

CONSENT CALENDAR

January 21, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Criminal Justice and Public Safety
to which was referred HB 1340,**

**AN ACT relative to the definition of "domestic violence"
and relative to criminal convictions for domestic
violence. Having considered the same, report the same
with the following resolution: RESOLVED, that it is
INEXPEDIENT TO LEGISLATE.**

Rep. Amy Bradley

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 1340
Title:	relative to the definition of "domestic violence" and relative to criminal convictions for domestic violence.
Date:	January 21, 2022
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The majority disagrees with the legislation's proposed definition of "domestic violence" that would be changed to reflect the Federal definition. The proposed legislation narrows the scope of what is considered domestic violence by excluding partners and family members.

Vote 21-0.

Rep. Amy Bradley
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 1340, relative to the definition of "domestic violence" and relative to criminal convictions for domestic violence. **INEXPEDIENT TO LEGISLATE.**

Rep. Amy Bradley for Criminal Justice and Public Safety. The majority disagrees with the legislation's proposed definition of "domestic violence" that would be changed to reflect the Federal definition. The proposed legislation narrows the scope of what is considered domestic violence by excluding partners and family members. **Vote 21-0.**

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1340

BILL TITLE: relative to the definition of "domestic violence" and relative to criminal convictions for domestic violence.

DATE: January 21, 2022

LOB ROOM: 202-204

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Klein-Knight

Seconded by Rep. Bradley

Vote: 21-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Scott Wallace, Clerk



2022 SESSION

Criminal Justice and Public Safety

Bill #: HB1340 Motion: FTL AM #: _____ Exec Session Date: 1-21-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Abbas, Daryl A. Chairman	21		
Roy, Terry Vice Chairman	1		
Welch, David A.	2		
Burt, John A.	3		
Hopper, Gary S. RHODES	4		
Green, Dennis E.	5		
Wallace, Scott Clerk	6		
Testerman, Dave	7		
True, Chris LAMB	8		
Pratt, Kevin M.	9		
Marston, Dick	10		
Harriott-Gathright, Linda C.	11		
Pantelakos, Laura C. SCHULTZ	12		
O'Hearne, Andrew S. RING	13		
Bordenet, John	14		
Meuse, David PEREZ	15		
Newman, Ray E.	16		
Bouldin, Amanda C.	17		
Conley, Casey M.	18		
Klein-Knight, Nicole	19		
Bradley, Amy	20		



1/10/2022 8:56:51 AM
Roll Call Committee Registers
Report

2022 SESSION

Criminal Justice and Public Safety

Bill #: HB1340 Motion: FTL AM #: / Exec Session Date: 1-21-22

TOTAL VOTE:

	21		0		0
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HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1340

BILL TITLE: relative to the definition of "domestic violence" and relative to criminal convictions for domestic violence.

DATE: January 21, 2022

LOB ROOM: 204 **Time Public Hearing Called to Order:** 10:34 a.m.

Time Adjourned: 11:23 a.m.

Committee Members: Reps. Abbas, Roy, Wallace, Welch, Green, Testerman, Pratt, Marston, Harriott-Gathright, Bordenet, R. Newman, Amanda Bouldin, Conley and Bradley and Klein-Knight

Bill Sponsors:
Rep. Abramson

TESTIMONY

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

Reps. Ring, Schultz Lang, Perez and Rhodes attended to replace absent members.

Rep. **Abramson** introduced bill, asked us to Interim Study the bill at this time, so that an amendment can be brought.

Atty Richard **Head**, Government Affairs Coordinator, Judicial Branch - Informational. Outlines a myriad of issues with this bill without waiting for DVTF report.

Andrew **Livernois**, representing Belknap County Attorney, opposes this bill.

Chief David **Goldstein**, representing NH Association of Chiefs of Police, opposes this bill.

Steve **Endres**, representing Merrimack County Attorney, opposes this bill.

Lynn **Shollett**, representing NH Coalition Against Domestic and Sexual Violence, opposes this bill.

Erin **Jasina**, Director, NH Legal Assistance Domestic Violence Project, opposes this bill.

Respectfully submitted,

Rep. Scott Wallace
Clerk

House Remote Testify

Criminal Justice and Public Safety Committee Testify List for Bill HB1340 on 2022-01-21

Support: 8 Oppose: 9 Neutral: 0 Total to Testify: 0

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>
Perla, Cindi	Brookline, NH ccindi2@msn.com	A Member of the Public	Myself	Oppose	No	No	1/17/2022 4:53 PM
Collman, Karen	Franconia, NH karencollman@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 6:55 AM
Frechette, Robert	Strafford, NH tk1995@metrocast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 6:56 AM
Jensen, Wendy	Bow, NH jensenhvp@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 7:03 AM
Delyani, Angela	Nashua, NH ang@delyani.org	A Member of the Public	Myself	Oppose	No	No	1/18/2022 7:40 AM
Collins, Mikayla	Concord, NH mikayla5262@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 7:46 AM
Johnson, Stephanie	Lee, NH stephanie.johnson83122@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:06 AM
Carmichael, Suzanne	Contoocook, NH suzanne03229@aol.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:34 AM
Hallowell, Mimi	Dover, NH mimohal@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:35 AM
Rizzo, Julia	Dublin, NH Jarizzo56@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:43 AM
Nash, Lisa	Bedford, NH lisa@eight-stars.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:44 AM
Martel, Marci	Manchester, NH drmarcimartel@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:59 AM
Martel, Allan	Manchester, NH drallanmartel@aol.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 9:22 AM

Martel, Christopher	Manchester, NH nhmentalhealth@aol.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 9:32 AM
Raycraft, Donna	Concord, NH draycraft@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 10:40 AM
Wirbal, Maryse	Merrimack, NH mwirbal@frontdooragency.org	A Member of the Public	Myself	Oppose	No	No	1/18/2022 10:56 AM
Gilman, Jacqueline	Weare, NH jacsgilman@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:00 AM
Lombard, Susan	Epsom, NH sjll2009@hotmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:02 AM
Gilman, Dale	Weare, NH Justdaleclevelandgilman@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:06 AM
Gonzales, Sheri	Nashua, NH sgonzales@frontdooragency.org	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:17 AM
Almeda, Erin	Nashua, NH ekalmeda@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:24 AM
Carlisle, Karen	Nashua, NH Karen.Carlisle@Marriott.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:35 AM
beaubien, suzanne	Nashua, NH smbeaubien@aol.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:44 AM
Whitelaw, Kathleen	Hooksett, NH Kathleen.whitelaw@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:50 AM
Glowa, Patricia	Hanover, NH patricia.t.glowa@hitchcock.org	A Member of the Public	Myself	Oppose	No	No	1/18/2022 11:57 AM
Lakin, Rachel	Nelson, NH rlakin@myfairpoint.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 12:04 PM
Wilcox, Chris	Nashua, NH chriswil316@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 12:08 PM
Severance, Janice	Concord, NH janicenute@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 1:10 PM
Johnson, James	Concord, NH Jjohnson9114@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 2:14 PM
Febonio, Samantha	Brookline, NH Sfebonio@aol.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 2:40 PM
Wedge, Joshua	Manchester, NH toubabokoomi@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 4:05 PM

Callahan, Stephanie	Salem, NH stephcallahan12@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 4:20 PM
Daley, Ryan	Berlin, NH ni4ni4seamus@gmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 4:38 PM
Eastley, Jennifer	Charlestown, NH jennifereastley@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 5:10 PM
Koch, Laurie	Concord, NH kochlj@aol.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 6:49 PM
Koch, Helmut	Concord, NH helmut.koch.2001@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 7:01 PM
Dane, Veronica	Stratham, NH Veronicalapointe@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 7:10 PM
evers, maryann	Hopkinton, NH maryannevers5@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 7:14 PM
Chislett, Jennifer	CONCORD, NH jrchislett@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 7:50 PM
Bass, Adrienne	Northfield, NH Justbekind.ab@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:02 PM
Tapply, Rhonda	Merrimack, NH tapply65@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:06 PM
Tapply, Jon	Merrimack, NH jtapply@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:08 PM
Coburn, Jeannine	Manchester, NH jeanninecoburn02@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:43 PM
Coburn, Alan	Manchester, NH alancoburn@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:44 PM
Sargent, Rachel	Bedford, NH rachel_sargent@att.net	A Member of the Public	Myself	Oppose	No	No	1/18/2022 8:49 PM
Jaskolka, Serena	Newmarket, NH Sjaskolka218@aol.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 9:55 PM
Ervin, Katherine	Manchester, NH Switchfootkatie@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 10:09 PM
Ervin, Brett	Manchester, NH brettervin@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 10:11 PM
Plante, Erin	Hooksett, NH Erinly520@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/18/2022 10:13 PM

Kirkhart, Liana	Milford, NH lpkirkhart@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 12:29 AM
Wilson, Corri	Hooksett, NH Corriwilson@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/19/2022 4:11 AM
Aniskovich, Ashley	Auburn, NH aer86@wildcats.unh.edu	A Member of the Public	Myself	Oppose	No	No	1/19/2022 6:56 AM
Lesmerises, Paula	Concord, NH Pcl1943@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 8:15 AM
Sevigny, Sheree	Nashua, NH ssevigny@frontdooragency.org	A Member of the Public	Myself	Oppose	No	No	1/19/2022 9:05 AM
Frost, Sherry	Dover, NH s.frost@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	1/19/2022 9:08 AM
Echelberger, Lauren	Winooski, VT Laurenlucille9828@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:08 AM
Nooney, Susan	Wilmot, NH susan.nooney@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 11:34 AM
Langlais, Debi	Hill, NH rhebbs@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/19/2022 11:41 AM
Vachon, Amanda	Strafford, NH avachon06@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 11:55 AM
Bidwell, Jennifer	Keene, NH shelteradvocate@mcvprevention.org	A Member of the Public	Myself	Oppose	No	No	1/19/2022 12:07 PM
Deyermond, Brianne	Portsmouth, NH BTD425@aol.com	State Agency Staff	Myself	Oppose	No	No	1/19/2022 12:21 PM
Nooney, Brian	Wilmot, NH bnooney@tds.net	A Member of the Public	Myself	Oppose	No	No	1/19/2022 12:36 PM
LaCourse, Christine	Goffstown, NH cebradbury83@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 12:50 PM
Fulton, Megan	Keene, NH me.fulton13@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 1:21 PM
Mota, Kathy	Keene, NH directservices@mcvprevention.org	A Member of the Public	Myself	Oppose	No	No	1/19/2022 1:57 PM
Hamilton, Mikaela	Hampstead, NH mikaelajhamilton@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 2:23 PM
Provencher, Rebecca	Marlborough, NH rprovencher@hcsservices.org	A Member of the Public	Myself	Oppose	No	No	1/19/2022 2:41 PM

Whippie, Kathy	Swanzy, NH kathywhippie1@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 3:19 PM
Cummings, Lauren	Alstead, NH Ljc9528@hotmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 7:49 PM
King, Kerri	Sanbornton, NH Nhminicooper@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 8:22 PM
Hammett, MaryJennifer	Spofford, NH fiestyhammett11@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 8:48 PM
Quinn, Chloe	Concord, NH chloe.m.quinn@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 9:54 PM
True, Kelley	Lyndeborough, NH Kctrue@outlook.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 9:54 PM
Baiocchetti, Vinnie	Gilmanton Iron Works, NH vbaiocchetti@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:11 PM
Marcou, Corinne	Fitzwilliam, NH cjmarcou67@icloud.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:29 PM
Furlone, Jackie	Keene, NH Jackie.furlone@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 11:14 PM
Vaughn-Martin, Jessica	Litchfield, NH jvaughnmartin@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 6:49 AM
Longley, Debra	PETERBOROUGH, NH dalongley@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 8:40 AM
Tibbetts, Christopher	Manchester, NH siriustuck13@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 8:54 AM
Roark, Brenna	Penacook, NH bterkow@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 10:04 AM
Mozden, Deborah	Lempster, NH rpmjdm@outlook.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 10:43 AM
Mace, Amanda	Newbury, NH a27bailey@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 10:53 AM
Matrumalo, Emily	Londonderry, NH emmyjune37@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 10:53 AM
Destefano, Kim	Pembroke, NH Kimberly.destefano17@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 11:09 AM
Spaulding, Laura	Boscawen, NH lspaulding519@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 12:55 PM

Spaulding, Richard	Boscawen, NH rc3b@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/20/2022 12:56 PM
Livernois, Andrew	Laconia, NH alivernois@belknapcounty.org	An Elected Official	Myself	Oppose	No	No	1/20/2022 2:46 PM
Gadbois, Marguerite	Keene, NH mrosegadbois@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 6:09 PM
M McKay, Elyse	Contoocook, NH Elysemckay@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 7:37 PM
Jones, Kathryn	Plaistow, NH dvsur5r@aol.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 12:55 AM
Anderson, Jared	Nashua, NH jaredwanderson@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 6:13 AM
Chase, Mark	Center Harbor, NH mchase@centerharbornh.org	A Member of the Public	Myself	Oppose	No	No	1/21/2022 8:02 AM
HALLOCK, LINDA	Cornish, NH lindash@mail.com	An Elected Official	Myself	Oppose	No	No	1/21/2022 8:06 AM
Kipphut, Nicole	Concord, NH Nicole.Kipphut@doc.nh.gov	State Agency Staff	NH Department of Corrections Victim Services Unit	Oppose	No	No	1/21/2022 8:15 AM
Needham, Dawn	Antrim, NH dawnis31@hotmail.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 8:22 AM
Laurent, Tara	Nottingham, NH tlaurent@greenlandpd.us	A Member of the Public	NH Assoc of Chiefs of Police & Greenland Police Dept	Oppose	No	No	1/21/2022 8:29 AM
Lewandoski, Mark	Belmont, NH policechief@belmontnh.org	A Member of the Public	Myself	Oppose	No	No	1/21/2022 9:39 AM
Ben Riala, Jonas	Pembroke, NH jonas.b.riala@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 9:42 AM
Frizzell, Jeffrey	Manchester, NH naehring3b@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 9:47 AM
Lord, Brian	Deering, NH blord@antrimpolice.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 9:56 AM
Reynolds, Charles	Dover, NH REYNOLDS.CHARLES@COMCAST.NET	A Member of the Public	Myself	Oppose	No	No	1/21/2022 9:56 AM
Reams, Mark	Amherst, NH mreams@amherstnh.gov	A Member of the Public	Myself	Oppose	No	No	1/21/2022 10:01 AM
Wesoja, Cheryl	Hill, NH nhnanna@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 10:20 AM

Marquis, Eric	Weare, NH hnk@gsinet.net	A Member of the Public	Myself	Oppose	No	No	1/21/2022 11:39 AM
Shagoury, Andrew	CENTER TUFTONBORO, NH a.shagoury@roadrunner.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 1:04 PM
Loveless, Eric	bedford, NH nassur34@protonmail.com	A Member of the Public	Myself	Support	No	No	1/21/2022 4:07 PM
sciarappa, micheal	bedford, NH michaeljosephs1956@gmail.com	A Member of the Public	Myself	Support	No	No	1/21/2022 4:08 PM
green, alice	concord, NH alice.green2020@gmail.com	A Member of the Public	Myself	Support	No	No	1/21/2022 4:08 PM
bauer, daryl	concord, NH daryl.bauer.34@gmail.com	A Member of the Public	Myself	Support	No	No	1/21/2022 4:09 PM
Stowers, Ashley	New Boston, NH Stowers.Ashley.e@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 5:19 PM
Millikan, Aino	Hillsborough, NH sweetaino@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/21/2022 5:44 PM

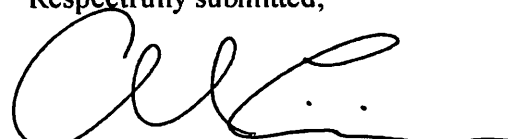
this reality, we should be seeking to expand the definition of “domestic violence” not constrict it.

In 2014, the General Court enacted “Joshua’s Law” following a tragic incident where a child was murdered by a parent in a murder-suicide. In that case, there had been a long history of domestic violence between the perpetrator and the child’s mother. Because of that case, the N.H. Legislature chose to amend the laws to strengthen the laws against domestic violence. And one of the key things that Joshua’s Law did was to make it so there was an actual crime called “domestic violence” and to make it so that crimes relating to domestic violence, whether it was a simple assault, a second-degree assault, stalking, etc., would carry that “domestic violence” designation on a person’s criminal record. This bill would effectively undermine much of the progress that the Legislature made with regard to domestic violence in 2014 and would weaken Joshua’s Law.

I have appended as exhibits to my testimony two charts which are designed as a sort of preview of the confusing and contradictory legal universe that would come to pass were HB 1340 to pass. These charts make clear that if this statute were to be enacted, it would cause considerable confusion and uncertainty in the law. It would mean that the same act would be considered “domestic violence” in one part of the law, but not “domestic violence” in another. It would blur the lines between situations where police can make warrantless arrests for misdemeanors and those where they can’t. It would mean that a violent assault between a husband and a wife *without a weapon* would be domestic violence, but if done *with a weapon*, it would not be domestic violence. And this bill would make it harder for prosecutors to know which defendants have a history of domestic violence and therefore pose a special danger to the community.

For all of these reasons, I am strongly urging you to not move HB 1340 forward out of committee, and that you instead vote it as inexpedient to legislate (ITL).

Respectfully submitted,



Andrew B. Livernois
Belknap County Attorney

understanding of domestic and family violence has evolved considerably. We now understand that domestic violence is really a crime centered on power and control, coercion and intimidation, emotional abuse, isolation, and cycles of violence, and that those patterns can occur in many different types of relationship.

“Domestic violence” is currently understood as being a broad term that includes many different types of abusive relationships within its scope. There is “intimate partner violence” which includes current and former spouses, current and former dating couples, with or without a child in common, etc. This includes both heterosexual and same-sex couples, and does not require actual sexual intimacy. Then there is “non intimate partner violence” (also called “family violence”), which is violence between individuals who are family members or household members but not intimate partners (e.g. brother/sister, mother/adult son). However, non-intimate partner family violence often shares many of the same hallmarks of power and control as intimate-partner violence.

This bill effectively carves many of those alternative relationship categories out of the definition and limits the types of intimate-partner relationships that qualify as domestic violence to those who are a current or former “spouse” or a person with whom you were “similarly situated to a spouse.” But this does not come close to capturing the wide breadth and complexity of intimate relationships. So, for example, under this bill, a boyfriend/girlfriend situation, where the two people don’t live together, cannot give rise to a crime of domestic violence. What about a same-sex couple who lived together, but are now separated? Were they cohabitating “as a spouse”? Or were they “similarly situated” to being a spouse? How do you decide that? The statute is very unclear. And with regard to non-intimate family-type situation, this bill limits the relationships to only parents vis-à-vis their children or a guardian with a ward. Thus, under this bill, an adult son who abuses his mother no longer counts as domestic violence.

This bill is also flawed because it limits “domestic violence” to only being crimes which have an element of physical force or the threatened use of a deadly weapon. But that does not accurately reflect the reality of how domestic violence occurs in the real world. Domestic violence is often a crime which involves a pattern of coercive behaviors to maintain power and control. The range of behaviors is not limited to physical violence, but can include intimidating or manipulating the victim, stalking the victim, controlling the victim’s finances, etc. To reflect

believe that the person to be arrested has within the last 12 hours committed *abuse* as defined in RSA 173-B:1, I against a person eligible for protection from *domestic violence* as defined in RSA 173-B:1” (emphasis added). Because the definition of “abuse” no longer tracks the definition of “domestic violence,” there will be cases where it will be unclear if the police can still make a warrantless arrest, where they clearly can now. This will make it much harder to keep victims who report domestic violence safe.

The other negative consequence of this bill is that it will make it so that some perpetrators who engage in domestic violence (as currently understood), and who are subsequently convicted, will avoid having the “domestic violence” label attached to the crimes on their criminal record. This would be an awful development. When a defendant is arrested for domestic violence, a hearing is held the next morning before a judge to arraign the defendant and set bail. The prosecutor appearing at that hearing needs to decide whether to seek preventative detention, or to allow release on personal recognizance. In making that determination, the prosecutor needs to quickly and accurately determine the level of risk that the perpetrator poses to the victim, and to the community. Making the wrong decision could have potentially life-threatening consequences. The perpetrator’s criminal record is one of the main pieces of information that a prosecutor has at his or her disposal. But for that record to be helpful, it is important to know whether there has been a pattern of prior domestic violence incidents, either with that same victim or with other victims. Such a pattern key for determining dangerousness. This bill takes that tool away from prosecutors.

Domestic violence crimes are fundamentally different from non-domestic violence crimes. A conviction for “second degree assault” that arises from a bar fight between two strangers is qualitatively different from a “second degree assault” that involved a husband who strangled his wife. But if this bill is passed, a prosecutor who looks at a defendant’s criminal record will not be able to discern that difference, because the “domestic violence” designation will be eliminated from many crimes.

This bill is also unwise because it sends the wrong message about the nature and scope of domestic violence. By narrowing the categories of relationships that count as being “domestic violence” this bill suggests that domestic violence is only a problem in a very narrow category of situations. But we know that is not the case. Over the past several decades, our societal

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Testimony of Andrew B. Livernois
Belknap County Attorney
House Criminal Justice and Public Safety Committee
January 21, 2022 at 10:30 AM

To Chairman Abbas, Vice-Chairman Roy, and the Honorable members of the House Criminal Justice and Public Safety Committee:

Good morning. I am here today in my capacity as the Belknap County Attorney to speak in strong opposition to House Bill 1340, a bill that seeks to alter the definition of “domestic violence” in RSA 173-B:1 and to amend several other criminal statutes that relate to domestic and family violence. This bill, if enacted, will make it harder to effectively prosecute domestic violence cases, and to keep victims safe.

This bill is problematic in many ways. First, it creates unnecessary confusion and ambiguity in the law, because it will result in there being two different and inconsistent definitions of “domestic violence,” a narrow one in RSA 173-B, IX and a much broader definition in RSA 631:2-b. It also de-couples the definition of “domestic violence” in RSA 173-B, IX from the definition of “abuse” in RSA 173-B, I, with the result that those two terms will apply to different categories of relationships. Oddly, it also narrows the definition of “domestic violence” to only include misdemeanors, which means that a husband who slaps his wife will have engaged in domestic violence, but a husband who *stabs* or *strangles* his wife will not.

These definitional changes will not just create tremendous confusion, they also have several negative downstream consequences. This bill will make it very unclear whether police officers will still have the right to make warrantless arrests in many cases of misdemeanor domestic violence. Under RSA 594:10, a police officer can arrest a perpetrator for a misdemeanor which does not occur in his or her presence if the officer “has probable cause to

	Police Officer can make a warrantless arrest (RSA 633:3-a,V)	Police Officer can make a warrantless arrest (RSA 633:3-a,V)	Police Officer can make a warrantless arrest (RSA 633:3-a,V)	Police Officer can make a warrantless arrest (RSA 633:3-a,V)
Defendant strangles/stabs/rapes victim	No longer considered domestic violence under RSA 631:1, 631:2 or 632-A:2.	No longer considered domestic violence under RSA 631:1, 631:2 or 632-A:2.	No longer considered domestic violence under RSA 631:1, 631:2 or 632-A:2.	No longer considered domestic violence under RSA 631:1, 631:2 or 632-A:2.
	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1
	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B
	Police Officer can make a warrantless arrest	Police Officer can make a warrantless arrest	Police Officer can make a warrantless arrest	Police Officer can make a warrantless arrest

Contradictory Legal Landscape Under HB 1340

	Husband and wife, estranged, living apart	Boyfriend and girlfriend, never lived together, but intimate partners	Adult brother and sister, living together	Adult perpetrator living with his/her elderly parent
Defendant slaps/kicks/punches victim	Is still considered Domestic Violence under RSA 631:2-b	Is still considered Domestic Violence under RSA 631:2-b	Is still considered Domestic Violence under RSA 631:2-b	Is still considered Domestic Violence under RSA 631:2-b
	Is considered Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1
	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B
	Police Officer can make a warrantless arrest	Not clear if police officer can make warrantless arrest	Not clear if police officer can make warrantless arrest	Not clear if police officer can make warrantless arrest
Defendant follows the victim around, spies on him or her, violates order of protection, etc.	No longer considered domestic violence under 633:3-a	No longer considered domestic violence under 633:3-a	No longer considered domestic violence under 633:3-a	No longer considered domestic violence under 633:3-a
	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1
	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B	Is "abuse" under RSA 173-B

What Gets Recorded on a Criminal History if HB 1340 Passes?

	Current Law			HB 1340		
	Husband - Wife	Boyfriend – Girlfriend (not living together)	Strangers	Husband - Wife	Boyfriend – Girlfriend (not living together)	Strangers
Punch/Slap	Domestic Violence – Simple Assault	Domestic Violence – Simple Assault	Simple Assault	Domestic Violence – Simple Assault	Simple Assault	Simple Assault
Strangle	2 nd Degree Assault – Domestic Violence	2 nd Degree Assault – Domestic Violence	2 nd Degree Assault	2 nd Degree Assault	2 nd Degree Assault	2 nd Degree Assault
Stabs	1 st Degree Assault – Domestic Violence	1 st Degree Assault – Domestic Violence	1 st Degree Assault	1 st Degree Assault	1 st Degree Assault	1 st Degree Assault
Rape	Agg. Fel. Sexual Assault – Domestic Violence	Agg. Fel. Sexual Assault – Domestic Violence	Agg. Fel. Sexual Assault	Agg. Fel. Sexual Assault	Agg. Fel. Sexual Assault	Agg. Fel. Sexual Assault
Stalking	Stalking – Domestic Violence	Stalking – Domestic Violence	Stalking	Stalking	Stalking	Stalking

woman was shot by her ex-partner in a murder-suicide attempt.

This occurred only a few weeks after the woman had been denied a protective order. Since then, a task force has been convened to look at how we can actually *expand* the definition of domestic violence. Any efforts to do the opposite should be met with an immediate ITL.

Thank you.

Questions

those murders were domestic violence-related. The oldest DV victim was a woman in her 80s and the youngest was a girl 10 weeks old. The latter was a domestic mass murder here in Concord in 1991. If I am not mistaken, the only domestic mass murder in the state's history...at least for the past 40+ years. James Colbert murdered his 30-year-old wife and his 3 daughters...2 1/2 yrs, 1 1/2 yrs and 10 weeks.

I am here today to testify in **opposition** to HB1340 for the NH Association of Chiefs of Police. Your Chiefs of Police are deeply committed to ensuring the safety of all victims of domestic and sexual violence, and we are just as dedicated to our responsibilities to investigate such offenses. This legislation will make it harder for law enforcement to do our jobs and only create confusion when it comes to investigating crimes of domestic violence and making appropriate arrests.

We believe the changes proposed in this bill dangerously restrict the ways in which victims can seek relief. By way of example, a short time ago, there was a dreadful case in which a

House Criminal Justice & Public Safety Committee

HB1340, relative to the definition of “domestic violence” and
relative to criminal convictions for domestic violence

January 21, 2022

Good afternoon, Mr. Chairman, and Members of the
Committee, I will be brief.

For the record, my name is David Goldstein and I am the Chief
of Police for the City of Franklin. I have been a police officer
for more than 42 years. For 23 of the 42 years, I was a member
of the NH State Police and for the last 18 years I have been a
full time Chief of Police for two municipalities. During my
tenure as a member of the NH State Police I was assigned to the
Major Crime Unit for more than a dozen years. During that
time I was involved with the investigations of at least 100
homicides. In concert with the national average, at least 50% of

PLEASE OPPOSE HB1340 and help protect victims of domestic violence in New Hampshire against severe barriers to accessing life-saving support.

Protective orders are a vital resource to prevent future violence

Victims of domestic violence face significant barriers to leaving an abusive relationship, and the most dangerous time for a victim is when they decide to leave. Protective orders have the power to limit future abuse and decrease violent behavior, and victims with protective orders are significantly less likely than those without protective orders to be physically abused. Yet, victims in the Granite State already have to pass an extremely high threshold in order to be granted these life-saving resources. If passed, HB1340 would make it even more challenging for victims to access protective orders when they are at the most risk for their safety.

Domestic Violence and Stalking Protective Orders between 2018 - 2019



The Lethality Assessment Program "LAP"

Domestic violence represents a heightened risk for escalated violence. Decades of research about the causes of domestic violence has helped experts identify some of the factors that can help predict future violence. Criminal histories is one of those factors. New Hampshire utilizes the Lethality Assessment Program or "LAP" to help law enforcement officers determine the threat of violence that a domestic violence victim might experience. It helps identify victims who are most at risk of lethal assault and ensures that crisis responses will be called upon to develop safety plans, help the victim access emergency shelter, and access protective orders.

Nearly half of LAP screenings conducted by law enforcement departments across the state have indicated that victims of domestic violence were "high danger." This means they are at an increased risk of fatality. Over the last two years, crisis center advocates have reported seeing significantly more lethal cases since the start of the pandemic. This growing trend of more escalated violence demands that we take victim safety extremely seriously and ensure that all the tools that we can utilize to prevent lethal violence be maintained.

Criminal histories help identify patterns of abusive behavior

It is hugely important that we do not simply allow domestic violence offenders to erase their criminal histories, as those histories reflect enhanced lethality risk for victims, their children, and the public at large. As previously established, domestic violence is a pattern of abuse, and it is critical that family and criminal courts have the ability to monitor these patterns, especially when determining things like parole, bail, child custody, and visitation. Erasing these crimes hinders the ability of the criminal justice system to track these patterns and determine whether or not they're escalating and leading to a potentially lethal event.

HB1340 would undermine everything we know to be true about the nature of domestic violence, placing significant limitations on the ability of the criminal justice system to employ protective measures aimed at preventing an abuser's threats of violence from becoming a reality.



PLEASE OPPOSE HB1340!

HB1340 would dangerously narrow the definition of “domestic violence” under RSA 173-B, rolling back decades of efforts to improve the state's response to domestic violence and limit the ability to predict future lethal violence.

Domestic Violence in New Hampshire

Domestic violence is a pattern of coercive behavior used by one person to gain and maintain power and control over another in the context of an intimate or familial relationship. It may include physical violence, sexual violence, stalking, emotional and psychological abuse, financial abuse, and threatening to harm children or pets. It is rarely a one-time occurrence and often escalates in frequency and severity over time.

There is no debating that domestic violence is the deadliest crime in New Hampshire. This is reinforced by state data that shows domestic violence was a factor in more than 50% of homicides and 77% of murder/suicides in the state over the last 10 years.

Joshua's Law (RSA 631:2-B)

New Hampshire's current definition under RSA 173-B was intentionally crafted to account for the nuances that occur within abusive relationships. In an effort to more accurately identify domestic violence, New Hampshire established domestic violence as a crime in 2014 under RSA 631:2-B, also referred to as Joshua's Law. This statute was designed to make our state law more compatible with federal laws, and to more easily identify domestic violence offenders. Prior to the establishment of Joshua's Law, it was unclear when it was appropriate to identify a misdemeanor complaint as domestic violence, making it difficult for law enforcement authorities to determine a person's history when making bail recommendations, or determining if a person was eligible under federal law to purchase a firearm based on their criminal record.

HB1340 would undo the progress made under Joshua's Law. Not only would it restrict the qualifying relationships currently used to identify domestic violence, but it would greatly limit the types of charges that constitute domestic violence under New Hampshire law. Under RSA 173-B, victims have to prove a "credible present threat," whereas under HB1340, a victim would have to provide proof of physical force or threatened use of a deadly weapon. These new requirements would create circumstances where the law wouldn't apply to the most nuanced cases and all-too-common targeted threats toward a victim would not be considered an act of domestic violence.

Domestic Violence Fatality Review: 2018 - 2019

50%

The percent of homicides where domestic violence was a factor

77%

The percent of murder/suicides where domestic violence was a factor

Domestic & Sexual Violence in New Hampshire: 2018 - 2021

50,000

adult victims served by crisis centers

6,000

child victims served by crisis centers

2,000

victims who sought refuge in shelters

161,474

nights victims and children spent in shelter

It is hugely important that we do not simply allow domestic violence offenders to erase their criminal histories, as those histories reflect enhanced lethality risk for victims, their children, and the public at large. As previously established, domestic violence is a pattern of abuse, and it is absolutely critical that family law and criminal courts have the ability to monitor these patterns, especially when determining things like parole, bail, child custody, and visitation rights. Erasing these crimes hinders the ability of the criminal justice system to track these patterns and determine whether or not they're escalating and leading to a potentially lethal event. If HB1340 passed, this bill would undermine everything we know to be true about the nature of domestic violence, and place significant limitations on the criminal justice system to employ protective measures that can prevent an abuser's threats of violence from becoming a reality.

In conclusion, **we strongly urge the committee to vote ITL on HB1340.** We absolutely should not be narrowing the definition of domestic violence under RSA173-B. This bill would place victims of domestic violence at increased risk for their safety and limit the resources and tools available that can be employed to intervene in cases where it is likely that the victim will be seriously injured or killed.

Thank you, and I would be happy to answer any questions.

person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.” This would ignore domestic violence that is committed by another non-parent relative, such as siblings or aunts and uncles, as well as non-spousal cohabitating partners such as boyfriends or girlfriends. It also ignores other types of intimate dating relationships when there is no child in common.

Victims of domestic violence face significant barriers to leaving an abusive relationship, and the most dangerous time for a victim is when they decide to leave. Protective orders have the power to limit future abuse and decrease violent behavior, and victims with protective orders are significantly less likely than those without protection orders to be physically abused. Yet, victims in New Hampshire already have to pass an extremely high threshold in order to obtain a protective order. Should this bill pass, HB1340 would make it even more challenging for victims of domestic violence to access life-saving protective orders when they are at the most risk for their safety.

To illustrate this, although nearly 8,000 domestic violence protective orders were filed between 2018 and 2019, only 38% of final protective orders were granted in New Hampshire circuit courts and superior courts during that timeframe. Moreover, court data demonstrates that the number of final protective orders granted has seen a downward trend over the last 10 years. This shows that domestic violence protective orders are extremely hard to obtain, and that victims in the Granite State will be even more at risk of lethal violence should this bill pass. HB1340 adds an additional barrier by its lack of recognition of the wide range of relationships where domestic violence occurs.

Criminal histories help identify patterns of abusive behavior

As my testimony has already noted, domestic violence represents a heightened risk for escalated violence. However, decades of researching the causes of domestic violence has helped identify some of the factors that can help predict future violence. Criminal histories is one of those factors, and are indicative of enhanced lethality risk. New Hampshire utilizes the Lethality Assessment Program or “LAP” to help law enforcement officers determine the threat of violence that a domestic violence victim might be facing. It helps identify victims who are most at risk of lethal assault and ensures that crisis responses will be employed to develop safety plans, help the victim access emergency shelter, and access protective orders.

Over the last two years, law enforcement departments across the state have conducted LAP screenings where 54% of victims (over 3,000 individuals) screened in as “high danger”. This means they are at a heightened risk of fatality. The fact that more than half of LAP screens are recognized as high danger is deeply concerning and indicates a need for protective measures to ensure the safety of victims. Additionally, crisis center advocates have reported an increase in the number of lethal cases since the start of the pandemic. **This growing trend of more escalated violence demands that we take victim safety extremely seriously and ensure that all the tools that we can utilize to prevent lethal violence be maintained.**



Testimony of Lyn Schollett
Executive Director, NH Coalition Against Domestic and Sexual Violence
House Criminal Justice & Public Safety Committee
January 21, 2022; 10:30am

HB1340, relative to the definition of “domestic violence” and relative to criminal convictions for domestic violence

Good Morning Mister Chair and Members of the Committee. My name is Lyn Schollett, and I am the Executive Director at the NH Coalition Against Domestic and Sexual Violence. The Coalition is an umbrella organization for 12 community-based crisis centers who each year provide free and confidential services to nearly 15,000 survivors of sexual and domestic violence. I am here to speak in opposition to HB1340, which dangerously narrow the definition of domestic violence and make it hard for victims of domestic violence to access protective orders when they are fleeing violence. Thank you for the opportunity to testify.

This legislation seeks to change the definition of “domestic violence” under RSA 173-B, to a much narrower and stricter definition. I’d like to speak to the following three points illustrating why this bill, if passed, would rollback decades of efforts to respond effectively to domestic violence cases and limit our state’s ability to prevent lethal violence in New Hampshire. I would like to specifically speak to the significance of the current definition of “domestic violence”, the importance of ensuring that victims are not further hindered from accessing protective orders, and the impact that this legislation would have on a violent offender’s criminal history records.

The definition of “Domestic Violence” should not be narrowed

There is no debating that the most violent crime in New Hampshire is the crime of domestic violence. Data from the last ten years of reports from the Domestic Violence Fatality Review Committee demonstrate that domestic violence was a factor in more than 50% of homicides and 77% of murder/suicides in our state. The community-wide impact of domestic violence is witnessed daily by New Hampshire’s 12 crisis centers, who support thousands of victims of domestic violence each year through crisis intervention services. In just the last four years alone, they have assisted more than 6,000 children and adolescent victims, and nearly 50,000 adults of domestic and sexual violence, receiving over 266,000 crisis calls to their 24-hour hotlines. Additionally, our 11 emergency shelters have assisted almost 2,000 adults and children fleeing imminent danger, providing shelter for over 160,000 bednights (nights stayed in shelter).

New Hampshire Coalition Against Domestic & Sexual Violence • PO Box 353 • Concord, NH 03302 • 603.224.8893

Domestic violence is a pattern of coercive behavior used by one person to gain and maintain power and control over another in the context of an intimate or familial relationship. It may include physical violence, sexual violence, stalking, emotional and psychological abuse, financial abuse, threatening to harm children or pets and is rarely a one-time occurrence, often escalating in frequency and severity over time. New Hampshire's current definition under RSA 173-B was intentionally crafted to account for and reflect the nuances that occur within abusive relationships, and was actually updated within the last decade.

In an effort to more accurately identify domestic violence, New Hampshire established domestic violence as a crime in 2014 through the passage of RSA 631:2-B, also referred to as Joshua's Law. The intent of the statute was to make New Hampshire law more compatible with federal laws relative to firearms prohibitions and to make it easier to identify domestic violence offenders for use in bail arguments and sentencing. Prior to the establishment of Joshua's law, it was very unclear when it was appropriate to identify a misdemeanor complaint as domestic violence. For example, in a case where someone was in a fight with a stranger at a bar, or someone assaulted an intimate partner, both would have classified as "simple assault", and both convictions would be for "simple assault", regardless of the specific dynamics at play when domestic violence occurs. This made it difficult for law enforcement authorities to determine a person's history when making bail recommendations and determining if a person was eligible or not under federal law to purchase a firearm based on their criminal record.

HB1340 would undo what Joshua's law so carefully established. Not only would it restrict the qualifying relationships currently used to identify domestic violence, but it would greatly limit the types of charges that constitute domestic violence under New Hampshire Law. **Under this bill, in order for a charge of domestic violence to occur, the victim would have to provide proof of physical force or the threatened use of a deadly weapon. This completely ignores decades of research and the lived experiences of survivors that illustrate how domestic violence occurs and is perpetuated.** These requirements would create situations where the law wouldn't apply to the very nuanced cases and targeted threats towards victims that are common in domestic violence cases. Such as an abuser showing up on the porch of the victim's house and unscrewing the light bulb, making repeated calls threatening and harassing the victim all night, or entering the residence and taking things, or rearranging the victim's personal items. Under current law, domestic violence is proven when a "credible present threat" is established, which can be a totality of things but not necessarily involve direct threats with a deadly weapon, or physical violence. If HB1340 passed, the following crimes may no longer qualify as domestic violence under this bill: stalking, harassment, criminal threatening, destruction of property, unauthorized entry and even certain cases of non-forcible sexual assault such as drug induced, if the victim of sleeping, and so on.

Protective orders are a vital resource to prevent future violence

HB1340 would also eliminate some of the types of relationships that are currently recognized in statute, and can qualify as domestic violence when a victim is filing for a protective order. Under RSA 173-B, a qualifying relationship is defined as "a family or household member or a current or former sexual or intimate partner". Instead, HB1340 offers an extremely narrow list of relationships, which include "a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a

Archived: Thursday, March 10, 2022 2:37:51 PM
From: [Erin Jasina](#)
Sent: Friday, January 21, 2022 8:59:22 AM
To: ~House Criminal Justice and Public Safety
Cc: [Dawn McKinney](#)
Subject: NHLA Testimony in Opposition of HB 1340
Importance: High
Attachments:
NHLA testimony in opposition of HB 1340.pdf ;

Good morning Chairman Abbas and Members of the Committee,

Attached please find New Hampshire Legal Assistance's written testimony in opposition of HB 1340. Please let me know if you have any questions.

Sincerely,

Erin Jasina
Domestic Violence Advocacy Project Director
New Hampshire Legal Assistance
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Fax 1- 833-722-0271
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Testimony of Andrew B. Livernois
Belknap County Attorney
House Criminal Justice and Public Safety Committee
January 21, 2022 at 10:30 AM

To Chairman Abbas, Vice-Chairman Roy, and the Honorable members of the House Criminal Justice and Public Safety Committee:

Good morning. I am here today in my capacity as the Belknap County Attorney to speak in strong opposition to House Bill 1340, a bill that seeks to alter the definition of “domestic violence” in RSA 173-B:1 and to amend several other criminal statutes that relate to domestic and family violence. This bill, if enacted, will make it harder to effectively prosecute domestic violence cases, and to keep victims safe.

This bill is problematic in many ways. First, it creates unnecessary confusion and ambiguity in the law, because it will result in there being two different and inconsistent definitions of “domestic violence,” a narrow one in RSA 173-B, IX and a much broader definition in RSA 631:2-b. It also de-couples the definition of “domestic violence” in RSA 173-B, IX from the definition of “abuse” in RSA 173-B, I, with the result that those two terms will apply to different categories of relationships. Oddly, it also narrows the definition of “domestic violence” to only include misdemeanors, which means that a husband who slaps his wife will have engaged in domestic violence, but a husband who *stabs* or *strangles* his wife will not.

These definitional changes will not just create tremendous confusion, they also have several negative downstream consequences. This bill will make it very unclear whether police officers will still have the right to make warrantless arrests in many cases of misdemeanor domestic violence. Under RSA 594:10, a police officer can arrest a perpetrator for a misdemeanor which does not occur in his or her presence if the officer “has probable cause to

believe that the person to be arrested has within the last 12 hours committed *abuse* as defined in RSA 173-B:1, I against a person eligible for protection from *domestic violence* as defined in RSA 173-B:1” (emphasis added). Because the definition of “abuse” no longer tracks the definition of “domestic violence,” there will be cases where it will be unclear if the police can still make a warrantless arrest, where they clearly can now. This will make it much harder to keep victims who report domestic violence safe.

The other negative consequence of this bill is that it will make it so that some perpetrators who engage in domestic violence (as currently understood), and who are subsequently convicted, will avoid having the “domestic violence” label attached to the crimes on their criminal record. This would be an awful development. When a defendant is arrested for domestic violence, a hearing is held the next morning before a judge to arraign the defendant and set bail. The prosecutor appearing at that hearing needs to decide whether to seek preventative detention, or to allow release on personal recognizance. In making that determination, the prosecutor needs to quickly and accurately determine the level of risk that the perpetrator poses to the victim, and to the community. Making the wrong decision could have potentially life-threatening consequences. The perpetrator’s criminal record is one of the main pieces of information that a prosecutor has at his or her disposal. But for that record to be helpful, it is important to know whether there has been a pattern of prior domestic violence incidents, either with that same victim or with other victims. Such a pattern key for determining dangerousness. This bill takes that tool away from prosecutors.

Domestic violence crimes are fundamentally different from non-domestic violence crimes. A conviction for “second degree assault” that arises from a bar fight between two strangers is qualitatively different from a “second degree assault” that involved a husband who strangled his wife. But if this bill is passed, a prosecutor who looks at a defendant’s criminal record will not be able to discern that difference, because the “domestic violence” designation will be eliminated from many crimes.

This bill is also unwise because it sends the wrong message about the nature and scope of domestic violence. By narrowing the categories of relationships that count as being “domestic violence” this bill suggests that domestic violence is only a problem in a very narrow category of situations. But we know that is not the case. Over the past several decades, our societal

understanding of domestic and family violence has evolved considerably. We now understand that domestic violence is really a crime centered on power and control, coercion and intimidation, emotional abuse, isolation, and cycles of violence, and that those patterns can occur in many different types of relationship.

“Domestic violence” is currently understood as being a broad term that includes many different types of abusive relationships within its scope. There is “intimate partner violence” which includes current and former spouses, current and former dating couples, with or without a child in common, etc. This includes both heterosexual and same-sex couples, and does not require actual sexual intimacy. Then there is “non intimate partner violence” (also called “family violence”), which is violence between individuals who are family members or household members but not intimate partners (e.g. brother/sister, mother/adult son). However, non-intimate partner family violence often shares many of the same hallmarks of power and control as intimate-partner violence.

This bill effectively carves many of those alternative relationship categories out of the definition and limits the types of intimate-partner relationships that qualify as domestic violence to those who are a current or former “spouse” or a person with whom you were “similarly situated to a spouse.” But this does not come close to capturing the wide breadth and complexity of intimate relationships. So, for example, under this bill, a boyfriend/girlfriend situation, where the two people don’t live together, cannot give rise to a crime of domestic violence. What about a same-sex couple who lived together, but are now separated? Were they cohabitating “as a spouse”? Or where they “similarly situated” to being a spouse? How do you decide that? The statute is very unclear. And with regard to non-intimate family-type situation, this bill limits the relationships to only parents vis-à-vis their children or a guardian with a ward. Thus, under this bill, an adult son who abuses his mother no longer counts as domestic violence.

This bill is also flawed because it limits “domestic violence” to only being crimes which have an element of physical force or the threatened use of a deadly weapon. But that does not accurately reflect the reality of how domestic violence occurs in the real world. Domestic violence is often a crime which involves a pattern of coercive behaviors to maintain power and control. The range of behaviors is not limited to physical violence, but can include intimidating or manipulating the victim, stalking the victim, controlling the victim’s finances, etc. To reflect

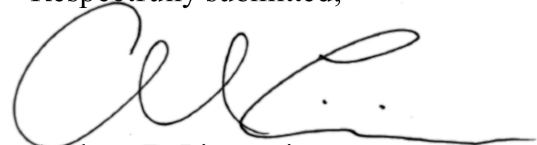
this reality, we should be seeking to expand the definition of “domestic violence” not constrict it.

In 2014, the General Court enacted “Joshua’s Law” following a tragic incident where a child was murdered by a parent in a murder-suicide. In that case, there had been a long history of domestic violence between the perpetrator and the child’s mother. Because of that case, the N.H. Legislature chose to amend the laws to strengthen the laws against domestic violence. And one of the key things that Joshua’s Law did was to make it so there was an actual crime called “domestic violence” and to make it so that crimes relating to domestic violence, whether it was a simple assault, a second-degree assault, stalking, etc., would carry that “domestic violence” designation on a person’s criminal record. This bill would effectively undermine much of the progress that the Legislature made with regard to domestic violence in 2014 and would weaken Joshua’s Law.

I have appended as exhibits to my testimony two charts which are designed as a sort of preview of the confusing and contradictory legal universe that would come to pass were HB 1340 to pass. These charts make clear that if this statute were to be enacted, it would cause considerable confusion and uncertainty in the law. It would mean that the same act would be considered “domestic violence” in one part of the law, but not “domestic violence” in another. It would blur the lines between situations where police can make warrantless arrests for misdemeanors and those where they can’t. It would mean that a violent assault between a husband and a wife *without a weapon* would be domestic violence, but if done *with a weapon*, it would not be domestic violence. And this bill would make it harder for prosecutors to know which defendants have a history of domestic violence and therefore pose a special danger to the community.

For all of these reasons, I am strongly urging you to not move HB 1340 forward out of committee, and that you instead vote it as inexpedient to legislate (ITL).

Respectfully submitted,



Andrew B. Livernois
Belknap County Attorney

What Gets Recorded on a Criminal History if HB 1340 Passes?

	Current Law			HB 1340		
	Husband - Wife	Boyfriend – Girlfriend (not living together)	Strangers	Husband - Wife	Boyfriend – Girlfriend (not living together)	Strangers
Punch/Slap	Domestic Violence – Simple Assault	Domestic Violence – Simple Assault	Simple Assault	Domestic Violence – Simple Assault	Simple Assault	Simple Assault
Strangle	2 nd Degree Assault – Domestic Violence	2 nd Degree Assault – Domestic Violence	2 nd Degree Assault	2 nd Degree Assault	2 nd Degree Assault	2 nd Degree Assault
Stabs	1 st Degree Assault – Domestic Violence	1 st Degree Assault – Domestic Violence	1 st Degree Assault	1 st Degree Assault	1 st Degree Assault	1 st Degree Assault
Rape	Agg. Fel. Sexual Assault – Domestic Violence	Agg. Fel. Sexual Assault – Domestic Violence	Agg. Fel. Sexual Assault	Agg. Fel. Sexual Assault	Agg. Fel. Sexual Assault	Agg. Fel. Sexual Assault
Stalking	Stalking – Domestic Violence	Stalking – Domestic Violence	Stalking	Stalking	Stalking	Stalking

Contradictory Legal Landscape Under HB 1340

	Husband and wife, estranged, living apart	Boyfriend and girlfriend, never lived together, but intimate partners	Adult brother and sister, living together	Adult perpetrator living with his/her elderly parent
Defendant slaps/kicks/punches victim	Is still considered Domestic Violence under RSA 631:2-b	Is still considered Domestic Violence under RSA 631:2-b	Is still considered Domestic Violence under RSA 631:2-b	Is still considered Domestic Violence under RSA 631:2-b
	Is considered Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1
	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B
	Police Officer can make a warrantless arrest	Not clear if police officer can make warrantless arrest	Not clear if police officer can make warrantless arrest	Not clear if police officer can make warrantless arrest
Defendant follows the victim around, spies on him or her, violates order of protection, etc.	No longer considered domestic violence under 633:3-a	No longer considered domestic violence under 633:3-a	No longer considered domestic violence under 633:3-a	No longer considered domestic violence under 633:3-a
	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1
	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B

	Police Officer can make a warrantless arrest (RSA 633:3-a,V)	Police Officer can make a warrantless arrest (RSA 633:3-a,V)	Police Officer can make a warrantless arrest (RSA 633:3-a,V)	Police Officer can make a warrantless arrest (RSA 633:3-a,V)
Defendant strangles/stabs/rapes victim	No longer considered domestic violence under RSA 631:1, 631:2 or 632-A:2.	No longer considered domestic violence under RSA 631:1, 631:2 or 632-A:2.	No longer considered domestic violence under RSA 631:1, 631:2 or 632-A:2.	No longer considered domestic violence under RSA 631:1, 631:2 or 632-A:2.
	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1	Not Domestic Violence Under 173-B:1
	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B	Is “abuse” under RSA 173-B
	Police Officer can make a warrantless arrest	Police Officer can make a warrantless arrest	Police Officer can make a warrantless arrest	Police Officer can make a warrantless arrest

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January 20, 2022

Chair and Members
House Criminal Justice and Public Safety Committee
Concord, NH 03301

Dear Chairman and Members:

Today I read the prepared text of the testimony Belknap County Attorney Andrew Livernois will submit on January 21, 2022, concerning House Bill 1340. My schedule does not allow me to be present for the January 21, 2022, public hearing on this matter. However, I do want to ensure my concurrence with the comments of County Attorney Livernois is on the record with the Committee.

I urge the Committee to vote House Bill 1340, as proposed, as inexpedient to legislate (ITL)

A large, handwritten signature in black ink that reads "PAH 1/20/22".

Paul A. Halvorsen
Merrimack County Attorney

Archived: Thursday, March 10, 2022 2:26:55 PM

From: [Richard W. Head](#)

Sent: Friday, January 21, 2022 10:55:57 AM

To: ~House Criminal Justice and Public Safety

Subject: Task Force on Domestic Violence Cases in the New Hampshire Judicial System

Importance: Normal

Good morning members of the House Criminal Justice and Public Safety Committee

Following up on my testimony today, the website for the Task Force on Domestic Violence can be found through the following link: <https://www.courts.nh.gov/resources/committees/task-force-domestic-violence-cases-new-hampshire-judicial-system>.

Richard

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HB 1340 - AS INTRODUCED

2022 SESSION

22-2560

04/05

HOUSE BILL **1340**

AN ACT relative to the definition of "domestic violence" and relative to criminal convictions for domestic violence.

SPONSORS: Rep. Abramson, Rock. 37

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill inserts a definition of "domestic violence" that is based on the federal definition of domestic violence, and requires convictions for certain violent crimes that are based on the federal definition shall be annotated to indicate that they are domestic violence-related offenses.

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 Two

AN ACT relative to the definition of "domestic violence" and relative to criminal convictions for domestic violence.

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

1 1 Protection of Persons From Domestic Violence; Definition of Domestic Violence. Amend RSA
2 173-B:1, IX to read as follows:

3 IX. "Domestic violence" means [~~abuse as defined in RSA 173-B:1, I~~] **any state or federal**
4 ***misdemeanor that has, as an element, the use or attempted use of physical force, or the***
5 ***threatened use of a deadly weapon, committed by a current or former spouse, parent, or***
6 ***guardian of the victim, by a person with whom the victim shares a child in common, by a***
7 ***person who is cohabiting with or has cohabited with the victim as a spouse, parent, or***
8 ***guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.***

9 2 First Degree Assault; Domestic Violence Conviction. Amend RSA 631:1, III(a) to read as
10 follows:

11 III.(a) Upon proof that [~~the victim and defendant were intimate partners or family or~~
12 ~~household members, as those terms are defined in RSA 631:2-b, III,~~] ***the conviction was based on***
13 ***the definition of domestic violence under RSA 173-B:1, IX***, a conviction under this section shall
14 be recorded as "first degree assault-domestic violence."

15 3 Second Degree Assault; Domestic Violence Conviction. Amend RSA 631:2, III(a) to read as
16 follows:

17 III.(a) Upon proof that [~~the victim and defendant were intimate partners or family or~~
18 ~~household members, as those terms are defined in RSA 631:2-b, III,~~] ***the conviction was based on***
19 ***the definition of domestic violence under RSA 173-B:1, IX***, a conviction under this section shall
20 be recorded as "second degree assault-domestic violence."

21 4 Assault and Related Offenses; Reckless Conduct. Amend RSA 631:3, IV to read as follows:

22 IV.(a) Upon proof that [~~the victim and defendant were intimate partners or family or~~
23 ~~household members, as those terms are defined in RSA 631:2-b, III,~~] ***the conviction was based on***
24 ***the definition of domestic violence under RSA 173-B:1, IX***, a conviction under this section shall
25 be recorded as "reckless conduct-domestic violence."

26 5 Assault and Related Offenses; Aggravated Felonious Sexual Assault. Amend RSA 632-A:2,
27 V(a) to read as follows:

28 V.(a) Upon proof that [~~the victim and defendant were intimate partners or family or~~
29 ~~household members, as those terms are defined in RSA 631:2-b, III,~~] ***the conviction was based on***

HB 1340 - AS INTRODUCED

- Page 2 -

1 ***the definition of domestic violence under RSA 173-B:1, IX***, a conviction under this section shall
2 be recorded as "aggravated felonious sexual assault-domestic violence."

3 6 Assault and Related Offenses; Felonious Sexual Assault. Amend RSA 632-A:3, V(a) to read as
4 follows:

5 V.(a) Upon proof that [~~the victim and defendant were intimate partners or family or~~
6 ~~household members, as those terms are defined in RSA 631:2-b, III,~~] ***the conviction was based on***
7 ***the definition of domestic violence under RSA 173-B:1, IX***, a conviction under this section shall
8 be recorded as "felonious sexual assault-domestic violence."

9 7 Assault and Related Offenses; Sexual Assault. Amend RSA 632-A:4, IV(a) to read as follows:

10 IV.(a) Upon proof that [~~the victim and defendant were intimate partners or family or~~
11 ~~household members, as those terms are defined in RSA 631:2-b, III,~~] ***the conviction was based on***
12 ***the definition of domestic violence under RSA 173-B:1, IX***, a conviction under this section shall
13 be recorded as "sexual assault-domestic violence."

14 8 Interference With Freedom; Kidnapping. Amend RSA 633:1, III(a) to read as follows:

15 III.(a) Upon proof that [~~the victim and defendant were intimate partners or family or~~
16 ~~household members, as those terms are defined in RSA 631:2-b, III,~~] ***the conviction was based on***
17 ***the definition of domestic violence under RSA 173-B:1, IX***, a conviction under this section shall
18 be recorded as "kidnapping-domestic violence."

19 9 Interference With Freedom; Stalking. Amend RSA 633:3-a, VIII(a) to read as follows:

20 VIII.(a) Upon proof that [~~the victim and defendant were intimate partners or family or~~
21 ~~household members, as those terms are defined in RSA 631:2-b, III,~~] ***the conviction was based on***
22 ***the definition of domestic violence under RSA 173-B:1, IX***, a conviction under this section shall
23 be recorded as "stalking-domestic violence."

24 10 Effective Date. This act shall take effect January 1, 2023.