

**PLEASE COMPLETE ALL SHADED AREAS IN THE WORKSHEET. IF YOU HAVE ANY QUESTIONS, PLEASE REFER TO THE LBA GUIDELINES FOR FISCAL NOTE WORKSHEETS OR CONTACT OUR OFFICE (271-3161).**

<b>Agency Name:</b>	Judicial Branch
<b>LSR #:</b>	
<b>Bill #:</b>	SB141
<b>Amendment #(s):</b>	

<b>Date of LBA Request</b>	1/12/2021
<b>Date Due to LBA</b>	ASAP
<b>Date Sent to LBA</b>	3/22/2021 (updated)
<b>Corrected Worksheet?</b>	Yes

**A. Fiscal Impact Summary**

- Specify the total impact on revenues and expenditures for each level of government and fund(s) impacted.
- Only the *incremental change* from the current law or budget should be included.
- If there is no fiscal impact, enter a zero (“\$0”). If the fiscal impact cannot be estimated, enter “Indeterminable” (**with a range if possible**) and indicate if the impact may increase or decrease revenues or expenditures.
- The amounts in the table below should correspond with the calculations in Section C of this worksheet.
- Decreases should be presented within parenthesis.
- If there is a fiscal impact **after** FY 2021 through FY 2024, please include in section C.
- **Provide account/fund for revenue impacts and/or source of funds for estimated expenditures (i.e., general fund, highway fund, federal funds, name of restricted dedicated fund, etc.)**

	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>State Revenues</b>	0	0	0	0
<i>Revenue Account/Fund</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
<b>State Expenditures</b>	In excess of \$1.2 million	Indeterminable resource expenditures	Indeterminable resource expenditures	Indeterminable resource expenditures
<i>Source of Funds</i>	<i>General Fund</i>	<i>General Fund</i>	<i>General Fund</i>	<i>General Fund</i>

<b>County Revenues</b>	\$	\$	\$	\$
<b>County Expenditures</b>	\$	\$	\$	\$

<b>Local Revenues</b>	\$	\$	\$	\$
<b>Local Expenditures</b>	\$	\$	\$	\$

## **B. Assumptions**

- Clearly explain your understanding of the proposed legislation, how it would be implemented or impact current operations, and any other important cost-related assumptions.
- Assumptions should be clear and not chosen to influence one's opinion of the proposed legislation.
- Assumptions used should relate directly to your agency's estimate of the fiscal impact on the revenues, expenditures, or fiscal liability of the state, or a city, town or county.

### **The Judicial Branch makes the following assumptions about this LSR:**

- This bill would abolish the State Gun Line and give the FBI the exclusive authority and jurisdiction to conduct background checks for the sale or transfer of firearms involving Federal Firearms Licensees ("FFL") in New Hampshire.
- This bill would give jurisdiction to the county sheriff for the county in which the court is situated for the purpose of determining whether an individual is prohibited by federal or state statute from firearm possession or ownership in relation to a motion or requested return of firearms.
- The bill would require the NHJB to begin entering data into the NICS Index which it does not currently do. The NHJB is seeking additional information regarding the work that will be needed to connect NHJB to the NICS Index.
- In addition, in approximately 6% of the cases where orders of protection are issued, the court does not have a date of birth for the defendant. Those orders with no date of birth will need to be entered into the NICS Index. Because the NICS index is not accessible to New Hampshire law enforcement in the field, the same data will need to be entered into NCIC, which is accessible by law enforcement, resulting in additional time spent per file uploading data to federal databases. The need to enter data into two databases due to the lack of a date of birth impacts on average approximately 1,500 files per year. This will result in approximately 50 hours of additional hours/year by court staff spent on double data entry.
- The Judicial Branch has been told by the Department of Safety that the Gun Line does a search of its entire case database, which is approximately 5 million cases. Of those, Department has no disposition data on approximately 170,000 files. If the Gun Line search has a hit on a file without a disposition, the Department contacts the clerk of the relevant court and requests a disposition status. If Gun Line is abolished and all 170,000 files need to be researched by the NHJB in order to update NCIS. Each file will require research by a Court Assistant, at a rate of approximately four files per hour, or approximately 42,500 hours. The NHJB will have an expenditure of approximately \$1.2 million in time for a Court Assistant II. NHJB assumes that the disposition of those cases would be provided to the Department, and the Department would be responsible for updating relevant NICS databases. This impact does not include the research time that would require resulting from a search of the entire Department of Safety database of approximately 5 million files. An unknown number of those files that do have a disposition would require additional research by court personnel when the record is inconclusive.
- The bill provides that any person seeking the return of firearms who is aggrieved by the ruling made by the trial court regarding a motion or other request for the return of firearms, such individual would be entitled to appeal and a transcript of the proceedings and the trial court's record shall be transmitted to the supreme court in full, without any fee charged to the petitioner. There will be an indeterminable fiscal impact on the Judicial Branch to transmit the record and

create a transcript of any trial court proceedings. The cost of transcription is approximately \$137.5 for every .5 hours of hearing time.

### C. Calculations and Methodology

- Using the assumptions provided in Section B, calculate the estimated fiscal impact of the proposed legislation.
- Calculations should be detailed with the methodology clearly stated.
- If calculating position costs please use and attach the appropriate position cost calculator worksheet found [here](#).
- If the fiscal impact is zero (\$0) or indeterminable, please explain why.
- The calculations for FY 2021 through FY 2024 should agree with summary table in Section A. **Please also include information on fiscal impacts estimated outside of this period in this section.**

The total fiscal impact is indeterminable for the following reasons

#### IT Upgrade

In order to input data into the NICS Index, which the NHJB does not currently do, there will be an expenditure to make the NICS Index accessible to NHJB personnel.

#### Entry of Data into NCIC and NICS Index

In approximately 6% of the cases where orders of protection are issued, the court does not have a date of birth for the defendant. Those orders with no date of birth will need to be entered into the NICS Index. Because the NICS index is not accessible to New Hampshire law enforcement in the field, the same data will need to be entered into NCIC, resulting in additional time spent per file uploading data to federal databases. The need to enter data into two databases due to the lack of a date of birth impacts approximately 6% of those files, or on average approximately 1,500 files per year. This will result in approximately 50 hours of additional hours/year spent on double data entry.

#### Research 200,000 Department of Safety Files

There are approximately 170,000 files at the Department of Safety without disposition information that would need to be researched by the NHJB staff in order to update NCIS. Each file will require research by a Court Assistant, at an assumed rate of approximately four files per hour, or approximately 42,500 hours. The NHJB would have an expenditure of approximately \$1.2 million in time for a Court Assistant II based on salary and benefits of a Court Assistant II at \$27.87/hour.

This impact does not include the research time that would require resulting from a search of the entire Department of Safety database of approximately 5 million files. An unknown number of those files that do have a disposition would require additional research by court personnel when the record is inconclusive.

#### Appeal Transcripts

The bill provides that any person seeking the return of firearms who is aggrieved by the ruling made by the trial court regarding a motion or other request for the return of firearms, such individual would be entitled to appeal and a transcript of the proceedings and the trial court's record shall be transmitted to the supreme court in full, without any fee charged to the petitioner. There will be an indeterminable fiscal impact on the Judicial Branch to transmit the record and create a transcript of any trial court proceedings. The cost of transcription is approximately \$137.5 for every .5 hours of hearing

time.

**D. Technical or Mechanical Defects**

The bill authorizes the Judicial Branch to enter any temporary or final court order requiring the relinquishment of firearms or prohibiting the possession of firearms under RSA 173-B or RSA 633:3-a into the NICS system. The bill should be expanded to allow entry of protective orders under RSA 169-C (Child Protection Act), RSA 597 (Bail) or any other statute that authorizes the issuance of protective orders that would result in a disqualification under state or federal weapons laws, which would not be authorized as the bill is currently written.

The bill also would not allow for searching of the internal database at the Department of Safety, which has cases which result in disqualifying events that are not captured in a search by FBI only. It would also not search the emergency domestic violence orders and criminal bail protective orders issued after hours.

- Identify any conflicts between this bill and current law, either state or federal, and identify possible technical errors. This information is provided to the Office of Legislative Services where it is evaluated and may be discussed with the bill’s sponsor.
- If no technical or mechanical defects are identified, please state “None Identified” below.
- Do not comment on the merits of the legislation.

**E. Fiscal Note Worksheet Contact Information**

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