

HB 1216 - AS INTRODUCED

2026 SESSION

26-2709

09/08

HOUSE BILL **1216**

AN ACT relative to informed consent for law enforcement searches of houses or other property.

SPONSORS: Rep. Scherr, Rock. 26; Rep. Roy, Rock. 31

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill expands the statute governing informed consent for warrantless searches of motor vehicles to include real property.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Twenty-Six

AN ACT relative to informed consent for law enforcement searches of houses or other property.

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

1 1 Search Warrants; Informed Consent. Amend RSA 595-A:10 to read as follows:

2 595-A:10 Informed Consent Exception for **Real Property and** Motor Vehicles.

3 I. A law enforcement officer may legally conduct a search of a **person's home or any other**
4 **real property, or a person's** motor vehicle, without a warrant [~~under this chapter~~] if the law
5 enforcement officer expressly informs the [~~operator of the motor vehicle~~] **person** that:

6 (a) The [~~operator~~] **person** has the right to refuse to consent to a search;

7 (b) Any refusal to consent to a search shall not constitute a basis either for probable
8 cause to arrest the [~~operator~~] **person** or reasonable suspicion to detain the [~~operator~~] **person**;

9 (c) The [~~operator~~] **person** cannot be charged with any crime or violation for refusing to
10 consent to a search; and

11 (d) The [~~operator~~] **person** cannot be further detained for refusing to consent to a search.

12 II. If the [~~operator of a motor vehicle~~] **person** refuses to consent to a search, the law
13 enforcement officer shall cease any further questioning concerning consent to a search.

14 III. A law enforcement officer shall document any consent to search either by the signature
15 of the [~~motor vehicle operator~~] **person** on a consent-to-search form providing notice of the provisions
16 of paragraphs I and II at the time of the consent, or by means of a video and sound recording of the
17 consent at the time of the consent. Such form or video and sound recording shall be retained until
18 any criminal charge resulting from the consent to search is fully resolved.

19 IV. Any act of a law enforcement officer which violates a provision of this section shall result
20 in the inadmissibility in any criminal proceeding of any evidence [øf] obtained by the law
21 enforcement officer.

22 V. This section shall not preclude searches incident to arrest; searches allowed under the
23 United States Constitution for officer safety; searches on any grounds, lands, or parking areas of any
24 state or county correctional facility or transitional housing unit operated by the department of
25 corrections; or inventory searches of lawfully-seized property, including but not limited to vehicles
26 towed in conjunction with the arrest of the operator.

27 VI. Any person on prison grounds or in a department of corrections facility, regardless of
28 whether such person is a resident, visitor, staff, or anyone identified in some other category, shall be
29 subject to search without warning of their vehicle, possessions, and person pursuant to
30 administrative rule Cor 306.

1 ***VII. As used in this section, "real property" means any buildings, structures, and***
2 ***equipment permanently attached or fixed to the land.***

3 2 Effective Date. This act shall take effect January 1, 2027.