

Committee Report

REGULAR CALENDAR

March 10, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Criminal Justice and Public Safety
to which was referred HB 179-FN,**

**AN ACT relative to enhanced penalties based on prior
convictions for driving under the influence of drugs or
liquor. Having considered the same, report the same
with the following amendment, and the
recommendation that the bill OUGHT TO PASS WITH
AMENDMENT.**

Rep. Jennifer Rhodes

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 179-FN
Title:	relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.
Date:	March 10, 2021
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2021-0741h

STATEMENT OF INTENT

As amended, this bill extends the term of imprisonment for a person convicted of negligent homicide or aggravated driving while intoxicated when the driver has previously been convicted of driving while intoxicated. Specifically, a person with one prior conviction of driving while intoxicated will have an extended term of imprisonment of not less than 10 years or more than 20 years. A person with two prior convictions of driving while intoxicated will have an extended term of imprisonment of not less than 15 years or more than 30 years. These enhanced penalties are specifically aimed at individuals who repeatedly engaged in dangerous behavior that ultimately cost someone their life. The majority of the committee believes that enhancing the penalty will deter repeat offenders from continuing to endanger the public. The amendment changed the title of the bill so this law will be known as Tyler Shaw's Law. Mr. Shaw's life was tragically cut short when a drunk driver, that had previously been convicted of driving while intoxicated on two separate occasions, killed him.

Vote 14-7.

Rep. Jennifer Rhodes
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Criminal Justice and Public Safety

HB 179-FN, relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Jennifer Rhodes for Criminal Justice and Public Safety. As amended, this bill extends the term of imprisonment for a person convicted of negligent homicide or aggravated driving while intoxicated when the driver has previously been convicted of driving while intoxicated. Specifically, a person with one prior conviction of driving while intoxicated will have an extended term of imprisonment of not less than 10 years or more than 20 years. A person with two prior convictions of driving while intoxicated will have an extended term of imprisonment of not less than 15 years or more than 30 years. These enhanced penalties are specifically aimed at individuals who repeatedly engaged in dangerous behavior that ultimately cost someone their life. The majority of the committee believes that enhancing the penalty will deter repeat offenders from continuing to endanger the public. The amendment changed the title of the bill so this law will be known as Tyler Shaw's Law. Mr. Shaw's life was tragically cut short when a drunk driver, that had previously been convicted of driving while intoxicated on two separate occasions, killed him. **Vote 14-7.**

Original: House Clerk

Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on Bill # 179

BILL TITLE: Enhanced penalties based on prior convictions for driving under the influence of drugs or liquor

DATE: 3/10/2021

LOB ROOM:

MOTION: (Please check one box)

OTP ITL Retain (1st year) Adoption of Amendment # 2021
 Interim Study (2nd year) (if offered)
Moved by Rep. Rhodes Seconded by Rep. Green Vote: 20/1

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)
Moved by Rep. Rhodes Seconded by Rep. Walker Vote: 14/7

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: _____ Motion _____

Respectfully submitted: _____
Rep Natalie Wells, Clerk
Jennifer Rhodes



2021 SESSION

Criminal Justice and Public Safety

 Bill #: 179 Motion: OTP AM #: 2021-0744 Exec Session Date: 3/10/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Abbas, Daryl A. Chairman	20		
Welch, David A. Vice Chairman	1		
Burt , John A.	2		
Hopper , Gary S. <i>Spiller</i>	3		
Green, Dennis E.	4		
Wallace, Scott	5		
Testerman, Dave	6		
True, Chris	7		
Pratt, Kevin M.	8		
Marston, Dick	9		
Rhodes, Jennifer M. Clerk	10		
Harriott-Gathright, Linda C.	11		
Pantelakos , Laura C. <i>Bixby</i>	12		
O'Hearne, Andrew S.	13		
Bordenet, John		1	
Meuse, David	14		
Newman, Ray E.	15		
Bouldin, Amanda C.	16		
Conley, Casey M.	17		
Klein-Knight, Nicole	18		
Bradley, Amy	19		



2021 SESSION

Criminal Justice and Public Safety

Bill #: _____ Motion: _____ AM #: _____ Exec Session Date: _____

TOTAL VOTE:





2021 SESSION

Criminal Justice and Public Safety

Bill #: 179 Motion: OTP-A AM #: 2021 0744 Exec Session Date: 3/10/2021
 # 14/7

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Abbas, Daryl A. Chairman	14		
Welch, David A. Vice Chairman	1		
Burt, John A.	2		
Hopper, Gary S. <i>Spillane Spillane</i>	3		
Green, Dennis E.	4		
Wallace, Scott	5		
Testerman, Dave	6		
True, Chris	7		
Pratt, Kevin M.	8		
Marston, Dick	9		
Rhodes, Jennifer M. Clerk	10		
Harriott-Gathright, Linda C.		1	
Pantelakos, Laura C. <i>Bixby</i>		2	
O'Hearne, Andrew S.		3	
Bordenet, John		4	
Meuse, David		5	
Newman, Ray E.		6	
Bouldin, Amanda C.		7	
Conley, Casey M.	11		
Klein-Knight, Nicole	12		
Bradley, Amy	13		



1/22/2021 9:56:15 AM
Roll Call Committee Registers
Report

2021 SESSION

Criminal Justice and Public Safety

Bill #:	Motion:	AM #:	Exec Session Date:
TOTAL VOTE:			

Public Hearing

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 179-FN& HB 347

BILL TITLE: relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

DATE: March 10, 2021

LOB ROOM: hybrid **Time Public Hearing Called to Order:** 10:35 a.m.

Time Adjourned: 11:30 a.m.

Committee Members: Reps. Abbas, Welch, Rhodes, Burt, Hopper, Green, Wallace, Testerman, True, Pratt, Marston, Harriott-Gathright, Pantelakos, O'Hearne, Bordenet, Meuse, R. Newman, Amanda Bouldin, Conley, Klein-Knight and Bradley

Bill Sponsors:
Rep. Abbas

TESTIMONY

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

Rep. Abbas - Sponsor Introduced bill. Duel hearing. Both bills bring law in line with prior convictions. Drugs and alcohol are something that can't be ignored by community when it comes to operating a vehicle.

Beth Shaw - Supports both bills. Son killed by drunk driver with repeat DUI's.

Rep. Burt - Why did the car start when it had a DUI devise that was required by the driver to use prior to driving?

A. Believes the devise had already been removed. no longer was required.

Rep. Klein-Knight - How many second offenders are on record for last year

A. Do not have that info.

Rep. Bordenet - Shouldn't we treat the alcohol issue before we look at penalties?

A. Both are a concern

Shouldn't we address alcohol like we address drugs?

A. Treatment is required in both regards

Rep. Spillane - is the license suspension simultaneous with the jail time or after?

A. The license suspense should be after. Bill presented to make RSA ? and it is up to the sentencing officer/judge to decide.

Katherine Cooper - opposed to both. The attorneys and judges should decide.

Respectfully submitted,

Rep. Jennifer Rhodes, Clerk

House Remote Testify

Criminal Justice and Public Safety Committee Testify List for Bill HB179 on 2021-03-10

Support: 6 Oppose: 7 Neutral: 1 Total to Testify: 1

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Cooper, Katherine	Epping, NH Katherine@NHACSL.org	A Lobbyist	NH Association of Criminal Defense Lawyers	Oppose	Yes (3m)	No	3/9/2021 4:36 PM
Feltes, Dan	Concord, NH danfeltes@gmail.com	A Member of the Public	Myself	Support	No	No	3/10/2021 8:22 AM
SHUTE, BRITTANY	CONCORD, NH brittany.shute@dos.nh.gov	State Agency Staff	DOS-DMV	Neutral	No	No	3/10/2021 8:30 AM
Groetzinger, Tonda	Farmington, NH groetzinger6@aol.com	A Member of the Public	Myself	Support	No	No	3/10/2021 9:15 AM
Shaw, Beth	Concord, NH beth_shaw@comcast.net	A Member of the Public	Myself	Support	No	No	3/10/2021 9:27 AM
Sargent, Elizabeth	Concord, NH esargent@sheehan.com	A Lobbyist	NH Association of Chiefs of Police	Support	No	No	3/10/2021 9:47 AM
Frost, Sherry	Dover, NH sherry.frost@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	3/10/2021 10:15 AM
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/6/2021 4:25 PM
Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Oppose	No	No	3/6/2021 7:52 PM
Reed, Barbara	N. Swanzey NH, NH moragmcp83@outlook.com	A Member of the Public	Myself	Support	No	No	3/7/2021 9:48 AM
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Oppose	No	No	3/7/2021 6:02 PM
Vaughan, Elizabeth	LITCHFIELD, NH lizfvaughan@hotmail.com	A Member of the Public	Myself	Oppose	No	No	3/7/2021 7:20 PM
Roy, Terry	Deerfield, NH terry.roy@leg.state.nh.us	An Elected Official	Myself	Support	No	No	3/8/2021 1:23 PM

Hope, Lucinda

Tilton, NH
lmhope46@gmail.com

A Member of the Public Myself

Oppose No

No

3/9/2021 10:48 AM

Testimony

Archived: Friday, March 12, 2021 3:44:58 PM

From: [Katherine Cooper](#)

Sent: Wednesday, March 10, 2021 9:34:34 AM

To: ~House Criminal Justice and Public Safety

Subject: HB 179

Importance: Normal

Attachments:

[HB 179.doc](#) 

Dear Representatives: Please find attached testimony opposing HB 179. Please feel free to contact me with any questions. Thank you.

--

Katherine Cooper

Executive Director

New Hampshire Association of Criminal Defense Lawyers

www.NHACDL.org

603-556-8294

katherine@NHACDL.org

Bill as
Introduced

HB 179-FN - AS INTRODUCED

2021 SESSION

21-0337

04/05

HOUSE BILL ***179-FN***

AN ACT relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

SPONSORS: Rep. Abbas, Rock. 8

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes an enhanced penalty for persons convicted of negligent homicide who have prior convictions for driving under the influence of drugs or liquor.

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

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

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

1 1 Extended Term of Imprisonment. RSA 651:6, II(c) is repealed and reenacted to read as
2 follows:

3 (c) Has been previously convicted of driving or operating under the influence of drugs or
4 liquor under RSA 265-A:2, aggravated driving while intoxicated under RSA 265-A:3, or negligent
5 homicide under RSA 630:3, II, or under reasonably equivalent offenses in an out-of-state jurisdiction,
6 and such person is charged with an offense under RSA 630:3, II or RSA 265-A:3, I(b) or II(b).

7 2 Extended Term of Imprisonment. Amend RSA 651:6, III(a) to read as follows:

8 (a) Any felony, other than murder [∅], manslaughter, ***negligent homicide under RSA***
9 ***630:3, II, or aggravated driving while intoxicated under RSA 265-A:3, I(b) or II(b)***, a
10 minimum to be fixed by the court of not more than 10 years and a maximum to be fixed by the court
11 of not more than 30 years;

12 3 Extended Term of Imprisonment. Amend RSA 651:6, III(f)-(g) to read as follows:

13 (f) A third offense under RSA 632-A:3, life imprisonment; [∅]

14 (g) Any of the crimes listed under RSA 651:6, I(j), a minimum to be fixed by the court of
15 not less than 90 days and a maximum of not more than one year; ***or***

16 ***(h) Negligent homicide under RSA 630:3, II or aggravated driving while***
17 ***intoxicated under RSA 265-A:3, I(b) or II(b), provided that the court may consider an***
18 ***enhanced sentence of not less than 10 years or more than 20 years where the person has***
19 ***once previously been convicted under RSA 265-A:2, I, RSA 265-A:3, or RSA 630:3, II, or under***
20 ***a reasonably equivalent offense in an out-of-state jurisdiction; or***

21 ***(i) Negligent homicide under RSA 630:3, II or aggravated driving while***
22 ***intoxicated under RSA 265-A:3, I(b) or II(b), provided that the court may consider an***
23 ***enhanced sentence of not less than 15 years or more than 30 years where the person has, on***
24 ***2 or more prior occasions, been convicted under RSA 265-A:2, I, RSA 265-A:3, or RSA 630:3,***
25 ***II, or under a reasonably equivalent offense in an out-of-state jurisdiction.***

26 4 Effective Date. This act shall take effect January 1, 2022.

**HB 179-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill establishes enhanced penalties for negligent homicide, based on prior convictions for driving under the influence of drugs or liquor, that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Simple Criminal Case	\$309	\$309
Routine Criminal Felony Case	\$494	\$494
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten 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.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case

Assigned Counsel – Felony. Homicide (Including capital cases)	\$100/Hour up to \$20,000	\$100/Hour up to \$20,000
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2020 Average Cost of Incarcerating an Individual	\$47,691	\$47,691
FY 2020 Annual Marginal Cost of a General Population Inmate	\$6,407	\$6,407
FY 2020 Average Cost of Supervising an Individual on Parole/Probation	\$584	\$584
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Departments of Corrections and Justice, Judicial Council, and New Hampshire Association of Counties