

# Bill as Introduced

HB 210-FN - AS INTRODUCED

2011 SESSION

11-0602

04/09

HOUSE BILL            **210-FN**

AN ACT                relative to the use of deadly force to protect oneself.

SPONSORS:            Rep. Okerman, Rock 4; Rep. Hoell, Merr 13; Rep. Comtois, Belk 5; Rep. Malone, Belk 5; Sen. Bradley, Dist 3

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill allows a person who is in any place where he or she has a right to be or reasonably believed he or she had a right to be to use deadly force to protect oneself.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                   relative to the use of deadly force to protect oneself.

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

- 1           1 Physical Force in Defense of a Person. Amend RSA 627:4, III(a) to read as follows:
- 2                   (a) Retreat from the encounter, except that he ***or she*** is not required to retreat if he ***or***
- 3 ***she*** is within his ***or her*** dwelling [øæ], its curtilage, ***or in any place where he or she has a right***
- 4 ***to be or reasonably believed he or she had a right to be***, and was not the initial aggressor; or
- 5           2 Effective Date. This act shall take effect January 1, 2012.

LBAO  
11-0602  
01/14/11

**HB 210-FN - FISCAL NOTE**

AN ACT relative to the use of deadly force to protect oneself.

**FISCAL IMPACT:**

The Judicial Branch, the Judicial Council, Department of Corrections and the New Hampshire Association of Counties state this bill may decrease state and county expenditures by an indeterminable amount in FY 2012 and each year thereafter. The Department of Justice states this bill will have an indeterminable fiscal impact on state expenditures in FY 2012 and each year thereafter. There is no fiscal impact on local expenditures or state, county and local revenue.

**METHODOLOGY:**

The Judicial Branch states this bill amends RSA 627:4, III(a) to allow a person to use deadly force upon another to protect oneself if they are in any place where they have a right to be. The Branch states this bill could result in a decrease in costs to the Branch by removing any assault or homicide charge that would be classified as complex criminal and removing any felony offense for criminal threatening that would be classified as a routine felony. The Branch has no information to estimate how many cases will no longer be brought but does have estimated costs for processing a complex criminal case and a routine felony case. The Branch states a complex criminal case costs \$753.36 per case in FY 2012 and \$759.71 per case in FY 2013 and each year thereafter. A routine felony case costs \$394.13 in FY 2012 and \$399.33 in FY 2013 and each year thereafter. The Branch also states this bill could result in fewer appeals resulting in some cost decreases but has no information to determine the number of appeals that may not be made.

The Judicial Council states this bill may decrease expenditure of indigent defense funds by an indeterminable amount but has no information to determine how many indigent defense clients would not have been charged if this bill was in effect. Review of data shows there has not been significant amount of representation paid for these types of charges. The Council is able to provide information on the cost of misdemeanor and felony cases involving indigent defense clients. The Council states if an individual is found to be indigent, the flat fee of \$275 per misdemeanor or \$756.24 per felony is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a

misdemeanor charge and \$4,100 for a felony charge. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee cap are seldom granted. Finally, there are costs for services other than counsel when requested and approved by the court during the defense of a case or during an appeal.

The Department of Justice states this bill will have an indeterminable fiscal impact. The Department states it is not able to determine if expanding the situations in which the use of deadly force in self-defense is permissible will result in more individuals resorting to the use of deadly force, increasing homicides. If more homicides occur as a result of this bill the Department will have increased costs as the Department is responsible for overseeing the investigation of homicides and if the use of deadly force is not found to be justifiable the prosecution of the homicide case.

The Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient detail to predict the number of individuals who would be subject to this legislation and thus avoid incarceration in the State's prisons. The Department of Corrections states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2010 was \$32,492. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2010 was \$659.

The New Hampshire Association of Counties states to the extent less individuals are incarcerated in county facilities; county expenditures may decrease by an indeterminable amount. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000.

# Speakers



# Hearing Minutes



HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 207-FN, HB 210 and HB 567

BILL TITLE: relative to physical force in defense of a person.

DATE: March 3, 2011

LOB ROOM: 204 Time Public Hearing Called to Order: 10:00 a.m.

Time Adjourned: 12:25 p.m.

(please circle if present)

Committee Members: Reps. Swinford, Gagne, Welch, Fields, Fesh, Charro, Villeneuve, Antosz, Greazzo, Kreis, Parsons, Tasker, Warden, Pantelakos, Berube, Shurtleff and Ginsburg

Entered  
11:30

**Bill Sponsors:** Rep. Pepino, Hills 11; Rep. Infantine, Hills 13; Rep. Mirski, Graf 10; Rep. Ball, Hills 9; Rep. Proulx, Hills 15; Rep. Simmons, Hills 17; Rep. Jennifer Coffey, Merr 6; Rep. Tamburello, Rock 3; Rep. Warden, Hills 7; Rep. DeLemus, Straf 1; Sen. Barnes, Jr., Dist 17; Sen. Boutin, Dist 16; Sen. DeBlois, Dist 18; Sen. Stiles, Dist 24

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**\*Rep. Pepino** - Supports - Sponsor - Spoke about different instances as part of the reason for the bill. States this bill is an extension of the "(Castle Doctrine)". This bill will allow you to protect yourself outside of your home. Testimony (written) provided.

**Rep. Susan DeLemus** - Supports. Spoke to the importance of the bill. She is also the co-sponsor. No written testimony.

**Rep. Paul Mirski** - Supports. Co-sponsor. Reminded that this law is directed in a Commission of a felony a "Stand Gun Ground Bill".

**Attorney General's Associate Ann Rice** - Opposes. Has written testimony on the three bill: HB 207, HB 210 and HB 567. Does not feel the three bills are necessary.

**Claire Ebel - NH CLU** - Opposes. Addressing the three bills HB 207, HB 210 and HB 567. Does not support the three bills. HB 567 creates more issues then not. No written testimony.

**Chief Ryan Heath - Alton Police Department and Chief Andrew Shagoury, Wolfeboro Police Department also representing N. H. Police Chiefs Association.** Opposes. Chief Shagoury opposes the three bills. Chief Heath is also opposed to the three bills. No written testimony.

**Rep. Rick Okerman** - Supports. Sponsor of HB 210. Spoke to his bill. Sketch notes provided.

**HB 207- HB 210 and HB 567 all heard at same time - Page Two**

Rep. Guy Comtois - Supports the bill. HB 210.

Rep. Andrew Manuse - Supports. Recommends merge the three bills. Supports HB 210, HB 207 and HB 567.

Ann Rice Attorney General's Office - Note. Opposes. Pink card only. Opposes the bill addressed all three bills so noted in their minutes.

Ralph Demicco - Gun Owners of New Hampshire - Supports HB 207 and HB 210. Feels that HB 567 needs work and that HB 207 and HB 210 could be merged because they are pretty close.

Claire Ebel, NHCLU - Opposes HB 210. No speaking.

Mr. James Wheeler - Supports HB 210. Also presented a letter from Jonathan R. Evans, President of N. H. Firearms Coalition. Has concerns with HB 567.

Rep. Paul Mirski - Supports HB 567. Co-sponsor presented information on the definition of Tortious Interference.

Cards by Ann Rice and Claire Ebel - Both oppose HB 567.

Rep. J. R. Hoell - Supports - but commented that working on HB 210 and HB 207 may be easier.

Don Gorman - representing self - Supports. Talked about his being a firearm instructor and explained what he does as an instructor. "Life before Property".

Patriot Pastor Garrettlear, Representing "The Well of Living Water Church and the Heroes of American Liberty" - Supports.

The minutes of HB 207 represents the combination of three bills. HB 207, HB 210 and HB 567.

The three bills were heard at the same time. Testimony was simultaneous.

Respectfully Submitted:



Rep. Gene P. Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 210-FN

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**DATE:** March 3, 2011

**LOB ROOM:** 204      **Time Public Hearing Called to Order:** 10:00 a.m.

**Time Adjourned:** 12:25 p.m.

(please circle if present)

**Committee Members:** Reps. Swinford, Gagne, Welch, Fields, Fesh, Charron, Villeneuve, Antosz,  
Greazzo, Kreist, Parsons, Tasker, Warden, Pantelakos, Berube, Shurtleff and Ginsburg.

*Entered  
11:30*

**Bill Sponsors:** Rep. Okerman, Rock 4; Rep. Hoell, Merr 13; Rep. Comtois, Belk 5; Rep. Malone,  
Belk 5; Sen. Bradley, Dist 3

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

MARCH 3-2011

HB-207-210-567

Relative to Physical Force in Defense of a Person.

① 10:00  
support

Rep. Pepino, sponsor spoke about different instances as part of the reason for the bill. states this bill is an extension of the "(Castle Doctrine)", this bill will allow you protect yourself outside of your home  
testimony (written) provided.

② 10:15  
support

Rep. Susan DeLemus, spoke to the importance of the bills she is also the Co-sponsor.  
no written testimony.

③ 10:24  
support

Rep. Paul Hirstski Co Sponsor - reminded that this law is directed in a Commission of a felony a "Stand your Ground Bill".

④ 10:30  
opposes

Attorney, Grecks associate Ann Rice: Has written testimony on the three bills. HB-207, 210, 567

⑤ 10:50  
opposes

Does not feel the three bills are necessary -  
CLAIRE EBEL - NH ACLU - addressing the three bills HB-207-210-567.

Does not support the three bills.  
HB-567 creates more issues than not.  
no written testimony.

MARCH-3-2011

HB - 207-210-567

11

10:55  
opposes  
(6)

Chief Ryan Heath <sup>ALTON PD</sup> Chief Andrew Shagoury <sup>WOLFBORO PD</sup>  
also representing N.H. Police Chiefs  
Assn. Chief Shagoury opposes the three  
bills. Chief Heath is also opposed to the  
three bills - no written testimony.

7) 11:25  
supports

Rep. Rick Sherman sponsor HB 210  
spoke to his bill. sketch notes provided

8) 11:33  
supports

Rep. Guy Condois. supports the bill. HB 210

9) 11:35  
supports

Rep. Andrew Manuse recommends merge -  
the three bills. supports HB-210-207 -  
HB-567

note.  
10) opposes

Ann Ric a6's office card only, opposes  
the bill addressed all three bills  
summed in three minutes. supports

11) 11:40

Ralph Demico National Rifle Association  
supports - 207-210 GOV OWNER'S OF NEW HAMPSHIRE  
Feels that HB 567 needs work, and  
that 207-210 could be merged because  
they are pretty close.

12. -  
opposes

Clair Ebel NH CVU opposes HB-210  
no speaking

MARCH 3-2011

TH

HB 207-210-567

(13)  
11:45  
support

Mr. James Wheeler - supports the bill  
HB 210 - also presented a letter from  
Johnathan R. Evans President of N.H.  
Firearms Coalition. Has concerns  
with HB 567 -

14.  
11:50  
support.

Rep. ~~Paul~~ Paul Mirski, supports HB 567 -  
~~defined~~ Co Sponsor presented -  
information on the definition  
Tortious interference

NOTE 15  
opposes.

Cards by Ann Rice and Claire Ebel  
both oppose HB 567

(16)  
12:10  
support.

Rep. J-R. Hoell - supports - but  
commented that working on HB 210-207  
may be easier.

(17)  
12:15  
support

Wlon Gorman - representing self -  
talked about his being a firearm instructor  
and explained what he does as an  
instructor. "Life before Property"

(18)  
support  
12:15

Patriot Pastor Barrett Lear - representing  
"The Well of Living Water Church + The heroes  
of American Liberty. Closed 12:25"

3-3-2011

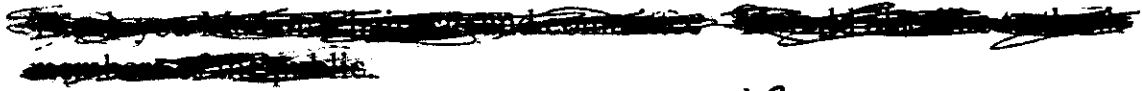
The minutes in HB 207 represents  
the combination of three bills. HB-207,  
HB-210 and HB-567,

The three bill were heard at the same  
time. Testimony was simultaneous.

Gene Charron

# Testimony





A similar ~~This~~ bill passed both the house and senate in a previous session - Governor Lynch vetoed it.

The reason being there was additional language in that bill that would have allowed victims of a felony property crime to use force to protect their property. That language has been removed from this bill.

The intent of this bill would allow an individual to defend themselves or others when confronted by an assailant threatening imminent death, bodily harm or sexual assault. The measure specifies that this right is to be recognized and protected anywhere its exercise proves to be necessary not merely in the sanctuary of an individual's home, but anywhere the citizen has the right to be with no duty to retreat.

Most violent crimes take place outside of the home. The rights guaranteed in the home are of no use to these victims.

The current criminal friendly law does not allow law-abiding citizens to exercise their natural inalienable right.

With this bill targeted victims will no longer be required by law to turn their back to an assailant and retreat.

It is bad public policy to require citizens to give quarter to an attacker instead of protecting themselves and family.

The most preventable violent crime is the one that you can control defending yourself against

You give up any chance of controlling an attack when you are required to turn your back and retreat.

Violent happy  
Crime every  
30 sec  
2.5 million  
Time a year  
law abiding citizens  
use firearms  
to protect them  
selves

Some force in  
a commission  
of a felony

Sexual assault  
Kidnapping  
Burglary  
unlawful  
deadly

Justification  
Self defense

House  
Curtlige  
Car

Victims should  
be immune to  
Arrest when  
defend their lives.

- o I would hate to leave it up to an over zealous prosecutor to decide whether Retreat was an option or not.
- o NH Self defense laws are weak
- o 15 states

Am Rice you can use your lap. Breaking to a building to commit a crime or sexual assault

I asked my son's karate instructor about turning your back and running from a would be attacker and he said:

Never take your eyes off your attacker. Never turn your back to an attacker.

Keep eyes open and the attacker in view.

- Our most vulnerable citizens don't have the option of retreat.
- When you are in your automobile you don't have the option of retreat
- If you have small children you don't have the option of retreat
- What is required before you can stand your ground if needed? Retreat 100 yards, ½ mile. Will an over zealous prosecutor take your word that you ran as far as you could?
- Victims of an attacker will always be vulnerable to both the attacker and prosecution under the current criminal friendly law.
- I see some attorneys in the audience and I'm sure they can give you cases of victims being brought up on charges because it was not safe to retreat and the victim stood their ground.

Joseph Brown – was attacked in his car.

Zero criminal record

Aquited

The Judicial Branch, the Judicial Council, Department of Corrections and the New Hampshire Association of Counties state this bill may decrease state and county expenditures

You Can't Shoot

Armed citizens kill ~~more~~ <sup>twice as many</sup> crooks  
than police do every year  
1527 vs. 606

0% of <sup>the</sup> shooting involve  
a innocent person <sup>mistaken as</sup>  
error rate for police is 11% <sup>o a criminal or a</sup>  
~~bullet mistake~~  
More than 5 times higher

HB 210-FW

When people are required to use deadly force reality is they become more responsible not less. This has been proven unequivocally by resent history.

1987 State of Florida past landmark legislation to issue concealed carry pistol license to anyone that is not prohibited by law from owning a firearm. This was called Shall issue opposed to May issue.

While detractors predicted that every traffic fender-bender and bar fight would lead to an OK Corral shoot-out....It never happened.

In fact Florida saw a significant decrease in violent crime. Since then most other states followed and now there are 40 shall issue states

Now the remarkable thing about this – In every case opponent's argument of "blood in the streets" did not materialize – consistent experience has been to the contrary.

Currently there are 15 states with no duty to retreat laws – In every case during the passage of the no duty to retreat legislation. Senior Police officials and detractors opposed no duty to retreat legislation just as they did to concealed carry and in every case their concerns were proven groundless.

State by state violent crime stemmed and even went down.

SB 318 / 06

# Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 210-FN

**BILL TITLE:** relative to the use of deadly force to protect oneself.

**DATE:** March 9, 2011

**LOB ROOM:** 204

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Ken Kreis

Seconded by Rep. Dennis Fields

Vote: 9-8 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE:**

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

  
Rep. Gene Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 210-FN

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Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. **KREIS**

Seconded by Rep. **RIELOS**

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

*Gene Charron*  
Rep. Gene Charron, Clerk

*Regular  
Calendar*

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 210-FN Title: Relative to the use of deadly force to protect oneself.  
 PH Date: 03 / 03 / 11 Exec Session Date: 3 / 9 / 2011

Motion: OT P. Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Swinford, Elaine B, Chairman	✓	
Gagne, Larry G, V Chairman	✓	
Welch, David A		✓
Fields, Dennis H		✓
Fesh, Robert M		✓
Charron, Gene P		✓
Villeneuve, Moe	✓	
Antosz, Jason P	✓	
Greazzo, Phil J	✓	
Kreis, Kenneth	✓	
Parsons, Robbie L	✓	
Tasker, Kyle J	✓	
Warden, Mark	✓	
Pantelakos, Laura C		✓
Berube, Roger R		✓
Shurtleff, Stephen J		✓
Ginsburg, Philip E		✓

9

8



# Committee Report

**REGULAR CALENDAR**

**March 10, 2011**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB210-FN,

AN ACT relative to the use of deadly force to protect oneself. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

**Rep. Kenneth Kreis**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>CRIMINAL JUSTICE AND PUBLIC SAFETY</b>
Bill Number:	<b>HB210-FN</b>
Title:	<b>relative to the use of deadly force to protect oneself.</b>
Date:	<b>March 10, 2011</b>
Consent Calendar:	<b>NO</b>
Recommendation:	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

NH Citizens should not be forced to retreat when faced with serious bodily injury or death. Current NH Law places an undue burden on a citizen having to make split decisions on whether it is appropriate to use deadly force. While we do not think deadly force should be used lightly, citizens should not be put in a position of having to choose between defending themselves and/or possibly going to jail because they might be able to retreat, or face serious injury from an assailant.

Vote 9-8.

Rep. Kenneth Kreis  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

### CRIMINAL JUSTICE AND PUBLIC SAFETY

**HB210-FN**, relative to the use of deadly force to protect oneself. **OUGHT TO PASS.**

Rep. Kenneth Kreis for CRIMINAL JUSTICE AND PUBLIC SAFETY. NH Citizens should not be forced to retreat when faced with serious bodily injury or death. Current NH Law places an undue burden on a citizen having to make split decisions on whether it is appropriate to use deadly force. While we do not think deadly force should be used lightly, citizens should not be put in a position of having to choose between defending themselves and/or possibly going to jail because they might be able to retreat, or face serious injury from an assailant. **Vote 9-8.**

Original: House Clerk  
Cc: Committee Bill File

**HB 210-FN relative to the use of deadly force to protect oneself.**

**NH Citizens should not be forced to retreat when faced with serious bodily injury or death. Current NH Law places an undue burden on a citizen having to make split decisions on whether it is appropriate to use deadly force. While we do not think deadly force should be used lightly, citizens should not be put in a position of having to choose between defending themselves and/or possibly going to jail because they might be able to retreat, or face serious injury from an assailant.**

**Rep. Kenneth Kreis  
For the Committee  
OTP 9-8 RC**

*Rep. Elaine Swerford*

COMMITTEE REPORT

COMMITTEE: Criminal Justice and Public Safety

BILL NUMBER: HB 210-FN

TITLE: Relative to the use of deadly force to protect oneself.

DATE: March 9, 2011 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No. _____
------------------------

STATEMENT OF INTENT:

NH CITIZENS SHOULD NOT BE FORCED TO RETREAT  
WHEN FACED WITH SERIOUS BODILY INJURY OR  
DEATH. CURRENT NH LAW PLACES AN UNNECESSARY BURDEN  
ON A CITIZEN HAVING TO MAKE SPLIT DECISIONS ON  
WHETHER IT IS APPROPRIATE TO USE DEADLY FORCE.  
WHILE WE DO NOT THINK DEADLY FORCE SHOULD BE  
USED LIGHTLY, CITIZENS SHOULD NOT BE PUT IN A  
POSITION OF HAVING TO CHOOSE BETWEEN DEFENDING THEMSELVES  
AND/OR POSSIBLY GOING TO JAIL BECAUSE THEY MIGHT BE  
ABLE TO RETREAT FROM SERIOUS INJURY FROM AN  
ASSAULT

COMMITTEE VOTE: 9-8

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Renee Dean S  
 For the Committee

Rep. Elaine Swenford