

SB 625-FN - AS INTRODUCED

2026 SESSION

26-2181

07/09

SENATE BILL **625-FN**

AN ACT permitting family members of homicide victims to seek an evidentiary hearing in cases where the department of justice does not file charges in the case.

SPONSORS: Sen. Birdsell, Dist 19; Rep. Foote, Rock. 13; Rep. Tripp, Rock. 13

COMMITTEE: Judiciary

ANALYSIS

This bill permits family members of intentional homicide victims to seek an evidentiary hearing in cases where the department of justice does not file charges in the case or does not seek retrial following a hung jury.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 permitting family members of homicide victims to seek an evidentiary hearing in cases where the department of justice does not file charges in the case.

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

1 1 New Section; Proceedings In Criminal Cases; Indictments, Informations; and Complaints;
2 Rights of Families of Homicide Victims. Amend RSA 601 by inserting after section 9 the following
3 new section:

4 601:10 Rights of Families of Homicide Victims.

5 I.(a) A parent, spouse, or child of the deceased may request a written explanation as to why
6 charges were not filed, or refiled, from the department of justice, and an explanation from the
7 department shall be provided to the requesting party, in the following cases where the state medical
8 examiner has ruled that the deceased person's manner of death was homicide:

9 (1) Any case where the department of justice opened an investigation for intentional
10 homicide, but has declared that the case is closed without the filing of any charges. This includes
11 cases wherein the department of justice states they are not filing charges because of an affirmative
12 defense, including justification.

13 (2) In any case where a defendant has been charged and tried on a charge of capital
14 murder in violation of RSA 630:1, first degree murder in violation of RSA 630:1-a, or second degree
15 murder in violation of RSA 630:1-b, and a mistrial was declared as to that charge as a result of the
16 jury's being unable to reach a unanimous verdict, and the department of justice has declined to seek
17 a retrial on that charge.

18 (b) The department of justice shall not be required to provide the written explanation
19 identified in this paragraph if the department considers an investigation open, even if the case is
20 considered "cold."

21 II. If the requesting party believes there is probable cause to charge a person of interest as
22 having committed a violation of RSA 630:1, 630:1-a, or 630:1-b., or that a retrial should be sought,
23 that party may petition the superior court in the jurisdiction where the homicide occurred for review
24 of the department of justice's written explanation not to seek charges. The superior court shall grant
25 one request for review per homicide investigation.

26 III.(a) The court shall review the written explanation by the department of justice provided
27 under paragraph I and make a determination as to whether probable cause exists to charge the
28 person of interest identified by the immediate family member with homicide. The court may also
29 make a determination regarding the likelihood of the state proving a case against the person or
30 persons of interest beyond a reasonable doubt, where the department of justice concedes probable

1 cause but avers that they have not sought charges due to their determination that they would be
2 unlikely to prove the case at trial.

3 (b) If the court determines that the written explanation is insufficient for it to make a
4 determination, the court may require the department to provide any investigative reports that the
5 department has on the matter for in camera review. The court may consider the department's
6 investigative reports, records, case files, and any other written, video, or audio records that the court
7 deems relevant in determining whether a recommendation of prosecution is warranted. The court
8 may appoint an expert to assist in the review of technical documents. The requesting party shall not
9 be entitled to any materials that are not otherwise obtainable pursuant to RSA 91-A.

10 (c) If the court deems it necessary, the court may hold a hearing and examine any
11 witnesses the court determines to be necessary and appropriate to make its determination. The
12 court shall consider the credibility of testimony in its assessment of the department's decision not to
13 bring charges against a person or persons of interest. If a hearing is held, any suspect being
14 considered for charges shall be provided notice and shall have all rights as he or she would have if it
15 were a pretrial evidentiary hearing following charges, including the rights to an attorney and to
16 cross-examine witnesses. The requesting party shall not be permitted by counsel or otherwise to
17 participate in the hearing.

18 IV.(a) If the court determines that probable cause does not exist, the court shall inform the
19 requesting party in writing that charges against the identified person of interest should not be filed
20 for lack of probable cause. The court shall not be required to state any further explanation. If the
21 court determines that the evidence collected by the department of justice demonstrates that probable
22 cause exists to charge an individual, the court shall provide the department of justice a written
23 summary of why the identified person of interest should be charged, and make a recommendation to
24 the department that the identified person of interest be prosecuted. This written summary shall not
25 be provided to the requesting party and shall be exempt from disclosure under RSA 91-A. The court
26 shall provide the requesting party solely with an explanation that it has determined that probable
27 cause exists and has made a recommendation to the department of justice.

28 (b) In a case where the department of justice has conceded probable cause exists, or
29 cases where a mistrial was declared for the jury's being unable to reach a unanimous verdict, but the
30 department has declined to seek charges or retrial based on likelihood of a successful conviction, the
31 same process as in subparagraph IV(a) shall apply but with the standard of beyond a reasonable
32 doubt.

33 (c) No decision made by the court pursuant to this section shall be appealable.

34 (d) If the department of justice receives a recommendation pursuant to this paragraph,
35 the department shall, within 90 days of receiving the recommendation, inform the court and the
36 requesting party that it has reviewed the recommendation, and whether it will be seeking charges or

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1 is maintaining its original position. Nothing in this section shall be construed to require the
2 department of justice to seek any charges even if the court has made such a recommendation.

3 2 Applicability. The process established by this act shall only apply to cases where the
4 department of justice closes the case or declines to retry a case following the effective date of this act,
5 and shall not apply retroactively to any case where those actions occurred prior to the effective date
6 of this act.

7 3 Effective Date. This act shall take effect January 1, 2027.

SB 625-FN- FISCAL NOTE
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AN ACT permitting family members of homicide victims to seek an evidentiary hearing in cases where the department of justice does not file charges in the case.

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	Indeterminable Increase \$500,000 to \$700,000	Indeterminable Increase \$600,000 to \$1,000,000	Indeterminable Increase \$600,000 to \$1,000,000
<i>Funding Source(s)</i>	General 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 permits family members of homicide victims to request a written explanation from the Department of Justice when charges are not filed or retried and allows those family members to petition the superior court for review of that decision. The bill establishes a court review process and takes effect January 1, 2027.

The Department of Justice states this bill would result in an indeterminable increase in workload related to responding to requests for written explanations, producing investigative materials for court review, and participating in potential evidentiary hearings. To implement the bill, the Department anticipates the need for four new full time positions consisting of two attorneys, one investigative paralegal, and one administrative assistant. The total costs for these positions would be \$307,000 for FY 2027 with an assumed start date of January 1, 2027, \$465,000 in FY 2028 and \$473,000 in FY 2029.

Positions Requested by DOJ	FY 2027	FY 2028	FY 2029
Unclassified Attorney x 2	\$170,000	\$276,000	\$276,000

Investigative Paralegal x 1 (23-2010 PARALGLS-LGL ASSTS-4 SOC21-05)	\$70,000	\$98,000	\$102,000
Administrative Assistant x 1 (23-2010 PARALGLS-LGL ASSTS-4 SOC21-04)	\$67,000	\$91,000	\$95,000
Total Salary, Benefits and Operating Expenses	\$307,000	\$465,000	\$473,000

The Department also anticipates additional indeterminable costs related to transcripts, court related expenses, expert consultation, and potential appellate activity.

Additionally, this bill does not authorize positions or appropriate funds. However, if the positions are authorized, it is assumed the costs for FY 2028 and FY 2029 would be included in the Department's FY 2028 and FY 2029 budget request.

The Judicial Branch states this bill would increase superior court workload. The Branch estimates expenditures would be indeterminable but more than \$100,000 and less than \$500,000 on an annual basis. Because the bill is effective January 1, 2027, the FY 2027 impact would reflect approximately one half of the annual cost range, with full year impacts beginning in FY 2028.

AGENCIES CONTACTED:

Department of Justice and Judicial Branch