

Bill as
Introduced

HB 407 - AS INTRODUCED

2013 SESSION

13-0398

04/09

HOUSE BILL **407**

AN ACT relative to the penalty for making a false statement in a criminal complaint.

SPONSORS: Rep. Itse, Rock 10

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill provides that a law enforcement officer who makes a false statement in a criminal complaint may be prosecuted for false swearing.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Thirteen

AN ACT relative to the penalty for making a false statement in a criminal complaint.

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

1 1 Complaints. Amend RSA 592-A:7, I to read as follows:

2 I. Criminal proceedings before a circuit court shall be begun by complaint, signed and under
3 oath, addressed to such court, briefly setting forth, by name or description, the party accused and the
4 offense charged, provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for
5 a violation-level offense or a class B misdemeanor shall not require an oath. All complaints filed by a
6 police officer shall include the officer's signature and printed name and notice that making a false
7 statement on the complaint may result in criminal prosecution *for false swearing pursuant to*
8 *RSA 641:2.*

9 2 Effective Date. This act shall take effect January 1, 2014.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 407

BILL TITLE: relative to the penalty for making a false statement in a criminal complaint.

DATE: January 31, 2013

LOB ROOM: 204 **Time Public Hearing Called to Order:** 1:35 p.m.

Time Adjourned: 1:55 p.m.

(please circle if present)

Committee Members: Reps. Pantelakos, Cushing, Ginsburg, Berube, Boisvert, Robertson, Grady, Burrige, Harriott-Gathright, Hirsch, O'Hearne, Charron, Fields, Villeneuve, Gagne, Vaillancourt, Warden, Parsons, Fesh and Tasker.

Bill Sponsors: Rep. Itse, Rock 10

TESTIMONY

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

Rep. Dan Itse, Sponsor – supports
Expressed why he feels that this bill is necessary.

Chris Casco, Department of Safety – opposes
Feels the bill narrows the statutes.

Respectfully submitted,



Rep. Gene P. Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 407

BILL TITLE: relative to the penalty for making a false statement in a criminal complaint.

DATE:

LOB ROOM: 204

Time Public Hearing Called to Order: {Time} 1:35

Time Adjourned: {Time} 1:55

(please circle if present)

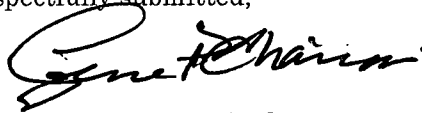
Committee Members: Reps. Pantelakos, Cushing, Ginsburg, Berube, Boisvert, Robertson, Grady, Burridge, Harriott-Gathright, Hirsch, O'Hearne, Clarron, Fields, Villeneuve, Gagne, Vaillancourt, Warden, Parsons, Pash and Tasker.

Bill Sponsors: Rep. J. Belanger, Hills 27; Rep. Shurtleff, Merr 11

TESTIMONY

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

Respectfully submitted,



Rep. Gene P. Charron, Clerk

HB-407

1:35
support.

Rep Wan ITSE - Expressed why he feels
that this bill is necessary.

1:50
opposes

CARIS CASKO, opposes the bill. feels the
bill narrows the statutes

CLOSE - 2:55

Testimony



State of New Hampshire

DEPARTMENT OF SAFETY
JAMES H. HAYES BLDG. 33 HAZEN DR.
CONCORD, N.H. 03305
603/271-2559

JOHN J. BARTHELMES
COMMISSIONER OF SAFETY

EARL M. SWEENEY
ASSISTANT COMMISSIONER

NH DEPARTMENT OF SAFETY LEGISLATIVE POSITION PAPER

HB 407 SB ___ AS INTRODUCED (x) AMENDMENT NO. ___

Position: Opposed

This bill adds after criminal prosecution in the last sentence of RSA 592-A:7, I, false swearing pursuant to RSA 641:2. This change appears to limit the offense charged in these situations to that of false swearing. In doing so, the bill will limit prosecutorial discretion in those cases. It is preferable to allow prosecutors broad discretion in these cases rather than limiting it. Moreover, the charging decision is more appropriately an executive branch function, not one that should be limited by legislation. To the extent that this language putting an officer on notice that false statement on a complaint may result in criminal prosecution is appropriate, it should remain broad. This bill will make it unnecessarily narrow. It is unclear how this change will make the existing statute any better.

Moreover, the existing statute provides that a false statement on a criminal complaint may result in criminal prosecution. There is insufficient reason to specifically restrict the offense to be charged. Therefore, this change is unnecessary and may introduce confusion into the area of law.

The Department of Safety opposes this bill for the reasons stated.

APPROVED:

Earl M. Sweeney

Assistant Commissioner

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 407

BILL TITLE: relative to the penalty for making a false statement in a criminal complaint.

DATE: February 26, 2013

LOB ROOM: 204

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Warden

Seconded by Rep. TAsker

Vote: 2-18 (Please attach record of roll call vote.)

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

Moved by Rep. Burridge

Seconded by Rep. Cushing

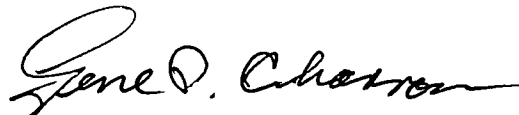
Vote: 18-2 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep. Gene P. Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 407

BILL TITLE: relative to the penalty for making a false statement in a criminal complaint.

DATE: 2-26-13

LOB ROOM: 204

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

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

Moved by Rep. Warden

Seconded by Rep. TARKER.

Vote: 2-18 (Please attach record of roll call vote.)

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

Moved by Rep. Burridge

Seconded by Rep. Chisholm -

Vote: 18-2 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

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

Consent
18-2

Statement of Intent: Refer to Committee Report

Respectfully submitted,
Rep. Gene P. Chaffron, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2013 11:54:23 AM
Roll Call Committee Registers
Report

2013 SESSION

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 407 Title: _____

PH Date: 1/31/13 Exec Session Date: 2/26/13

Motion: OTP *Fail* Amendment #: _____

MEMBER	YEAS	NAYS
Pantelakos, Laura C, Chairman		✓
Cushing, Robert R, V Chairman		✓
Berube, Roger R		✓
Robertson, Timothy N		✓
Burridge, Delmar D		✓
Ginsburg, Philip E		✓
Boisvert, Ronald R		
Grady, Brenda E		✓
Harriott-Gathright, Linda		✓
Hirsch, Geoffrey D		✓
O'Hearne, Andrew S		✓
Charron, Gene P, Clerk		✓
Fields, Dennis H		✓
Fesh, Robert M		✓
Villeneuve, Moe		✓
Gagne, Larry G		✓
Parsons, Robbie L		✓
Tasker, Kyle J	✓	
Warden, Mark	✓	
Vaillancourt, Steve		✓
TOTAL VOTE: <i>Shurtlap</i>	2	18

2 — 18



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2013 11:54:23 AM
Roll Call Committee Registers
Report

2013 SESSION

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: 407 Title: _____

PH Date: ____/____/____ Exec Session Date: ____/____/____

Motion: -172 Amendment #: _____

MEMBER	YEAS	NAYS
Pantelakos, Laura C, Chairman	✓	
Cushing, Robert R, V Chairman	✓	
Berube, Roger R	✓	
Robertson, Timothy N	✓	
Burrige, Delmar D	✓	
Ginsburg, Philip E	✓	
Boisvert, Ronald R		
Grady, Brenda E	✓	
Harriott-Gathright, Linda	✓	
Hirsch, Geoffrey D	✓	
O'Hearne, Andrew S	✓	
Charron, Gene P, Clerk	✓	
Fields, Dennis H	✓	
Fesh, Robert M	✓	
Villeneuve, Moe	✓	
Gagne, Larry G	✓	
Parsons, Robbie L	✓	
Tasker, Kyle J		✓
Warden, Mark		✓
Vaillancourt, Steve	✓	
TOTAL VOTE: <i>Shurtleff</i>	✓	

18 - 2

Committee Report

CONSENT CALENDAR

March 4, 2013

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB 407,

AN ACT relative to the penalty for making a false statement in a criminal complaint. Having considered the same, report the same with the following

Resolution: **RESOLVED**, That it is **INEXPEDIENT TO LEGISLATE**.

Rep. Delmar D Burridge

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	CRIMINAL JUSTICE AND PUBLIC SAFETY
Bill Number:	HB407
Title:	relative to the penalty for making a false statement in a criminal complaint.
Date:	March 4, 2013
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill will limit prosecutorial discretion in situations of false swearing. It is preferable to allow prosecutors broad discretion in these cases rather than limiting it. Moreover, the charging decision is more appropriately an executive branch function, not one that should be limited by legislation. To the extent that this language putting an officer on notice that a false statement on a complaint may result in criminal prosecution is appropriate. It should remain broad. This bill will make it unnecessarily narrow. It is unclear how this change will make the existing statute any better.

Moreover, the existing statute provides that a false statement on a criminal complaint may result in criminal prosecution. There is insufficient reason to specifically restrict the offense to be charged. Therefore, this change is unnecessary and may introduce confusion into the area of law.

Vote 18-2.

Rep. Delmar D Burrige
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 407, relative to the penalty for making a false statement in a criminal complaint.

INEXPEDIENT TO LEGISLATE.

Rep. Delmar D Burrige for **CRIMINAL JUSTICE AND PUBLIC SAFETY**. This bill will limit prosecutorial discretion in situations of false swearing. It is preferable to allow prosecutors broad discretion in these cases rather than limiting it. Moreover, the charging decision is more appropriately an executive branch function, not one that should be limited by legislation. To the extent that this language putting an officer on notice that a false statement on a complaint may result in criminal prosecution is appropriate. It should remain broad. This bill will make it unnecessarily narrow. It is unclear how this change will make the existing statute any better. Moreover, the existing statute provides that a false statement on a criminal complaint may result in criminal prosecution. There is insufficient reason to specifically restrict the offense to be charged. Therefore, this change is unnecessary and may introduce confusion into the area of law. **Vote 18-2.**

Original: House Clerk

Cc: Committee Bill File

CONSENT CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

MAJORITY REPORT

HB 407, relative to the penalty for making a false statement in a criminal complaint.

RECOMMENDATION: INEXPEDIENT TO LEGISLATE

VOTE: 18-2

This bill will limit prosecutorial discretion in situations of false swearing. It is preferable to allow prosecutors broad discretion in these cases rather than limiting it. Moreover, the charging decision is more appropriately an executive branch function, not one that should be limited by legislation. To the extent that this language putting an officer on notice that a false statement on a complaint may result in criminal prosecution is appropriate. It should remain broad. This bill will make it unnecessarily narrow. It is unclear how this change will make the existing statute any better. Moreover, the existing statute provides that a false statement on a criminal complaint may result in criminal prosecution. There is insufficient reason to specifically restrict the offense to be charged. Therefore, this change is unnecessary and may introduce confusion into the area of law.

Rep. Delmar D. Burrige

Rep. Laura Pantelakas

(SurrIDGE) CC

COMMITTEE REPORT

COMMITTEE:

Criminal Justice

BILL NUMBER:

HB 407

TITLE:

relative to penalty for making false statement in criminal complaint.

DATE:

2.26.13

CONSENT CALENDAR:

YES

NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

Representative Delmar SurrIDGE for
relative to a
HB 407 ~~this bill provides that a law enforcement officer~~
who makes a false statement in a criminal complaint may
be prosecuted for false swearing. Majority: 1 TL. This
bill will limit prosecutorial discretion ~~to these~~ ⁱⁿ situations
of false swearing. It is preferable to allow prosecutors
broad discretion in these cases rather than limiting
it. Moreover, the charging decision is more appropriately
an executive branch function, not one that should be
limited by legislation. To the best of this language
putting on officer on notice that a false
statement in a complaint may result in criminal ~~offense~~

COMMITTEE VOTE:

18-2

Rep. Delmar SurrIDGE (continued)

RESPECTFULLY SUBMITTED,

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

Rep. Delmar D. SurrIDGE
For the Committee

* prosecution is appropriate, it should ~~not~~ remain broad. This bill will make it unnecessarily narrow. It is unclear how this change will make the existing statute any better.

Moreover, the existing statute provides that a false statement on a criminal complaint may result in criminal prosecution. There is insufficient reason to specifically restrict the offense to be charged. Therefore, this change is unnecessary and may introduce confusion into the area of law.