

# Committee Report

**CONSENT CALENDAR**

**March 2, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Judiciary to which was referred HB  
453,**

**AN ACT shielding journalists from mandatory  
disclosure of sources by subpoena. Having considered  
the same, report the same with the following resolution:  
RESOLVED, that it is INEXPEDIENT TO LEGISLATE.**

**Rep. Joe Alexander**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Judiciary</b>
Bill Number:	<b>HB 453</b>
Title:	<b>shielding journalists from mandatory disclosure of sources by subpoena.</b>
Date:	<b>March 2, 2021</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### STATEMENT OF INTENT

The majority of the Judiciary Committee believes the existing system of disclosure of sources through subpoena is sufficient. The majority believes there is already a delicate balance between freedom of the press and disclosure through subpoena. This bill also does not define "journalist" and the majority is concerned that anyone could be defined as a journalist in certain situations. This bill would muddle up the already existing balance with freedom of the press.

Vote 18-2.

Rep. Joe Alexander  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Judiciary

**HB 453**, shielding journalists from mandatory disclosure of sources by subpoena. **INEXPEDIENT TO LEGISLATE.**

Rep. Joe Alexander for Judiciary. The majority of the Judiciary Committee believes the existing system of disclosure of sources through subpoena is sufficient. The majority believes there is already a delicate balance between freedom of the press and disclosure through subpoena. This bill also does not define "journalist" and the majority is concerned that anyone could be defined as a journalist in certain situations. This bill would muddle up the already existing balance with freedom of the press. **Vote 18-2.**

Original: House Clerk

Cc: Committee Bill File

# Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 453

**BILL TITLE:**     **shielding journalists from mandatory disclosure of sources by subpoena**

**DATE:**             **3/2/2021**

**LOB ROOM:**        **208/Remote**

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**MOTION: (Please check one box)**

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

Moved by Rep.   Alexander        Seconded by Rep.   Marjorie Smith        Vote:   18-2  

**MOTION: (Please check one box)**

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

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

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**CONSENT CALENDAR:**       XX   YES            \_\_\_\_\_ NO

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

Respectfully submitted:     \_\_\_\_\_ *Kurt Wuelper* \_\_\_\_\_  
Rep Kurt Wuelper, Clerk

STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK



1/22/2021 10:07:24 AM  
Roll Call Committee Registers  
Report

2021 SESSION

Judiciary

Bill #: **HB 453** Motion: ITL AM #: \_\_\_\_\_ Exec Session Date: 3/2/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
<b>Gordon, Edward M. Chairman</b>			
<b>McLean, Mark Vice Chairman</b>	1		
<b>Sylvia, Michael J.</b>	2		
<b>Wuelper, Kurt F. Clerk</b>	3	1	
<b>Alexander, Joe H.</b>	4		
<del><b>Rice, Kimberly A.</b></del>			
<del>Silber, Norman J.</del> <b>Smith, Steven</b>	5		
<b>Greene, Bob J.</b>			
<b>Kelley, Diane E.</b>			
<b>Tausch, Lindsay</b>			
<b>Trottier, Douglas R.</b>			
<b>Smith, Marjorie K.</b>			
<b>Berch, Paul S.</b>			
<b>Horrigan, Timothy O.</b>			
<b>DiLorenzo, Charlotte I.</b>			
<b>Chase, Wendy</b>			
<b>Kenney, Cam E.</b>		2	
<b>Langley, Diane M.</b>			
<b>McBeath, Rebecca Susan</b>			
<b>Paige, Mark</b>			
<b>Simpson, Alexis</b>			
<b>TOTAL VOTE:</b>	<b>18</b>	<b>2</b>	

Rep Kurt Wuelper *Kurt Wuelper*

# Public Hearing



HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 453

**BILL TITLE:** shielding journalists from mandatory disclosure of sources by subpoena.

**DATE:**2/26/2021

**LOB ROOM:** 208/Remote      **Time Public Hearing Called to Order:** 9:35 AM  
**Time Adjourned:** 9:53 AM

AM

**Committee Members:** Reps. Gordon, McLean, Wuelper, Sylvia, Alexander Jr., Rice, Silber, Greene, D. Kelley, Tausch, Trottier, M. Smith, Berch, Horrigan, DiLorenzo, Chase, Kenney, Langley, McBeath, Paige and Simpson

**Bill Sponsors:** Rep Reed

Blue sheet    Support 8 Oppose 3

TESTIMONY

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

**\*Rep. Reed**            The media can have a huge influence on public opinion and, thereby, a heavy influence on the political process which is inherently vulnerable. The media is absolutely linked to the functioning of our Democracy and our ability to have a check on our government. Freedom of the press is essential. It is critical that journalists have access to sources, particularly when the subject may be harmful to the government. If we pass the bill as it stands, we will join 17 states that have this broad protection for journalists. My goal is to have some protection for journalists, not necessarily as broad as this bill. I would be happy to work on an amendment to address specific concerns like, 'Does a journalist have to be paid' and others. As far as I know, NH has no problem today, but we need these protections in place to ensure we protect our t=rights. There are unenumerated rights which need protection. Q Gordon: Do you consider a blogger a journalist? A I want to protect the journalistic community and will leave it to the committee to define just where the boundary is. AQ Berch: Are you saying the committee should flesh out your idea? A No, I just ask the committee to take the bill seriously. If you don't have time to make the needed changes, I ask you to retain gthe bill. Q Simpson: Do you have a sense of when the the press Association would help you out? A Yes, but I haven't made that contact yet. Q Do you know if this is pressing for them as a group? A There is no Federal shield law. I don't know the NH press fins this a critical issue now, but I think we should be proactively protecting our freedoms.

**Mailyn Fiddler**       Reporters Committee for Freedom of eh Press Support       the Reporters committee supports shield laws across the country. These laws are important because journalists depend on them to protect their sources. Many major events in our country have been driven v=by confidentiality. Here in NH, reporting on Covid has been in this category. These laws protect not only professionals, but all those who may enter into the reporting arena. Q Simpson: Do the 39 states that have them where did they come from? A I think it was probably a mixture of principles and danger for journalists. Q Berch: Are you saying you support this bill as written? A We don't think it needs amendment, but we would support an amended bill as well. Q Gordon: Attorney client privilege is not unrestricted, but this seems to be absolute. Is that the intent of the bill? A The best shield laws do provide an absolute privilege.



Rep Kurt Wuelper

# House Remote Testify

## Judiciary Committee Testify List for Bill HB453 on 2021-02-26

Support: 9 Oppose: 3 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>
Fidler, Mailyn	Wasington, DC mfidler@rcfp.org	A Member of the Public	Reporters Committee for Freedom of the Press	Support	Yes (3m)	No	2/25/2021 12:28 PM
Mennella, Alexandra	Hooksett, NH amennella1@protonmail.com	A Member of the Public	Myself	Oppose	No	No	2/25/2021 6:28 PM
Read, Ellen	Newmarket, NH ellen4nh@gmail.com	An Elected Official	Rockingham 17	Support	No	No	2/26/2021 8:33 AM
Baiocchetti, Vincent	Gilmanton, NH va3@metrocast.net	A Member of the Public	Myself	Oppose	No	No	2/25/2021 8:42 PM
Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Support	No	No	2/20/2021 1:55 PM
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Support	No	No	2/21/2021 2:49 PM
Howland, Curt	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No	2/21/2021 7:51 PM
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Support	No	No	2/21/2021 10:46 PM
Zaenglein, Barbara	Amherst, NH bzaenglein@gmail.com	A Member of the Public	Myself	Support	No	No	2/22/2021 7:39 AM
Zaenglein, Eric	Amherst, NH henley11@comcast.net	A Member of the Public	Myself	Support	No	No	2/22/2021 7:40 AM
Chase, Valerie	GILFORD, NH valerieachase@gmail.com	A Member of the Public	Myself	Support	No	No	2/25/2021 3:49 PM
Groetzinger, Tonda	Farmington, NH groetzinger6@aol.com	A Member of the Public	Myself	Oppose	No	No	2/25/2021 2:12 PM

# Testimony



749 E. Industrial Park Dr. Manchester, NH 03109 / [www.pressnh.org](http://www.pressnh.org) / [info@pressnh.org](mailto:info@pressnh.org)

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## **New Hampshire Press Association takes no position on House Bill 453**

Honorable members of the House Judiciary Committee.

The New Hampshire Press Association takes no position on HB 453, which would create a shield law for New Hampshire journalists.

While the Press Association supports the principle of protecting journalists from being forced to reveal their sources, we were not consulted on HB 453's creation and only became aware of its existence too late to ensure its language serves the best interests of our members.

Therefore, the Press Association is not comfortable recommending either its passage or defeat.

### **The New Hampshire Press Association**

#### **Officers**

President Howard Altschiller  
Executive Editor Seacoast Media Group

Vice President: Mark Guerringue  
Publisher Conway Daily Sun

Secretary Melanie Plenda  
Project Manager Granite State News Collaborative

Assistant Secretary Vanessa Palange  
Valley News

Treasurer Geoff Forester  
Photo Editor Concord Monitor

Assistant Treasurer David Brooks  
Concord Monitor

#### **Board Members**

Nancy West - Executive Editor, InDepthNH.org

Matt Burdette - Publisher/Editor, Nashua Telegraph

Dan Tuohy - Digital Engagement Producer, New Hampshire Public Radio

Keith Gentili - Publisher/Editor, The New Boston Beacon

Brendan McQuaid - President, New Hampshire Union Leader

Michael Casey - Associated Press

Rosemary Ford - Editor, Eagle-Tribune/Derry News

Sarah Pearson - Features Editor, Concord Monitor

Carol Robidoux - Publisher/Editor, Manchester Ink Link

Bill as  
Introduced

HB 453 - AS INTRODUCED

2021 SESSION

21-0645  
06/04

HOUSE BILL **453**

AN ACT shielding journalists from mandatory disclosure of sources by subpoena.

SPONSORS: Rep. Read, Rock. 17

COMMITTEE: Judiciary

ANALYSIS

This bill protects journalists from having to disclose their sources under subpoena.

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.

21-0645  
06/04

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT shielding journalists from mandatory disclosure of sources by subpoena.

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

- 1 New Section; Journalists. Amend RSA 516 by inserting after section 35 the following new section:  
516:35-a Journalists. A journalist shall not be mandated by subpoena to disclose his or her sources of information unless the person providing the information waives the privilege.
- 2 Effective Date. This act shall take effect January 1, 2022.