

Amendment to HB 1660-FN

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

2
3 173-D:1 Purpose. The purpose of this chapter is to enable vulnerable adults to seek permanent
4 and temporary relief from abuse, exploitation, and neglect.

5
6 Amend RSA 173-D:4, IV-VI as inserted by section 1 of the bill by replacing them with the following:

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8 IV. Prior to filing a petition under this chapter, the plaintiff shall be required to complete a
9 worksheet developed by the court outlining the plaintiff's rights and options for relief under this
10 chapter, RSA 173-B, and RSA 633:3-a. The worksheet shall also advise plaintiffs that they may
11 contact New Hampshire Legal Assistance and the New Hampshire Domestic Violence Hotline for
12 assistance prior to filing a petition. Plaintiffs shall be required to sign the worksheet stating the
13 following: "I understand my rights and options as explained in this worksheet. I am freely choosing
14 to file this petition even though there are other petitions I may qualify for that are specifically
15 designed for victims of domestic violence and stalking. I understand that using this petition may
16 prevent me from getting additional protections for physical safety that may be available to me,
17 including the right to ask the court to order the defendant to hand over their firearms or deadly
18 weapons."

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

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

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

28 VII. The filing of a petition under this chapter, including any facts alleged or findings made
29 regarding the plaintiff's mental or physical capacity, shall not be admitted as evidence for any
30 purpose in any other court proceeding.

31 VIII. In a proceeding under this chapter, a support person may accompany a party in court
32 and, if the party is not represented by an attorney, may sit with the party at the table that is

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generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of abuse. The support person is not present as a legal adviser and shall not provide legal advice. The support person may assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of abuse and the other party are required to be present in close proximity. This section shall not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

Amend RSA 173-D:5 as inserted by section 1 of the bill by replacing it with the following:

173-D:5 Temporary Relief.

I. Upon a showing of an immediate and present danger of abuse, exploitation, or neglect, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone, facsimile or any other methods approved by court rules. Such telephonically issued orders shall be made by a circuit court judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be effective until the close of the next regular court business day. Such orders shall be returnable to the circuit court where the plaintiff resides or to which the plaintiff has fled, unless otherwise ordered by the issuing judge. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing on such orders. Such hearing shall be held no less than 2 business days and no more than 3 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-D:4, V.

II. Such temporary relief may include:

(a) Protective orders:

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

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

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

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

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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 has 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 either
7 household, and ordering the defendant to stay away from the animal and forbidding the defendant
8 from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, or
9 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 which equal or exceed the amount of assets
13 claimed to be exploited, provided, however, that such prohibition shall not extend to, encumber, or
14 otherwise limit the 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
21 Amend RSA 173-D:11 as inserted by section 1 of the bill by replacing it with the following:
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23 173-D:11 Protection by Peace Officers. Whenever any peace officer has probable cause to believe
24 that a person has been abused, exploited, or neglected, as defined in RSA 161-F:43 and RSA 173-D:2,
25 that officer shall use all means within reason to prevent further abuse, exploitation, or neglect
26 including, but not limited to:

27 I. Transporting or obtaining transportation for the victim to a place of safety, local family
28 member, or friend.

29 II. Assisting the victim in removing toiletries, medication, clothing, and any other items
30 determined by the court.

31 III. Giving the victim immediate and written notice of the rights of victims and of the
32 remedies and services available to victims of abuse, exploitation and neglect. The written notice
33 shall include a statement substantially as follows:

34 "If you are the victim of abuse, exploitation, and neglect and you believe that law enforcement
35 protection is needed for your physical safety, you have the right to request that the officer assist in
36 providing for your safety, including asking for an emergency telephonic order for protection. You
37 may also request that the officer assist you in obtaining from your premises and curtilage, toiletries,

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1 medication, clothing, business equipment, and any other items as determined by the court, and in
2 locating and taking you to a local safe place including, but not limited to, a place of safety a family
3 member's or friend's residence, or a similar place of safety. If you are in need of medical treatment,
4 you have the right to request that the officer assist you in obtaining an ambulance. You may request
5 a copy of the report filed by the peace officer, at no cost, from the law enforcement department."