

Bill as
Introduced

HB 239-FN - AS INTRODUCED

2021 SESSION

21-0185
04/10

HOUSE BILL **239-FN**
AN ACT relative to prosecutions for certain assaults against minors.
SPONSORS: Rep. Abramson, Rock. 37; Rep. Ankarberg, Straf. 10
COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill changes the statute of limitations for the prosecution of first degree and second degree assault offenses.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to prosecutions for certain assaults against minors.

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

- 1 1 New Subparagraph; Criminal Code; Limitations. Amend RSA 625:8, I by inserting after
- 2 subparagraph (f) the following new subparagraph:
- 3 (g) Notwithstanding subparagraphs (a) and (b), for any offense under RSA 631:1 or RSA
- 4 631:2, within 6 years of the victim's eighteenth birthday.
- 5 2 Effective Date. This act shall take effect January 1, 2022.

**HB 239-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to prosecutions for certain assaults against minors.

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 Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source:</i>	<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 Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill changes the statute of limitations for the prosecution of first degree and second degree assault offenses. 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
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
Contract Attorney – Major	\$2,490/Case	\$2,490/Case

Crimes (aggravated felonious sexual assault, felonious sexual assault and first degree assault)		
Assigned Counsel – Major Crimes (aggravated felonious sexual assault, felonious sexual assault and first degree assault)	\$100/Hour up to \$8,000	\$100/Hour up to \$8,000
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

HB 239-FN - AS AMENDED BY THE SENATE

04/29/2021 1224s

2021 SESSION

21-0185

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HOUSE BILL

239-FN

AN ACT

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SPONSORS:

Rep. Abramson, Rock. 37; Rep. Ankarberg, Straf. 10

COMMITTEE:

Criminal Justice and Public Safety

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AS AMENDED BY THE SENATE (AMENDMENT #2021-1224s)

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AGENCIES CONTACTED:

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

HB 239-FN - FINAL VERSION

04/29/2021 1224s
24Jun2021... 2032CofC

2021 SESSION

21-0185
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24Jun2021... 2032CofC

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4 6 years of the victim's eighteenth birthday.

5 (h) Notwithstanding subparagraphs (a) and (b), for any offense under RSA 631:2, within
6 6 years of the date the offense was committed or within 3 years of the victim's eighteenth birthday,
7 whichever is greater.

8 2 Effective Date. This act shall take effect January 1, 2022.

9 VETOED 8/10/21

HB 239-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2021-1224s)

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AGENCIES CONTACTED:

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

Amendments

Sen. Carson, Dist 14
April 27, 2021
2021-1224s
04/10

Floor Amendment to HB 239-FN

1 Amend the bill by replacing section 1 with the following:

2

3 1 New Subparagraph; Criminal Code; Limitations. Amend RSA 625:8, I by inserting after
4 subparagraph (f) the following new subparagraph:

5 (g) Notwithstanding subparagraphs (a) and (b), for any offense under RSA 631:1 or RSA
6 631:2, within 3 years of the victim's eighteenth birthday.

Committee Minutes

**AMENDED
SENATE CALENDAR NOTICE
Judiciary**

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: April 7, 2021

HEARINGS

Tuesday	04/13/2021		
(Day)	(Date)		
Judiciary	REMOTE 000		1:00 p.m.
(Name of Committee)	(Place)		(Time)
1:00 p.m.	HB 108-FN-LOCAL	relative to minutes and decisions in nonpublic sessions under the right-to-know law.	
1:15 p.m.	HB 178-FN	relative to the parole of prisoners and the procedures of the adult parole board.	
1:30 p.m.	HB 239-FN	relative to prosecutions for certain assaults against minors.	
1:45 p.m.	HB 270-FN	relative to post-conviction DNA testing.	
2:00 p.m.	HB 296-FN	establishing the crime of unsolicited disclosure of an intimate image.	
2:15 p.m.	HB 615-FN	reducing the penalty for certain first offense drug possession charges.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/91749966342>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: +13017158592,,91749966342# or +13126266799,,91749966342#
4. Webinar ID: **917 4996 6342**
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtriRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 108-FN-LOCAL

Rep. Ulery

Rep. Spillane

Rep. McGuire

Rep. T. Lemas

HB 178-FN

Rep. Abbas

Sen. Daniels

HB 239-FN

Rep. Abramson

Rep. Ankarberg

HB 270-FN

Rep. Conley

Rep. Schapiro

Rep. Moran

Rep. Cushing

HB 296-FN

Rep. Nutting-Wong

Rep. Frost

HB 615-FN

Rep. Seaworth

Rep. Verville

Rep. Potucek

Rep. Conley

Rep. Roy

Sen. Reagan

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 239-FN, relative to prosecutions for certain assaults against minors.

Hearing Date: April 13, 2021

Time Opened: 1:39 p.m.

Time Closed: 1:45 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill changes the statute of limitations for the prosecution of first degree and second degree assault offenses.

Sponsors:

Rep. Abramson

Rep. Ankarberg

Who supports the bill: Rep. Abramson; Eric Pauer

Who opposes the bill: No one

Summary of testimony presented in support:

Representative Abramson

- This bill extends the statute of limitations for an attack of someone under the age 18.
- Right now, if someone commits felony level assault, first or second degree, against a ten-year-old child the statute of limitations runs out when that child is 16.
- NH currently has statutes of limitations that do not start until a victim turns 18.
- The NH Supreme Court has given good reasoning for the need for statutes of limitations.
- The problem of having a statute of limitations start for victims that are very young at the time of the attack is that children do not understand how the statute works, who to report it to, how to tell someone, and often their attacker it is either a relative, teacher, or an authority figure.
- Often there is not a realistic opportunity for the victim to come forward because they may still live with their attacker.

- It makes sense, as with felony sexual assault, that the clock does not start on the statute of limitations until the victim turns 18 for first- and second-degree assault.
- This bill is meant to deter people from doing this by having a long statute of limitations.
- There are criminals who specifically target victims they know will have a hard time coming forward, like children.

Summary of testimony presented in opposition:

None

jch

Date Hearing Report completed: April 14, 2021

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB239 on 2021-04-13

Support: 2 Oppose: 0 Neutral: 0 Total to Testify: 1

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Abramson, Max	Max.Abramson@leg.state.nh.us	Not Given	An Elected Official	Myself	Support	Yes	4/7/2021 9:05 PM
Pauer, Eric	secretary@BrooklineGOP.org	603.732.8489	A Member of the Public	Myself	Support	No	4/12/2021 12:35 PM

Testimony

Jennifer Horgan

From: Max Abramson <MaxAbramson@gmx.com>
Sent: Wednesday, April 21, 2021 8:22 PM
To: Sharon Carson; William Gannon; Harold French; Becky Whitley; Jay Kahn; Jennifer Horgan
Cc: Aidan Ankarberg
Subject: HB239, statute of limitations for felony assault on someone under 18

Madam Chair and members of the Senate Judiciary Committee:

I've just received an automated message that HB239 was voted ITL out of committee, though the Senate Calendar has not come out yet with the report. I was sure that this must be some kind of typo.

I'm not sure why anyone would vote against a bill that holds the clock for the statute of limitations until the victim has reached age 18. We do the same if someone is accused of felony sexual assault against a minor and have not had problems reported with that law.

With the obvious need to deter violent attacks on young children, not one member of the House mentioned a word in opposition to this bill. In fact, HB239 passed the House Criminal Justice Committee unanimously--twice. The bill has been placed on the House Consent Calendar--twice. The measure has never received even a word of opposition, and would be an important update to the law on statutes of limitations. More importantly, those who target children because they're less likely to report crimes to the police would have to think twice.

HB239 only applies to cases where someone has caused serious bodily injury to a victim under 18, usually with a weapon. Not all such injuries result in hospitalization, and many of these cases end up being lost only because the victim is afraid or unable to come forward. If the committee's concern is that the attacker may also be under 18, keep in mind that we have provisions in place right now to address juvenile crimes. As always, I'm open to amendment, but feel that this bill is a necessary step for bolstering the deterrence against criminals who might violently attack children in our state.

I would ask that members of the committee speak with any prosecutor in the state before voting against this bill.

Rep. Max Abramson

Free Chad Evans. There is justice in Heaven, and there is justice in Hell. Both are therefore a law abider's utopia's compared to this monstrosity that our taxpayers are compelled to prop up.

"The problem isn't that Johnny can't read. The problem isn't even that Johnny can't think. The problem is that Johnny doesn't know what thinking is; he confuses it with feeling." --Thomas Sowell

"It is better to take refuge in the Lord than to trust in man." --Psalms 118:8

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB239

Hearing date: _____

Executive Session date: _____

Motion of: ITL Vote: 3-2

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Motion of: _____ Vote: _____

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Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Motion of: _____ Vote: _____

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Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Carson

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Wednesday, April 21, 2021

THE COMMITTEE ON Judiciary

to which was referred **HB 239-FN**

AN ACT relative to prosecutions for certain assaults against
minors.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 3-2

Senator Sharon Carson
For the Committee

Jennifer Horgan 271-7875

JUDICIARY

HB 239-FN, relative to prosecutions for certain assaults against minors.

Inexpedient to Legislate, Vote 3-2.

Senator Sharon Carson for the committee.

General Court of New Hampshire - Bill Status System

Docket of HB239

Docket Abbreviations

Bill Title: relative to prosecutions for certain assaults against minors.**Official Docket of HB239.:**

Date	Body	Description
1/9/2021	H	Introduced (in recess of) 01/06/2021 and referred to Criminal Justice and Public Safety HJ 2 P. 40
3/1/2021	H	Public Hearing: 03/01/2021 11:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/93127871930 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/2/2021	H	Committee Report: Ought to Pass (Vote 20-0; CC) HC 18 P. 6
4/7/2021	H	Ought to Pass: MA VV 04/07/2021 HJ 5 P. 7
4/7/2021	H	Reconsider (Rep. Osborne): MF VV 04/07/2021 HJ 5 P. 50
4/7/2021	S	Introduced 04/01/2021 and Referred to Judiciary; SJ 11
4/8/2021	S	Remote Hearing: 04/13/2021, 01:30 pm; Links to join the hearing can be found in the Senate Calendar; SC 19
4/21/2021	S	Committee Report: Inexpedient to Legislate, 04/29/2021; SC 21
4/29/2021	S	Inexpedient to Legislate, RC 0Y-24N, MF; 04/29/2021; SJ 13
4/29/2021	S	Sen. Carson Moved Ought to Pass; 04/29/2021; SJ 13
4/29/2021	S	Sen. Carson Floor Amendment #2021-1224s, RC 24Y-0N, AA; 04/29/2021; SJ 13
4/29/2021	S	Ought to Pass with Amendment 2021-1224s, RC 24Y-0N, MA; OT3rdg; 04/29/2021; SJ 13
6/8/2021	H	House Non-Concurs with Senate Amendment 2021-1224s and Requests CofC (Reps. Abbas, Rhodes, Wallace, Harriott-Gathright): MA VV 06/04/2021 HJ 9 P. 53
6/10/2021	S	Sen. Carson Accedes to House Request for Committee of Conference, MA, VV; 06/10/2021; SJ 19
6/10/2021	S	President Appoints: Senators Carson, French, Whitley; 06/10/2021; SJ 19
6/14/2021	H	Conferee Change: Rep. R. Newman Replaces Rep. Harriott-Gathright 06/10/2021 HJ 10 P. 22
6/16/2021	H	Conference Committee Meeting: 06/16/2021 10:00 am LOB 201-203
6/17/2021	S	Conference Committee Report Filed, #2021-2032c; 06/24/2021
6/24/2021	S	Conference Committee Report #2021-2032c, Adopted, VV; 06/24/2021; SJ 20
6/24/2021	H	Conference Committee Report 2021-2032c: Adopted, VV 06/24/2021
7/28/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
7/28/2021	H	Enrolled (in recess of) 06/24/2021
8/11/2021	H	Vetoed by Governor Sununu 08/10/2021

NH House

NH Senate

Other Referrals

1 Committee of Conference Report on HB 239-FN, relative to prosecutions for certain assaults against
2 minors.

3

4 Recommendation:

5

6 That the House recede from its position of nonconcurrence with the Senate amendment, and
7 concur with the Senate amendment, and

8 That the Senate and House adopt the following new amendment to the bill as amended by the
9 Senate, and pass the bill as so amended:

10

11 Amend the bill by replacing section 1 with the following:

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15 (g) Notwithstanding subparagraphs (a) and (b), for any offense under RSA 631:1, within
16 6 years of the victim's eighteenth birthday.

17 (h) Notwithstanding subparagraphs (a) and (b), for any offense under RSA 631:2, within
18 6 years of the date the offense was committed or within 3 years of the victim's eighteenth birthday,
19 whichever is greater.

Committee of Conference Report on HB 239-FN

- Page 2 -

The signatures below attest to the authenticity of this Report on HB 239-FN, relative to prosecutions for certain assaults against minors.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Carson, Dist. 14

Rep. Abbas, Rock. 8

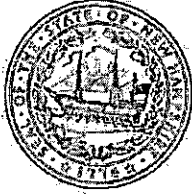
Sen. French, Dist. 7

Rep. Rhodes, Ches. 15

Sen. Whitley, Dist. 15

Rep. Wallace, Rock. 12

Rep. R. Newman, Hills. 29



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

August 10, 2021

Governor's Veto Message Regarding House Bill 239

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on August 10th, 2021, I have vetoed House Bill 239, relative to prosecutions for certain assaults against minors.

Occasionally, well-intentioned legislation can fall apart because of a few misplaced words or technical language that was left out. Unfortunately House Bill 239 contains a fatal flaw that must prevent it from moving forward. I support the legislative intent to extend the statute of limitations for juvenile victims of first-degree and second-degree assault. However, this bill presents severe negative consequences that could greatly hinder ANY prosecution of first-degree assault in New Hampshire.

In a letter dated August 6, 2021, the Attorney General and each of New Hampshire's 10 County Attorneys detailed their concerns with House Bill 239. This bill fails to make clear that the extension of the statute of limitations for prosecutions under RSA 631:1 to a victim's twenty-fourth birthday only applies to juvenile victims. Consequently, as the letter states, the bill "...could readily be interpreted to preclude any prosecution for a crime under RSA 631:1 beyond a victim's twenty-fourth birthday. As such, cases under RSA 631:1 with adult victims over twenty-four years of age simply would not be able to be charged or prosecuted."

I encourage the legislature to address the concerns raised by the Attorney General and New Hampshire's County Attorneys in legislation next year. The letter recommends amendments necessary to ensure the legislative intent of House Bill 239 can be successfully implemented and I will be supportive of such a bill.

For the reasons stated above, I have vetoed House Bill 239.

Respectfully submitted,

A handwritten signature in black ink that reads "Christopher T. Sununu".

Christopher T. Sununu
Governor

Senate Inventory Checklist for Archives

Bill Number: HB 239

Senate Committee: Jud

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # ___ ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # 1224 ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate ___ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Jennifer Horgan
Committee Aide

8/12/21
Date

Senate Clerk's Office AK