

HB 1436-FN - AS INTRODUCED

2026 SESSION

26-2464

06/08

HOUSE BILL **1436-FN**

AN ACT relative to the classification and protection of personal digital information and cloud-stored files.

SPONSORS: Rep. Spillane, Rock. 2; Rep. Cole, Hills. 26; Rep. Popovici-Muller, Rock. 17; Rep. Bernardy, Rock. 36; Rep. Ammon, Hills. 42; Rep. Moffett, Merr. 4; Rep. Kesselring, Hills. 18; Rep. Roy, Rock. 31; Rep. Corcoran, Hills. 28; Rep. Notter, Hills. 12

COMMITTEE: Judiciary

ANALYSIS

This bill:

I. Establishes property rights in personal digital information, including data stored on cloud servers.

II. Creates a legal presumption of bailment for unpublished content.

III. Affirms that digital records are protected from unreasonable government searches or seizures, requiring a warrant unless otherwise authorized by law.

IV. Distinguishes private unpublished data from public information for property and privacy purposes.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the classification and protection of personal digital information and cloud-stored files.

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

1 1 Short Title. This act shall be known as the "Common Law Privacy and Consumer Protection
2 Act."

3 2 Findings and Purpose. The general court finds that:

4 I. Advances in technology and business practices involving the transfer of personal
5 information to third-party platforms and cloud service providers have put consumers and citizens at
6 considerable risk of being divested of rights in their information that they actually retain.

7 II. Common law recognition of people's retained rights in information so transferred has not
8 been sufficiently recognized.

9 III. Recognition of the rights people retain in information they share with others in
10 controlled contexts, such as providing services or sharing in confidential relationships, will help
11 protect privacy without hindering information flows or the development of new business models and
12 services.

13 IV. Individuals retain property rights in information they share subject to appropriate
14 controls, so that it is legally and constitutionally their information.

15 3 New Subdivision; Privacy and Consumer Protection. Amend RSA 507-H by inserting after
16 section 12 the following new subdivision:

17 Privacy and Consumer Protection

18 507-H:13 Property Treatment of Personal Information.

19 I. One who takes possession of and places the unpublished personal information of another
20 into a digital record, including but not limited to those stored in a cloud server, is presumed to create
21 a bailment for mutual benefit, subject to terms established by contract.

22 II. Personal information that remains identifiable after incorporation in a digital record is
23 presumed to remain the property of its original owner.

24 III. A digital record derivative of such a record containing no personally identifiable
25 information is presumed to belong to its creator by rules of accession.

26 IV. For purposes of article 19 of the New Hampshire constitution, the Fourth Amendment to
27 the United States Constitution, and RSA 595-A, a digital document or record, whether stored locally
28 on a device or in a cloud server subject to contractual protections against disclosure, shall be
29 presumed the person's "papers" or "effects," and is protected from unreasonable search or seizure.
30 No government entity shall access, search, or seize the contents of such documents or records except

HB 1436-FN - AS INTRODUCED

- Page 2 -

1 pursuant to a warrant issued upon probable cause by a court of competent jurisdiction, or as
2 otherwise specifically authorized by law.

3 507-H:14 Exceptions. Unpublished personal information shall be presumed not to include any
4 information:

5 I. Whose owner has made it public;

6 II. Lawfully obtained and disclosed for news reporting or public commentary on matters of
7 public concern;

8 III. Representing or derived from activities conducted as a public official or agent of the
9 state;

10 IV. The use of which is strictly necessary to preserve life or property from imminent threats.

11 507-H:15 Severability. If any provision of this subdivision or its application is held invalid, the
12 invalidity does not affect other provisions or applications that can be given effect without the invalid
13 provision.

14 4 Effective Date. This act shall take effect 60 days after its passage.

**HB 1436-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the classification and protection of personal digital information and cloud-stored files.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	\$295,000	\$267,000	\$275,000
<i>Funding Source(s)</i>	Consumer Protection Escrow Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill establishes property rights in personal digital information, including information stored on devices and cloud servers. The bill creates a presumption of bailment for unpublished personal information placed into digital records and clarifies ownership of derivative records that no longer contain personally identifiable information. The bill also provides that digital documents and records are treated as a person’s papers or effects for constitutional search and seizure purposes and may not be accessed by a government entity without a warrant issued upon probable cause or as otherwise authorized by law.

The Department of Justice states this bill will significantly expand the responsibilities of the Consumer Protection and Antitrust Bureau’s Data Privacy Unit, which would be newly responsible for investigating and enforcing the individual property rights created by the bill, and that its existing resources are not sufficient to absorb the added workload. To implement the bill, the Department assumes it will require one additional investigator position and one additional attorney position funded from agency income. The Department states the investigator position is estimated to cost \$158,000 in FY 2027 (includes a car), \$128,000 in FY 2028, and \$135,000 in FY 2029. The attorney position is estimated to cost \$137,000 in FY 2027, \$139,000 in FY 2028, and \$140,000 in FY 2029. Together, these two positions result in an increase in

General Fund expenditures of \$295,000 in FY 2027, \$267,000 in FY 2028, and \$275,000 in FY 2029.

If the positions are authorized, it is assumed the Department of Justices will include the cost of the two positions in their FY2028-FY2029 Budget request.

AGENCIES CONTACTED:

Department of Justice