

# Bill as Introduced

HB 403-FN - AS INTRODUCED

2015 SESSION

15-0075  
01/09

HOUSE BILL

**403-FN**

AN ACT

repealing the law relative to providing certain parameters for access to reproductive health care facilities.

SPONSORS:

Rep. Souza, Hills 43; Rep. Kappler, Rock 3; Rep. Notter, Hills 21; Rep. Gould, Hills 7; Rep. Groen, Straf 10; Rep. Hoell, Merr 23; Rep. Cordelli, Carr 4; Rep. Itse, Rock 10; Rep. Baldasaro, Rock 5; Rep. Wuelper, Straf 3; Sen. Birdsell, Dist 19; Sen. Daniels, Dist 11; Sen. Avard, Dist 12; Sen. Cataldo, Dist 6; Sen. Carson, Dist 14

COMMITTEE:

Judiciary

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ANALYSIS

This bill repeals the law relative to providing certain parameters for access to reproductive health care facilities.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT            repealing the law relative to providing certain parameters for access to reproductive health care facilities.

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

1            1 Statement of Findings and Purpose.

2            I. The general court hereby finds that:

3            (a) The exercise of a person's right to free speech is a First Amendment activity, the  
4 protection of which is paramount.

5            (b) RSA 132:37 through RSA 132:40 (2014, 81) was based on a similar Massachusetts  
6 statute, Mass. Gen. Laws, ch. 266 section 120E ½.

7            (c) On June 26, 2014 the United States Supreme Court unanimously struck down as  
8 unconstitutional the Massachusetts statute in the case of *McCullen v. Coakley*, 134 S. Ct. 2518.

9            (d) On July 9, 2014, the United States District Court for the District of New Hampshire  
10 held in the case of *Sister Mary Rose Reddy v. Foster*, Docket 14-cv-00299-JL that RSA 132:37 through  
11 RSA132:40 "is materially indistinguishable from the Massachusetts statute that the Supreme Court  
12 invalidated in *McCullen v. Coakley*."

13            II. Therefore, the general court hereby repeals RSA 132:37 through RSA 132:40 because if  
14 left as law, this statute will cause the state of New Hampshire to expend considerable sums  
15 defending a law which the United States Supreme Court unanimously found unconstitutional.

16            2 Repeal. RSA 132:37-132:40, relative to providing certain parameters for access to reproductive  
17 health care facilities, are repealed.

18            3 Effective Date. This act shall take effect upon its passage.

**HB 403-FN - FISCAL NOTE**

AN ACT repealing the law relative to providing certain parameters for access to reproductive health care facilities.

**FISCAL IMPACT:**

The Judicial Branch, the Department of Justice, and the Association of Counties state this bill, as introduced, will reduce state revenue and state and county expenditures by an indeterminable amount in FY 2015 and each year thereafter. There will be no fiscal impact on county and local revenue, or local expenditures.

**METHODOLOGY:**

The Department of Justice states this bill would repeal RSA 132:37 through 132:40 relative to certain parameters for access to reproductive health care facilities. The Department is involved in litigation defending the current law in Federal Court. The Department states this bill would likely result in dismissal of the lawsuit and the time currently being spent on the case would cease. As of January 1, 2015, the Department has spent 190 hours defending the case. The Department states the fiscal impact is indeterminable since it is difficult to determine the fiscal impact of the ongoing lawsuit, and difficult to determine what the fiscal impact will be in future years.

The Judicial Branch states the potential fiscal impact to the Judicial Branch is in the elimination of the enforcement section in RSA 132:39 which makes violation of the current statute a violation level offense. In addition, it authorizes the attorney general or county attorney to bring an action for injunctive relief to prevent further violation. The potential fiscal impact to the Branch is in the potential savings from the repeal of possible violation level offenses and injunction actions in the superior court.

The Branch has no information on which to estimate how many fewer violation level offenses will result from the proposed bill. The Branch does have information on the average cost of processing such cases. The estimated average cost of a violation level offense in the district division of the circuit court will be \$46.86 in FY 2016, and \$49.01 in FY 2017. Regarding injunction actions, the Branch has no information on how many injunctions would not be filed in the superior court as a result of the bill. The estimated average cost of an injunction (classified as a complex equity case) in the superior court will be \$699.40 in FY 2016, and

\$712.35 in FY 2017. These average costs do not consider the cost of any appeals that may be taken following trial. It should be noted the average case cost estimates for FY 2016 and FY 2017 are based on data that is more than nine years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.

The New Hampshire Association of Counties states this bill could reduce expenditures for prosecution and incarceration at the county level. The Association is not able to estimate the fiscal impact, but states the statewide average cost to incarcerate an individual in a county facility is about \$35,000.

# Committee Minutes

**SENATE CALENDAR NOTICE  
JUDICIARY**

Senator Sharon Carson Chairman  
 Senator Sam Cataldo V Chairman  
 Senator Gary Daniels  
 Senator Bette Lasky  
 Senator David Pierce

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: March 25, 2015**

**HEARINGS**

**Tuesday**

**3/31/2015**

JUDICIARY

SH 100

9:00 AM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

9:00 AM	HB597-FN	relative to penalties for indecent exposure and lewdness.
9:15 AM	HB616-FN	(NT) relative to compensation to claimants under the victims' assistance fund.
9:30 AM	HB648-FN	(NT) requiring detention until arraignment for persons arrested for violation of protective orders.
9:50 AM	HB403-FN ✓	repealing the law relative to providing certain parameters for access to reproductive health care facilities.

**Sponsors:**

**HB597-FN**

Rep. Frank Byron

**HB616-FN**

Rep. Robert Cushing  
 Rep. Laura Pantelakos  
 Rep. Mark McLean

**HB648-FN**

Rep. Daniel Sullivan

**HB403-FN**

Rep. Kathleen Souza  
 Rep. Warren Groen  
 Rep. Alfred Baldasaro  
 Sen. Kevin Avard

Rep. Dennis Fields  
 Sen. Donna Soucy

Rep. Patrick Long

Rep. Lawrence Kappler  
 Rep. J.R. Hoell  
 Rep. Kurt Wuelper  
 Sen. Sam Cataldo

Rep. Geoffrey Hirsch  
 Sen. Bette Lasky

Rep. Jeanine Notter  
 Rep. Glenn Cordelli  
 Sen. Regina Birdsell  
 Sen. Sharon Carson

Rep. Larry Gagne  
 Rep. Joseph Lachance

Rep. Linda Gould  
 Rep. Daniel Itse  
 Sen. Gary Daniels

# SENATE JUDICIARY COMMITTEE

*Susan Duncan, Senior Legislative Aide*

**HB 403-FN – AN ACT repealing the law relative to providing certain parameters for access to reproductive health care facilities.**

Hearing Date: March 31, 2015

Time Opened: 10:15 a.m.

Time Closed: 12:12 p.m.

**Members of the Committee Present:** Senators Carson, Cataldo, Lasky, Pierce and Daniels

**Members of the Committee Absent:** No one

**Bill Analysis:** This bill repeals the law relative to providing certain parameters for access to reproductive health care facilities.

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**Sponsors:** Representative Souza with Representatives Kappler, Notter, Gould, Groen, Hoell, Cordelli, Itse, Baldasaro and Wuelper and Senators Birdsell, Daniels, Avard, Cataldo and Carson

**Who supports the bill:** Senator Carson; Joseph Lessard; Senator Birdsell; Senator Avard; Sarah Koski of Cornerstone Research Action; Rep. Frank Edelblut; Meredith Cook on behalf of the Roman Catholic Diocese of Manchester; Catherine Cheney; Jen Robideux; Rep. Leon Rideout; Rep. Allen Cook; Jane Cormier of NH Right to Life; Rep. John Potucet; Rep. Eric Eastman; Representative Jeanine Notter; Ellen Kolb; Rep. Edith Horgan; Rep. David Murotake; Rep. Timothy Twombly; Rep. Linda Gould; Stephen Fournier; Rep. Al Baldasaro; Senator Cataldo; Rep. Wuelpert; Stephen Fournier of Atkinson

**Who opposes the bill:** Senator Stiles; Katie Mae Stewart; Jay Smith of the NH Public Health Association; Linda Griebisch on behalf of Loving Health Center; Rep. Mary Heath; Senator Soucy; Representative Paul Berch; Jennifer Frizzell, PPNNE; Lauren Banker of PPNNE; Emily Dichman and Aly Calef both of Loving Health Center; Lori Kyer of PPNNE; Kirstinae Barrows of PPNNE; Rep. Geoffrey Hirsch; Sara Persechino; Eireann Aspell

## **Summary of testimony presented in support:**

### **Representative Notter**

Presented the bill on behalf of Representative Souza and spoke of the protesters who were present for the packed House hearing when the access bill was



passed last year – and how enactment was an infringement of First Amendment rights. Senator Carson, noting that the legislation repeals a bill enacted last year which the Supreme Court ruled Unconstitutional, asked the Representative if she supports the repeal. Representative Notter responded “absolutely.”

#### **Representative Baldasaro**

Stated that the Committee has three Veteran members who have taken an Oath to uphold and protect the Constitution and that they have a responsibility to protect our freedom of speech. He said that public safety is involved here and that we must protect people’s right to exhibit their opinions. Senator Pierce, noting that the Supreme Court has also ruled that there is a right to access health clinics, asked if he agrees that these are both fundamental rights. Representative Baldasaro responded that there is a big difference.

#### **Representative Wuelpert**

Testified that the underlying purpose is not substantiated by available police reports that there have been problems and that handing someone a plastic baby is not a violation. He said that it is completely inappropriate for the statutes to protect a private business and that we do not have a similar need to erect a protective barrier around porn shops. He feels that we could be wasting millions of dollars in trying to defend an unconstitutional law and that the Pennsylvania ruling is completely different (and they have paid \$340,000 in legal fees on that case). This is a waste of taxpayer dollars to defend the law. Senator Lasky, noting a right to access a health facility, asked about the freedom of speech versus the freedom of access. Representative Wuelpert responded that we should not be protecting private businesses and spoke of gun shops and tanning facilities. Senator Pierce, noting that the Representative is a co-sponsor of the bill, asked why he agrees to misleading statements in the bill. The Representative agreed and said he would be okay with removing misleading language but that any other amendment would be problematic. Senator Pierce asked whether he would support language for a protective “bubble zone” to which Representative Wuelpert responded he would have to see the language. Senator Pierce, noting the 13 other states that prevent harassment and obstruction, asked if this would be the proper way to approach this. Representative Wuelpert responded that he did not see any need for any kind of protection for people approaching abortion clinics. Senator Lasky asked about extremely violent actions that have occurred. Representative Wuelpert responded that the pro-life movement does not condone that behavior but acknowledged that those actions did occur. The Representative explained that the people are engaged in religious and education acts and simply praying and should not be kept from doing so. Senator Pierce asked if they are outside of the buffer zone and conducting these activities, how is it prohibited. Representative Wuelpert responded that it is still public property and that they are being prohibited from being on that public space. Senator Pierce noted that the law merely draws a zone into which the woman cannot be harassed.

**Jaye Cormier, President, NH Right to Life**

Testified that within two weeks of the US Supreme Court decision, four other buffer zones were removed – and some are not being enforced. She asked why we would even put a law on the books that certainly will cost the taxpayers money to enforce and defend and is certain to be struck down as unconstitutional. She testified that she supports the First Amendment and that she supports repealing the previously-enacted law.

**Jen Robideux**

Testified as a member of the Pro Life movement and said that she is a sidewalk counselor and participated in the Forty Days for Life demonstration, a peaceful prayer event held two times each year where they pray for an end to abortion. She said that all that they do is pray. She said that she does inform these young women of other options – that she is friendly, courteous, waves and smiles at the people. She said that she is one of the Plaintiffs in the case but that she is not speaking about the current lawsuit.

**Stephen Fournier**

Testified as a member of the Pro Life movement for 6 or 7 years now. He said that harassment is already against the law as is disorderly conduct and these charges could be brought currently which would protect individuals. He said that he has been outside the Manchester facility and that he has not seen anyone being harassed and that if he did witness such behavior, he would help the individual. He said that Planned Parenthood put a stripe on the ground so that they would know where their property is located. He commented that they are very respectful and supportive and that they do not allow people to be combative. He said that there have been no cases of access being denied and there is no need for the law. Senator Lasky, expressing appreciation for his sensitivity, asked if there have not been incidents where protestors try to change women's minds? Mr. Fournier responded that they do ask if they would like information but that what he has seen has been very friendly and non-combative and they are merely providing patients with options that are available. Senator Cataldo asked if there is a police officer present. Mr. Fournier said no, but that there is a security guard. Senator Cataldo asked if they need a permit. Mr. Fournier said that they are allowed to be present. Senator Pierce asked if he supports barriers at funerals. Mr. Fournier said that he does not, and he also served in the military.

**Meredith Cook on behalf of the Diocese of Manchester**

Provided written testimony and explained that lines 9 to 12 are quotes from the July, 2014, order. Committee members and Attorney Cook had a lengthy discussion about the meaning of the wording of the court's ruling and whether or not the language in the bill was misleading.

**Sarah Koski of Cornerstone**

Testified that this is not a conversation about pro-life but is about freedom of speech. She said that this has nothing to do with the Massachusetts law – but asked to please pass this to repeal New Hampshire's law.

**Testimony in opposition:****Senator Stiles**

Testified in opposition and stated that she understands that three of the Committee members have signed on as co-sponsors of the bill, and went onto say that women must be able to access health care facilities. She stated that wherever one stands in the pro-life v. pro-choice debate, the language before passed 15 to 9 on a bipartisan vote. She said that there is no problem whatsoever with free speech, but that women have been blocked from being able to access health services – and that these women should be able to access the building without being harassed.

**Senator Soucy**

Testified in opposition to this legislation and as the prime-sponsor of SB 319 last year establishing the protective zones at the request of the City of Manchester. They had previously used chalk lines to try to allow access and said that there were a number of unpleasant experiences. She said that the bill last year was directed at both behavior and location – not at speech. She spoke of statutory limitations already placed on individuals in order to protect access and cited 10 feet at polling places as the legal buffer zone and 150 feet at funerals. The protected area here is much more narrow and site-specific than what the Supreme Court struck down with the Massachusetts law. Since that bill was signed into law, there is pending litigation but that Pennsylvania recently upheld their buffer zones as legitimate. Senator Cataldo asked if this was filed in response to the US Supreme Court ruling and if she is disagreeing with their decision. Senator Soucy responded that this law is not at all the same as Massachusetts' bill that was struck down.

**Representative Berch**

Testified in opposition to the repeal of the buffer zone and said that this is bad policy. He explained that the legal questions need to be resolved and answered and that this can be done only by allowing the legal case to continue. He said that it does not make any sense to pass the bill last year and repeal it this year. He agreed that the US Supreme Court ruling applied only to the Massachusetts' law and that the concept of a buffer zone is nothing new and has been upheld otherwise. Also the Massachusetts law has completely different penalties for violations which our statute does not do. The New Hampshire statute was crafted specifically with the Supreme-court challenge in mind. He implored the Committee to allow the legislation to play out in the courts so that we know whether our statute is constitutional or not. He urged that the bill be found "ITL." Senator Cataldo asked whether he testified in the House or not. The Representative responded that he is a member of the committee that heard this bill and that he did bring forward his concerns.

**Representative Mary Heath**

Testified in opposition as a longtime advocate for women's health and safety and asked the Committee to please stand up for women who need to access

health care and walk through the protestors. She said we must ensure that patients can access legally allowed services. She requested that the bill be allowed to work for a few years and noted that Manchester has seen an increase in protesting activities and that this is being defended in the courts right now. Senator Carson asked if anyone has physically been prevented from entering facilities. Representative Heath responded "no." Senator Daniels asked which right is greater here. Representative Heath agreed that free speech is very important but that our young women also have the right to walk into health care facilities.

**Laurie Kyer, Planned Parenthood of Northern New England**

Explained that she is a volunteer and escort in Manchester and she has personally witnessed sidewalk counseling and that she has been blocked from access and has witnessed disturbing items forced on these women. Sometimes the women are forced to walk through a barrage of harassment. She spoke of the freedom of privacy from the 1996 enactment of HIPPA (Health Information Privacy Protection Act) and that these protections must be consistent within this access zone. She told of one patient who had a plastic fetus forced upon her. The action left the woman shaken and crying and this type behavior happens daily. She asked that the protective zone not be taken away. She said that she respects the right of the protestors to be there but that the patients also have a right to access within this small amount of privacy. She said that people have taken pictures of her car, her license plate, her face and that it is intimidating.

**Jennifer Frizzell, Vice President of Public Policy, for PPNNE**

Testified in opposition on behalf of the five health entities in New Hampshire the their one in White River Junction, Vermont. She said that they urge the Committee members to reject this repeal. Since the adoption of the zone incidents have not subsided at the centers. She said that New Hampshire's statute was carefully crafted and is significantly different from the Massachusetts statute. She noted that protests have not been an issue at all of their sites and do not post buffer zones where it has not been a problem. While they are awaiting the NH court decision on the appeal, they are abiding by the US Supreme Court decision and agreed to not go ahead until this case is resolved. She explained what some other states have enacted and spoke of the "bubble zone" enacted in Colorado which moves with the patient. Thirteen states have enacted freedom of access to clinics acts and some define prohibited behavior on the part of protestors while others deal with a means to provide patient safety. Senator Pierce asked if New Hampshire's law was based on that enacted in Massachusetts. Attorney Frizzell responded that they took great effort to craft this differently. Senator Pierce asked a series of questions based on language presented to which Attorney Frizzell responded that these are still questions before the court and provided Attorney General Foster's pleadings on the case.

**Linda Griebisch, Executive Director of Lovering Health Center in Greenland**

Testified in opposition and explained that she was unable to be present to testify during the hearing in the House. She explained that they have had problems with arson, vandalism and a clinic invasion at their facility. John Salvi first came to the Greenland Clinic but because they were closed, went to Boston. They have had incidents where cars were blocked and individuals who have had things thrown at them. She explained that they used to have a wonderful police chief who would sit down with the demonstrators and explain patiently to them the rules. They did not have any arrests and this speaks both to their desire to deal with things peacefully and allow people to object while resolving the disagreements. She explained that since last year's bill was adopted, even though it is not being enforced, it has helped people to behave better and has done some good. She explained that the buffer zone is about safety for those who work at the clinic, for the patients who access the clinic and for individuals who pass by on the sidewalk. She said that there have been problems and asked that the bill not be repealed. Senator Cataldo asked if they have police on duty. Ms. Griebisch responded that because of the expense, they do not.

**Fiscal Note:** See attached Fiscal Note

**Action:** The Committee took the bill under advisement.

sfd  
Date hearing report completed: April 6, 2015  
[file: HB 0403-FN report]

# Speakers

# SENATE JUDICIARY COMMITTEE

Date: March 31, 2015      Time: 9:50 a.m. Public Hearing on HB 403-FN

HB 403-FN - repealing the law relative to providing certain parameters for access to reproductive health care facilities.

Please check box(es) that apply:

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SENATOR SHARON CARSON	SD# 14
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JOSEPH LESSARD	SELF
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Mary Heath	Manchester Hills 6
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SENATOR JONNA SOUCY	Dist. # 18
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Regine Birdsell	SD# 19
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Kevin Avara	SD# 12
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP PAUL BERCH	MINORITY HOUSE JUDICIARY
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sarah Koski	Cornerstone Research + Action
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Frank Edelblut	Hills 38
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jennifer Frizzell	Planned Parenthood
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Lauren Banker	Planned Parenthood
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Emily Dickman	Joan G. Lovering Health Center
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Aly Calf	Joan G. Lovering Health Center
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sari Kyles Lori Kyer	Planned Parenthood
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KIRSTINA E BARROWS	PLANNED PARENTHOOD
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Rep. Geoffrey Hirsch	Merr. 6 Bradford
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sara Persechino	Self - Hopkinton
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Eireann Aspell	SD# 15
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Meredith Cook	Roman Catholic Diocese of Manchester









# Testimony



Sarah Koski  
Political Director  
Cornerstone Policy Research and Action  
skoski@nhcornerstone.org

As clearly communicated in this bill, the law which it seeks to repeal has unanimously been found unconstitutional by the United States Supreme Court in the Massachusetts case of *McCullen vs. Coakley*. The law was hastily passed last year before the outcome of the Massachusetts' case had been made known. Even after the Supreme Court ruling Governor Hassan still signed the bill into law, thus creating the need for the bill in front of you today.

Most of you know that Cornerstone is a pro-life organization; however that is not the reason we are a part of the discussion on this legislation. This is not a pro-life or pro-choice issue; this is an issue of freedom of speech, our Nation's Constitution and New Hampshire citizens' First Amendment Rights. These are all values that New Hampshire holds dearly and has historically fought to preserve.

After the Supreme Court ruling it was apparent that we had over stepped our boundary and authority as a state. Once a mistake has been recognized it's vital that the necessary actions be taken to correct it for the benefit of all the New Hampshire citizens that you serve.

Repealing this law would also be the fiscally responsible course of action. In Massachusetts taxpayers were left to pay approx. \$1.2 million in legal fees to the plaintiff. This cost could easily become the burden on New Hampshire taxpayers as legal teams on both sides are preparing for litigation.

For these reasons I respectfully request that you give House Bill 403 a recommendation of ought to pass.

## **Testimony in Opposition to HB 403**

### **Senate Judiciary Committee**

Madame Chair and Members of the Judiciary Committee:

My name is Mary Heath and I am a state representative from Manchester District 14, and a long-time advocate for women's health and safety. I was an original co-sponsor of Senate Bill 319 last year.

I am here today to speak in opposition to HB 403 which would repeal the legislation that enables the creation of patient safety zones surrounding reproductive health centers in New Hampshire.

I am asking you to stand up for the women who seek access to health care and must walk through a parade of protestors in order to do so. Regardless of where you stand on abortion, ensuring patients can access legally protected health care serves the state interests of advancing public safety and the right to privacy.

As a state representative and lifetime resident of the City of Manchester I have a long history with the politics and the community battles that have been necessary to ensure that women in my community have access to comprehensive medical services, including reproductive care and abortion.

And in the past few years the Planned Parenthood health center in downtown Manchester has experienced an increase in the amount of regular protestor activity that fills the sidewalks surrounding the entrances, clogs the parking spaces and creates obstacles for patients, pedestrians and vehicles that want to enter the health care facility or just pass by on the sidewalk.

Some of the proponents of this repeal would have you believe that the protestors who surround reproductive health centers are only distributing kindness - but I know that is simply not the case. I have witnessed the volume of protest firsthand, I have spoken with the staff who counsel patients and I have read patient complaints about how this harassment and verbal abuse impacts their well-being and right to privacy. Every time I drive by the health center and see the crowd of people obstructing the entrance I am reminded of the harassment that some women face while trying to access health care. It is not right.

Last year in this legislature Republicans and Democrats came together to enact legislation to provide an enabling law for communities such as Manchester to provide a patient safety zone of “up to 25 feet” surrounding women’s health centers.

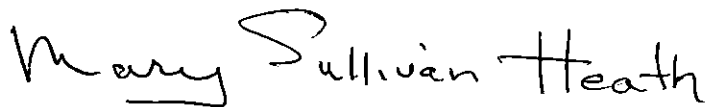
We stood up against the fear and intimidation directed at patients and employees of these facilities and we stood up for the safety and privacy of those seeking reproductive health care.

It is premature to take the law away when it hasn't even been given a chance to work. The Attorney General is currently defending this law in federal Court and we should not interfere or assume the outcome of that case.

We should deeply value free speech **and** the right to privacy in New Hampshire – this law is narrowly tailored to ensure that both rights are protected.

I ask for your support to preserve this law with a vote of Inexpedient to Legislate.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary Sullivan Heath". The signature is written in a cursive style with a large, looped initial "M" and "S".

Mary Sullivan Heath



DIOCESE OF MANCHESTER  
*Secretariat for Administration*

March 31, 2015

The Honorable Sharon Carson, Chair  
Senate Judiciary Committee  
State House, Room 100  
Concord, NH 03301

**Re: HB 403 (Repealing the Law Relative to Providing Certain Parameters for Access to Reproductive Health Care Facilities)**

Dear Senator Carson and Members of the Judiciary Committee:

As the Director of the Office of Public Policy of the Roman Catholic Diocese of Manchester, and on behalf of Bishop Peter Libasci, I write to support HB 403, a bill consistent with recent rulings of the United States Supreme Court and the United States District Court for the District of New Hampshire.

Last year, New Hampshire law created a buffer zone around abortion clinics, only allowing certain individuals to be present within the designated area. The plain language of the bill was intended to silence the speech of those who oppose abortion, even though the First Amendment of the United States Constitution and Part I, Article 22 of the New Hampshire Constitution prohibit our state and federal governments from creating laws that restrict speech based on its content.

The New Hampshire law was based upon a Massachusetts abortion clinic buffer zone law unanimously struck down as unconstitutional by the United States Supreme Court on June 26, 2014 in the case of *McCullen v. Coakley*. Since then, the United States District Court for the District of New Hampshire held in the case of *Sister Mary Rose Reddy v. Foster* that the New Hampshire buffer zone statute is "materially indistinguishable from the Massachusetts statute that the Supreme Court invalidated in *McCullen v. Coakley*."

We urge the committee to report HB 403 as ought to pass because this bill recognizes the basic right of free speech. Thank you for your consideration of our testimony and for your service to the people of the State of New Hampshire.

Sincerely,

Meredith P. Cook, Esq.  
Director, Office of Public Policy

MPC/





**HB 403**                    **Relative to Access to Reproductive Health Facilities**  
**Committee:**            **Senate Judiciary**  
**Date:**                    **March 31, 2015**  
**Position:**              **OPPOSE**

### **BACKGROUND**

Reproductive health centers in New Hampshire have never been free of picketing and protest activity. However, in the past few years the volume and frequency of protests has increased and the escalating type of tactics that some protestors are willing to use has resulted in increased patient harassment and increased need for on-site security. Obstructing the driveway entrance, blocking on-street parking spaces, photographing patients and staff and verbal assaults have become routine complaints from our patients and their family members. Protestors gather in front of the entrance and create barriers for patients seeking to access health center and they invade the privacy of those who do not want to engage in dialogue entering or exiting.

To address these public safety and clinic access problems, the NH legislature enacted Senate Bill 319 in 2014, authorizing the establishment of patient safety "buffer" zones of "up to" 25 feet surrounding the entrances to reproductive health facilities. The law was not mandatory, but enabling such that each facility and each community could narrowly tailor a zone in accordance with local factors. Just weeks after Senate Bill 319 was signed into law, the U.S. Supreme Court issued a decision in *McCullen vs. Coakley* 134 S.Ct 2518 which changed the legal landscape for balancing the competing constitutional rights involved.

### **NEW HAMPSHIRE'S LAW IS DISTINGUISHABLE FROM THE MA LAW STRUCK DOWN BY THE US SUPREME COURT**

The Massachusetts Law established a mandatory buffer of 35-feet and treated all facilities in the state in an identical fashion, where NH's law allows for a discretionary buffer, and only enables a patient safety zone as the facts and circumstances dictate. *See Memo of Attorney General Joseph Foster in Support of Motion to Dismiss, filed July 24, 2015.*

### **RATHER THAN REPEAL, THE LAW SHOULD BE REPLACED**

- 1) Several other states have established a floating "bubble zone" around patients of persons entering or exiting a health centers within a specific distance of an entrance or driveway.
- 2) The federal Freedom of Access to Clinic Entrances Act (F.A.C.E.) makes it unlawful for any person to obstruct or interfere with another's access to reproductive health care services but there is no corresponding state or local protection. Instead of repealing RSA 132:37 – 132:40 outright, the legislature should replace it with new state law provisions that:
  - prohibit blocking or obstructing the entrance to or egress from reproductive health care facilities;
  - prohibit threatening or intimidating staff who provide reproductive health services or patients entering the health facility; and
  - establish civil and criminal penalties for the above conduct.

Thirteen other states have comparable laws on the books from which New Hampshire could model an alternative.

**We Urge the Judiciary Committee to Maintain a Commitment to Patient Safety and Access**

For more information contact:

Jennifer Frizzell, Vice President for Public Policy, 603.513.5334, [jennifer.frizzell@ppnne.org](mailto:jennifer.frizzell@ppnne.org)

**Planned Parenthood of Northern New England (PPNNE)** is the largest provider of reproductive and sexual health care for women, men and teens across the State of New Hampshire. We serve New Hampshire residents through 6 health centers in Claremont, Derry, Exeter, Keene, Manchester and White River Junction, VT. Last year we saw more than 14,000 patients at these sites.

**Planned Parenthood New Hampshire Action Fund (PPNHAF)** is an independent, nonpartisan, not-for-profit organization formed as the advocacy and political arm of Planned Parenthood of Northern New England in New Hampshire. The Action Fund engages in educational and electoral activity, including voter education, grassroots organizing, and legislative advocacy.

## Protecting Access to Clinics

**BACKGROUND:** While the handful of murders of abortion providers and clinic staff have attracted much media attention, family planning clinics report that they frequently experience other serious forms of antiabortion violence. These include bombings, arson and vandalism, as well as violent protests and blockades. In 1994, the federal government enacted the Freedom of Access to Clinic Entrances (FACE) Act, which prohibits intentional property damage and the use of “force or threat of force or...physical obstruction” to “injure, intimidate or interfere with” someone entering a health care facility.

States have taken two approaches designed to protect abortion providers. Some states have enacted laws similar to the federal FACE Act that prohibit specific activities such as vandalism or obstruction at clinics. Other states have limited protests aimed at clinic patients by either creating “buffer” zones around clinics that bar protestors entirely or establishing floating “bubble zones” of several feet around a person who is within a specific distance of a clinic; protestors are prohibited from crossing into that “bubble zone” without the person’s consent. In 2014, the U.S. Supreme Court struck down the Massachusetts law that placed a 35-foot buffer zone around clinic entrances. The impact of this ruling on the New Hampshire law is still to be determined, but the decision did not immediately affect the Court’s 2000 ruling that upheld Colorado’s floating “bubble zone” law.

### HIGHLIGHTS:

- 13 states and the District of Columbia prohibit certain specified actions aimed at abortion providers.
  - 12 of the states and the District of Columbia prohibit blocking the entrance to and egress from clinic facilities.
  - 6 of the states and the District of Columbia prohibit threatening or intimidating staff who provide reproductive health services and/or patients entering the clinic.
  - 3 of the states prohibit property damage to facilities providing reproductive health services.
  - 2 of the states and the District of Columbia prohibit telephone harassment of staff who provide reproductive health services.
  - 5 of the states and the District of Columbia prohibit other specified actions, such as creating excessive noise outside the clinic, possessing or having access to a weapon during a demonstration at a medical facility, trespassing, or releasing a substance that produces noxious odor on clinic premises.
- 3 states have established a “bubble zone” around a person within a specific distance of a clinic’s entrance or driveway.



Advancing sexual and reproductive health worldwide through research, policy analysis and public education.

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**CONTINUED**

# PROTECTING ACCESS TO CLINICS

STATE	SPECIFIC PROHIBITED ACTIONS					PROTECTED "BUBBLE ZONE"
	Obstruction	Threat	Damage	Telephone Harassment	Other	
California	X	X	X		Online harassment	
Colorado						8-ft. zone within 100 ft. of door
Dist. of Columbia	X	X		X	Noise, Trespassing	
Kansas	X					
Maine	X			X	Noise, Odor	
Maryland	X					
Massachusetts	X	X				25 feet if ordered by police
Michigan		X				
Minnesota	X					
Montana	X					8-ft. zone within 36 ft. of door
Nevada	X					
New Hampshire						
New York	X	X	X			
North Carolina	X	X			Weapon	
Oregon	X		X			
Washington	X	X		X	Noise, Trespassing	
Wisconsin					Trespassing	
<b>TOTAL</b>	<b>12 + DC</b>	<b>6 + DC</b>	<b>3</b>	<b>2 + DC</b>	<b>5 + DC</b>	<b>3</b>

- \* Requires the collection and analysis of data by state attorney general's office and training for law enforcement officers by experts on clinic violence.
- ♦ New law was scheduled to take effect in 2014; currently not enforced.

## FOR MORE INFORMATION:

For information on state legislative and policy activity, click on Guttmacher's [Monthly State Update](#), for state-level policy information see Guttmacher's [State Policies in Brief](#) series, and for information and data on reproductive health issues, go to Guttmacher's [State Center](#). To see state-specific reproductive health information go to Guttmacher's [Data Center](#), and for abortion specific information click on [State Facts About Abortion](#). To keep up with new state relevant data and analysis sign up for the [State News Quarterly Listserv](#).

Gold et al., [Laws Affecting Reproductive Health and Rights: State Trends at Midyear, 2014](#), 2014.

Lin V, [Anthrax threats, continued violence prompt renewed attention to clinic, client protection](#), *The Guttmacher Report on Public Policy*, 2001, 4(6):13-14.

The Alan Guttmacher Institute, [High court strikes down 'partial-birth' ban, upholds protections for clinic clients](#), *The Guttmacher Report on Public Policy*, 2000, 3(4):12.

## IN THEIR OWN WORDS

### Patients Speak in Favor of a Buffer Zone at New Hampshire Reproductive Health Facilities

When I arrived they were in front of the driveway preventing me from driving in. I had to rev my engine to make them move. It was intimidating as they surrounded my car before I could get through. Walking from the car they started yelling at me and my client. I work with rape victims and this behavior and harassment only re-traumatizes them. I will come and speak for a law that would keep them away from the entrance.

*Joanne, Jaffrey, 2013*

As I was walking from my car I had 3 people ask me to take the reading material they wanted to give me. When I said no thank you they turned mean and yelled things at me such as “baby killer” and “you’ll never be forgiven for this decision”. They took out a camera and I don’t know if they actually took my picture. This is a very private matter and they should not be able to inflict such pain and suffering during an already stressful time in women’s lives.

*Katherine, Manchester, 2013*

I came for my appointment. The driveway was blocked by protestors so I could not pull in so I parked next door at the pharmacy. As I walked back to the health center I had 2 women follow me yelling “Don’t Do It”. They don’t know me or my business. I talked with the front desk and they sent a security guard out to the parking lot to walk me to my car. Please consider a buffer zone for patients. The signs are one thing, but to follow, harass, yell at and take pictures of patients gives a sense of fear for one’s safety.

*Sincerely, A grateful client of Planned Parenthood, 2013*

Walking in was absolutely ridiculous. I was yelled at and called a “murderer” by multiple people who surrounded me. It was difficult to get to the entrance since they were in the way. It is so different on the inside of PP where they are caring and non-judgmental. When I was done with my appointment I didn’t want to leave and encounter them again.

*Anonymous, 2013*

Initially I could not turn in to park because a crowd of protestors was blocking the entrance, yelling at me to open the car window to take their pamphlets. Another PP patient was in a verbal altercation with 2 male protestors and she was upset and crying. I am here to support a family member today but I have used and benefited from these health services in the past. I find these protestors intimidating and upsetting. They shouldn’t be able to interact with people trying to go in or out!

*Alison, Manchester, 2013*

I went into PP to pick up some birth control and there were several people standing outside with large signs. They didn’t bother me much coming in but when I was driving out, one woman came up to my window and pestered me about taking a pamphlet despite my polite refusal. There were big signs held up everywhere around the entrance, as a new driver I became flustered because I couldn’t focus properly or see to make a left hand turn.

*Grace, Manchester, 2013*

I’m already upset to the point where I feel sick about this very difficult decision I have made. But I know it is the right decision for me and my family. I don’t need old ladies waving Jesus and Mary and yelling harsh things at me. I believe in God too but never would I throw him in someone’s face and wish them a lifetime of guilt and misery. I feel violated, harassed and intimidated that they were right at the entrance when I came to this health center. I deserve some space.

*Ashley, Manchester, 2014*

Ladies and Gentlemen of the committee, my name is Lori, and I'd like to thank you for allowing me to speak today in opposition to House Bill 403. I am a Planned Parenthood Volunteer and have been an escort to clients who seek Planned Parenthood's Health Care services in Manchester New Hampshire.

I have personally witnessed the so-called "sidewalk counseling" that clients are subjected to. Many times clients end up parking on the street and have to walk into the parking lot from the sidewalk, forced to walk through a barrage of harassment to include belittling, ridicule, and unfortunately are made to feel that their visit to the clinic is shameful and evil. Everyone in this room enjoys the freedom of privacy with regards to their personal health care decisions that is provided them under the HIPPA Laws.

The opportunity to establish an, up to 25 foot buffer zone, ensures that clients receive at least closer to the same amount privacy that is afforded to you and I. If this buffer zone is removed then that flies in the face of HIPPA that has been Law since 1996. I would like to share with you here today one such encounter I experienced. I once helped a person who, when they were walking into the parking lot via the sidewalk, were approached by a group of these individuals, they proceeded to verbally harass this person without any knowledge as to if they were even a client or what services they were to receive.

One such protester who is in this room right now, handed the woman something, and I then escorted her into the clinic. It was then that I found out that they had handed her a small plastic fetus. She was understandably upset, shaken and was crying uncontrollably. This is just a single account of what I saw all too often and it's the reality that

clients have to endure in order to receive Healthcare Services that are first and foremost, none of anyone's business and second, a decision that is legally their own to make. It is my strong belief that everyone should be allowed to make their own healthcare decisions without the intrusion, harassment and just plain nasty behavior that the "sidewalk counsellors" are able to inflict upon them, given no physical distance from these clients.

Please do not allow the 25 foot buffer zone to be taken away from these people who are already in a difficult position. I know that under our Constitution, these people have the right to be there, and I respect that right, however, the example I have given is just one such example where someone could have benefitted from the buffer zone law, allowing them to enter their choice of health care providers without being harassed and being physically obstructed from entering the Health Care Clinic and making it to their appointment with some small amount of privacy. I'm certain there is a balance between Free Speech and the Right to Privacy regarding healthcare choices that every person deserves. Please feel free to contact me with any questions or more information. My contact information is on the paper I have submitted to you for consideration. Thank you for your time.

Lori Kyer

lorikyer@gmail.com

Thank you Madame Chair and the Judiciary Committee members for this opportunity. My name is raye ellen douville, a resident of Bedford, and I am here to speak in favour of Senate Bill 319.

From November 2011 to June 2013, I volunteered as a greeter at the Planned Parenthood Manchester Health Centre.

During that time, I observed chronic safety issues related to the confluence of patients, protesters, and moving vehicles.

Patients have a right to access health care; protesters have a right to their views, and I respect our first amendment rights. We're here seeking the fine line between what is fair for all, with emphasis on optimum safety.

First, cars enter and leave the parking lot all day. Protesters often stand in the drive path, creating a safety hazard. On many occasions, children are with them. Further complicating the problem, parked cars crowd either side of the entrance, impeding the ability of a driver to see if there are any vehicles approaching.

More than once a day, I would ask protesters to stay out of the driveway path. Most honoured my request, but a few resisted. I began directing cars out of the lot by positioning myself mid-road. Often, protesters are not moving; they stand in or next to the drive entrance.

Second, the scene is emotionally charged. I had a duty to escort patients safely into the health centre. I shielded them with an umbrella. A few patients didn't care about the protests. Most remained silent. Sometimes a person accompanying the patient or the patient reacted. I saw many close encounter shouting matches, incidents where I feared a physical confrontation might occur. I've also seen protesters stand and yell at a police officer giving them instructions, inches from the officer's face. I've seen a protester walk along the fence on Rite-Aid property, yelling at two people they knew were in the vehicle directly on the other side.

A 25-foot buffer zone would reduce hazards by removing adults and children alike from the direct path of vehicles. It would reduce the likelihood of physical altercations.

Finally, a comment on the coming Supreme Court ruling. Please keep in mind that Regulations Six and Seven of the Court's own rules creates what is in effect a buffer zone on its and adjacent property.

Images illustrating the hazards mentioned in my testimony:





People standing in driveway entrance, with children, during business hours.

Attribution: picture from <http://prayforlifecenter.org/> Not intended for use other than with this testimony.



Child in drive without parent nearby.

Attribution: picture from <http://prayforlifecenter.org/> Not intended for use other than with this testimony.



Children sitting by drive. One child is actually a bit into the drive. This is during business hours.

Attribution: picture from <http://prayforlifecenter.org/> Not intended for use other than with this testimony.



Vehicle parked against drive.

Good Morning! My name is Jennifer Robidoux. I have taken a day off from work to speak to you because this topic is very important to me. I am here to ask you to vote in favor of House Bill 403, which repeals the so-called "buffer zone" law.

Although this law has yet to be enforced, it needs to be repealed. The idea of this law was flawed from the beginning, creating a zone where peaceful pro-lifers could not stand, pray or speak to abortion-minded women as they enter the abortion facility, thus creating an area of up to 25 feet around abortion clinics as devoid of the First Amendment. The US Supreme Court struck down a similar law in Massachusetts in June 2014 (*McCullen v Coakley*). However, before that case was decided, New Hampshire legislators pushed for this law to be passed- a law that was crafted to be similar to the Massachusetts law.

Proponents for this law argued that it was needed to ensure patient safety as patients entered and exited abortion facilities. They argued that patients had complained that they felt "harassed", "judged"; or "scared" but where was the evidence? When this law was considered, opponents proved that there were no police reports detailing violence, harassment, or any other safety concerns for the patients at any of the abortion facilities in NH. The real reason for the law was to squelch the ability of sidewalk councilors to speak to abortion minded women, providing them with help, resources, and choices other than abortion.

When this law was signed, a lawsuit was brought to stop the enforcement of the law. *Reddy vs. Foster* is pending in the NH courts at this very moment. The court has issued a stay on this law, pending any changes. From July 2014 – February 2015 (present day) when the law has been in effect but not enforced, patients have continued to safely enter and exit the buildings and pro-lifers have continued to pray on the sidewalks and speak to the men and women as they walk to and from the building.

So, why is the repeal of this law important to me? I am a sidewalk councilor, I pray on the sidewalks outside of Planned Parenthood, I'm a participant and former local leader of the 40 Days for Life campaign, and I am one of the plaintiffs in the lawsuit *Reddy vs. Foster*.

For those of you who are unfamiliar with 40 Days for Life, it is an international peaceful and prayerful campaign aimed at bringing an end to abortion through prayer, a peaceful vigil, and community outreach. Participants are asked to sign a Statement of Peace declaring that they will be respectful, prayerful and nonviolent.

All I do when I am involved in 40 Days for Life is walk up and down the public sidewalk in front of the Planned Parenthood in Manchester and pray. Occasionally I will engage in friendly conversation with people as they walk into, out of or past the abortion clinic. The other person usually begins this dialogue and I make it clear that I am there to pray.

As a sidewalk councilor my job is to inform women of their other options. Most women go into a clinic thinking that abortion is there ONLY option. They want to return to their life of "yesterday." Some feel pressured by their spouse, boyfriend or family member. Choosing abortion is a hard decision and I want women to make an informed choice and know all of their options. When I counsel women, I invite them into a conversation. I don't yell at them. I don't judge them. I simply want to speak with them, just like I am speaking with you now. I provide them with resources about what abortion

is, the development of the baby, and other alternatives. If they don't want to talk with me I simply inform them that I am here and will be praying for them.

At the Manchester Planned Parenthood a fence surrounds the parking lot and the entrance to the clinic is inside that fence. If I want to speak with someone walking into that clinic I need to raise my voice to be heard. It may appear that I am shouting but that's only because I am not allowed any closer. A 25-foot zone around the clinic would make it impossible to speak with the women, to change hearts and minds, and to save the life of the unborn. Women deserve to have options.

Let me conclude by stating this: I have the first amendment right to speech and to peacefully assemble in public places. If this law stands and is enforced I lose my First Amendment rights in an area of up to 25 feet around a business. Why spend taxpayer money defending a law that stops taxpayers from engaging in their Constitutional rights? Why enforce a law that bars only certain people and certain speech from an area around a certain business?

Thank you for your time this morning. Please repeal the so-called "buffer zone" law and vote in favor of House Bill 403.

Jennifer Robidoux  
18 Washington Rd.  
Windham, NH 03087

2-10-15 - 1 pm  
HB 403 - FN

February 10, 2015  
The Hon. Robert Rowe, Chairman, and  
Members, House Committee on the Judiciary

Dear Chairman Rowe and Members:

"Held: The Massachusetts Act violates the First Amendment" – Eleanor McCullen et al, v. Martha Coakley, Attorney General of Massachusetts, et al.

Recently, the Supreme Court unanimously struck down the Massachusetts "buffer zone" law, citing: "...the Massachusetts Act regulates access to 'public ways' and 'sidewalks,' Such areas occupy a 'special position in terms of First Amendment protection' because of their historic role as sites for discussion and debate..."

Last spring, the New Hampshire legislature passed a buffer zone bill closely resembling this Massachusetts law struck down by the U. S. Supreme Court's 9-0 decision. The House Judiciary Committee had reported this bill out "ought to pass," after a very lengthy hearing, focused on the activity at one Planned Parenthood clinic in Manchester. Some inaccurate information was presented at this hearing, which may have led to passage of the N. H. statute, and, which clarified, may lead to its repeal. For example: Photographs of people sitting down and blocking an abortion clinic entrance were cited. Upon inspection, the photographs had been taken by the prolife contingent present at the clinic to counsel, group photos for their own website, pictures of people standing in front of the clinic – smiling in solidarity - not blocking access – while the only individuals seated were one adult in a wheelchair and one toddler on a tricycle! Testimony alluded to violence and intimidation. Although the clinic has cameras covering the entire area in question, no evidence was presented to support these suggestions.. In fact, when I met with the Manchester chief of police and his lieutenant, no instances of infractions by pro-lifers were able to be recalled! The Manchester police department has since supplied me with the attached 2014 "calls for service" report for the Planned Parenthood on Penacook St. They include: alarm activation, forgeries, sexual assault, parking complaints, and accident; nothing remotely resembling anything to do with the proliferers on the sidewalk!

N. H.'s bill was signed into law, but never put to use. The U. S. Supreme Court's decision, 9-0., gives us the very important impetus to strike this law from our books: it flies in the face of their recent decision and our own Constitution as an abridgement of our first amendment rights, including the use of our sidewalks. . Speaking to the use of sidewalks, the Court stated: "These places – which we have labeled 'traditional public fora' – have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." And "the buffer zones impose serious burdens on petitioners' speech.....the zones thereby compromise petitioners' ability to initiate the close, personal conversations that they view as essential to 'sidewalk counseling.'"

That the "Live free or Die" State should have a law abridging these rights is a blight on our legislative history and one we should want to correct. (The N. H. Constitution, Art. 22, says "Free speech and liberty of the press are essential to the security of freedom in a state: They ought, therefore, to be inviolably preserved.")

What is the current situation regarding our buffer zone law? Scheduled to go into effect last July, it has been stayed by order of Judge Joseph Laplant, following suit in U.S. District Court filed by a group of

New Hampshire citizens. These citizens, stating that the N.H. law is virtually identical to the Massachusetts law, is asking for it to be similarly struck down. The Court is requiring updates every sixty days including information as to the bill before us, HB403. If HB403 becomes law, the plaintiffs in the case will withdraw and N.H. citizens and the State will be spared much time and expense. I hope we can agree that both the protection of our First Amendment Rights and the practical considerations are sufficient reasons to want to pass HB403.

Thank you.

Kathleen Souza, Hill. 43

134 S.Ct. 2518, 189 L.Ed.2d 502, 82 USLW 4584, 14 Cal. Daily Op. Serv. 7115, 2014 Daily Journal D.A.R. 8317, 24 Fla. L. Weekly Fed. S 929 (Cite as: 134 S.Ct. 2518)

*P. 17  
Problem  
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1 side!*

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Supreme Court of the United States  
Eleanor McCULLEN, et al., Petitioners  
v.  
Martha COAKLEY, Attorney General of Massachusetts, et al.

No. 12-1168.  
Argued Jan. 15, 2014.  
Decided June 26, 2014.

**Background:** Sidewalk counselors brought action against Massachusetts Attorney General, challenging constitutionality of revised Massachusetts statute, which made it a crime to knowingly stand on a public way or sidewalk within 35 feet of an entrance or driveway to any place, other than a hospital, where abortions were performed. Following affirmation of denial of facial challenge, 571 F.3d 167, and following bench trial, the United States District Court for the District of Massachusetts, Joseph L. Tauro, J., 759 F.Supp.2d 133 and 844 F.Supp.2d 206, denied counselors' as-applied challenges. Counselors appealed. The United States Court of Appeals for the First Circuit, Selya, Circuit Judge, 708 F.3d 1, affirmed. Certiorari was granted.

**Holdings:** The Supreme Court, Chief Justice Roberts, held that:

- (1) statute was not content-based due to fact that it established buffer zones only at clinics that performed abortions;
- (2) statute was not content-based due to fact that it exempted certain groups including clinic employees and agents; and
- (3) statute was not narrowly tailored to serve significant governmental interest, and thus violated free speech guarantees.

Reversed and remanded.

Justice Scalia filed opinion concurring in the

judgment, in which Justices Kennedy and Thomas joined.

Justice Alito filed opinion concurring in the judgment.

West Headnotes

[1] Constitutional Law 92 ↪ 1759

92 Constitutional Law  
92XVIII Freedom of Speech, Expression, and Press  
92XVIII(G) Property and Events  
92XVIII(G)2 Government Property and Events  
92k1759 k. Streets and highways.  
Most Cited Cases

Constitutional Law 92 ↪ 1760

92 Constitutional Law  
92XVIII Freedom of Speech, Expression, and Press  
92XVIII(G) Property and Events  
92XVIII(G)2 Government Property and Events  
92k1760 k. Sidewalks. Most Cited Cases

Public ways and sidewalks occupy a special position in terms of First Amendment protection because of their historic role as sites for discussion and debate. U.S.C.A. Const.Amend. 1.

[2] Constitutional Law 92 ↪ 1738

92 Constitutional Law  
92XVIII Freedom of Speech, Expression, and Press  
92XVIII(G) Property and Events  
92XVIII(G)2 Government Property and Events  
92k1736 Traditional Public Forum in General

*D. 13  
Sidewalks  
open*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Mary Rose Reddy et al.

v.

Civil No. 14-cv-299-JL

Joseph Foster et al.

ORDER ON AGREED-UPON STAY

The plaintiffs seek injunctive and declaratory relief, alleging that New Hampshire's Act Relative to Access to Health Care Facilities, N.H. Rev. Stat. Ann. §§ 132:37-132:39, violates their rights, including freedom of speech, under the federal and state constitutions. The Act provides that, with limited exceptions, "[n]o person shall knowingly enter or remain on a public way or sidewalk adjacent to a reproductive health care facility within a radius up to 25 feet of any portion of an entrance, exit, or driveway of a reproductive health care facility." Id. § 132:38, I. The Act further provides that "reproductive health care facilities shall clearly demarcate [this] zone . . . and post such zone with signage," id. § 132:38, II, and that, prior to doing so, "a reproductive health care facility shall consult with local law enforcement and those local authorities with responsibilities specific to the approval of locations and size of signs," id. § 132:38, III.

The Act requires that, "[p]rior to issuing a citation, a police officer or any law enforcement officer shall issue one written warning to an individual," but that, "[i]f the individual



fails to comply after one warning, such individual will be given a citation," id. § 132:39, I, which carries a minimum fine of \$100," id. § 132:39, II. The Act also authorizes the New Hampshire Attorney General or appropriate county attorney to "bring an action for injunctive relief to prevent further violations." Id. Importantly, however, § 132:39, which contains these enforcement mechanisms, "shall not apply unless the signage authorized in [§] 132:38, II was in place at the time of the alleged violation." Id. § 132:39, III.

This court previously entered an order giving effect to representations by certain of the defendants--who include the Attorney General, various county attorneys, and several New Hampshire cities and towns--that, pending this court's ruling on the plaintiffs' pending motion for a preliminary injunction, see Fed. R. Civ. P. 65, these defendants would not seek to enforce the statute against the plaintiffs. Order of July 9, 2014. The court also scheduled a hearing on the plaintiffs' motion for preliminary injunction for July 25, 2014. Id.

As the date for the hearing approached, the Attorney General filed an objection to the plaintiffs' motion, as well as his own motions seeking to dismiss or to stay these proceedings. In these filings, the Attorney General took the position that, because § 132:39, III, makes the Act's enforcement mechanisms inapplicable in the absence of the signage contemplated by

§ 132:38, II, and no such signage has been posted, the plaintiffs face no threat of sanction under the Act at present. In fact, the Attorney General stated, the absence of the signs means that the "patient safety zone" created by § 132:38, I, has yet to take effect, since, under his reading of the statute, "[a]n individual cannot be prohibited from entering a specific space until its bounds have been established and demarcated." (The plaintiffs dispute that conclusion, though they agree that, in the absence of the signs, the enforcement mechanisms of the Act itself are inoperative. At this juncture, the court need not and does not resolve any of the issues in dispute here.) The Attorney General also submitted affidavits from the operators of the reproductive health facilities in the state attesting that they do not have any present intention of posting the signs contemplated by § 132:38, II.

Based on these submissions, the court convened a telephone conference with counsel for all parties to attempt to arrive at conditions for an agreed-upon stay of these proceedings. During the conference, counsel agreed to the following:

1. These proceedings, including all pending deadlines for the submission of pleadings or other filings, are stayed; the preliminary injunction hearing, scheduled for July 25, 2014, is cancelled; and the temporary restraining order imposed by the court's Order of July 9, 2014, is dissolved.
2. The defendants shall not enforce the Act against the plaintiffs, either through the enforcement mechanisms specified in § 132:39, or by invoking an alleged

violation of § 132:38, I, as the basis for the alleged violation of another statute, including, but not limited to, N.H. Rev. Stat. Ann. § 644:2, II(e) (prohibiting the "knowing[] refus[al] to comply with a lawful order of a peace officer to move from or remain away from any public place"), provided, however, that nothing in this order shall be construed to prevent any of the defendants from otherwise enforcing § 644:2, or enforcing any other statute, ordinance, or regulation, against any of the plaintiffs.

3. Any defendant who receives notice, through whatever means, that a reproductive health clinic intends to post the signage contemplated by § 132:38, II, shall immediately notify the plaintiffs, through their counsel, and the court, which will then schedule a hearing on the plaintiffs' motion for preliminary injunction forthwith.
4. Paragraphs 2 and 3 shall remain in place until the court rules on the plaintiffs' motion for preliminary injunction, or this order is dissolved or modified on motion of one or more parties or otherwise.

Within 60 days of this order, the parties, having conferred through counsel, shall file a joint status report apprising the court of any legislative, executive, judicial or factual developments that bear upon this action.

**SO ORDERED.**

  
\_\_\_\_\_  
Joseph N. Laplante  
United States District Judge

Dated: July 23, 2014

cc: Michael J. Tierney, Esq.  
Nancy J. Smith, Esq.  
Garry R. Lane, Esq.



# Manchester Police Department

CALL REPORT



## Calls for Service at Planned Parenthood, 24 Pennacook St - 2014

CAD # Case # Agency	Call Date Call Time Call Day	Source	Nature	Disposition	District Beat	Address
14005115 N.A. MPD	2014/01/17 17:36 6 - FRI.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1	24 PENNACOOK ST, MANCHESTER, NH 03104 (PLANNED PARENTHOOD)
14024486 14004076 MPD	2014/03/19 18:02 4 - WED.	WALK-IN	FORG - FORGERIES	UCR 101 TO BE TURNED IN	DISTRICT 2 BEAT 2-1	24 PENNACOOK ST, MANCHESTER, NH 03104 (PLANNED PARENTHOOD)
14051544 N.A. MPD	2014/06/05 16:58 5 - THU.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1	24 PENNACOOK ST, MANCHESTER, NH 03104 (PLANNED PARENTHOOD)
14062116 N.A. MPD	2014/07/02 16:25 4 - WED.	PHONE	SEX - SEXUAL ASSAULT	CALL CANCELLED	DISTRICT 2 BEAT 2-1	24 PENNACOOK ST, MANCHESTER, NH 03104 (PLANNED PARENTHOOD)
14106563 N.A. MPD	2014/10/21 18:58 3 - TUE.	OFFICER	S/ATTN - SPECIAL ATTENTION	SPECIAL ATTENTION	DISTRICT 2 BEAT 2-1	24 PENNACOOK ST, MANCHESTER, NH 03101
14120270 14017902 MPD	2014/11/26 01:07 4 - WED.	PHONE	PARKN - ALL PARKING COMPLAINTS	N.A.	DISTRICT 2 BEAT 2-1	24 PENNACOOK ST, MANCHESTER, NH 03104 (PLANNED PARENTHOOD)
14127566 N.A. MPD	2014/12/15 16:43 2 - MON.	PHONE	ACC - ACCIDENT	ACCIDENT REPORT NEEDED	DISTRICT 2 BEAT 2-1	24 PENNACOOK ST, MANCHESTER, NH 03104 (PLANNED PARENTHOOD)

**7 Total Calls**



# Manchester Police Department

CALL REPORT

## Calls for Service at Planned Parenthood, 24 Pennacook St - 2013

CAD # Case # Agency	Call Date Call Time Call Day	Source	Nature	Disposition	District Beat
13018697 N.A. MPD	2013/03/14 09:04 5 - THU.	PHONE	CKAREA - CHECK AREA FOR PROBLEM	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1
13022503 N.A. MPD	2013/03/28 12:11 5 - THU.	PHONE	DOC - DISORDERLY CONDUCT	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1
13028365 N.A. MPD	2013/04/18 11:51 5 - THU.	PHONE	DOC - DISORDERLY CONDUCT	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1
13032370 N.A. MPD	2013/05/02 12:05 5 - THU.	PHONE	PICKET - STRIKE/PICKET LINE	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1
13047410 N.A. MPD	2013/06/21 13:26 6 - FRI.	PHONE	ANIMAL - ALL ANIMAL COMPLAINTS	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1
13055629 N.A. MPD	2013/07/18 10:39 5 - THU.	PHONE	HANGUP - HANGUP CALL TO 911	CALL CANCELLED	DISTRICT 2 BEAT 2-1
13064759 13012541 MPD	2013/08/16 17:05 6 - FRI.	PHONE	FIRE - ALL FIRES	UCR 102 TO BE TURNED IN	DISTRICT 2 BEAT 2-1
13081623 N.A. MPD	2013/10/07 10:21 2 - MON.	PHONE	CKVEH - CHECK VEHICLE	GONE ON ARRIVAL	DISTRICT 2 BEAT 2-1
13082822 N.A. MPD	2013/10/10 13:38 5 - THU.	PHONE	UNWTD - UNWANTED SUBJECT	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1
13085025 N.A. MPD	2013/10/17 12:30 5 - THU.	OFFICER	PICKET - STRIKE/PICKET LINE	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1

Printed February 10, 2015

2-10-15  
HB403-PN



# Manchester Police Department

CALL REPORT

## Calls for Service at Planned Parenthood, 24 Pennacook St - 2012

CAD # Case # Agency	Call Date Call Time Call Day	Source	Nature	Disposition	District Beat
12001165 N.A. MPD	2012/01/05 07:30 5 - THU.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1
12002801 N.A. MPD	2012/01/10 20:28 3 - TUE.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1
12005324. N.A. MPD	2012/01/20 14:34 6 - FRI.	PHONE	ACC - ACCIDENT	GONE ON ARRIVAL	DISTRICT 2 BEAT 2-1
12011914 N.A. MPD	2012/02/13 07:23 2 - MON.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1
12025529 N.A. MPD	2012/04/03 09:57 3 - TUE.	OFFICER	CKAREA - CHECK AREA FOR PROBLEM	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1
12025824 N.A. MPD	2012/04/04 07:09 4 - WED.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1
12031708 N.A. MPD	2012/04/24 22:58 3 - TUE.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1
12036719 N.A. MPD	2012/05/11 19:32 6 - FRI.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1
12041340 N.A. MPD	2012/05/27 13:44 1 - SUN.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1
12049366 N.A. MPD	2012/06/22 10:40 6 - FRI.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1

CAD # Case # Agency	Call Date Call Time Call Day	Source	Nature	Disposition	District Beat
12087710 N.A. MPD	2012/11/04 11:43 1 - SUN.	PHONE	ALARM - ALARM ACTIVATED	FALSE ALARM	DISTRICT 2 BEAT 2-1
12090404 N.A. MPD	2012/11/14 13:16 4 - WED.	PHONE	CKCOND - CHECK CONDITION OF SUBJECT	SOLVED AT SCENE	DISTRICT 2 BEAT 2-1
12090668 N.A. MPD	2012/11/15 10:37 5 - THU.	PHONE	PICKET - STRIKE/PICKET LINE	UNFOUNDED COMPLAINT	DISTRICT 2 BEAT 2-1

**13 Total Calls**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

**SISTER MARY ROSE REDDY, SUE  
CLIFTON, JENNIFER ROBIDOUX, JOAN  
ESPINOLA, TERRY BARNUM, JACKIE  
PELLETIER, and BETTY BUZZELL;**

Plaintiffs,

v.

**JOSEPH FOSTER**, in his official capacity as Attorney General for the State of New Hampshire; **D. CHRIS MCLAUGHLIN**, in his official capacity as County Attorney for Cheshire County, NH; **SCOTT W. MURRAY**, in his official capacity as County Attorney for Merrimack County, NH; **DENNIS HOGAN**, in his official capacity as County Attorney for Hillsborough County, NH; **PATRICIA CONWAY**, in her official capacity as County Attorney for Rockingham County, NH; **CITY OF MANCHESTER, NH; CITY OF CONCORD, NH; CITY OF KEENE, NH; and TOWN OF GREENLAND, NH**

Defendants.

Case No. 1:14-CV-00299-JL

**OBJECTION TO AG'S STATUS REPORT  
(DOC. 58)**

Now come Plaintiffs Sister Mary Rose Reddy, Sue Clifton, Jennifer Robidoux, Joan Espinola, Terry Barnum, Jackie Pelletier, and Betty Buzzell and object to the AG's Status Report (Doc. 58) and say as follows:

On March 20, 2015, the State filed a Status Report indicating that the Order of the United States District Court for the Western District of Pennsylvania in the case of Bruni v. City of Pittsburgh was relevant to the continuation of the stay in this case. See Doc. 58. The plaintiffs object to the inclusion of Bruni as it is neither controlling nor relevant on the issues raised in the



present case. While this Court has found the New Hampshire statute to be “materially indistinguishable from the Massachusetts statute that the Supreme Court invalidated in McCullen v. Coakley,” the Bruni court said it was bound by a Third Circuit decision that had previously ruled on the specific Pittsburgh ordinance at issue in that case and delineated what it believed were “the many factual distinctions” between the Massachusetts statutes and the local Pittsburgh ordinance. See Doc. 9, p. 3 and Bruni at p. 24. If the present case was not currently stayed, the plaintiffs would give the Court extensive briefing that the New Hampshire statute at issue in this case is materially indistinguishable from the Massachusetts statute on which it is based and quite different from the Pittsburgh ordinance currently being considered in the Western District of Pennsylvania. Should the Court desire copies of District Court Orders from other District Courts, resolution of abortion clinic buffer zones more similar to New Hampshire’s statute, the plaintiffs would be glad to provide the Court with copies of Court documents in the case of Cliff v. City of Burlington, Vermont, Docket 2:12-CV-00214, which was resolved in late 2014, with the Court awarding damages to the plaintiffs and a settlement of attorney’s fees of approximately \$200,000.00. In addition, the plaintiffs would be happy to provide the Court with documents in the case of Fitzgerald v. City of Portland, Maine, Docket 2:14-CV-00053, where the injunctive claims were resolved by the City of Portland, Maine, repealing the Portland ordinance while the damages claims remain pending.

WHEREFORE, the plaintiffs request that this Honorable Court:

- a. Strike the State’s Status Update as it refers to a case which is not relevant to the current proceedings;
- b. Continue to stay the case while the New Hampshire Senate considers the repeal of the facially unconstitutional New Hampshire statute in this case; and

c. Such other and further relief as may be just and equitable.

Respectfully submitted this 20th day of March, 2015.

s/ Michael J. Tierney  
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ATTORNEYS FOR PLAINTIFFS

#### CERTIFICATION

I hereby certify that a copy of the within Status Report has this day been electronically mailed to counsel of record via ECF this day.

/S/ Michael J. Tierney  
Michael J. Tierney, Esq.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NIKKI BRUNI, JULIE COSENTINO, )  
CYNTHIA RINALDI, KATHLEEN )  
LASLOW, and PATRICK MALLEY, )

Plaintiffs, )

v. )

CITY OF PITTSBURGH, )  
PITTSBURGH CITY COUNCIL, )  
and WILLIAM PEDUTO, in his official )  
capacity as Mayor of the City of Pittsburgh, )

Defendants. )

Civil Action No. 14-1197

Judge Cathy Bissoon

**MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiffs’ Motion for Preliminary Injunction (Doc. 3) and Defendants’ Motion to Dismiss (Doc. 15). A hearing took place on December 3, 2014.

Upon full consideration of the evidence presented, Plaintiffs’ Motion for Preliminary Injunction will be denied, and Defendants’ Motion to Dismiss will be granted in part and denied in part.

**A. Findings of Fact**

Section 623.04 of the Pittsburgh Code of Ordinances, titled “Fifteen Foot Buffer Zone,” sets forth that:

[n]o person or persons shall knowingly congregate, patrol, picket or demonstrate in a zone extending fifteen (15) feet from any entrance to the hospital and or health care facility. This section shall not apply to police and public safety officers, fire and rescue personnel, or other emergency workers in the course of their official business, or to authorized security personnel employees or agents of the hospital, medical office or clinic engaged in assisting patients and other persons to enter or exit the hospital, medical office, or clinic.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

buffer zones in *Madsen* and *Schenck* (one of which was more than twice as large as the buffer zone here), finding them sufficiently tailored under a test more exacting than the one applicable here, the buffer zone established by the Ordinance is *a fortiori* constitutionally valid.

Brown, 586 F.3d at 276 (internal citations omitted). Nowhere in McCullen does the Supreme Court invalidate either of those two cases, or even delve particularly deeply into their reasoning. Hill, Madsen, and Schenck remain good law; those three cases comprise the basis for the previous challenge of the Ordinance, and the Court remains bound by Brown.

In the event that Plaintiffs are arguing that McCullen's *application* of intermediate scrutiny renders the Ordinance invalid, the Court likewise is not persuaded. The Court could only come to that conclusion if the facts before the Supreme Court were so similar to those in the instant action as to make clear that the decision in Brown was an improper application of the relevant standard. ~~Given the many factual distinctions between the MRHCA and the Ordinance, the Supreme Court's invalidation of the MRHCA does not render this Ordinance unconstitutional.~~

First, the burden on speech was significantly greater under the MRHCA, as the buffer zones had a radius of at least 35, not 15, feet, and were implemented statewide. This Court notes that the difference in the buffer zone coverage is more stark when considered in diameter, or length — the MRHCA created buffer zones *at least* 70 feet long, whereas the buffer zone at the downtown Planned Parenthood is half that. In two instances, the MRHCA authorized overlapping zones around entrances and driveways creating speech-free areas as much as 93 feet and 100 feet long, respectively. McCullen, 134 S.Ct. at 2527-28. The Supreme Court noted that at certain locations the MRHCA forced sidewalk counselors to cross the street from the abortion clinics where they sought to counsel — silencing their conversational speech and foreclosing their ability to place leaflets close to patients' hands — a fact that is not present here. Id. The

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

outside of the fifteen-foot radius in order to distribute their literature.” 586 F.3d. at 281. In Hill, the Supreme Court “noted approvingly that the bubble zone allowed leafletters to stand stationary in the path of oncoming pedestrians,” which is also the case for Plaintiffs fifteen feet away from the clinic entrance. Id. at 278 (citing Hill, 530 U.S. at 727-28). While the Supreme Court found that the MRHCA, with its distinctly larger buffer zone, foreclosed alternative channels of communication such that it impermissibly violated the First Amendment, Plaintiffs have not demonstrated a sufficient factual basis upon which the Court can find that the Ordinance indeed leaves open “no corresponding alternative channel of communication.” It is undisputed that Plaintiffs engage currently in sidewalk counseling, some of them multiple times per week. This fact alone is sufficient evidence of the existence of ample alternative channels of communication.

The McCullen Court notes that the Massachusetts legislature pursued their interests “by the extreme step of closing a *substantial portion* of a traditional public forum to all speakers.” Id. at 2541 (emphasis added). Given the record before the Court, Plaintiffs have not demonstrated that a similarly “substantial portion” of the sidewalk has been closed by the Ordinance. Due to the factual dissimilarities between McCullen and the instant case with respect to the degree of burden imposed on the petitioners’ and Plaintiffs’ speech, respectively, the Supreme Court’s invalidation of the MRHCA does not compel the invalidation of Pittsburgh’s less burdensome Ordinance. Pursuant to Brown, and in light of McCullen, the Ordinance remains narrowly tailored to pursue legitimate government interests.

Plaintiffs raise one additional argument not addressed by Brown, which this Court will consider accordingly. 586 F.3d. 263. Plaintiffs argue that the Ordinance fails narrow tailoring, facially, as it “applies to hospitals and health care facilities,” meaning that it creates the ability to

HB 403

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**From:** Jeanine Notter [mailto:jeaninenotter@comcast.net]  
**Sent:** Wednesday, April 01, 2015 10:17 PM  
**To:** Carson, Sharon; Daniels, Gary; Cataldo, Sam  
**Subject:** YES on HB 403- Repeal the Buffer Zone

As a co-sponsor of the bill to REPEAL the Buffer Zone, I submit to you the floor speech I gave last term when this infringement of the First Amendment was passed. I ask you to please vote YES on HB 403: **Title:** repealing the law relative to providing certain parameters for access to reproductive health care facilities.

Thank you,

Rep. Jeanine Notter – Hills 21

SB 319

I rise in opposition to the committee report of OTP on SB 319.

The majority blurb mentions a US Supreme Court precedent that favors this bill, yet no facts were presented to back up the claim.

The Catholic Diocese of Manchester handed in written testimony that states that the plain language of this bill is intended to silence the speech of those who oppose abortions. The First Amendment of the United States Constitution, and Part 1, Article 22 of the New Hampshire Constitution, however, PROHIBIT our state and federal governments from creating laws that restrict speech based upon its content. In “Hill v. Colorado,” the US Supreme Court recognized, and I quote, “The right to free speech, of course, includes the right to attempt to persuade others to change their views, and may not be curtailed simply because the speaker’s message may be offensive to his audience.” Here are the reference numbers, for the record: 530 U.S.

703 at 716 (2000). The Hill decision affirmed that it is “constitutionally repugnant” to ban particular topics from being discussed, while others are allowed. Id. At 722-23.

This bill hits at the heart of liberty. If someone can be arrested for standing and praying, whose speech is safe?

We have been falsely told that this bill creates a “patient safety zone” that provides “Balance.” Yet, we heard testimony from Greg Salts, who lives across the street from the abortion clinic in Manchester, that in the 10 years that he’s lived there, he has never once witnessed any aggression from the people who stand and pray on the sidewalk.

If you force the praying Christians to move 25 feet down the street, or across the street, right in front of Mr. Salt’s house, they will have to raise their voices to be heard, which could end up bothering the neighbors, who are currently not bothered. And to be clear, the neighbors I am referring to live on the same street as the clinic, not two blocks away, which is where one of the supporters of this bill lives, and calls himself a neighbor.

The public sidewalk in front of Planned Parenthood, in Manchester, is 9 feet wide. Planned Parenthood does not clear the sidewalk of snow, the people that you are going to force off the sidewalk do. They also pick up the trash in front of the facility. We heard testimony that some of the clinic workers park their cars in the street, leaving the employee lot ½ empty, to make the street appear more crowded. The sidewalk in front of Mr. Salt’s house is 4 feet wide. His lovely young daughter testified that during the winter, the sidewalk gets icy. She and her mother go out to break up the ice. She said she doesn’t want to see anyone slip and get hurt on the ice. Her daddy added that if there are people crowding the narrow sidewalk in front of his house, and the children ride by on their bikes, there won’t be enough room for everyone, so either the children, or the said people, will end up on the street. Unless of course they break the law and go back to the 9 feet wide sidewalk and risk getting arrested. Do you really want to see our law enforcement,

arresting people for exercising their First Amendment rights, when their time could be better spent going after real criminals?

We were all sent a video made by Greg Salts. He took a measuring tape and showed us exactly how far out this Buffer Zone will go, in Manchester.

During the hearing we were told by the Planned Parenthood lobbyist that a fire was set to their fence. It sounded like an accusation against the pro-lifers. On the video, Mr. Salts showed us the perimeter of the fence in question, plus a little history of what has gone on in this neighborhood. Planned Parenthood is located right next to a Rite Aid. The pharmacy faces Elm St. There are bushes along the fence that separates the pharmacy from the abortion clinic. The neighbors have complained that homeless people were sleeping in the bushes and doing drugs. Perhaps one of them burned the fence when they lit up? We saw no fire damage to the fence on the video, but we did see a section of the fence taken down in the back of the clinic, but we don't know why it was down. It looked fine.

Several times during the hearing we were told that Manchester's Chief Mara, wants this bill. But when Mr. Salts asked him, he said that he did NOT ask for this bill. We further heard testimony from Mr. Jim Rock who said that neither the Police Chief in Concord, nor Manchester, are for this bill.

The supporters of this bill told us that the pro-lifers have taken pictures of the clinic workers. Mr. Rock said that Planned Parenthood has taken pictures of him. Mr. Francis Heinz testified that the abortion advocates have also photographed him.

Father Robert Smallie testified that no other Business gets a buffer zone.

David Ross, of Hookset, said it is a take-over of public property.

Kurt Wurple, the President of the NH Right to Life called this bill a protection racket for the abortion industry. Corporate Wealth. Crony Capitalism..... there are several descriptions to choose from.



Henry Monroe, Mary Anne Cooper, Ellen Kolbe, and Steven Fornier, are just some of the names of those who testified against the claim that there have been instances of violence against the abortion advocates. Jennifer Robidoux took the day off from work, and arranged childcare for her children, to attend the hearing. By the time they called her name, she was told she could only speak for two minutes. But I read her written testimony. She said that participants of the 40 Days for Life campaign, of which she takes part, are asked to sign a Statement of Peace declaring that they will be respectful, prayerful, and nonviolent. Beth Scaer, of Nashua, put it this way, "We forswear any kind of conflict, harassment, or violence."

Supporters of this bill have equated it with keeping the members of the Westboro Baptist church away from mourners at military funerals. Fr. Robert Smallie testified that this is not the same thing. Funerals are private affairs and one-time instances.

Former House member, Phyllis Woods, stressed that we already have laws in place to protect citizens from harassment and abuse. And there were many other witnesses at the hearing, that I didn't mention, who testified against SB 319, or signed in on the Blue Sheet, proving that this bill is unnecessary and only causes division and contention for this Body.

Lastly, just so you know what kind of people you are siding with by voting to support this bill, in retaliation to Greg Salts for making the video that gave us visual proof that this is a bad bill, Planned Parenthood put up a big, in-your-face sign that faces his house. Mr. Salts showed us his property. He has no backyard, just an alley. All outdoor activities for his family, including birthday parties for his young daughter, are held in his front yard, which faces the clinic. The Manchester Buzz Examiner reported that putting up the sign was an illegal act, since they didn't have a building permit. The building inspector was called. He investigated, and by the end of the week, the sign was removed. This kind of childish and vindictive behavior shows how little they care for the residents in their neighborhood.

Thank you for allowing me to speak today. My name is Kirsti, and I am a current greeter at the Planned Parenthood clinic in Manchester. I have been volunteering there nearly every Thursday afternoon since last summer, so I have seen many patients come and go, and I'd like to share some of my firsthand experience with patients and protesters.

Our location is on an already congested street, cars parked on both sides and right off a main street in the city. People trying to leave the clinic often encounter a so called "sidewalk counselor" telling them to take "some information" on either side of the car, distracting them from turning onto the already crowded street. Many of the signs posted in front of the clinic not only create visual clutter and distractions from safe driving, but are inflammatory and not "friendly." Patients are turned away not because of the kind words of "sidewalk counselors," but because of the intimidating atmosphere.

Another notable experience was when a young woman, probably around my age, was sitting outside in tears, speaking about personal matters and dealing with the death of her mother. A sidewalk counselor continued to shout across the parking lot, and tell her it was wrong to be at Planned Parenthood. This young woman was visibly upset and did not want to speak with the sidewalk counselor, yet her wishes were not respected as the sidewalk counselor continued to shout at her.

Many young people come into Planned Parenthood- contrary to the beliefs of the sidewalk counselors, for counseling about all sorts of pregnancy options, not exclusively abortion. And many of them come inside in tears because they have been embarrassed and shamed to even enter the clinic- something I believe should never happen. They often take photographs with their cell phones of me, patients, and our providers, without permission, and posting them online.

The sidewalk counselors claim to be friendly and trying to help, while mostly they try to bring shame and guilt to every patient that walks in. While Thursdays are a day in which this Planned Parenthood provides abortion services, many people entering the clinic are there for routine check-ups, picking up prescriptions, or receiving counseling.

The modest 25' buffer zone that NH legally has would help greatly if enforced. It protects the sidewalk counselors' rights as American citizens to speak their minds and provide assistance to those who wish to seek it, but it would also maintain the privacy and dignity of patients entering the clinic. However controversial the medical procedure is, it is still just that, and I believe that, people in this country have just as much a right to privacy about their medical well-being as they do to free speech.

Blog Post from "Sidewalk Counselors" Website:

**Update on Pennacook St Thursday February 5 2015**

Despite the hazardous driving conditions Planned Parenthood's parking lot was full all day Thursday. License plates from New York, Florida and several from Mass could be seen mixed in with the NH vehicles.

The abortionist from Vermont didn't arrive until after 10am. By that time almost twenty people were waiting for her "services", some since 8am with more to arrive after noon time.

After keeping watch all day in the bitter cold the sidewalk advocates left at 4:30pm, but not before giving post abortive healing information to a Haitian couple who had been there since 10am. At 4:30pm the parking lot was still full and several "customers" had cars parked on the street.

They literally made a killing on this wintry Thursday Feb. 5, 2015.

A car stopped as it was backing out of the lot, the window opened and the person said "God Bless You. I didn't want to come here and am only making a delivery."

We will be posting a photo of the current PP abortionist. It is important to recognize the PP abortionists because whenever you see one arrive at PP, the killings of babies will probably soon begin. Then you know it is time for even more intense prayer to petition God to change the abortionist's heart and the mother's hearts to let the babies live.

Tomorrow, Tuesday Feb 9th

The life issues take center stage at the Legislative Office Building in Concord next Tuesday, February 10 beginning at 10am. Committee members need to see pro-life voters at these hearings; not to mention how much the sponsors would appreciate your support. All those hearing rooms are close together, on the second floor of the Legislative Office Building behind the State House. If you come to a hearing but don't wish to testify aloud, you may submit written testimony or simply sign "The Blue Sheet" on the committee table to register your opinion. If you can't attend, you can email the committee. [Click here](#) for detailed information.

Hope you enjoy both the photos and the blog from the March for Life on Facebook.

Don't forget to sign up for [40DaysForLife!!](#)

[40daysforlife/Manchester](#) or email [40daysforlifomanchester@gmail.com](mailto:40daysforlifomanchester@gmail.com)

Cathy

March for Life Washington DC January 22 2015 St Marie's With the Bishop

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: April 28, 2015

THE COMMITTEE ON Judiciary

to which was referred House Bill 403-FN

AN ACT                    repealing the law relative to providing certain parameters  
for access to reproductive health care facilities.

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS**

BY A VOTE OF:    3 - 1

Senator Sharon M. Carson  
For the Committee

Susan Duncan 271-3076

## New Hampshire General Court - Bill Status System

**Docket of HB403**

Docket Abbreviations

**Bill Title:** repealing the law relative to providing certain parameters for access to reproductive health care facilities.

*Official Docket of HB403:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/8/2015	H	<b>Introduced</b> and Referred to Judiciary; <b>HJ 12</b> , PG. 221
2/4/2015	H	Public Hearing: 2/10/2015 1:00 PM LOB 205
2/25/2015	H	Executive Session: 3/3/2015 10:30 AM LOB 208 ==RECESSED==
3/3/2015	H	Continued Executive Session: 3/5/2015 9:00 AM LOB 208
3/5/2015	H	Majority Committee Report: Ought to Pass for Mar 11 (Vote 10-9; RC); <b>HC19</b> , PG. 427
3/5/2015	H	Minority Committee Report: Inexpedient to Legislate
3/12/2015	H	<b>Ought to Pass:</b> MA <b>RC</b> 170-159; <b>HJ 26</b> , PG. 1217-1219
3/12/2015	H	Reconsider (Rep Hopper): MF <b>RC</b> 161-180; <b>HJ 26</b> , PG. 1219-1221
3/19/2015	S	Introduced and Referred to Judiciary; <b>SJ 10</b>
3/25/2015	S	Hearing: 3/31/15, Room 100, SH, 9:50 a.m.; <b>SC15</b>
4/29/2015	S	Committee Report: Ought to Pass, 5/7/15; <b>SC20</b>
5/7/2015	S	Special Order HB 403-FN to 5/14/15, Without Objection, MA; <b>SJ 13</b>
5/7/2015	S	Committee Report: Ought to Pass, 5/14/15; <b>SC21</b>
5/14/2015	S	Ought to Pass: <b>RC</b> 12Y-12N, MF; <b>SJ 14</b>
5/14/2015	S	Sen. Bradley Moved Laid on Table, MA, VV; <b>SJ 14</b>
5/14/2015	S	No pending motion

NH House

NH Senate

# Other Referrals

HB 403-EN - Repealing the law rel. to providing certain parameters for access to reproductive health care facilities.

# COMMITTEE REPORT FILE INVENTORY

ORIGINAL REFERRAL       RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S) 4

**ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:**

<input checked="" type="checkbox"/> - AMENDMENT # _____	_____ - AMENDMENT # _____
<input type="checkbox"/> - AMENDMENT # _____	_____ - AMENDMENT # _____

**ALL AVAILABLE VERSIONS OF THE BILL:**

<input checked="" type="checkbox"/> AS INTRODUCED	_____ AS AMENDED BY THE HOUSE
_____ FINAL VERSION	_____ AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

House Calendar Remarks

DATE DELIVERED TO SENATE CLERK

By:

\_\_\_\_\_

\_\_\_\_\_

COMMITTEE AIDE



**HB 403-FN**, repealing the law relative to providing certain parameters for access to reproductive health care facilities.

**MAJORITY: OUGHT TO PASS.**

**MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Joseph M. Hagan for the **Majority** of Judiciary. This is a free speech issue, not a right-to-life issue. Last term, RSA 132:27-132:30 was enacted that limited peaceful demonstrations by our citizenry. A Massachusetts law, which is materially indistinguishable for the New Hampshire law was found unconstitutional, unanimously by the Supreme Court of the United States. The majority of the committee supports repeal to support our constitution and avoid costs of defending the indefensible. **Vote 10-9.**

Rep. Paul S. Berch for the **Minority** of Judiciary. The minority believes the legislature should not repeal a recently enacted law while the constitutionality of that law is currently being determined by a federal court. Traditional practice would suggest not interrupting that process. There are significant and material differences between the New Hampshire and Massachusetts law.