

SB 162 - AS INTRODUCED

2017 SESSION

17-0305

01/04

SENATE BILL **162**

AN ACT establishing a procedure for the annulment of a mental health record.

SPONSORS: Sen. Watters, Dist 4; Sen. Bradley, Dist 3; Sen. Fuller Clark, Dist 21; Sen.
 Hennessey, Dist 5; Rep. Goley, Hills. 8

COMMITTEE: Judiciary

ANALYSIS

This bill establishes a procedure for the annulment of a mental health record.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT establishing a procedure for the annulment of a mental health record.

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

1 1 New Section; Annulment of Mental Health Records. Amend RSA 135-C by inserting after
2 section 19-a the following new section:

3 135-C:19-b Petition for Annulment of Mental Health Record.

4 I. A person may file a petition to have his or her mental health record annulled after the
5 following:

6 (a) Termination of the appointment of guardianship;

7 (b) Expiration of an involuntary treatment order; or

8 (c) Expiration of an involuntary commitment order.

9 II. The petition shall be filed in the court that ordered the guardianship, involuntary
10 treatment, or commitment. The petition shall include a copy of the petitioner's release or
11 termination from guardianship, involuntary treatment, admission, or commitment or the denial of
12 the petition and shall be served upon the parties that filed the original petition resulting in the
13 guardianship, involuntary treatment, admission, or commitment order.

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

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

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

24 VI. After an order granting an annulment pursuant to this section has become final, the
25 court shall, as soon as is practicable, but in no case later than 10 business days thereafter, forward
26 a copy of the order to the department of health and human services and seal any files or records
27 created as a result of this section.

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

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

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

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

10 2 Effective Date. This act shall take effect upon its passage.