federal law or
35 court order that precludes the defendant from owning or possessing a firearm; and

36 (2) Under circumstances where the plaintiff has requested an extension of the
37 protective order, whether the plaintiff has established by a preponderance of the evidence that the

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1 defendant continues to represent a credible threat to the safety of the plaintiff.

2 (b) If the court finds that the defendant is not subject to any state or federal law or
3 court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's
4 request to extend the protective order, the court shall issue a written order directing the law
5 enforcement agency to return the requested firearms, ammunition, or deadly weapon to the
6 defendant.

7 (c) Law enforcement agencies shall not release firearms and ammunition and specified
8 deadly weapons without a court order granting such release. The law enforcement agency may
9 charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified
10 deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost
11 incurred by the law enforcement agency for the storage of the firearms and ammunition and
12 specified deadly weapons. The defendant may make alternative arrangements with a federally
13 licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval
14 of the court. Such firearms shall be turned over to the appropriate law enforcement agency for
15 transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement
16 agency responsible for their transfer to the storage facility pursuant to a court order as prescribed
17 in this paragraph.

18 (d) No law enforcement agency shall be held liable for alleged damage or deterioration
19 due to storage or transportation to any firearms and ammunition and specified deadly weapons held
20 by a law enforcement agency, provided that due care is used.

21

22 Amend RSA 173-D:12 as inserted by section 1 of the bill by replacing it with the following:

23

24 173-D:12 Notice to the Victim.

25 I. Notwithstanding the peace officer's obligations in RSA 173-D:11, all peace officers shall
26 give victims of abuse, exploitation, and neglect immediate and adequate notice of their right to go to
27 the circuit court of their county to file a petition asking for protective orders against the abusive
28 person and to seek a private criminal complaint.

29 II. The clerk of the court shall be responsible for advising victims of their right to request
30 that the judge issue an order which may include:

31 (a) Restraining the defendant from abusing, exploiting, and/or neglecting the victim.

32 (b) Directing the defendant to leave and stay away from the victim's premises and
33 curtilage.

34 (c) Restraining the defendant from contacting the victim, or entering any specified place
35 frequented regularly by the victim.

36 (d) Restraining the defendant from abusing, in any way, the victim, household
37 members, or victim's relatives, regardless of their place of residence.

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1 (e) Restraining the defendant from taking, converting, or damaging personal or real
2 property in which the victim may have a legal or equitable interest.

3 (f) Ordering the defendant to pay the victim monetary compensation for losses suffered
4 as a direct result of the abuse, exploitation, or neglect which may include, but not be limited to,
5 misappropriated funds, loss of earnings or support, medical and dental expenses, damage to
6 property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

7 (g) Ordering the removal of any and all firearms and ammunition in the control,
8 ownership, or possession of the defendant.

9 (h) Ordering the defendant to pay reasonable attorney's fees.

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE: February 12, 2019

Subcommittee Members: Reps. Weber, Campion, McMahon, Freitas, Knirk, Nelson, M. Pearson, DeClercq, Stapleton, R. Osborne, Woods and Salloway

Comments and Recommendations: After determination. How to redraft firearms language. Clearer about process. Revisit in future.

Respectfully submitted,

Rep. Mark Pearson
Subcommittee Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE:

Subcommittee Members: Reps. Weber, Campion, McMahon, Nelson, M. Pearson, Knirk, Freitas, R. Osborne, Woods, DeClercq, Salloway and Stapleton

Comments and Recommendations:

defer determination
how to redraft firearms language
clearer about process revisit in future.

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

Respectfully submitted,

Rep. Mark A. Pearson
Subcommittee Chairman/Clerk

Hearing Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 696-FN

BILL TITLE: establishing a protective order for vulnerable adults.

DATE: January 30, 2019

LOB ROOM: 205

Time Public Hearing Called to Order: 2:20 PM

Time Adjourned: 3:23 PM

Committee Members: Reps. Weber, Campion, Ticehurst, MacKay, Snow, Freitas, Knirk, Cannon, Nutter-Upham, R. Osborne, Schapiro, Woods, McMahon, Fothergill, Marsh, M. Pearson and Stapleton

Bill Sponsors:

Rep. Cushing

Rep. McMahon

Rep. Campion

Rep. Long

Rep. Gordon

Rep. Marsh

Sen. Chandley

Sen. Carson

Sen. Hennessey

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Introduced by Rep. Cushing –

Introduces his bill. Legislative 2014 financial exploitation of people became RSA 173:b, a crime. Several stakeholders came together to produce HB 696 before us. Modeled in some way on 173B State Abuse Statute. This bill wants to expand the civil remedies against abusers. Previous bill passed this committee, the criminal justice committee, the house and senate HHS committee, then hit a snafu. The seizure of a firearm of a defendant was the sticking point. Some see HB 696 as a “gun bill” but in the bill the judge has discretion in seizing a gun.

QUESTION: - Rep. Weber- p2 line 27 commencement of procedure by the vulnerable guardian; atty-in-fact; the department; why just them?

ANSWER: Rep. Cushing – The drafters' senior law project and other stakeholders came up with this.

Penny Dean –

Private atty. OPPOSES the bill. MANY errors in the bill. Inconsistent within itself. A first-year law student would be embarrassed. We have many statutes against abuse of people crimes already. People turn each other in to DCYF to express anger of someone else. If people are being abused, we have RSA 347:B, 467:A, and other statutes to solve this problem. There's a criminal threatening statute in place. How long does the defendant/his-her attorney to have respond to additional allegations? Judges are not always allowing adequate time.

PG 3 line 9 IV. Finding of facts are final. How can you challenge findings of facts if judge is incompetent? You may question issues of law but in this bill you cannot question or appeal declaration of facts.

P3 line 11 V. Must have hearing in 30 or 10 days. Is this enough time to respond to a lengthy allegation? How could a waiver happen?

P3 line 18-19 VI. Shall not be bound by technical rules of evidence YET you could deprive a person of second amendment rights to firearms.

P3 line 20 VII. Support person but can't provide legal advice. How do you know if they are giving you legal advice?

Taking their firearms away before they've found guilty. Guns can be taken away under existing laws with greater reasons in play.

Ordering defendant to pay all sorts of things_____

[Chair Weber – Criminal Justice Committee will decide penalty.]

Rep. Pearson – PG 4 lines 24:

Plaintiff can seize my animal even if I am not related to plaintiff?

ANSWER: Atty Dean – This is correct

Rep. Pearson – while I see provision later in the bill for firearms to be returned I see no provision for me getting my dog back, is that correct?

ANSWER: Atty Dean – That is correct. [Rep. Mark Pearson Acting Clerk]

J R Hoell -

Rights of accused are protected under Article 15 of the NH Constitution.

Bill will force certain people to give up their firearms.

Heather Carroll, Alzheimer's Association -

Supports the bill. The memory loss experienced by people with cognitive impairment leaves them vulnerable. The Alzheimer's Association's 24 hour help line receives an increasing number of people seeking help with abuse. The person is usually in the mid-point of memory loss. Person accused is usually someone known to the vulnerable person. Instances of elder abuse are not limited to those with dementia. This legislation protects assets the assets of vulnerable people, which are not protected otherwise in statute.

James Gaffney - Opposes the bill -

You would not substitute the right to vote for the right to firearms in this bill. Why would you strip someone of the right to firearms? Most of these people are highly functional people. Without due process you are allowing someone to strip them of a natural right, a constitutional right. This bill has no protections for the person.

*** 1 Ryan Donnelly, Granite State Independent Living -**

Supports the bill. Granite State Independent Living advocates for people who wish to stay in their homes. He relies on people to help with day to day care and has experienced abuse from a live-in caregiver. Definition of abuse can prove to be narrow. Because the abuse he experienced was primarily emotional he was only able to get temporary relief. Bill reasonably broadens the definition of abuse.

*** 2 Alan Rice, Gun Owners of America -**

Opposes the bill. Would allow guardians of vulnerable adults to strip people of their constitutional rights. Existing criminal laws can be used to lock up people. Disagree with ex-parte hearings and gun confiscation. No limit on how far back someone can look.

*** 3 Doug McNutt, AARP -**

This bill tries to prevent abuse from happening. The structure of this bill is similar to the domestic violence statute, which has proven successful. Doesn't do any good to deal with the problem after the fact. Not everyone has a guardian. Guardianship process involves a loss of autonomy and takes some time to put into effect. This bill gives an opportunity to get a restraining order which is followed up with due process. Domestic violence statute, upon which this bill is based, does not allow you to simply step in to say some abuse might occur in the future. Must be some sort of credible information before a temporary restriction is made.

Cheryl Steinberg, NH Legal Assistance -


Supports the bill. She assisted with the drafting of the bill. This is not a criminal statute. It is seeking to provide civil relief for victims that is not currently available under criminal statutes. Evidence must be presented before the court to justify that there is a credible threat. The judge will decide what relief would be appropriate. Confiscation of weapons is an option, but not required. Mirrors the domestic violence statutes which have been in existence for year and upheld by the courts. In a previous bill, confiscation of guns was mandatory under similar circumstances. This bill makes confiscation discretionary. If domestic violence victims are entitled to those protections, vulnerable adults should be as well. Defendant has the right to go to the temporary hearing and to the final hearing. Only after the judge makes a final judgment does the fact finding become final.

The process created in this bill provides an easy process for people to seek relief. If there is no finding of abuse, then confiscation of guns is not "necessary".

*** 4 Laurie Branchaud -**

Written testimony submitted but did not speak.

Respectfully submitted,

A handwritten signature in cursive script that reads "Susan Ticehurst". The signature is written in dark ink and is positioned above the printed name.

Rep. Susan Ticehurst, Clerk

House Committee on Health, Human Services & Elderly Affairs
Public Hearing on HB 696-FN

Bill Title:	establishing a protective order for vulnerable adults.		
Date:	1/30/19		
Room:	205	Time Public Hearing Called to Order:	2:20
		Time Adjourned:	3:23

Committee Members Present:

X	Shapiro
X	Cannon
X	Stapleton
X	Nutter-Upham
X	Marsh
	Salloway
X	Fothergill
X	Freitas
X	Snow
X	MacKay
X	Ticehurst
X	Weber

	DeClerq
X	Osborne
	Acton
X	Woods
X	Pearson
X	Knirk
	Guthrie
	Nelson
X	McMahon
X	Campion

Testimony

* Use asterisk if written testimony and/or amendments are submitted.

*	Attch #	Name	Testimony:
		Introduced by Rep. Cushing	See Rep. Pearson's handwritten notes.
		Penny Dean	See Rep. Pearson's handwritten notes.
		J R Hoell	Rights of accused are protected under Article 15 of the NH Constitution. Bill will force certain people to give up their firearms.

		Heather Carroll, Alzheimer's Association	Supports the bill. The memory loss experienced by people with cognitive impairment leaves them vulnerable. The Alzheimer's Association's 24 hour help line receives an increasing number of people seeking help with abuse. The person is usually in the mid-point of memory loss. Person accused is usually someone known to the vulnerable person. Instances of elder abuse are not limited to those with dementia. This legislation protects assets the assets of vulnerable people, which are not protected otherwise in statute.
		James Gaffney	Opposes the bill. You would not substitute the right to vote for the right to firearms in this bill. Why would you strip someone of the right to firearms? Most of these people are highly functional people. Without due process you are allowing someone to strip them of a natural right, a constitutional right. This bill has no protections for the person.
*	1	Ryan Donnelly, Granite State Independent Living	Supports the bill. Granite State Independent Living advocates for people who wish to stay in their homes. He relies on people to help with day to day care and has experienced abuse from a llive in caregiver. Definition of abuse can prove to be narrow. Because the abuse he experienced was primarily emotional he was only able to get temporary relief. Bill reasonably broadens the definition of abuse.
*	2	Alan Rice, Gun Owners of America	Opposes the bill. Would allow guardians of vulnerable adults to strip people of their constitutional rights. Existing criminal laws can be used to lock up people. Disagree with ex-parte hearings and gun confiscation. No limit on how far back someone can look.
*	3	Doug McNutt, AARP	This bill tries to prevent abuse from happening. The structure of this bill is similar to the domestic violence statute, which has proven successful. Doesn't do

			<p>any good to deal with the problem after the fact. Not everyone has a guardian. Guardianship process involves a loss of autonomy and takes some time to put into effect. This bill gives an opportunity to get a restraining order which is followed up with due process. Domestic violence statute, upon which this bill is based, does not allow you to simply step in to say some abuse might occur in the future. Must be some sort of credible information before a temporary restriction is made.</p>
		Cheryl Steinberg, NH Legal Assistance	<p>Supports the bill. She assisted with the drafting of the bill. This is not a criminal statute. It is seeking to provide civil relief for victims that is not currently available under criminal statutes. Evidence must be presented before the court to justify that there is a credible threat. The judge will decide what relief would be appropriate. Confiscation of weapons is an option, but not required. Mirrors the domestic violence statutes which have been in existence for year and upheld by the courts. In a previous bill, confiscation of guns was mandatory under similar circumstances.</p> <p>This bill makes confiscation discretionary. If domestic violence victims are entitled to those protections, vulnerable adults should be as well. Defendant has the right to go to the temporary hearing and to the final hearing. Only after the judge makes a final judgment does the fact finding become final. The process created in this bill provides an easy process for people to seek relief. If there is no finding of abuse then confiscation of guns is not "necessary".</p>
*	4	Laurie Branchaud	Written testimony submitted but did not speak.

Respectfully submitted,

hearing begins
2:20 pm

HB 696

Present:

Shapiro, Cannon, Stapleton, ^{Nutter} Upton,
Marsh, Fothergill, Freitas, Snow,
Mackay, Pearson, Weber, Campion,
McMahon, Guthrie, Woods, Osborne

Rep Cushing

~~introduces~~ to ~~the~~ ~~last~~ ~~session~~ ~~which~~ ~~had~~

~~introduces~~ legislature
Introduces his bill 2014 financial exploitation

of people became a crime. Several stake holders
came together to produce ^{HB} 696 before us. ^{relevant}
Modeled in some way on 173B State Abuse Statute.

This bill wants to expand the civil remedies against
abusers. Previous bill passed this committee,
criminal justice committee, house, senate ^{HHS} committee,
Then hit a snafu.

The seizure of firearm of defendant was the
sticking point. Some see HB 696 as a "gun bill"
but in the bill the judge has discretion in seizing
a gun.

Q Rep. Weber, p 2 line 27 commencement of

procedure, ^{by the vulnerable} adult guardian, atty-in-fact,
The department; why just them?

Rep Cushing
Answer - The drafter - senior law project and other
stakeholders came up with this.

Penny Mean, private atty. OPPOSES the bill. MANY errors
in the bill.

Inconsistent within itself. a first year law student
would be embarrassed. We have many statutes
against abusive of people crimes already.

People turn each other into DCYF to express
anger of someone else.

② If people are being abused, ^{we have} 347B, 467A, and other statutes to solve this problem. There's a criminal ^{threatening} statute in place.

173B4 commencement of proceedings ^{page 2} line 26 ff
How long does the defendant/his-her attorney to respond to additional allegations? Judges are not always allowing adequate time.

P63 line 9 IV. findings of facts are final
How can you challenge findings of facts if judge is incompetent. You may question issues of law but in this bill you cannot question or appeal declarations of facts.

P3 line 11 V. ^{must have hearing in 30 or 10 days.} Is this enough time to respond to a lengthy allegation? How could a waiver happen.

p3 lines 18-19 VI. shall not be bound by technical rules of evidence YET you could deprive a person of second amendment ~~rights~~ rights to firearms

p3 line 20 VII. Support person but can't provide legal advice. How do you know if they are giving you legal advice.

Taking their firearms away before they've been found guilty. Guns can be taken away under existing laws with greater reasons in play.

Ordering defendant to pay all sorts of things —

[^{chair weber} Criminal Justice Committee will decide penalty.]

③ Rep Pearson Pg 4 lines 24 H

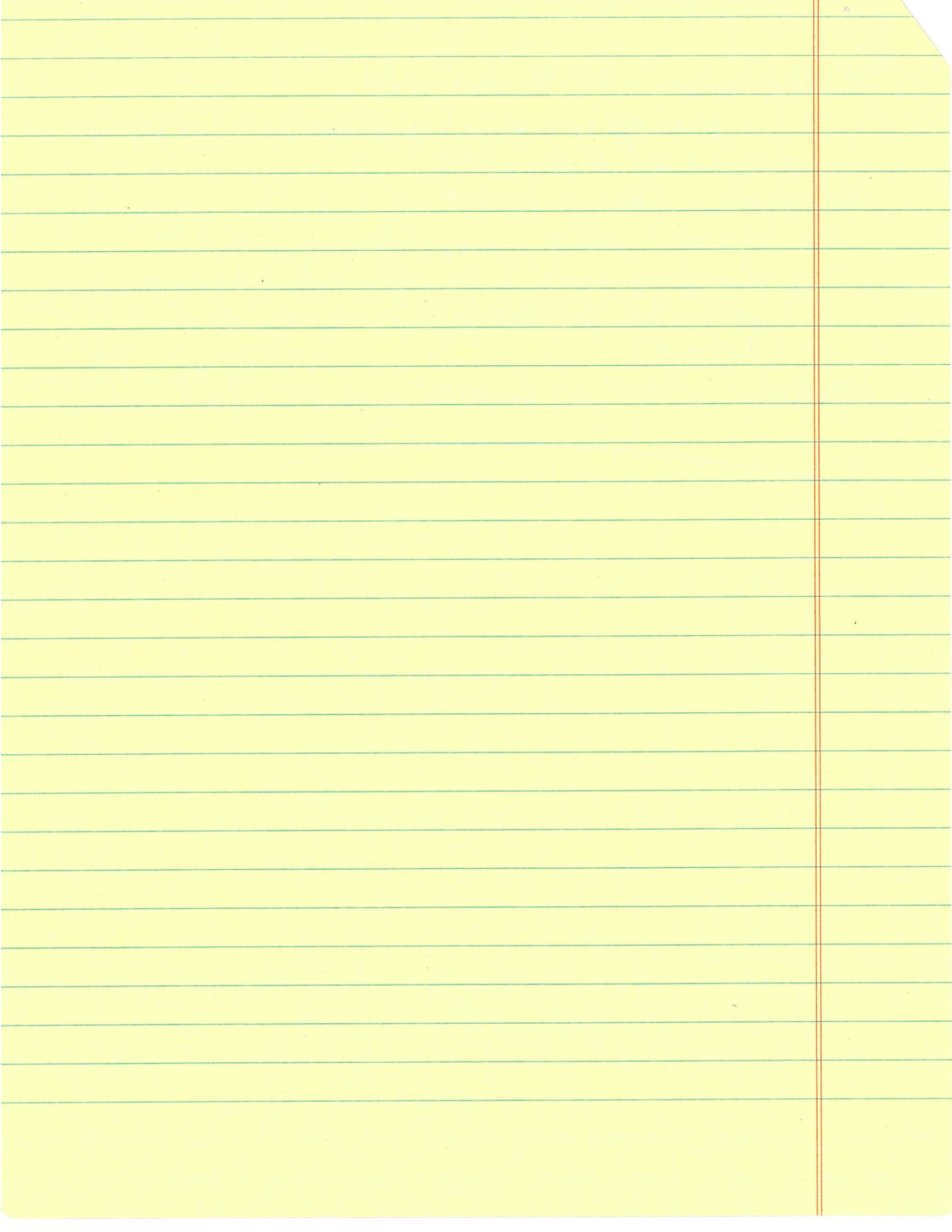
plaintiff can seize my animal even if I am not related to plaintiff?

ATTY DEAN: This is correct

Rep Pearson while I see provisions later in the bill for firearms to be returned I see no provision for me getting my dog back, is that correct?

Atty Dean That is correct.

Rep Mark Pearson
Hearing Clerk



SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB - 696-FN Date 1-30-79
 Committee Health

** Please Print All Information **

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Sen. Martha Hennesey			SD #4	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR SHARON CARSON		X3091	SD #14	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP JOHN POTUCEK - ROCK.				<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep John A. Burt	Goffstown, N.H.	624-5084		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chip Spangler	Manchester	854-9027		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Isgrat	Bedford		AARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Doris Hohensee	15 Swart Terr. Nashua		self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Debra Altschiller	Stratham		Rockingham 19	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Shamen Chandler				<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Ned Gordon			Grafton 9	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Merry Fortier	Canterbury			<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bev Cotton	WEARE, N.H.		AARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GARY COLE	MANCHESTER		AARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dana Davy	Concord		self AARP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Roger Desrosiers	Concord		AARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Karen Nemes	Dorset		AARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kathleen Hoey	Manchester		AARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kathie Kaluzynski	Manchester		AARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dan Hobbs	AUBURN, NH		NH-AHA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fenny Dean	99 Warren		Concord NH self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Alan Rice			GUN OWNERS of America	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Dawn McKinney			NH Legal Assn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep Al Baldasaro	Rock - Dist 5			<input type="checkbox"/>	<input checked="" type="checkbox"/>

JAMES GAFFNEY WARNER AGAINST BILL

X 711 22 1908 1000000 1000000

X

X 102 1000000 1000000


Testimony

Granite State
Independent Living



*Tools for Living
Life on Your Terms*

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21 Chenell Drive
Concord, NH 03301
603.228.9680
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888.396.3459 (tty)
603.225.3304 (fax)
www.gsil.org


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Keene
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877.680.4826

Littleton
603.444.0904
800.588.5772

Manchester
603.518.4600
800.773.4033

Nashua
603.881.7144

1/30/2019

Dear Members of the House Health & Human Services Committee,

Hello, my name is Ryan Donnelly. I am writing to you today on my own behalf, as well as that of Granite State Independent Living. GSIL is a state-wide non-profit organization that advocates and provides services for seniors and people with disabilities who wish to remain independent in their homes and communities. I am writing to you today in support of HB696.

I myself am a person with a severe physical disability. I live with a condition called Osteogenesis Imperfecta. My bones break and fracture easily, I am unable to walk, and I am also short in stature. I value my independence, which includes driving my own van, holding a job, and being a part of my community. However, because of my condition, I rely on others for my personal day to day care.

There is a great deal of trust that comes in taking someone on to provide that day to day care. Unfortunately there can be times when that trust has been misplaced. I myself was a recent victim of serious emotional abuse and an instance of unwanted physical contact at the hands of a live-in caregiver. It was a traumatic, painful, and frightening ordeal for me and for my family.

As it stands right now, even for a vulnerable adult such as myself, the definition of abuse can prove to be narrow. Because the nature of the abuse I was subjected to was primarily emotional, I was successful in receiving only a temporary protective order against my former caregiver. While I am fortunate that matters played out in such a way that this individual no longer resides in my home, I wish that more could have been done.

Which is precisely where this bill comes into play. For people with disabilities like myself as well as other vulnerable adults, HB696 reasonably broadens the definition of abuse. This will allow the law to protect us, for we individuals who cannot protect ourselves. I know for certain that this bill will protect me.

With this in mind, I hope the members of this committee will choose to support HB696. Thank you for the opportunity to testify to you today, and for all of the hard work you perform on the behalf of all New Hampshire citizens.

Sincerely,

Ryan J. Donnelly
Regional Advocacy Facilitator



GUN OWNERS OF AMERICA

8001 Forbes Pl Suite 102, Springfield VA 22151
PH: 703-321-8585 / FX: 703-321-8408

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Direct Contact: alanrice@gunowners.org
(603) 471-2721

TESTIMONY IN OPPOSITION OF HB 696

January 30, 2019 -- New Hampshire House Health, Human Services and Elderly Affairs Committee

Good afternoon, for the record, my name is Alan Rice; I am resident of Bedford, NH and I am here today as the New Hampshire Field Representative for Gun Owners of America, a national organization with close to 2 million individual members. **We strongly oppose HB 696.**

HB 696 is a long, complex bill which will allow the "guardian-in-fact" of a "vulnerable adult" to strip a Granite Stater of his Second, Fourth, Fifth, and Fourteenth Amendment Constitutional rights through a "secret" telephone call -- with no hearing whatsoever -- and no chance for the accused to defend himself or to state his point of view before guns are confiscated. Guilty until proven innocent is not the American way.

In accordance with standard protocol, under HB 696, the police can arrive at an individual's door in the middle of the night to ransack his house and, if he resisted, to arrest and shoot him.

This is exactly what happened in Ferndale, Maryland, to 60-year-old Gary Willis, a "gentle" man who was targeted by a vindictive relative, and who was shot to death when police arrived at his darkened house at 5:17 AM because he answered the door with a gun. Which, at 5:17AM is a prudent way to answer the door.

Under the provisions of HB 696, law enforcement agencies can charge fees to store the firearms they have just confiscated and cannot be held liable for any damage to the firearms while they are in their possession.

Sure, after the order is entered and the guns are confiscated, you can spend thousands of dollars on attorneys and experts to attempt to convince a judge to return your property. That is NOT due process; true due process occurs when the presumption of innocence remains and the accused has an opportunity to be heard in court before their property is taken.

We believe that HB 696 is another, blatant attempt at injecting government into every aspect of people's private lives through the use of court appointed, court ordered guardians and fiduciaries who, if HB 696 is adopted, will be given the authority to have your guns confiscated. In one section of HB 696 vulnerable adults are described as a person whose:

"...means that the physical, mental, or emotional ability of a person is such that he or she is unable to manage personal, home, or financial affairs in his or her own best interest, or he or she is unable to act or unable to delegate responsibility to a responsible caretaker or caregiver."

But then, in another section of the same bill, the "vulnerable adult" can authorize the Department of Health and Human Services to act on their behalf. A state agency that has an abysmal record at caring for those who actually need help.

So, even though these older adults are allegedly vulnerable and unable to manage their personal affairs, they can authorize a state agency to act on their behalf and petition the courts to restrain others and confiscate their guns. This conflict shows that HB 696 was not drafted to help anyone, but rather its intention is to provide another way for disgruntled family members to retaliate against someone who has probably not done anything wrong.

Another outrageous aspect of HB 696 is that it seems to allow the courts to look back in time indefinitely: *"The court shall not deny the plaintiff protective orders based solely on a lapse of time between an act of abuse, exploitation, or neglect and the filing of a petition, provided that the underlying act presents a credible threat to the plaintiff's current safety or physical, mental, or financial well-being."*

Who can request such a gun confiscation order? Pretty much anyone, a disgruntled child, sibling, niece, nephew, spurned lover, visiting nurse, police officers, anti-gun conservation officers. **The list of potential plaintiffs is endless and they can request such an order over the telephone.**

So even if the gun owner survives the "knock-on-the-door" in the middle of the night, it is unlikely that he will be able to summon the resources to defend his constitutional rights in court.

On behalf of almost two million members of Gun Owners of America, I'm urging you to vote HB 696 "inexpedient to legislate".

Thank you.



45 S. Main Street, Suite 202 | Concord, NH 3301
1-866-542-8168 | Fax: 603-224-6212 | TTY: 1-877-434-7598
aarp.org/nh | nh@aarp.org | twitter: @aarph
facebook.com/AARPNH

January 30, 2019
Hearing HB 696

Re: establishing a protective order for vulnerable adults

Chair Weber and members of the House Health, Human Services and Elderly Affairs
Committee

AARP has approximately 230,000 members age 50 plus statewide and prevention of financial exploitation and elder abuse is a major priority for AARP. Since HB 696 we believe will help prevent financial exploitation and elder abuse, AARP strongly supports HB 696.

The purpose of the bill is to establish civil protective orders for vulnerable adults subject to abuse, neglect or exploitation. I have had past experience with these issues as the Director of Elderly and Adult Services in Health and Human Services, which administers the adult protection program. Given this background, I recognize that the orders that this bill would create, are very significant in that they offer an opportunity to prevent abuse and exploitation, rather than dealing with it after the fact when the abuse or exploitation has occurred, as can be the case with the criminal justice system and even in the Adult Protection System.

When someone has been financially exploited their money is gone and it is very difficult to get it back. This means that the resources the person was depending on are gone and this often leads to the victim needing to rely on public assistance. We also want to prevent abuse if at all possible. It is in everyone's best interest to try to prevent that. That is why AARP supports HB 696 as a mechanism that can help prevent abuse and exploitation.

Respectfully submitted,

Douglas McNutt
AARP New Hampshire
603-230-4106
Dmcnutt@aarp.org

4

January 30th, 2019

Dear Honorable House health and Human Services Committee,

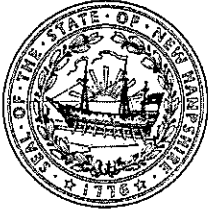
Please support Bill HB696-FN: Establishing Protective Orders for Vulnerable Adults. New Hampshire needs to go one step further in their fight to keep our vulnerable adults safe from abuse, neglect and exploitation. Establishing Protective orders will expand the current protection for these vulnerable adults and give them the opportunity to stop being a victim and fight back.

Thank you for any support you can provide on this bill.

Sincerely,



Laurie Branchaud
Adult Day Service Program Mgr.
Gateways Adult Day Service Program
(603)883-0994



HOUSE COMMITTEE RESEARCH OFFICE

New Hampshire House of Representatives

4th Floor, Legislative Office Building

Concord, NH 03301-6334

TEL: (603) 271-3600

TDD Access: Relay NH 1-800-735-2964

D.C. Bates, House Committee Researcher
603-271-3385; dc.bates@leg.state.nh.us; LOB 408

MEMORANDUM

TO: Representative Weber, HHSEA committee
FROM: D.C. Bates, House Committee Research
DATE: January 30, 2019
SUBJ: HB 696, establishing a protective order for vulnerable adults.

Representative Weber,

You asked me to provide a summary of HB 1807's path through the legislature to aid the committee in its consideration of HB 696.

HB 696 establishing a protective order for vulnerable adults is identical to HB 1807 (2018) as it was introduced last year. HB 1807 was introduced in December of 2017 and referred to the HHSEA committee. On January 11th the committee voted to recommend the bill as Ought to Pass.

Rep. Jerry Knirk for Health, Human Services and Elderly Affairs. From the committee's point of view, this bill is needed. This bill expands RSA 631:8-10 to include criminal liability if the perpetrator sought consent from a vulnerable adult whom they knew lacked capacity to consent to give away control of their property. The bill also establishes civil protective orders to stop abuse and an opportunity for the victim to recoup damages. The Criminal Justice Committee will need to evaluate the penalty components. Vote 18-0.

The bill passed the full House on a voice vote on February 8th and was referred to the Criminal Justice and Public Safety committee. On February 20th the committee voted to recommend the bill as Ought to Pass.

Rep. Kate Murray for Criminal Justice and Public Safety. This bill extends further protection to a vulnerable, elderly population who are at risk of financial exploitation and/or physical or sexual abuse. The bill will also protect those who have a physical or mental disability. It further provides a procedure for issuing a protective order for vulnerable adults so they may be protected from continuing exploitation in a more timely fashion than currently exists. The language for a protective order is identical to the language for domestic abuse. Vote 18-0.

The bill again passed the House on a voice vote and was sent to the Senate, where it was referred to the Health and Human Services committee. On April 19th the committee voted to recommend the bill as Ought to Pass 3-0. (The Senate does not publish committee reports to explain its decisions as the House does.) At the Senate session on April 26th Senator Hennessey spoke for the committee's recommendation, arguing that it would clarify statutes to aid prosecutions by the Attorney General's Office and provide a useful protective order mechanism for elderly citizens.

file

Senator Daniels brought forth a floor amendment (2018-1740s) which replaced the entire bill with an amendment to RSA 631:9 (Financial Exploitation of Elderly, Disabled, or Impaired Adults). The amendment is reproduced below:

Floor Amendment to HB 1807-FN

Amend the bill by replacing section 1 with the following:

1 Financial Exploitation of Elderly, Disabled, or Impaired Adults. Amend the introductory paragraph of RSA 631:9, I(b) to read as follows:

(b) In the absence of legal authority a person knowingly or recklessly through the use of undue influence, harassment, duress, force, compulsion, ~~or~~ coercion, ***or under any circumstances where the person knew that the elderly, disabled, or impaired adult lacked capacity to consent, or consciously disregarded a substantial and unjustifiable risk that the elderly, disabled, or impaired adult lacked capacity to consent:***

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

Senator Daniels argued that the bill contained a number of issues:

1. The language of the bill too closely mirrored the language of the domestic violence statute without necessary adjustments for protecting vulnerable adults and protecting the rights of defendants.
2. Many of the definitions in the bill were built on presumptions, using phrases such as “or could result” and “or had reason to know.”
3. The definition of “vulnerable” in the bill was problematic, as it stated that the physical, mental and emotional vulnerability of a person is such that he or she is unable to manage personal, home and financial affairs in his or her own best interest, or he or she is unable to act responsibly or unable to delegate responsibility to a responsible caregiver or caretaker. It seemed to Senator Daniels that if a person met this definition of vulnerable, they would necessarily not be legally competent to make other decisions, including whether or not to waive their rights.
4. Temporary orders for the protection of the plaintiff could be ordered by the court with or without notice being provided to the defendant, but the defendant would still be charged with an offense for violation of an order.
5. A defendant would be forced to relinquish firearms once they were named in a protective order, but before they had been proven guilty of any offense, suspending their second, fourth and fourteenth amendment rights.
6. Peace officers rendering emergency care to an elderly person were exempted from liability if the care or assistance was rendered in good faith, but no such exemption exists for defendants.

He argued that his amendment sufficiently covered issues of financial exploitation, while avoiding the complications presented by the main bill, and represented to the Senate that the AG and the organizations supporting the bill to this point found his amendment acceptable.

The Senate adopted the amendment on a voice vote, and passed the bill as amended 22-2. The House concurred with the Senate’s amended version and Governor Sununu signed the bill into law on June 25th.

Bill as
Introduced

HB 696-FN - AS INTRODUCED

2019 SESSION

19-0014
01/10

HOUSE BILL

696-FN

AN ACT

establishing a protective order for vulnerable adults.

SPONSORS:

Rep. Cushing, Rock. 21; Rep. McMahon, Rock. 7; Rep. Champion, Graf. 12; Rep. Long, Hills. 10; Rep. Gordon, Graf. 9; Rep. Marsh, Carr. 8; Sen. Chandley, Dist 11; Sen. Carson, Dist 14; Sen. Hennessey, Dist 5

COMMITTEE:

Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes a procedure for protective orders for vulnerable adults.

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.

1 VI. "Exploitation" means the improper use of a vulnerable adult's person or property for
2 another person's profit or advantage, or the breach of a fiduciary relationship through the use of a
3 person or a person's property for any purpose not in the proper and lawful execution of a trust,
4 including, but not limited to, situations where a person obtains money, property, or services from a
5 vulnerable adult through the use of undue influence, harassment, duress, deception, fraud or under
6 any circumstances where the person knew or had reason to know that the vulnerable adult lacked
7 capacity to consent.

8 VII. "Foreign protective order" means an order enforceable under RSA 173-D:14.

9 VIII. "Neglect" means an act or omission which results or could result in the deprivation of
10 essential services or supports necessary to maintain the minimum mental, emotional, or physical
11 health and safety of a vulnerable adult.

12 IX. "Plaintiff" means the vulnerable adult to be protected by the protective orders and, if
13 the court grants the petition, the protected person.

14 X. "Vulnerable" means that the physical, mental, or emotional ability of a person is such
15 that he or she is unable to manage personal, home, or financial affairs in his or her own best
16 interest, or he or she is unable to act or unable to delegate responsibility to a responsible caretaker
17 or caregiver.

18 173-D:3 Jurisdiction and Venue.

19 I. The district division and the judicial branch family division of the circuit courts shall
20 have concurrent jurisdiction over all proceedings under this chapter.

21 II. If the plaintiff has left the household or premises to avoid further abuse, the plaintiff
22 shall have the option to commence proceedings pursuant to RSA 173-D:4 in the county or district
23 where the plaintiff temporarily resides.

24 III. Proceedings under this chapter may be transferred to another court upon the motion of
25 any party or of the court as the interests of justice or the convenience of the parties may require.

26 173-D:4 Commencement of Proceedings; Hearing.

27 I. A vulnerable adult, guardian, or attorney-in-fact of a vulnerable adult, or if authorized by
28 the vulnerable adult, the department, may seek relief pursuant to RSA 173-D:6 by filing a petition,
29 in the county or district where the plaintiff or defendant resides, alleging abuse, exploitation or
30 neglect by the defendant. Any person filing a petition containing false allegations of abuse shall be
31 subject to criminal penalties. Notice of the pendency of the action and of the facts alleged against
32 the defendant shall be given to the defendant, either personally or as provided in paragraph II. The
33 plaintiff shall be permitted to supplement or amend the petition only if the defendant is provided an
34 opportunity prior to the hearing to respond to the supplemental or amended petition. All petitions
35 filed under this section shall include the home and work telephone numbers of the defendant, if
36 known. Notice of the whereabouts of the plaintiff shall not be revealed except by order of the court
37 for good cause shown. Any answer by the defendant shall be filed with the court and a copy shall be
38 provided to the plaintiff by the court.

1 II. No filing fee or fee for service of process shall be charged for a petition or response under
2 this section, and the plaintiff or defendant may proceed without legal counsel. Either a peace officer
3 or the sheriff's department shall serve process under this section. Any proceeding under this
4 chapter shall not preclude any other available civil or criminal remedy.

5 III. The clerks of the circuit courts shall supply forms for petitions and for relief under this
6 chapter designed to facilitate pro se proceedings. All such petitions shall contain the following
7 words: I swear that the foregoing information is true and correct to the best of my knowledge. I
8 understand that making a false statement on this petition will subject me to criminal penalties.

9 IV. The findings of facts shall be final, but questions of law may be transferred from the
10 circuit court to the supreme court.

11 V.(a) The court shall hold a hearing within 30 days of the filing of a petition under this
12 section or within 10 days of service of process upon the defendant, whichever occurs later.

13 (b) The time frame established in this paragraph may be extended for an additional 10
14 days upon motion by either party for good cause shown. A recusal by the judge or any act of God or
15 closing of the court that interferes with the originally scheduled hearing shall not be cause for the
16 dismissal of the petition. The court shall reschedule any hearing under this section in an
17 expeditious manner.

18 VI. In any proceeding under this chapter, the court shall not be bound by the technical
19 rules of evidence and may admit evidence which it considers relevant and material.

20 VII. In a proceeding under this chapter, a support person may accompany a party in court
21 and, if the party is not represented by an attorney, may sit with the party at the table that is
22 generally reserved for the party and the party's attorney. The support person is present to provide
23 moral and emotional support for a person who alleges he or she is a victim of abuse. The support
24 person is not present as a legal adviser and may not provide legal advice. The support person may
25 assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she
26 will not be injured or threatened by the other party during the proceedings if the person who
27 alleges he or she is a victim of abuse and the other party are required to be present in close
28 proximity. This section does not preclude the court from exercising its discretion to remove the
29 support person from the courtroom if the court believes the support person is prompting, swaying,
30 or influencing the party assisted by the support person.

31 173-D:5 Temporary Relief.

32 I. Upon a showing of an immediate and present danger of abuse, exploitation, or neglect,
33 the court may enter temporary orders to protect the plaintiff with or without actual notice to
34 defendant. The court may issue such temporary orders by telephone, facsimile or any other
35 methods approved by court rules. Such telephonically issued orders shall be made by a circuit court
36 judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be
37 effective until the close of the next regular court business day. Such orders shall be returnable to
38 the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise

1 ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party
2 against whom such relief is issued may file a written request with the clerk of the court and request
3 a hearing on such orders. Such hearing shall be held no less than 3 business days and no more
4 than 5 business days after the request is received by the clerk. Such hearings may constitute the
5 final hearing described in RSA 173-D:4, V. Such temporary relief may direct the defendant to
6 relinquish to a peace officer any and all firearms and ammunition in the control, ownership, or
7 possession of the defendant, or any other person on behalf of the defendant for the duration of the
8 protective order. Other temporary relief may include:

9 (a) Protective orders:

10 (1) Restraining the defendant from abusing, exploiting, or neglecting the plaintiff.

11 (2) Restraining the defendant from entering the premises and curtilage where the
12 plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable
13 notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries,
14 medication, clothing, business equipment, and any other items as determined by the court.

15 (3) Restraining the defendant from withholding items of the plaintiff's personal
16 property which are specified in the order. A peace officer shall accompany the plaintiff or his/her
17 representative in retrieving such property to protect the plaintiff.

18 (4) Restraining the defendant from contacting the plaintiff or entering a specified
19 place frequented regularly by the plaintiff.

20 (5) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
21 regardless of their place of residence, or plaintiff's household members in any way.

22 (6) Restraining the defendant from taking, converting, or damaging property in
23 which the plaintiff may have a legal or equitable interest.

24 (7) Granting the plaintiff exclusive care, custody, or control of any animal owned,
25 possessed, leased, kept, or held by the plaintiff or defendant in either household, and ordering the
26 defendant to stay away from the animal and forbidding the defendant from taking, transferring,
27 encumbering, concealing, committing an act of cruelty or neglect, or disposing of the animal.

28 (b) Other relief, including but not limited to:

29 (1) In the case of financial exploitation, prohibiting the defendant from transferring
30 or otherwise encumbering any of his or her assets other than for necessary household expenses,
31 provided, however, that such prohibition shall not extend to, encumber, or otherwise limit the
32 rights of creditors, mortgagees, or secured parties in such property.

33 (2) Restraining the defendant from taking any action which would lead to the
34 disconnection of any and all utilities and services to the parties' household, or the discontinuance of
35 existing business or service contracts, including, but not limited to, mortgage or rental agreements.

36 (3) An order enjoining a party from specified behavior that the court determines is
37 necessary to protect the vulnerable adult.

1 I. A finding of abuse, exploitation, or neglect shall mean the defendant represents a credible
2 threat to the safety of the plaintiff or physical, mental, or financial well-being. Upon a showing of
3 abuse, exploitation, or neglect of the plaintiff by a preponderance of the evidence, the court shall
4 grant such relief as is necessary to bring about a cessation of abuse, exploitation, or neglect. Such
5 relief shall direct the defendant to relinquish to the peace officer any and all firearms and
6 ammunition in the control, ownership, or possession of the defendant, or any other person on behalf
7 of the defendant for the duration of the protective order. Other relief may include:

8 (a) Protective orders:

9 (1) Restraining the defendant from abusing, exploiting or neglecting the plaintiff.

10 (2) Restraining the defendant from entering the premises and curtilage where the
11 plaintiff resides, except when the defendant is accompanied by a peace officer and is allowed entry
12 by the plaintiff for the sole purpose of retrieving personal property specified by the court.

13 (3) Restraining the defendant from contacting the plaintiff or entering the plaintiff's
14 place of employment, school, or any specified place frequented regularly by the plaintiff or by any
15 family or household member.

16 (4) Restraining the defendant from abusing the plaintiff, plaintiff's relatives,
17 regardless of their place of residence, or plaintiff's household members in any way.

18 (5) Restraining the defendant from taking, converting, or damaging property in
19 which the plaintiff may have a legal or equitable interest.

20 (6) Granting the plaintiff exclusive care, custody, or control of any animal owned,
21 possessed, leased, kept, or held by the plaintiff or defendant in either household, and ordering the
22 defendant to stay away from the animal and forbidding the defendant from taking, transferring,
23 encumbering, concealing, committing an act of cruelty or neglect, or disposing of the animal.

24 (b) Other relief including, but not limited to:

25 (1) Granting the plaintiff the exclusive use and possession of the premises and
26 curtilage of the plaintiff's place of residence, unless the defendant exclusively owns or leases and
27 pays for the premises and the defendant has no legal duty to support the plaintiff and provided,
28 however, that such relief shall not extend to, extinguish, encumber, or otherwise limit the
29 rights of creditors, mortgagees, or secured parties in such property.

30 (2) Restraining the defendant from withholding items of the plaintiff's personal
31 property specified by the court. A peace officer shall accompany the plaintiff in retrieving such
32 property to protect the plaintiff.

33 (3) Granting to the plaintiff the exclusive right of use and possession of the
34 household furniture, furnishings, or a specific automobile, unless the defendant exclusively owns
35 such personal property and the defendant has no legal duty to support the plaintiff.

36 (4) Ordering the defendant to make automobile, insurance, health care, utilities,
37 rent, or mortgage payments.

38 (5) Ordering the defendant to pay the plaintiff monetary compensation for losses

1 suffered as a direct result of the abuse, exploitation, or neglect which may include, but not be
2 limited to, misappropriated funds, loss of earnings or support, medical and dental expenses, damage
3 to property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

4 (6) Ordering the defendant to pay reasonable attorney's fees.

5 II. The court may prohibit the defendant from purchasing, receiving, or possessing any
6 deadly weapons and any and all firearms and ammunition for the duration of the order. The court
7 may subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons
8 specified in the protective order and any and all firearms and ammunition, if there is probable
9 cause to believe such firearms and ammunition and specified deadly weapons are kept on the
10 premises or curtilage of the defendant.

11 III. The court shall not deny the plaintiff protective orders based solely on a lapse of time
12 between an act of abuse, exploitation, or neglect and the filing of a petition, provided that the
13 underlying act presents a credible threat to the plaintiff's current safety or physical, mental, or
14 financial well-being.

15 IV. No order made under this section shall supersede or affect any court order pertaining to
16 the possession of a residence or household furniture as determined by a circuit court, or title to real
17 or personal property.

18 V. Any order under this section shall be for a fixed period of time not to exceed one year,
19 but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with
20 notice to the defendant, for one year after the expiration of the first order and thereafter each
21 extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the
22 court. The court shall review the order and each renewal thereof and shall grant such relief as may
23 be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the
24 right to a hearing on the extension of any order under this paragraph to be held within 30 days of
25 the extension. The court shall state in writing, at the respondent's request, its reason or reasons for
26 granting the extension. The court shall retain jurisdiction to enforce and collect any financial
27 compensation due to the plaintiff which accrued prior to the expiration of the protective order.

28 VI. Both parties shall be issued written copies of any orders issued by the court, and all
29 orders shall bear the following language: "A willful violation of this order is a crime, as well as
30 contempt of court. Violations of the protective provisions shall result in arrest and may result in
31 imprisonment." Orders shall clearly state how any party can request a further hearing and how the
32 plaintiff may bring a criminal complaint or a petition for contempt if there is a violation of any court
33 order.

34 VII.(a) No order issued under this chapter shall be modified other than by the court.

35 (b) If either party wishes the defendant to be excused from any provisions of an order of
36 protection, the remedy is to petition the court for modification of such order.

37 (c) A defendant who is restrained from contacting the plaintiff or entering the premises
38 of the plaintiff is prohibited from doing so even if invited by the plaintiff unless the restraining

1 order has been modified by the court.

2 (d) This paragraph shall give unequivocal direction to peace officers that orders for
3 protection are to be enforced as written and that no action by a party relieves them of the duty to
4 enforce the order.

5 VIII. Upon issuing an order against a defendant, in which a defendant is restrained from
6 having any contact with the plaintiff, the court shall advise the plaintiff that it would be unwise
7 and possibly unsafe for the plaintiff to contact the defendant. If the plaintiff wishes to contact the
8 defendant for any reason, the court shall advise the plaintiff that such contact be made only after
9 petitioning the court for a modification of the order. In an emergency situation, the plaintiff or
10 plaintiff's family may request that the local police department notify the defendant and the local
11 police may accompany the defendant to a designated location, such as a hospital, if appropriate.

12 IX. Notwithstanding any other provision of law, the department of health and human
13 services or the department of safety, its employees and agents, and law enforcement officials shall
14 not be held criminally or civilly liable for action taken under this chapter provided they are acting
15 in good faith and without gross negligence, and within the scope of their duties and authority.

16 IX.(a) A copy of each protective order issued under this chapter shall be transmitted to the
17 administrative office of the courts by facsimile or computer. An emergency protective order issued
18 telephonically shall be transmitted by telephone or facsimile to the department of safety.

19 (b) The administrative office of the courts shall enter information regarding the
20 protective orders into the state database which shall be made available to police and sheriff
21 departments statewide. The department of safety shall make available information regarding
22 emergency protective orders issued telephonically to police and sheriff departments statewide.

23 (c) The administrative office of the courts shall update the database upon expiration or
24 termination of a protective order.

25 (d) Notwithstanding any other provision of law, the administrative office of the courts
26 or the department of safety, its employees and agents, and law enforcement officials shall not be
27 held criminally or civilly liable for action taken under this chapter or RSA 458:16, provided they are
28 acting in good faith and without gross negligence, and within the scope of their duties and
29 authority.

30 X. If a criminal records check conducted by the department of safety indicates that a
31 potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a
32 protective order issued under this chapter, the department of safety shall notify the administrative
33 office of the courts of the denial. The administrative office of the courts shall immediately notify the
34 plaintiff that the defendant has attempted to purchase or obtain a firearm in violation of the
35 protective order.

36 XI.(a) Within 15 days prior to the expiration of the protective orders, the defendant may
37 request, by motion to the court, the return of any and all firearms and ammunition and specified
38 deadly weapons held by the law enforcement agency while the protective order was in effect. Upon

1 receipt of such a motion, the court shall schedule a hearing no later than 15 days after the
 2 expiration of the order. The court shall provide written notice to the plaintiff who shall have the
 3 right to appear and be heard, and to the law enforcement agency which has control of the firearms,
 4 ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

5 (1) Establishing whether the defendant is subject to any state or federal law or
 6 court order that precludes the defendant from owning or possessing a firearm; and

7 (2) Under circumstances where the plaintiff has requested an extension of the
 8 protective order, whether the plaintiff has established by a preponderance of the evidence that the
 9 defendant continues to represent a credible threat to the safety of the plaintiff.

10 (b) If the court finds that the defendant is not subject to any state or federal law or
 11 court order precluding the ownership or possession of firearms, or if the court denies the plaintiff's
 12 request to extend the protective order, the court shall issue a written order directing the law
 13 enforcement agency to return the requested firearms, ammunition, or deadly weapon to the
 14 defendant.

15 (c) Law enforcement agencies shall not release firearms and ammunition and specified
 16 deadly weapons without a court order granting such release. The law enforcement agency may
 17 charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified
 18 deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost
 19 incurred by the law enforcement agency for the storage of the firearms and ammunition and
 20 specified deadly weapons. The defendant may make alternative arrangements with a federally
 21 licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval
 22 of the court. Such firearms shall be turned over to the appropriate law enforcement agency for
 23 transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement
 24 agency responsible for their transfer to the storage facility pursuant to a court order as prescribed
 25 in this paragraph.

26 (d) No law enforcement agency shall be held liable for alleged damage or deterioration
 27 due to storage or transportation to any firearms and ammunition and specified deadly weapons held
 28 by a law enforcement agency, provided that due care is used.

29 173-D:7 Permissible Contact.

30 I. A protective order issued pursuant to RSA 173-D:5 or RSA 173-D:6 shall not be construed
 31 to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the
 32 defendant in an action brought under this chapter, or in any criminal proceeding concerning the
 33 abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the
 34 scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of
 35 the attorney: identifies himself or herself as a representative of the defendant; acknowledges the
 36 existence of the protective order and informs the plaintiff that he or she has no obligation to speak;
 37 terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; and ensures
 38 that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the

1 court has modified the protective order to permit such contact.

2 II. A no-contact provision in a protective order issued pursuant to RSA 173-D:5 or RSA 173-
3 D:6 shall not be construed to:

4 (a) Prevent contact between counsel for represented parties; or

5 (b) Prevent a party from appearing at a scheduled court or administrative hearing; or

6 (c) Prevent a defendant or defendant's counsel from sending the plaintiff copies of any
7 legal pleadings filed in court relating to the petition or related civil or criminal matters.

8 III. A violation of this section may result in a finding of contempt of court.

9 173-D:8 Guardian Ad Litem. In all proceedings under this chapter, the court may appoint a
10 guardian ad litem to represent the interests of the vulnerable adult. The guardian ad litem may
11 continue to serve after the final disposition of the case.

12 173-D:9 Notification.

13 I. A copy of any order made under this chapter which prohibits any person from abusing
14 another shall be promptly transmitted to the local law enforcement agency having jurisdiction to
15 enforce such order.

16 II. Temporary orders shall be promptly served on the defendant by a peace officer.
17 Subsequent orders shall be sent to the defendant's last address of record. The defendant shall be
18 responsible for informing the court of any changes of address. Law enforcement agencies shall
19 establish procedures whereby a peace officer at the scene of an alleged violation of such an order
20 may be informed of the existence and terms of such order.

21 III. Any court-ordered changes or modifications of the order shall be effective upon issuance
22 of such changes or modifications, and shall be mailed or otherwise provided to the appropriate local
23 law enforcement agency and transmitted to the department of safety within 24 hours of the entry of
24 such changes or modification.

25 173-D:10 Violation of Protective Order; Penalty.

26 I.(a) When the defendant violates either a temporary or permanent protective order issued
27 or enforced under this chapter, peace officers shall arrest the defendant and ensure that the
28 defendant is detained until arraignment, provided that in extreme circumstances, such as when the
29 health of the defendant would be jeopardized by the temporary detention, a judge in response to a
30 request by the arresting law enforcement officer or agency, may order an alternative to detention
31 pending arraignment. Such arrests may be made within 12 hours without a warrant upon probable
32 cause, whether or not the violation is committed in the presence of a peace officer.

33 (b) Subsequent to an arrest, the peace officer may seize any firearms and ammunition
34 in the control, ownership, or possession of the defendant and any deadly weapons which may have
35 been used, or were threatened to be used, during the violation of the protective order. If seized, the
36 law enforcement agency shall maintain possession of the firearms, ammunition, or deadly weapons
37 until the court issues an order directing that the firearms, ammunition, or deadly weapons be
38 relinquished and specifying the person to whom the firearms and ammunition or deadly weapons

1 will be relinquished.

2 II. The prosecution and sentencing for criminal contempt for a violation of a protective
3 order shall not preclude the prosecution of or sentencing for other criminal charges underlying the
4 contempt.

5 III. A person shall be guilty of a class A misdemeanor if such person knowingly violates a
6 protective order issued under this chapter or any foreign protective order enforceable under the
7 laws of this state. Charges made under this chapter shall not be reduced to a lesser charge, as
8 permitted in other instances under RSA 625:9.

9 IV. Any person convicted under paragraph III, or who has been convicted in another
10 jurisdiction of violating a protective order enforceable under the laws of this state, who, within 6
11 years of such conviction or the completion of the sentence imposed for such conviction, whichever is
12 later, subsequently commits and is convicted of one or more offenses involving abuse may be
13 charged with an enhanced penalty for each subsequent offense as follows:

14 (a) There shall be no enhanced charge under this section if the subsequent offense is a
15 class A felony or an unclassified felony;

16 (b) If the subsequent offense would otherwise constitute a class B felony, it may be
17 charged as a class A felony;

18 (c) If the subsequent offense would otherwise constitute a class A misdemeanor, it may
19 be charged as a class B felony;

20 (d) If the subsequent offense would otherwise constitute a class B misdemeanor, it may
21 be charged as a class A misdemeanor;

22 (e) If the subsequent offense would otherwise constitute a violation, it may be charged
23 as a class B misdemeanor.

24 V. A victim of abuse, exploitation, or neglect shall be entitled to all rights granted to victims
25 of crime under RSA 21-M:8-k.

26 173-D:11 Protection by Peace Officers.

27 I. Whenever any peace officer has probable cause to believe that a person has been abused,
28 exploited, or neglected, as defined in RSA 161-F:43 and RSA 173-D:2, that officer shall use all
29 means within reason to prevent further abuse, exploitation, or neglect including, but not limited to:

30 (a) Confiscating any deadly weapons involved in the alleged abuse, exploitation or
31 neglect.

32 (b) Transporting or obtaining transportation for the victim to a place of safety, local
33 family member, or friend.

34 (c) Assisting the victim in removing toiletries, medication, clothing, and any other items
35 determined by the court.

36 (d) Giving the victim immediate and written notice of the rights of victims and of the
37 remedies and services available to victims of abuse, exploitation and neglect. The written notice
38 shall include a statement substantially as follows:

1 "If you are the victim of abuse, exploitation and neglect and you believe that law enforcement
2 protection is needed for your physical safety, you have the right to request that the officer assist in
3 providing for your safety, including asking for an emergency telephonic order for protection. You
4 may also request that the officer assist you in obtaining from your premises and curtilage, toiletries,
5 medication, clothing, business equipment, and any other items as determined by the court, and in
6 locating and taking you to a local safe place including, but not limited to, a place of safety a family
7 member's or friend's residence, or a similar place of safety. If you are in need of medical treatment,
8 you have the right to request that the officer assist you in obtaining an ambulance. You may
9 request a copy of the report filed by the peace officer, at no cost, from the law enforcement
10 department."

11 173-D:12 Notice to the Victim.

12 I. Notwithstanding the peace officer's obligations in RSA 173-D:11, all peace officers shall
13 give victims of abuse, exploitation, and neglect immediate and adequate notice of their right to go to
14 the circuit court of their county to file a petition asking for protective orders against the abusive
15 person and to seek a private criminal complaint.

16 II. The clerk of the court shall be responsible for advising victims of their right to request
17 that the judge issue an order which may include removing any and all firearms and ammunition in
18 the control, ownership, or possession of the defendant and may include:

19 (a) Restraining the defendant from abusing, exploiting, and/or neglecting the victim.

20 (b) Directing the defendant to leave and stay away from the victim's premises and
21 curtilage.

22 (c) Restraining the defendant from contacting the victim, or entering any specified place
23 frequented regularly by the victim.

24 (d) Restraining the defendant from abusing, in any way, the victim, household
25 members, or victim's relatives, regardless of their place of residence.

26 (e) Restraining the defendant from taking, converting, or damaging personal or real
27 property in which the victim may have a legal or equitable interest.

28 (f) Ordering the defendant to pay the victim monetary compensation for losses suffered
29 as a direct result of the abuse, exploitation, or neglect which may include, but not be limited to,
30 misappropriated funds, loss of earnings or support, medical and dental expenses, damage to
31 property, out-of-pocket losses for injuries sustained, and moving and shelter expenses.

32 (g) Ordering the defendant to pay reasonable attorney's fees.

33 173-D:13 Emergency Care; Limitation and Liability. Any act or omission of any peace officer
34 rendering emergency care or assistance to a victim under this chapter including, but not limited to
35 transportation, shall not impose civil liability upon the peace officer or the peace officer's
36 supervisors or employer if the care or assistance is rendered in good faith, unless the act or omission
37 is a result of gross negligence or willful misconduct.

38 173-D:14 Orders Enforceable.

1 I. Any protective order issued under this chapter shall be effective throughout the state.

2 II. Any protective order issued by any other state, tribal, or territorial court related to
3 abuse, exploitation or neglect of a vulnerable adult, including an ex parte order, shall be deemed
4 valid if the issuing court had jurisdiction over the parties and matter under the law of the state,
5 tribe, or territory, and the person against whom the order was made was given reasonable notice
6 and opportunity to be heard. There shall be a presumption of validity where an order appears
7 facially valid.

8 III. Any valid protective order, as defined in paragraph II, shall be accorded full faith and
9 credit throughout the state.

10 IV. A person entitled to protection under a foreign protective order, as defined in paragraph
11 II, may file such order in any circuit court by filing with the court a certified copy of the order.
12 Such person shall swear under oath in an affidavit to the best of such person's knowledge that the
13 order is presently in effect as written. Such filing shall be without fee or cost. The clerk of the
14 circuit court shall forward such order to the administrative office of the courts which shall enter
15 such order in the state database. Such filing shall not be a precondition to arrest or enforcement of
16 a foreign order.

17 V. A peace officer may rely upon a copy of any protective order issued under this chapter or
18 upon a copy of a foreign protective order, as defined in this section, which has been provided to the
19 peace officer by any source.

20 VI. Law enforcement personnel may rely on the statement of the person protected by the
21 order that the order remains in effect as written.

22 173-D:15 Reporting and Referrals. Any law enforcement officer who investigates an alleged
23 incident of abuse, exploitation, or neglect of a vulnerable adult shall report the matter to the
24 department pursuant to RSA 161-F:46 and advise the person subject to such violence of the
25 availability of programs from which that person may receive services.

26 173-D:16 Severability. If any provision of this chapter or the application of such provision to
27 any person or circumstance is held invalid, the invalidity does not affect other provisions or
28 applications of the chapter which can be given effect without the invalid provisions or applications,
29 and to this end the provisions of this chapter are severable.

30 2 Effective Date. This act shall take effect January 1, 2020.

HB 696-FN- FISCAL NOTE
AS INTRODUCED

AN ACT establishing a protective order for vulnerable adults.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill enacts a new chapter that provides a process enabling vulnerable adults to seek permanent and temporary relief from abuse, exploitation, and neglect. As part of this process, the Department of Health and Human Services is authorized, but not mandated, to file a petition in a county or district where the plaintiff or other defendant resides alleging abuse, exploitation, or neglect by the defendant. The Department states that, were it to directly file the petitions, there would likely be additional personnel costs as well as mileage expenses for Department lawyers, adult protective service workers, and any other witnesses necessary to properly prosecute the petition. In addition, the Department assumes that even in cases in which it is not the moving party filing the petition, its personnel would still be utilized as witnesses. The Department is unable to estimate the extent of any additional costs.

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2020	FY 2021
Class B Misdemeanor	\$53	\$54
Class A Misdemeanor	\$76	\$77
Routine Criminal Felony Case	\$481	\$486
Protective Order	\$166	\$167
Warrant Request	\$76	\$77
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2020 and FY 2021 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2018 Average Cost of Incarcerating an Individual	\$40,615	\$40,615
FY 2018 Annual Marginal Cost of a General Population Inmate	\$4,620	\$4,620
FY 2018 Average Cost of Supervising an Individual on Parole/Probation	\$571	\$571
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

The Department of Safety states the bill's fiscal impact will be under \$10,000. Any impact would be related to the expanded scope of current protective order procedures already in place for domestic violence protective orders.

The Department of Justice states the bill will have no fiscal impact as the offenses contemplated

by the bill would typically be prosecuted by county prosecutors. Any appeals from convictions would be handled by the Department, but could be done within its existing budget.

AGENCIES CONTACTED:

Department of Corrections, Justice, Safety, and Health & Human Services, Judicial Branch, Judicial Council, and New Hampshire Association of Counties

Committee Report

REGULAR CALENDAR

February 5, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Municipal and County Government to
which was referred HB 636-FN-A-LOCAL,**

**AN ACT relative to state reimbursement of town and city
property tax credits and exemptions. Having considered
the same, report the same with the following resolution:**

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Marjorie Porter

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Municipal and County Government
Bill Number:	HB 636-FN-A-LOCAL
Title:	relative to state reimbursement of town and city property tax credits and exemptions.
Date:	February 5, 2019
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

When municipalities grant property tax exemptions and credits to some property owners for whatever reason, the remaining property owners must pick up the cost. This bill sets up a system whereby municipalities would be reimbursed by the state for the total cost of tax exemptions and credits granted, thereby relieving the burden on those taxpayers. The committee is sympathetic to the intent of the bill - property tax relief - but finds this system unworkable. The estimated \$53 million cost to the State is prohibitive, and there is nothing in the bill to prevent municipalities from granting the maximum allowable exemptions and credits, driving that cost even higher

Vote 18-0.

Rep. Marjorie Porter
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Municipal and County Government

HB 636-FN-A-LOCAL, relative to state reimbursement of town and city property tax credits and exemptions. **INEXPEDIENT TO LEGISLATE.**

Rep. Marjorie Porter for Municipal and County Government. When municipalities grant property tax exemptions and credits to some property owners for whatever reason, the remaining property owners must pick up the cost. This bill sets up a system whereby municipalities would be reimbursed by the state for the total cost of tax exemptions and credits granted, thereby relieving the burden on those taxpayers. The committee is sympathetic to the intent of the bill - property tax relief - but finds this system unworkable. The estimated \$53 million cost to the State is prohibitive, and there is nothing in the bill to prevent municipalities from granting the maximum allowable exemptions and credits, driving that cost even higher

Vote 18-0.

Original: House Clerk
Cc: Committee Bill File

Heather Ebbs

From: Marjorie Porter <maporter995@gmail.com>
Sent: Monday, February 4, 2019 7:41 AM
To: Clyde Carson; Carson, Clyde; Heather Ebbs
Subject: Re: Majority report HB 636

Not sure if you got this on Friday, so I'm sending it again just in case.
Marjorie

On Fri, Feb 1, 2019 at 9:18 AM Marjorie Porter <maporter995@gmail.com> wrote:
I'm sorry. I forgot to do this yesterday.

Majority Report for HB 636, *relative to state reimbursement of town and city property tax credits and exemptions*

ITL 18-0

Marjorie Porter for the majority

When municipalities grant property tax exemptions and credits to some property owners for whatever reason, the remaining property owners must pick up the cost. HB 636 sets up a system whereby municipalities would be reimbursed by the state for the total cost of tax exemptions and credits granted, thereby relieving the burden on those taxpayers. The committee is sympathetic to the intent of the bill—property tax relief—but finds this system unworkable. The estimated \$53 million cost to the state is prohibitive, and there is nothing in the bill to prevent municipalities from granting the maximum allowable exemptions and credits, driving that cost even higher

--

Marjorie Porter
Representative, Hillsborough District 1
64 School Street, Hillsborough, NH 03244
603.464.0225
maporter995@gmail.com

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Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 636-FN-A-LOCAL

BILL TITLE: relative to state reimbursement of town and city property tax credits and exemptions.

DATE: January 30, 2019

LOB ROOM: 301

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Porter

Seconded by Rep. Tatro

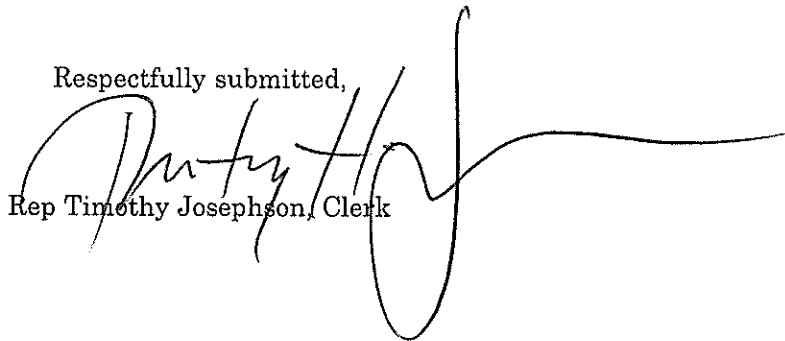
Vote: 18-0

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Timothy Josephson, Clerk

A large, stylized handwritten signature in black ink, which appears to be "Timothy Josephson". The signature is written over the printed name and extends to the right with a long horizontal stroke.

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 636-FN-A-LOCAL

BILL TITLE: relative to state reimbursement of town and city property tax credits and exemptions.

DATE: 1/30/19

LOB ROOM: 301

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. Porter Seconded by Rep. Tatro Vote: 18-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

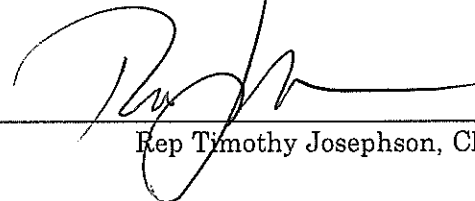
MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: ___ YES ___ NO

Minority Report? ___ Yes No If yes, author, Rep: _____ Motion _____

Respectfully submitted: 
Rep Timothy Josephson, Clerk



2019 SESSION

Municipal and County Government

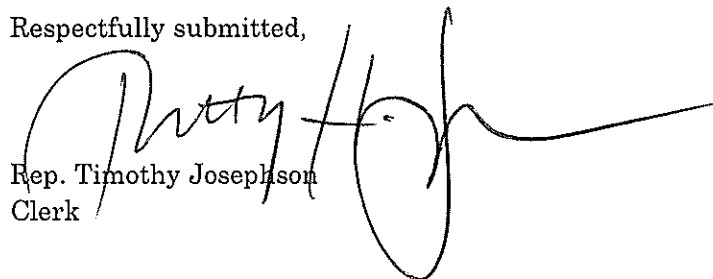
Bill #: 636 Motion: 1TL AM #: _____ Exec Session Date: _____

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Carson, Clyde J. Chairman	18		
Tatro, Bruce L. Vice Chairman	1		
Porter, Marjorie A.	2		
Treleaven, Susan GS			
Gilman, Julie D.	3		
Josephson, Timothy Clerk	4		
Meador, David R.	5		
Dargie, Paul P.	6		
Maggiore, Jim V.	7		
Mombourquette, Donna M.	8		
Stavis, Laurel			
Belanger, James P.	9		
Migliore, Vincent Paul	10		
Abramson, Max	11		
Dolan, Tom	12		
Kittredge, Derek MacMillen	13		
MacDonald, John T.	14		
Perreault, Mona	15		
Piemonte, Tony	16		
Pratt, Kevin M.	17		
TOTAL VOTE:	18-0		

Hearing Minutes

- g. This bill seems to reimburse for ALL property tax exemptions, not just the disabled, veterans, etc
- h. Q - Porter: everybody in this room and the community wants to honor veterans for their service, but is there any state program that you know of that gives veterans a credit that others don't get? Another program where our state says thank you to our vets financially? (these tax credits) those are local exemptions (not aware of any state financial reimbursement) Would a limit -- say, \$250 -- be more feasible? (not sure, but I wanted to just bring to your attention that municipalities would increase exemptions if this passed)
- i. Q - Abramson: are you aware of any state services that the state provides that the cost is thought to be lower on elderly, etc? (personally I don't know)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy Josephson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rep. Timothy Josephson
Clerk

HB636-FN-A-LOCAL - relative to state reimbursement of town and city property tax credits and exemptions

1. Rep. Jan Schmidt - Hills 28 - Prime Sponsor
 - a. Also serve as an Alderman in Nashua
 - b. Recently did a property revaluation and revaluations went up dramatically
 - c. Members of our community are feeling the pain of higher valuations
 - d. Trying to do anything we can keep people in the community
 - e. This bill attempts to rebate the cities for the exemptions they have granted to people in town
 - f. Does not expect this bill to make it out of community
 - g. Wanted to make the voice of the members of our community heard
 - h. Q - Belanger: So this takes all the credits, adds them up and sends the bill to the state? (yes)
 - i. Q - Abramson: wasn't at least one argument for having disability, elderly, veteran, etc tax exemptions was that they are using less services --fewer kids, etc? (that is one way to put it, but often they have grandchildren and their own kids went to those schools as well) on the other side, isn't there also a similar argument that it's not only local services but also state services? (can't say yes or no)
2. Shawn Thomas - DRA
 - a. Neither support or oppose bill
 - b. Could not come up with a fiscal impact because we don't know what would be granted in the future
 - c. Munis choose to adopt them and the amounts are variable
 - d. Issue with this bill is that if all munis would be reimbursed, they would either adopt more credits or increase the amount
 - e. From 2017, across the state, add up all the municipalities -- the veterans' tax credit was \$27m, elderly was \$23.5m
 - f. Towns determine amount and also the income limits for these exemptions and credits
 - g. This bill seems to reimburse for ALL property tax exemptions, not just the disabled, veterans, etc
 - h. Q - Porter: everybody in this room and the community wants to honor veterans for their service, but is there any state program that you know of that gives veterans a credit that others don't get? Another program where our state says thank you to our vets financially? (these tax credits) those are local exemptions (not aware of any state financial reimbursement) Would a limit -- say, \$250 -- be more feasible? (not sure, but I wanted to just bring to your attention that municipalities would increase exemptions if this passed)
 - i. Q - Abramson: are you aware of any state services that the state provides that the cost is thought to be lower on elderly, etc? (personally I don't know)

Hearing closed 2:50

Bill as
Introduced

HB 636-FN-A-LOCAL - AS INTRODUCED

2019 SESSION

19-0741
05/10

HOUSE BILL

636-FN-A-LOCAL

AN ACT relative to state reimbursement of town and city property tax credits and exemptions.

SPONSORS: Rep. J. Schmidt, Hills. 28

COMMITTEE: Municipal and County Government

ANALYSIS

This bill requires the state to reimburse municipalities for the value of property tax credits and exemptions granted in the prior tax year. The amount distributed to municipalities shall then be used as a credit against the amount to be raised from taxes in the next tax year.

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 Nineteen

AN ACT relative to state reimbursement of town and city property tax credits and exemptions.

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

1 1 New Section; Assessment of Taxes; State Reimbursement of Property Tax Credits and
2 Exemptions. Amend RSA 76 by inserting after section 15-c the following new section:

3 76:15-d State Reimbursement of Property Tax Credits and Exemptions.

4 I. Each municipality shall determine the total amount of property tax credits granted in the
5 property tax year. The municipality also shall determine the value of all property tax exemptions
6 granted by multiplying the applicable tax rate by the total of such exemption amounts. The value
7 for exemptions shall be added to the value of all property tax credits granted. This total amount
8 shall be reported to the department of revenue administration in such form as the department may
9 prescribe.

10 II. Based on the data submitted, the department shall determine the total value of all
11 property tax exemptions and credits granted by municipalities in the prior calendar year and report
12 such amount to the fiscal committee of the general court. The amount sufficient to reimburse each
13 town and city shall be appropriated to the department of revenue administration in each fiscal year.

14 III. Each municipality shall apply to the department for a reimbursement grant in the
15 amount of all property tax exemptions and credits granted. The department shall reimburse the
16 towns and cities with sums appropriated. The municipality shall use any funds received as a credit
17 against the amount to be raised from taxes in the following year.

18 2 Effective Date. This act shall take effect April 1, 2019.

HB 636-FN-A-LOCAL- FISCAL NOTE
AS INTRODUCED

AN ACT relative to state reimbursement of town and city property tax credits and exemptions.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

LOCAL:

Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	\$0	\$0	\$0

METHODOLOGY:

This bill requires the State to reimburse municipalities for the value of all property tax credits and exemptions granted at the local level in the property tax year. Each municipality must report such total amount to the Department of Revenue Administration (DRA) and DRA shall determine the value of all such exemptions and credits granted in the prior calendar year and report such amount to the Fiscal Committee of the General Court. An amount sufficient to reimburse each town and city shall be appropriated to the DRA in each fiscal year. Each municipality shall apply for a reimbursement grant in the amount of all property tax exemptions and credits granted. The DRA shall reimburse each municipality, which shall use funds received as a credit against the amount to be raised from taxes in the following year.

The DRA states the total amount of property tax credits and exemptions in future years is unknown. There are mandatory and optional tax credits and exemptions. Each municipality may adopt or modify any optional property tax credit and exemption and the amount of such exemption as prescribed by law. Municipalities may also modify net income and net asset limitations for the elderly, deaf and disabled property tax exemptions. The DRA does not know what property tax credits and exemptions would be adopted and at what amounts or who may qualify within each municipality. DRA indicates that if municipalities are reimbursed by the State, municipalities may be more likely to adopt additional property tax credits and

exemptions, increase the amounts of such exemptions and ease requirements. In FY 2017, municipalities granted property tax credits and exemptions in the following amounts:

Blind Exemption	\$645,724
Deaf Exemption	\$12,399
Disabled Exemption	\$2,089,669
Veterans' Tax Credits	\$27,063,323
Elderly Exemption	<u>\$23,568,119</u>
Total	\$53,379,234

The New Hampshire Municipal Association assumes the proposed legislation includes property taxes lost due to the elderly exemption, blind exemption, educational and special exemptions and veteran's property tax credits. The Association used data as reported in the NH Department of Revenue Administration 2017 publication "Tables by Counties", including a statewide average tax rate of \$22.02, and assumed a 2% annual increase in the property tax rate for future projections. Local option exemptions are not included in these estimates. The Tables by Counties listed the following statewide totals for these exemptions:

Property Value for Blind Exemption	\$25,809,250
Property Value for Elderly Exemption	\$973,138,748
Property Value for Educational & Special Exemptions	<u>\$223,017,796</u>
Property Value for Total Exemptions	\$1,221,965,794

Calculate Value of Exemptions at statewide average tax rate of \$22.02:

\$1,221,965,794 / 1,000 x \$22.02	=	\$26,907,687
Add Amount of Veteran's Tax Credit		<u>\$27,063,323</u>
Estimated Amount of 2020 reimbursement		\$53,971,010
2% Increase for 2021		\$55,050,430
2% Increase for 2022		\$56,151,439
2% Increase for 2023		\$57,274,468

AGENCIES CONTACTED:

Department of Revenue Administration and New Hampshire Municipal Association