

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

ANALYSIS

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

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 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 |
| Appropriation | \$0 | \$0 | \$0 | \$0 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |
| 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 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

HB 296-FN - AS AMENDED BY THE SENATE

05/13/2021 1147s

05/13/2021 1470s

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

ANALYSIS

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

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.

HB 296-FN - AS AMENDED BY THE SENATE

05/13/2021 1147s

05/13/2021 1470s

21-0473

04/08

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) The person sends by electronic device an unsolicited intimate image depicting
14 sexually explicit conduct to a recipient with the intent to harass 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 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 if the court finds that the person
20 has previously been convicted of a violation of this section at the time of the subsequent act.

21 2 Effective Date. This act shall take effect January 1, 2022.

HB 296-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENTS #2021-1147s and #2021-1470s)

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 |
| Appropriation | \$0 | \$0 | \$0 | \$0 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |
| 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 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

Amendments

Sen. Carson, Dist 14
April 15, 2021
2021-1141s
04/05

Amendment to HB 296-FN

1 Amend RSA 644:9-b, III as inserted by section 1 of the bill by replacing it with the following:

2

3 III. Any person who violates the provisions of this section shall be guilty of a violation for a
4 first offense, and a misdemeanor for a second or subsequent offense if the court finds that the person
5 has previously been convicted of a violation of this section at the time of the subsequent act.

UNAPPROVED

Senate Judiciary
April 15, 2021
2021-1147s
04/05

Amendment to HB 296-FN

1 Amend RSA 644:9-b, III as inserted by section 1 of the bill by replacing it with the following:

2

3 III. Any person who violates the provisions of this section shall be guilty of a violation for a
4 first offense, and a misdemeanor for a second or subsequent offense if the court finds that the person
5 has previously been convicted of a violation of this section at the time of the subsequent act.

Sen. Giuda, Dist 2
April 28, 2021
2021-1230s
04/10

Floor Amendment to HB 296-FN

1 Amend RSA 644:9-b, III as inserted by section 1 of the bill by replacing it with the following:

2

3 III. Except as provided in paragraph IV, a person who violates the provisions of this section
4 shall be guilty of a violation for a first offense and a misdemeanor for a second or subsequent offense.

5 IV. A person who violates the provisions of this section by sending an unsolicited intimate
6 image to a person under 18 years of age shall be guilty of a class A misdemeanor for a first offense
7 and a class B felony for a second or subsequent offense.

Sen. Hennessey, Dist 1
May 13, 2021
2021-1470s
04/08

Floor Amendment to HB 296-FN

1 Amend RSA 644:9-b, II as inserted by section 1 of the bill by replacing it with the following:

2

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

4 (a) The person sends by electronic device an unsolicited intimate image depicting
5 sexually explicit conduct to a recipient with the intent to harass the recipient; and

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

8 (c) The recipient was harassed by the receipt of the image.

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](https://www.zoom.us/j/91749966342)
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. Lekas

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 296-FN, establishing the crime of unsolicited disclosure of an intimate image.

Hearing Date: April 13, 2021

Time Opened: 2:02 p.m.

Time Closed: 2:10 p.m.

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

Members of the Committee Absent : None

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

Sponsors:

Rep. Nutting-Wong

Rep. Frost

Who supports the bill: Rep. Nutting-Wong; Rep. Murray; Rep. Amanda Bouldin; Rep. Andrew Bouldin; Rep. Grote; Nancy Brennan; Randy Hayes; Karen Dewey; Jeanne Torpey; Susan Richman; Mary Schissel; Ann Garland; Cheri Falk; Claudia Istel; Patricia Anastasia; Derek Edry; Catherine Goldwater; Claudia Damon; Louse Spencer; Leslie MacGregor; Janie Vien; Nancy Jachim; Melissa Hinebauch; Manny Espitia; Janet Brookmeyer; Susan Covert; Denise Clark; Elizabeth-Anne Platt; Maureen Ellermann; Richard DeMark; Amanda Toll; Linda Douville; Kathy Spielman; Helmut Koch; Gail Laker-Phelps; Linda Harriott-Gathright; Laura Aronson; Sophia Biondolillo, New Hampshire High School Democrats; Amy Cranage; Annie Rettew; Walter King; Susan Bruce; David Bates; Elizabeth Fenner-Lukaitis; Janet Lucas; Barbara Reed

Who opposes the bill: No one

Summary of testimony presented in support:

Representative Nutting-Wong

- This bill establishes the offense of unsolicited disclosure of an intimate image, which is more commonly known as cyber flashing.
- This would make the unsolicited sending of genitalia via electronic device a violation, with multiple offenses being a class A misdemeanor punishable by a fine of up to \$1,000.
- This would be placed in the harassment laws, as cyber flashing is harassment.

- It is illegal to flash someone in person and therefore it should also be so virtually.
- A study from the Journal of Sex Research found that about half of the men in the study admitted to sending unsolicited pictures.
- 10% of these senders agreed that sending these images gives them a feeling of control over the person they sent it to.
- Nearly 6% agreed that they feel a sense of dislike towards women and sending these images is satisfying.
- The action of sending these images is harassment with nearly no recourse for the people who receive them.
- Indecent exposure is a similar crime, often with no proof, and with similar recourses as outline in this bill.
- Senator French asked if it is a harsher penalty if the image goes to a minor under this.
 - Believes that is already a felony under the law.
- Senator Kahn asked if there is another statute dealing with revealing photos where a person is partially clothed.
 - There is a Revenge Porn Law where it is a crime for someone to send an image of someone else.
 - Attorney Lehmann answered that that statute is RSA 644:9-a.
- Senator Carson asked if this can be used as a defense when someone has been caught with child pornography images on their computer and they say they were unsolicited.
 - Has not thought of that but would certainly hope it would not come up.

Summary of testimony presented in opposition:

None

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB296 on 2021-04-13

Support: 46 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> |
|-----------------------|-------------------------------------|--------------|------------------------|--------------------------------|-----------------|-------------------|--------------------|
| Nutting-Wong, Allison | allison.nuttingwong@leg.state.nh.us | 603.809.0560 | An Elected Official | Hillsborough 32 (also sponsor) | Support | Yes | 4/12/2021 7:02 PM |
| Brennan, Nancy | burningnan14@gmail.com | Not Given | A Member of the Public | Myself | Support | No | 4/12/2021 7:03 PM |
| Hayes, Randy | rcompostr@gmail.com | Not Given | A Member of the Public | Myself | Support | No | 4/12/2021 8:01 PM |
| Dewey, Karen | pkdewey@comcast.net | 603.504.2813 | A Member of the Public | Myself | Support | No | 4/12/2021 8:15 PM |
| Torpey, Jeanne | Not Given | Not Given | A Member of the Public | Myself | Support | No | 4/12/2021 8:25 PM |
| Richman, Susan | susan7richman@gmail.com | 603.868.2758 | A Member of the Public | Myself | Support | No | 4/12/2021 8:28 PM |
| Schissel, Mary | schissell@comcast.net | 603.863.7323 | A Member of the Public | Myself | Support | No | 4/12/2021 8:34 PM |
| Garland, Ann | annhgarland@gmail.com | 603.678.8143 | A Member of the Public | Myself | Support | No | 4/12/2021 9:37 PM |
| Falk, Cheri | Falk.cj@gmail.com | 603.654.2777 | A Member of the Public | Myself | Support | No | 4/12/2021 10:01 PM |
| Istel, Claudia | claudia@sover.net | Not Given | A Member of the Public | Myself | Support | No | 4/12/2021 11:37 PM |
| Anastasia, Patricia | patti@paitianastasia.com | Not Given | A Member of the Public | Myself | Support | No | 4/12/2021 11:50 PM |
| Murray, Megan | Not Given | Not Given | An Elected Official | Hills. 22 | Support | No | 4/13/2021 6:20 AM |
| Edry, Derek | Not Given | Not Given | A Member of the Public | Myself | Support | No | 4/13/2021 6:23 AM |
| Goldwater, Catherine | cathy.goldwater@gmail.com | 603.860.3756 | A Member of the Public | Myself | Support | No | 4/13/2021 6:26 AM |
| Damon, Claudia | Cordsdamon@gmail.com | Not Given | A Member of the Public | Myself | Support | No | 4/12/2021 10:23 PM |
| Grote, Jaci | Jaci.Grote@leg.state.nh.us | Not Given | An Elected Official | Myself | Support | No | 4/12/2021 10:27 PM |
| Spencer, Louise | lpskentstreet@gmail.com | 603.491.1795 | A Member of the Public | Myself | Support | No | 4/12/2021 10:28 PM |
| MacGregor, Leslie | Not Given | Not Given | A Member of the Public | Myself | Support | No | 4/13/2021 6:39 AM |
| Vien, Janice | sljv@comcast.net | 603.863.1798 | A Member of the Public | Myself | Support | No | 4/13/2021 6:56 AM |
| Jachim, Nancy | Not Given | Not Given | A Member of the Public | Myself | Support | No | 4/13/2021 6:57 AM |
| Hinebauch, Melissa | melhinebauch@gmail.com | 603.224.4866 | A Member of the Public | Myself | Support | No | 4/12/2021 10:53 PM |
| Espitia, Manny | manuel.espitia11@gmail.com | Not Given | An Elected Official | Myself | Support | No | 4/12/2021 11:19 PM |
| Brookmeyer, Janet | brookmeyermusic@gmail.com | 603.667.1356 | A Member of the Public | Myself | Support | No | 4/13/2021 7:04 AM |
| Covert, Susan | scovert@comcast.net | 603.746.4486 | A Member of the Public | Myself | Support | No | 4/13/2021 7:13 AM |
| Clark, Denise | denise.m.clark03055@gmail.com | 603.213.1692 | A Member of the Public | Myself | Support | No | 4/13/2021 7:48 AM |
| Platt, Elizabeth-Anne | lizanneplatt09@gmail.com | 603-715-8191 | A Member of the Public | Myself | Support | No | 4/13/2021 7:48 AM |
| Ellermann, Maureen | Not Given | Not Given | A Member of the Public | Myself | Support | No | 4/13/2021 7:48 AM |

| | | | | | | | |
|----------------------------|---|--------------|------------------------|-------------------------------------|---------|----|--------------------|
| DeMark, Richard | demarknh114@gmail.com | 603.520.5582 | A Member of the Public | Myself | Support | No | 4/13/2021 7:50 AM |
| Toll, Amanda | electamandanh@gmail.com | 603.860.1994 | An Elected Official | Myself | Support | No | 4/13/2021 8:02 AM |
| Douville, Linda | Not Given | Not Given | A Member of the Public | Myself | Support | No | 4/13/2021 8:02 AM |
| Spielman, Kathy | jspielman@comcast.net | 603.397.7879 | A Member of the Public | Myself | Support | No | 4/13/2021 8:19 AM |
| Koch, Helmut | helmut.koch.2001@gmail.com | 603.491.3306 | A Member of the Public | Myself | Support | No | 4/13/2021 8:40 AM |
| Laker-Phelps, Gail | lpsart@tds.net | 603.798.5394 | A Member of the Public | Myself | Support | No | 4/13/2021 10:15 AM |
| Harriott-Gathright, Linda | linda.HarriottGathright@leg.state.nh.us | 16038804537 | An Elected Official | Myself | Support | No | 4/13/2021 10:26 AM |
| Aronson, Laura | Not Given | Not Given | A Member of the Public | Myself | Support | No | 4/13/2021 9:18 PM |
| Bouldin, Amanda | amanda.bouldin@leg.state.nh.us | 603.494.8689 | An Elected Official | Hillsborough District 12 | Support | No | 4/13/2021 1:41 PM |
| Biondolillo, Sophia | sophiabiondolillo@gmail.com | Not Given | A Member of the Public | New Hampshire High School Democrats | Support | No | 4/13/2021 1:41 PM |
| Bouldin, Andrew | andrew.bouldin@leg.state.nh.us | 603.397.7526 | An Elected Official | Hillsborough District 12 | Support | No | 4/13/2021 1:43 PM |
| Cranage, Amy | cranhan@comcast.net | 603.252.8531 | A Member of the Public | Myself | Support | No | 4/13/2021 4:47 PM |
| Rettew, Annie | abrettew@gmail.com | Not Given | A Member of the Public | Myself | Support | No | 4/13/2021 6:05 PM |
| King, Walter | genedocwk@comcast.net | 603.978.9775 | A Member of the Public | Myself | Support | No | 4/13/2021 10:01 PM |
| Bruce, Susan | susanb.red@mac.com | Not Given | A Member of the Public | Myself | Support | No | 4/10/2021 10:27 AM |
| Bates, David | dbates3@yahoo.com | 603.748.2668 | A Member of the Public | Myself | Support | No | 4/11/2021 1:41 PM |
| Fenner-Lukaitis, Elizabeth | glukaitis@mcttelecom.com | Not Given | A Member of the Public | Myself | Support | No | 4/11/2021 3:02 PM |
| Lucas, Janet | janluca1953@gmail.com | 16037267614 | A Member of the Public | Myself | Support | No | 4/12/2021 7:39 AM |
| Reed, Barbara D. | BDRreed74@gmail.com | Not Given | A Member of the Public | Myself | Support | No | 4/12/2021 9:01 PM |

Testimony

Jennifer Horgan

From: Allison NuttingWong
Sent: Tuesday, April 13, 2021 3:00 PM
To: ~Senate Judiciary Committee
Subject: My testimony on HB296

Hello Members of the Judiciary Committee,
Below is a copy of my testimony from today's hearing. I'd like to further address the questions I received.

The revenge pornography law is: RSA 644:9-a, Nonconsensual dissemination of private sexual images.

Sending lewd images to minors is part of RSA 645:1-c, Indecent Exposure and Lewdness. RSA 645:1-C, states that is a class B felony if- "Such person purposely transmits to a child who is less than 16 years of age, or an individual whom the actor reasonably believes is a child who is less than 16 years of age, an image of himself or herself fornicating, exposing his or her genitals, or performing any other act of gross lewdness."

Testimony below-

I am Representative Allison Nutting-Wong, representing Nashua's Ward 5, and I am here to introduce HB-296, establishing the crime of unsolicited disclosure of an intimate image.

This is more commonly known as cyberflashing.

This bill, if it were to become law, would make 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.

I have received these unsolicited intimate images before, and it is incredibly violating. It's illegal to flash someone in person, and I believe that it should also be illegal to do so digitally.

There was a study done by Flora Oswald, Alex Lopes, Kaylee Skoda, Cassandra L. Hesse & Cory L. Pedersen in the *Journal of Sex Research*, titled "I'll Show You Mine so You'll Show Me Yours: Motivations and Personality Variables in Photographic Exhibitionism." This study found that about half of the men in the study admitted to sending unsolicited pictures. Most of the men sent the pictures in hopes of receiving a picture back, or to entice a partner. However, about 10% of the unsolicited senders agreed with the statement "Sending dick pics gives me a feeling of control over the person that I have sent it to," and nearly 6% agreed that "I feel a sense of dislike towards women and sending dick pics is satisfying."

Regardless of the reason for sending, the action of sending these images is harassment, with nearly no recourse for the people who receive them. When I receive a message or email, I expect to have a conversation, not sent graphic images with no warning. These images are often sent without prior contact purely to get a response. When I've received one, the advice I'm given is to block the sender. Indecent exposure is a similar crime, with often no proof, with similar recourse as I am asking in this bill, but a cyberflasher can send many more images at a time, with proof right there, which is why I think it is a similar action and therefore a similar crime.

Thank you,
Rep. Allison Nutting-Wong
Hillsborough 32

Studies cited-

Flora Oswald, Alex Lopes, Kaylee Skoda, Cassandra L. Hesse & Cory L. Pedersen (2019) I'll Show You Mine so You'll Show Me Yours: Motivations and Personality Variables in Photographic Exhibitionism, The Journal of Sex Research, DOI: [10.1080/00224499.2019.1639036](https://doi.org/10.1080/00224499.2019.1639036)

Thank you,

Rep. Allison Nutting-Wong
Hillsborough 32

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB296

Hearing date: _____

Executive Session date: _____

Motion of: 1141 Vote: 5-0

| 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 checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Whitley | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Motion of: OTPA Vote: 5-0

| 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 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 checked="" type="checkbox"/> | <input type="checkbox"/> |
| Sen. Whitley | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Motion of: Consent Vote: 5-0

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

Reported out by: French

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Friday, April 16, 2021

THE COMMITTEE ON Judiciary

to which was referred **HB 296-FN**

AN ACT

establishing the crime of unsolicited disclosure of
an intimate image.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 2021-1147s

Senator Harold French
For the Committee

This bill establishes the offense of unsolicited disclosure of an intimate image. Cyber flashing is a form of harassment and establishing this offense brings the cyber version of this act in line with public flashing. The Committee amended the bill to clarify that an individual can only be charged with the higher penalty of a misdemeanor for multiple offenses if the individual has already been convicted of a violation at the time of the subsequent act.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

JUDICIARY

HB 296-FN, establishing the crime of unsolicited disclosure of an intimate image.

Ought to Pass with Amendment, Vote 5-0.

Senator Harold French for the committee.

This bill establishes the offense of unsolicited disclosure of an intimate image. Cyber flashing is a form of harassment and establishing this offense brings the cyber version of this act in line with public flashing. The Committee amended the bill to clarify that an individual can only be charged with the higher penalty of a misdemeanor for multiple offenses if the individual has already been convicted of a violation at the time of the subsequent act.

General Court of New Hampshire - Bill Status System

Docket of HB296

Docket Abbreviations

Bill Title: establishing the crime of unsolicited disclosure of an intimate image.**Official Docket of HB296.:**

| 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. 42 |
| 2/26/2021 | H | Public Hearing: 02/26/2021 02:30 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/92701022260 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened. |
| 3/9/2021 | H | Committee Report: Ought to Pass (Vote 18-1; 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, 02:00 pm; Links to join the hearing can be found in the Senate Calendar; SC 19 |
| 4/16/2021 | S | Committee Report: Ought to Pass with Amendment #2021-1147s , 04/22/2021; Vote 5-0; CC; SC 20 |
| 4/22/2021 | S | Sen. Giuda Moved to Remove HB 296 from the Consent Calendar; 04/22/2021; SJ 12 |
| 4/22/2021 | S | Sen. Bradley Moved to Special Order to 04/29/2021, RC 24Y-0N , MA; 04/22/2021; SJ 12 |
| 4/22/2021 | S | Committee Report: Ought to Pass with Amendment #2021-1147s , 04/29/2021; SC 21 |
| 4/29/2021 | S | Sen. Bradley Moved to Special Order to 05/06/2021, RC 24Y-0N , MA; 04/29/2021; SJ 13 |
| 4/29/2021 | S | Committee Report: Ought to Pass with Amendment #2021-1147s , 05/06/2021; SC 22 |
| 5/6/2021 | S | Sen. Bradley Moved to Special Order to 05/13/21, RC 23Y-0N , MA; 05/06/2021; SJ 14 |
| 5/6/2021 | S | Committee Report: Ought to Pass with Amendment #2021-1147s , 05/13/2021; SJ 14 |
| 5/13/2021 | S | Committee Amendment #2021-1147s , AA, VV; 05/13/2021; SJ 15 |
| 5/13/2021 | S | Sen. Hennessey Floor Amendment #2021-1470s , AA, VV; 05/13/2021; SJ 15 |
| 5/13/2021 | S | Ought to Pass with Amendments 2021-1147s and 2021-1470s, MA, VV; OT3rdg; 05/13/2021; SJ 15 |
| 6/8/2021 | H | House Non-Concurs with Senate Amendment 2021-1147s and 2021-1470s and Requests CofC (Reps. Abbas, Rhodes, Wallace, Nutting-Wong): 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, Gannon, Kahn; 06/10/2021; SJ 19 |
| 6/16/2021 | H | Conference Committee Meeting: 06/16/2021 10:30 am LOB 201-203 |
| 6/23/2021 | S | Conference Committee Report; Not Signed Off; SJ 20 |

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB296

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 # 1141s - amendment # 1230s
- amendment # 1147s - 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 # 470 - 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 _____