

# Committee Report

**CONSENT CALENDAR**

**February 26, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Criminal Justice and Public Safety  
to which was referred HB 296-FN,**

**AN ACT establishing the crime of unsolicited disclosure  
of an intimate image. Having considered the same,  
report the same with the recommendation that the bill  
OUGHT TO PASS.**

**Rep. Linda Harriott-Gathright**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Criminal Justice and Public Safety</b>
Bill Number:	<b>HB 296-FN</b>
Title:	<b>establishing the crime of unsolicited disclosure of an intimate image.</b>
Date:	<b>February 26, 2021</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

This bill defines unsolicited disclosure of an intimate image and adds a new section, RSA 644:9-b. Most of the committee supported the OTP motion. This bill adds to the harassment laws, which is what cyberflashing is. Persons that receive these unsolicited intimate images, that are incredibly violating don't always have a recourse. It's illegal to flash someone in person, and we believe that it should also be illegal to do so digitally. The committee believes it should be law, therefore the unsolicited sending of genitalia via electronic device, a violation, with multiple offenses being a class A misdemeanor punishable by a fine up to \$1,000.

Vote 18-1.

Rep. Linda Harriott-Gathright  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Criminal Justice and Public Safety

**HB 296-FN**, establishing the crime of unsolicited disclosure of an intimate image. **OUGHT TO PASS.**

Rep. Linda Harriott-Gathright for Criminal Justice and Public Safety. HB296 defines Unsolicited disclosure of an Intimate Image and adds a new section RSA 644:9-b. Most of the committee supported the OTP motion. HB296 adds to the harassment laws, which is what cyberflashing is. Persons that receive these unsolicited intimate images, that are incredibly violating don't always have a recourse. It's illegal to flash someone in person, and we believe that it should also be illegal to do so digitally. The committee believes it should be law, therefore the unsolicited sending of genitalia via electronic device, a violation, with multiple offenses being a class A misdemeanor punishable by a fine up to \$1,000.

**Vote 18-1.**

Original: House Clerk

Cc: Committee Bill File

# Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on Bill # 296

BILL TITLE: Establishing the crime of unsolicited disclosure of an intimate image

DATE: 2/26/2021

LOB ROOM:

MOTION: (Please check one box)

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

Moved by Rep. Hallitt-Gallit Seconded by Rep. Panteleros Vote: 18/1

MOTION: (Please check one box)

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

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

MOTION: (Please check one box)

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

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

MOTION: (Please check one box)

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

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

CONSENT CALENDAR: ✓ YES \_\_\_\_\_ NO

Minority Report? \_\_\_\_\_ Yes \_\_\_\_\_ No If yes, author, Rep: \_\_\_\_\_ Motion \_\_\_\_\_

Respectfully submitted: Jennifer Rhodes  
Rep. Jennifer Rhodes, Clerk



2021 SESSION

**Criminal Justice and Public Safety**

Bill #: 296 Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 2/24/21  
 18/1

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



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 296-FN

**BILL TITLE:** establishing the crime of unsolicited disclosure of an intimate image.

**DATE:** February 26, 2021

**LOB ROOM:** 306 **Time Public Hearing Called to Order:** 2:40 PM

**Time Adjourned:** 3:00 PM

**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. Nutting-Wong

Rep. Frost

TESTIMONY

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

**Rep. Allison Nutting-Wong**

- Introduced bill
- Graphics photos are more than intimate texts

**Q:** Rep. Bordenet – Would sending out “a group text” – would that be considered one or multiple offenses?

**A:** One conviction is on offense – not how many times it is done

**Q:** Rep. Maston – Would this be something that they could take the computer?

**A:** I don't know

**Q:** Rep. Burt – How would you prevent “?” style images – i.e. friend request etc.

**A:** Simply don't know

**Q:** Rep. Klein-Knight- Will there be a database to keep track of data if this becomes law?

**A:** Not sure, that is not something she is responsible for with the bill

**Rep. Harriot-Gathright – HB 200**

- Introduced bill from another Rep
- Bill is to increase penalty for certain invasions of privacy

**Aubrey Fredman – Oppose – 296**

- This is not necessary – waste of time

**Q:** Rep. Klein-Knight – You testified that sexual harassment is not “a problem”?

**A:** I said it's tacky

Respectfully submitted,

Rep. Jennifer Rhodes

# House Remote Testify

## Criminal Justice and Public Safety Committee Testify List for Bill HB296 on 2021-02-26

Support: 43 Oppose: 1 Neutral: 0 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>
Freedman, Aubrey	Bridgewater, NH aubreyyfreedman@gmail.com	A Member of the Public	Myself	Oppose	Yes (3m)	No	2/24/2021 1:30 PM
Sandler, Erin	Northwood, NH ersandleremberley@gmail.com	A Member of the Public	Myself	Support	No	No	2/24/2021 9:14 PM
Groetzinger, Tonda	Farmington, NH groetzinger6@aol.com	A Member of the Public	Myself	Support	No	No	2/25/2021 2:07 PM
Platt, Elizabeth-Anne	CONCORD, NH lizanneplatt09@gmail.com	A Member of the Public	Myself	Support	No	No	2/26/2021 7:10 AM
Bouldin, Andrew	Manchester, NH Andrew.Bouldin@leg.state.nh.us	An Elected Official	Hillsborough 12	Support	No	No	2/26/2021 11:36 AM
Josephson, Timothy	Canaan, NH josephsonth@gmail.com	A Member of the Public	Myself	Support	No	No	2/26/2021 11:37 AM
Schmidt, Jan	NH, NH tesha4@gmail.com	An Elected Official	Myself	Support	No	No	2/18/2021 2:06 PM
Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Support	No	No	2/20/2021 1:54 PM
Casino, Joanne	Concord, NH joannecasino@comcast.net	A Member of the Public	Myself	Support	No	No	2/20/2021 3:46 PM
Bates, David	Warner, NH dbates3@yahoo.com	A Member of the Public	Myself	Support	No	No	2/21/2021 10:43 AM
Nardino, Marie	Andover, NH mdnardino@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 5:32 PM
Clark, Lynn	Contoocook, NH rubylynn862@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 2:17 PM
Johnson, Sara	Warner, NH nhchicagocubfan@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 4:10 PM

DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 2:48 PM
Pospychala, Erin	WILMOT, NH erinmvp@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 7:00 PM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 9:17 PM
Corell, Elizabeth	Concord, NH Elizabeth.j.corell@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 9:42 PM
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Support	No	No	2/21/2021 10:45 PM
Wells, Ken	Andover, NH kenwells3@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 10:48 PM
Wells, Lee	Andover, NH leewells.locustfarm@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 11:00 PM
Fenner-Lukaitis, Elizabeth	Warner, NH glukaitis@mcttelecom.com	A Member of the Public	Myself	Support	No	No	2/22/2021 6:41 AM
Blanchard, Sandra	Loudon, NH sandyblanchard3@gmail.com	A Member of the Public	Myself	Support	No	No	2/22/2021 7:32 AM
Rettew, Annie	CONCORD, NH abrettew@gmail.com	A Member of the Public	Myself	Support	No	No	2/22/2021 7:51 AM
McKevitt, Susan	Bradford, NH mcwil@tds.net	A Member of the Public	Myself	Support	No	No	2/22/2021 9:13 AM
Spielman, Kathy	Durham, NH jspielman@comcast.net	A Member of the Public	Myself	Support	No	No	2/22/2021 9:30 AM
Spielman, James	Durham, NH jspielman@comcast.net	A Member of the Public	Myself	Support	No	No	2/22/2021 9:30 AM
Torpey, Jeanne	Concord, NH jtorp51@comcast.net	A Member of the Public	Myself	Support	No	No	2/22/2021 9:42 AM
Cook, Richard	Warner, NH r_cook@mcttelecom.com	A Member of the Public	Myself	Support	No	No	2/22/2021 9:55 AM
Mower, Robin	Durham, NH melodyofharpists@gmail.com	A Member of the Public	Myself	Support	No	No	2/22/2021 10:10 AM
Lindpaintner, Lyn	Concord, NH lynlin@bluewin.ch	A Member of the Public	Myself	Support	No	No	2/22/2021 12:48 PM
Neville, Betsey	Concord, NH betsey2003@tds.net	A Member of the Public	Myself	Support	No	No	2/22/2021 1:48 PM

blakeney, gordon	Concord, NH rbplease@aol.com	A Member of the Public	Myself	Support	No	No	2/22/2021 1:49 PM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	No	2/22/2021 1:56 PM
Kallinich, Kayla	Boston, MA kaylakall47@gmail.com	A Member of the Public	Myself	Support	No	No	2/22/2021 2:34 PM
Spencer, Louise	Concord, NH lpskentstreet@gmail.com	A Member of the Public	Myself	Support	No	No	2/22/2021 8:23 PM
Spencer, Rob	Concord, NH kentstusa@aol.com	A Member of the Public	Myself	Support	No	No	2/22/2021 8:23 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Support	No	No	2/22/2021 9:17 PM
Varney, Michele	Alton, NH maloof@metrocast.net	A Member of the Public	Myself	Support	No	No	2/22/2021 9:22 PM
Hinebauch, Mel	Concord, NH melhinebauch@gmail.com	A Member of the Public	Myself	Support	No	No	2/22/2021 9:29 PM
Vogt, Robin	Portsmouth, NH robin.w.vogt@gmail.com	A Member of the Public	Myself	Support	No	No	2/23/2021 9:39 AM
Ingram, April	Warner, NH aandk@tds.net	A Member of the Public	Myself	Support	No	No	2/23/2021 12:45 PM
Koch, Helmut	Concord, NH helmut.koch.2001@gmail.com	A Member of the Public	Myself	Support	No	No	2/23/2021 3:50 PM
Warren, Joan	Warner, NH joanbcwarren@gmail.com	A Member of the Public	Myself	Support	No	No	2/23/2021 5:03 PM
Pelkey, Mary	Warner, NH, NH mar.pelkey@gmail.com	A Member of the Public	Myself	Support	No	No	2/23/2021 11:09 PM

# Testimony

**Archived:** Friday, March 5, 2021 10:03:59 AM  
**From:** [Jan Schmidt](#)  
**Sent:** Thursday, February 18, 2021 2:09:48 PM  
**To:** ~House Criminal Justice and Public Safety  
**Subject:** NH House Remote Testify: 2:30 pm - HB296 in House Criminal Justice and Public Safety  
**Importance:** Normal

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Honorable Committee Members,

It's well past time to establish the crime of unsolicited disclosure of an intimate image. Please find HB296 OTP/

Regards,  
Representative Jan Schmidt  
Proud Chair of the Nashua Delegation

At [Home: Tesha4@gmail.com](mailto:Tesha4@gmail.com)  
11 Pope Circle, Nashua NH 03063  
Hillsborough District 28, Ward 1 Nashua

In Concord: [Jan.Schmidt@leg.state.nh.us](mailto:Jan.Schmidt@leg.state.nh.us)  
NH House of Representatives  
Labor, Industrial, and Rehabilitative Services Committee  
Room 307 Legislative Office Building



Bill as  
Introduced



HB 296-FN - AS INTRODUCED

2021 SESSION

21-0473

04/08

HOUSE BILL            **296-FN**

AN ACT                establishing the crime of unsolicited disclosure of an intimate image.

SPONSORS:            Rep. Nutting-Wong, Hills. 32; Rep. Frost, Straf. 16

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill establishes the offense of unsolicited disclosure of an intimate image.

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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 establishing the crime of unsolicited disclosure of an intimate image.

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

1 1 New Section; Breaches of the Peace; Unsolicited Disclosure of an Intimate Image. Amend RSA  
2 644 by inserting after section 9-a the following new section:

3 644:9-b Unsolicited Disclosure of an Intimate Image.

4 I. In this section:

5 (a) "Intimate body parts" means the genitals, pubic area, or anus of any person.

6 (b) "Intimate image" means a photograph, film, videotape, recording, or any other  
7 reproduction of an image of an individual with fully or partially exposed intimate body parts or  
8 engaged in sexually explicit conduct.

9 (c) "Send by electronic device" means to send using a cellular telephone or any other  
10 electronic communication device, including devices capable of sending text messages or e-mails.

11 (d) "Sexually explicit conduct" shall have the same meaning as in RSA 649-A:2, III.

12 II. A person commits the offense of unsolicited disclosure of an intimate image when:

13 (a) He or she sends by electronic device an unsolicited intimate image depicting sexually  
14 explicit conduct to a recipient with the intent to harass, annoy, or alarm the recipient; and

15 (b) The person knows that the recipient has not consented to receiving the image, and  
16 the recipient has not consented to receiving the image; and

17 (c) The recipient was harassed, annoyed, or alarmed by the receipt of the image.

18 III. Any person who violates the provisions of this section shall be guilty of a violation for a  
19 first offense and a misdemeanor for a second or subsequent offense.

20 2 Effective Date. This act shall take effect January 1, 2022.

**HB 296-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT establishing the crime of unsolicited disclosure of an intimate image.

**FISCAL IMPACT:**     State             County             Local             None

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

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill contains penalties 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
Violation Level Offense	\$53	\$53
Class B Misdemeanor	\$55	\$55
Class A Misdemeanor	\$78	\$78
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. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney –	\$300/Case	\$300/Case

Misdemeanor		
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
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