

Committee Report

REGULAR CALENDAR

February 13, 2018

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Criminal Justice and Public Safety to which was referred HB 1514-FN,

AN ACT relative to shelter-in-place orders. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Kate Murray

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 1514-FN
Title:	relative to shelter-in-place orders.
Date:	February 13, 2018
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill provides that no officer shall issue a summons or detain an individual for violating a "shelter in place" order issued by the state, municipality, or a law enforcement agency. As there is no mention in New Hampshire statutes of a "shelter in place" order, there can be no violation. A shelter in place order is a recommendation only, according to law enforcement officers. The majority of the committee believes that this bill is inexpedient to legislate for two primary reasons: 1. Cooperation with such an order is voluntary; 2. The shelter in a place order is merely a recommendation and has no force of law.

Vote 14-6.

Rep. Kate Murray
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Criminal Justice and Public Safety

HB 1514-FN, relative to shelter-in-place orders. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Kate Murray for the **Majority** of Criminal Justice and Public Safety. This bill provides that no officer shall issue a summons or detain an individual for violating a "shelter in place" order issued by the state, municipality, or a law enforcement agency. As there is no mention in New Hampshire statutes of a "shelter in place" order, there can be no violation. A shelter in place order is a recommendation only, according to law enforcement officers. The majority of the committee believes that this bill is inexpedient to legislate for two primary reasons: 1. Cooperation with such an order is voluntary; 2. The shelter in a place order is merely a recommendation and has no force of law. **Vote 14-6.**

Original: House Clerk
Cc: Committee Bill File

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Committee:	Criminal Justice and Public Safety
Bill Number:	HB 1514-FN
Title:	relative to shelter-in-place orders.
Date:	February 13, 2018
Consent Calendar:	REGULAR
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Vote 14-6.

Rep. Kate Murray
FOR THE MAJORITY



Original: House Clerk
Cc: Committee Bill File

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Vote 14-6.

Rep. Kate Murray
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

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**MAJORITY
COMMITTEE REPORT**

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 1514-FN
Title:	relative to shelter-in-place orders.
Date:	February 13, 2018
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE <<Amendment #>>

STATEMENT OF INTENT

The majority of the committee believes that this bill is inexpediate to legislate for two primary reasons: 1. cooperation with shelter-in-place already relies on voluntary compliance, so the bill is unnecessary and 2) the "shelter-in-place" is broadly interpreted and not at all defined in current law.

Vote 14-6.

Rep. Kate Murray
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: CSPS

BILL NUMBER: 1514

TITLE: Shelter-in-place

DATE: 2-13-2018 CONSENT CALENDAR: YES NO

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

Amendment No. _____

STATEMENT OF INTENT:

The majority of the committee believes that this bill ~~is~~ ^{is} inexpedient to legislate for two primary reasons: 1. ^{cooperation} compliance with shelter-in-place ~~is~~ already relies on voluntary compliance, so the bill is unnecessary. and 2. the "shelter-in-place" is broadly interpreted and not ~~fully~~ ^{at all} defined ~~or~~ in current ~~law~~ ~~vetted~~ ~~at~~ ~~this~~ ~~point~~ ~~in~~ ~~our~~ ~~criminal~~ ~~code~~

COMMITTEE VOTE: 14-6

RESPECTFULLY SUBMITTED,

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

Rep. Kate Murray
For the Committee

REGULAR CALENDAR

February 13, 2018

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Criminal Justice and Public Safety to which was referred HB 1514-FN,

AN ACT relative to shelter-in-place orders. Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill OUGHT TO PASS.

Rep. John Burt

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 1514-FN
Title:	relative to shelter-in-place orders.
Date:	February 13, 2018
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

We are a free society and the ability to move about peacefully is a critical component of what makes America the great nation that we are. This holds true even during a "crime scene" lock down, like the one that happened in 2016 in Manchester, N.H. The Supreme Court has ruled in *Town of Castle Rock, Colorado v. Gonzales*, that law enforcement have no duty to protect and therefore if a citizen feels that it is in his or her best interest to protect oneself or members of their family, there should be no prohibitions preventing their ability and right to vacate the area or to move about freely. We are not a "papers please" society and we as a society vehemently rejected that philosophy and fought a war to prevent the spread of that mindset. This bill creates a reasonable prohibition on what police can and cannot do during a "shelter in place" event without tramping the current procedures that ensure an officer must have reasonable suspicion to detain someone or probable cause to arrest someone. Continuing to allow the process as was exercised in Manchester is a true violation of the rights of our citizens and this needs to stop.

Rep. John Burt
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Criminal Justice and Public Safety

HB 1514-FN, relative to shelter-in-place orders. **OUGHT TO PASS.**

Rep. John Burt for the **Minority** of Criminal Justice and Public Safety. We are a free society and the ability to move about peacefully is a critical component of what makes America the great nation that we are. This holds true even during a "crime scene" lock down, like the one that happened in 2016 in Manchester, N.H. The Supreme Court has ruled in *Town of Castle Rock, Colorado v. Gonzales*, that law enforcement have no duty to protect and therefore if a citizen feels that it is in his or her best interest to protect oneself or members of their family, there should be no prohibitions preventing their ability and right to vacate the area or to move about freely. We are not a "papers please" society and we as a society vehemently rejected that philosophy and fought a war to prevent the spread of that mindset. This bill creates a reasonable prohibition on what police can and cannot do during a "shelter in place" event without tramping the current procedures that ensure an officer must have reasonable suspicion to detain someone or probable cause to arrest someone. Continuing to allow the process as was exercised in Manchester is a true violation of the rights of our citizens and this needs to stop.

Original: House Clerk
Cc: Committee Bill File

**MINORITY
COMMITTEE REPORT**

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 1514-FN
Title:	relative to shelter-in-place orders.
Date:	February 13, 2018
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

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JBW
Rep. John Burt
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

Karwocki, Karen

From: john@burtnh.com
Sent: Tuesday, February 13, 2018 9:32 PM
To: Karwocki, Karen; David Welch
Subject: Minority Blurb HB 1514

Blurb HB 1514

2018 Session

02/13/2018

AN ACT relative to shelter-in-place orders.

We are a free society and the ability to move about peacefully is a critical component of what makes America the great nation that we are. This holds true even during a “crime scene” lock down, like the one that happened in 2016 in Manchester, NH. The Supreme Court has ruled in “Town of Castle Rock, Colorado v. Gonzales,” that law enforcement have no duty to protect and therefore if a citizen feels that it is in his or her best interest to protect oneself or members of their family, there should be no prohibitions preventing their ability and right to vacate the area or to move about freely. We are not a “papers please” society and we as a society vehemently rejected that philosophy and fought a war to prevent the spread of that mindset. This bill creates a reasonable prohibition on what police can and cannot do during a “shelter in place” event without tramping the current procedures that ensure an officer must have reasonable suspicion to detain someone or probable cause to arrest someone. Continuing to allow the process as was exercised in Manchester is a true violation of the rights of our citizens and this needs to stop.

Rep John Burt for the minority of Criminal Justice and Public Safety:

Sincerely,
NH Representative
John A. Burt
Goffstown

MINORITY REPORT

COMMITTEE: CJ&PS

BILL NUMBER: HB 1514

TITLE: _____

DATE: 2-13-18 CONSENT CALENDAR: YES NO

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

Amendment No.

Burt

STATEMENT OF INTENT:

see email

COMMITTEE VOTE: 14-6

• Copy to Committee Bill File

RESPECTFULLY SUBMITTED,

Rep. *[Signature]*
For the Minority

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1514-FN

BILL TITLE: relative to shelter-in-place orders.

DATE: February 13, 2018

LOB ROOM: 204

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Murray

Seconded by Rep. Pantelakos

Vote: 14-6

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep Delmar Burridge, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1514-FN

BILL TITLE: relative to shelter-in-place orders.

DATE:

LOB ROOM: 204

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. MURRAY Seconded by Rep. PANTELAKIS Vote: 14-6

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: Burt Motion _____

Respectfully submitted: _____

Rep Delmar Burridge, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2017 9:34:53 AM
Roll Call Committee Registers
Report

2017 SESSION

CRIM&SFTY

Bill #: 1514 Title: SHelter-IN-Place
PH Date: 1 / 17 / 18 Exec Session Date: 2 / 13 / 18
Motion: L.T.L. Amendment #: _____

MEMBER

YEAS

14

NAYS

6

MEMBER	YEAS	NAYS
Welch, David A. Chariman	✓	✓
Sapareto, Frank V. Vice Chairman	✓	✓
Fields, Dennis H.	✓	
Fesh, Robert M.	✓	✓
Gagne, Larry G.		✓
Burt, John A.		✓
Green, Dennis	✓	
Gargas, Carolyn M.		
Ham, Bonnie D.	✓	
McNally, Jody L.	✓	
Testerman, Dave	✓	✓
Wallace, Scott		✓
Chandley, Shannon E.	✓	
Pantelakos, Laura C.	✓	
Berube, Roger R.	✓	✓
Cushing, Robert Renny		✓
Rodd, Beth		✓
Burrige, Delmar D. Clerk	✓	
Murray, Kate	✓	
O'Leary, Richard	✓	
Opderbecke, Linn	✓	
TOTAL VOTE:		

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1514-FN

BILL TITLE: relative to shelter-in-place orders.

DATE: January 17, 2018

LOB ROOM: 204

Time Public Hearing Called to Order: 1:00 p.m.

Time Adjourned: 1:30 p.m.

Committee Members: Reps. Sapareto, Fields, Gagne, Green, Burt, Gargas, Burrige, Testerman, Wallace, Chandley, Berube, Cushing, Murray and O'Leary

Bill Sponsors:

Rep. Ammon

Rep. Stone

Rep. Horn

Rep. Hoell

/

TESTIMONY

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

Rep. Ammon, Prime Sponsor - talked about a friend caught up in Boston event/without probable cause can not infringe on my Civil rights vs. public safety "freedom of travel" makes it a request - allows some to travel freely.

Rep. Itse - supports, clarify definition of military law and civilian law. In NH-article 234, but by authority of NH House, prevents a police state.

Rep. Sylvia, Supports, Executive Branch Tyranny

Rep. Stone - Supports - Without proper cause, rules of engagement-Individuals choice to make.

*Kathleen Cooper - Supports, trial lawyers assoc. - problem in civil rights, no definition yet of "shelter in place" West Side in Manchester for additional 5 hours.

Rep. Gagne - Need to watch for second gun

Respectfully Submitted,


Delmar Burrige, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1514-FN

BILL TITLE: relative to shelter-in-place orders.

DATE: January 17, 2018

LOB ROOM: 204

Time Public Hearing Called to Order: 1:00 p.m.

Time Adjourned: 1:30 p.m.

Committee Members: Reps. Sapareto, Fields, Gagne, Green, Burt, Gargasz, Burr ridge, Testerman, Wallace, Chandley, Berube, Cushing, Murray and O'Leary

Bill Sponsors:

Rep. Ammon

Rep. Stone

Rep. Horn

Rep. Hoell

TESTIMONY

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

Rep. Ammon/Prime Sponsor - talked about a friend caught up in Boston event/without probable cause, can not ?? Civil rights vs. public safety "freedom of travel" makes it a request - allows some to travel freely.

CAN NOT IMPINDE ON MY CIVIL RIGHTS, OF OF MILITARY LAW + CIVILIAN LAW

Rep. Itse, Supports, Clarify definition ? law, ? law. In NH- Article 34, but by but by authority of NH House, prevents a police state

AND CIVILIAN LAW

Rep Sylvia, Support, Executive ? Tyranny

Branch

Rep Stone, Supports, With out proper cause, rules of engagement-Individuals choice to make.

TRIAL LAWYERS ASSOCIATION

*Kathleen Cooper, Supports, T? h?-problem in civil rights, no definition yet of "shelter-in-place" West Side in Manchester for additional 5 hours, G?...a second gun.

REP GARGASZ, USED TO WATCH WATCH FOR A SECOND GUN
Respectfully Submitted,

Delmar Burr ridge, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1514-FN

BILL TITLE: relative to shelter-in-place orders.

DATE:

ROOM: 204

Time Public Hearing Called to Order: 1:00

Time Adjourned: 1:30

(please circle if present)

← ABSENT

Committee Members: Reps. Welch, Sapareto, Fields, Fesh, Gagne, Burt, Green, Gargas, Ham, McNally, Testerman, Wallace, Chandley, Pantelakos, Berube, Cushing, Rodd, Murray, O'Leary, ~~Opderbecke~~ and Burrige

Bill Sponsors:

Rep. Ammon
Rep. Hoell

Rep. Stone

Rep. Horn

TESTIMONY

"Martial law"

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

Rep Ammon ~ talked about a jail caught up in Boston event without parole cause can not

↳ En on civil rights vs Public Safety "Freedom of Travel"

Makes a request - allows someone to travel freely

Rep HSC → clarity definition ~~higher law~~ ~~civilian law~~ in NA - Aence of, ~ but by authority of NA State, prevents a police state

Rep Sylvia EXECUTIVE BERNARD TYRANNY
Rep Stone - with ^{out} property cause, rules of engagement ~ individual choice to make

Kallen Copin * Trial ~~horror~~ ~ problem in civil rights

↳ witness in Manchester for additional 5 hours
Coburn ... a second gun

no definition of shelter in place

Testimony

Opinion > Columns (/Opinion/Columns/)

My Turn: Lockdown in Manchester is a slippery slope

By RISA EVANS
For the Monitor

Kathleen Cooper 5/17/16

Sunday, May 22, 2016

Liberty. Security. Both are essential to a good life. But of course, neither is absolute, and at times circumstances demand that a society trade some measure of liberty for security.

The tricky part is deciding when and how to draw the line.

Specifically, what sorts of circumstances demand a sacrifice of liberty for security? How much sacrifice is acceptable, and how much is too much? Who should decide whether a given situation demands that liberty be sacrificed, and through what processes should such decisions be made and reviewed? Any sacrifice of liberty – however brief – potentially sets a precedent for similar and greater sacrifices. Thus, whenever liberty is sacrificed, conversation about these questions becomes important if we wish to avoid a gentle slide into tyranny.

On May 13, questions about the relationship between liberty and security were brought to the fore when a section of Manchester was placed under what sounds like the equivalent of martial law following the shooting of two police officers about 2:30 a.m.

According to news reports, the shootings occurred on the city's west side, and the lone gunman fled on foot. A "shelter in place" order was issued, school was canceled, and many west side residents bunkered in their homes while heavily armed law enforcement officers hunted for the suspected shooter, combing through cars, trash cans and yards as helicopters circled overhead.

Thankfully, neither of the shooting victims suffered life-threatening injury, and the police were able to apprehend the suspect without additional violence. The shelter-in-place order was lifted about 10 a.m.

Now that the event is over, it's time to examine whether the circumstances truly demanded the lockdown and assess whether the lockdown sets a good precedent.

Proponents will argue that the lockdown was necessary to protect the public while police searched for a dangerous criminal. But while this justification may have served at the start of the lockdown, what raises additional questions here is the timing.

It turns out the suspect was captured about 5 a.m.; that is to say, he was in police custody for a full five hours before residents were allowed to return to their normal, daily lives.

During these hours, authorities did not inform the public of the suspect's capture or lift the shelter-in-place order. Instead, they apparently continued their activities on the west side unabated, while residents remained in their homes, unable to exercise the basic freedom of walking down the street.

Why the lengthy delay? Was the continued lockdown essential for public safety? Should it set a precedent for future lockdowns?

According to a local news report, police explained afterward that the continued lockdown was "critical to gathering evidence to preserve the integrity of their investigation."

This explanation suggests that the primary purpose for continuing the lockdown after the suspect was caught was not to protect residents, but rather to gather evidence for a criminal prosecution. If so, it's time for a robust discussion about whether in the future the lockdown of entire neighborhoods should be permitted as a tool of criminal investigation when the public is not in danger.

It may be that after the suspect's capture, authorities in Manchester continued the lockdown because they knew of an ongoing threat that has not yet been revealed. If so, then the full justification for the continued lockdown should be disclosed to the public now.

Moreover, even a public-safety justification should be the subject of scrutiny and discussion. Threats to public safety are nothing new. They come in myriad forms, and reasonable minds can differ about how significant and certain a threat should be before it justifies a wholesale sacrifice of liberty like a lockdown.

The lockdown in Manchester could set a precedent for the rest of New Hampshire, and questions about our willingness to trade liberty for security are more pressing than ever.

(Risa Evans is an associate professor at the UNH School of Law and a former public defender.)

Fiscal Note

LBAO
18-2497
11/2/17

HB 1514-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to shelter-in-place orders.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2019	FY 2020	FY 2021	FY 2022
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Various Governmental Funds			

METHODOLOGY:

This bill would prohibit detention of a person for violating a shelter-in-place order unless there is probable cause or reasonable suspicion of another offense.

The Department of Safety states determining the fiscal impact of this bill is not possible because it is unknown how often shelter-in-place orders will be issued or how many people, if any, would violate the orders. The Department assumes the bill would have an indeterminable impact on state expenditures and no impact on state revenues.

The New Hampshire Association of Counties indicates this bill will have no fiscal impact on the counties.

The New Hampshire Municipal Association indicates this bill will have no impact on municipal revenues or expenditures.

AGENCIES CONTACTED:

Department of Safety, New Hampshire Association of Counties and New Hampshire Municipal Association

Bill as
Introduced

HB 1514-FN - AS INTRODUCED

2018 SESSION

18-2497
08/05

HOUSE BILL ***1514-FN***

AN ACT relative to shelter-in-place orders.

SPONSORS: Rep. Ammon, Hills. 40; Rep. Stone, Rock. 1; Rep. Horn, Merr. 2; Rep. Hoell,
Merr. 23

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits the detention of certain persons during shelter-in-place orders.

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

HB 1514-FN - AS INTRODUCED

18-2497
08/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to shelter-in-place orders.

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

- 1 1 New Section; Detention During Shelter-In-Place Order. Amend RSA 594 by inserting after
- 2 section 14-a the following new section:
- 3 594:14-b Detention During Shelter-In-Place Order. No officer shall issue a summons or detain
- 4 a person for violating a shelter-in-place order issued by the state, a municipality, or law
- 5 enforcement agency absent probable cause or reasonable suspicion of another offense.
- 6 2 Effective Date. This act shall take effect January 1, 2019.