

HB 143 - AS INTRODUCED

2023 SESSION

23-0652

04/05

HOUSE BILL **143**

AN ACT relative to wiretapping to record conversations related to domestic violence.

SPONSORS: Rep. Testerman, Merr. 3

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill allows a person to make an audio or video recording, or both, without the consent of the person being recorded for the purpose of obtaining evidence of domestic violence. Such recording shall be admissible as evidence.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to wiretapping to record conversations related to domestic violence.

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

1 1 New Subparagraph; Wiretapping and Eavesdropping; Interception and Disclosure of
2 Telecommunications Relating to Domestic Violence. Amend RSA 570-A:2, II by inserting after
3 subparagraph (m) the following new subparagraph:

4 (n) A person, without the consent of the party being recorded, to make an audio or video
5 recording, or both, for the purpose of obtaining evidence to document an act of domestic violence as
6 defined under RSA 173-B. Notwithstanding RSA 570-A:6, any recording made pursuant to this
7 subparagraph shall be admissible as evidence.

8 2 Effective Date. This act shall take effect January 1, 2024.

CONSENT CALENDAR

January 19, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Criminal Justice and Public Safety
to which was referred HB 143,**

**AN ACT relative to wiretapping to record conversations
related to domestic violence. Having considered the
same, report the same with the following resolution:**

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Jennifer Rhodes

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 143
Title:	relative to wiretapping to record conversations related to domestic violence.
Date:	January 19, 2023
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would have allowed a person to make an audio or video recording without the consent of the person being recorded for obtaining evidence. While the committee overwhelmingly agreed with the sentiment behind the proposed legislation, the committee felt that the language as written might do more harm than good. The New Hampshire Domestic Violence Coalition did not support this bill, as they felt that it potentially exposed victims to having it used against them by abusers.

Vote 18-1.

Rep. Jennifer Rhodes
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 143, relative to wiretapping to record conversations related to domestic violence.
INEXPEDIENT TO LEGISLATE.

Rep. Jennifer Rhodes for Criminal Justice and Public Safety. This bill would have allowed a person to make an audio or video recording without the consent of the person being recorded for obtaining evidence. While the committee overwhelmingly agreed with the sentiment behind the proposed legislation, the committee felt that the language as written might do more harm than good. The New Hampshire Domestic Violence Coalition did not support this bill, as they felt that it potentially exposed victims to having it used against them by abusers. **Vote 18-1.**

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 143

BILL TITLE: relative to wiretapping to record conversations related to domestic violence.

DATE: January 19, 2023

LOB ROOM: 202-204 **Time Public Hearing Called to Order:** 10:01 a.m.

Time Adjourned: 10:11 a.m.

Committee Members: Reps. Roy, Rhodes, A. Murray, Bouldin, Selig, Tenczar, Newell, Stone, Meuse, Janvrin, Sytek, N. Murphy, Proulx, D. Mannion, Reid, Harriott-Gathright, Bradley and R. Newman

Bill Sponsors:
Rep. Testerman

TESTIMONY

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

Jennifer Rhodes

- Introduces the bill to the committee as Rep Testerman was not present to introduce his bill

Pamela Kelig

- Opposes the bill, but supports the intent
- Could be used against victims and conflict with existing privacy laws
- The Governor's commission is reviewing this issue, Kelig requests more time for this committee to finalize their research so it can inform the bill. Requests that the committee retain or kill HB 143.
- Chairman Roy asks for an example of how this bill could harm victims, Kelig says there are not clear enough parameters or guidance for recording. Someone could set up a camera for hours and take out a 30 second clip of a longer interaction that could paint the victim in a bad light and present it as evidence.
- Vice Chair Rhodes asks what language could make it better. Kelig unsure and needs more time. Follow up from Vice Chair Rhodes, if we retain the bill is Kelig willing to help with the language for it, answers yes with the consent and input of the full commission
- Rep Meuse asked if narrower language would be helpful as opposed to how broad this bill is, Kelig says yes but not ready to offer language

Marissa Chase, ED of NH Association for Justice/Civil Plaintiffs Bar

- Opposes the bill
- Says criminal justice lawyers are excited at the potential of the charges this could bring up, infers this negatively

- Chairman Roy asks if notification is given to a person being recorded if the recording is admissible in court, Chase is unclear but reminds committee that notification is not consent and under state law NH is a two party consent state

Rep Harriot-Gathright joins the committee

Respectfully submitted,

Rep. Alissandra Murray, Clerk

House Remote Testify

Criminal Justice and Public Safety Committee Testify List for Bill HB143 on 2023-
Support: 0 Oppose: 2 Neutral: 1 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>Count</u>
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	1
Creem, Jeffrey	Nashua, NH jeff@thecreems.com	A Member of the Public	Myself	Oppose	No	No	1
Davis, George	San Francisco, CA george123570@yahoo.com	A Member of the Public	Myself	Neutral	No	Yes	1



HB 143

Testimony of Pamela Keilig
Public Policy Specialist, NH Coalition Against Domestic and Sexual Violence
House Criminal Justice & Public Safety
January 19, 2023; 10:00am

HB143, relative to wiretapping to record conversations related to domestic violence.

Good morning, Mister Chair and Members of the Committee. My name is Pamela Keilig, and I am the Public Policy Specialist at the NH Coalition Against Domestic and Sexual Violence. The Coalition is the umbrella organization for 12 community-based crisis centers who provide free and confidential services to nearly 15,000 survivors of sexual and domestic violence annually. I am here to provide testimony on HB143, which would allow a person to make a recording without the consent of the person being recorded. Thank you for the opportunity to testify today.

While the Coalition supports the intent of this legislation, we share some concerns regarding potential unintended consequences that this bill could have in domestic violence cases. We appreciate the sponsor's interest in creating avenues through which victims can better obtain evidence against their abusers without being prosecuted for breaking the law. However, more work needs to be done to ensure that this law cannot be used against victims by their abusers, as well as to ensure that such amendments would be congruent with other privacy laws and court procedures, including rules of evidence.

Additionally, the Governor's Commission on Domestic Violence, Sexual Assault, and Stalking has been tasked to review and analyze this very issue. We ask the committee to consider retaining or killing this bill until the Commission, which includes a wide variety of stakeholders, has an opportunity to go through their process first.

Daniel Richardson

As written, this surreptitious exception to wiretap prohibition violates Constitutional right against self-incrimination within one's own home. A wiretapping co-tenant or co-owner not notifying the other

Jeffrey Creem

The bill also sets a confusing standard relative to when such recordings are permissible. Can someone run secret recordings for a year in the thought that there may be a future domestic violence situation? Must they only record if there is a reasonably high expectation of violence on that day?

The bill may result in unintended consequences of encouraging a domestic partner to remain home in an unsafe environment hoping to gather evidence when a better path forward would be to extricate themselves from a dangerous situation.

Secret recordings of private interactions with less than all party consent should either be authorized or not. Carving out an exception for domestic violence while continuing to prohibit recordings for credible threats of murder, sexual extortion or other serious crime sets a strange standard.

George Davis

At worst, public nudity is harmless. At best, public nudity normalises the human body and all body parts. This minimalizes body shame and guilt, creates a more realistic body consciousness, and makes people happier. An argument can be made that public nudity makes people less stupid.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 143

BILL TITLE: relative to wiretapping to record conversations related to domestic violence.

DATE: January 19, 2023

LOB ROOM: 202-204

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Rhodes

Seconded by Rep. Proulx

Vote: 18-1

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Alissandra Murray, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2023 9:55:43 AM
Roll Call Committee Registers
Report

2023 SESSION

Criminal Justice and Public Safety

Bill #: 143 Motion: ITL AM #: — Exec Session Date: 1/19/23

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Roy, Terry Chairman	✓		
Rhodes, Jennifer M. Vice Chairman	✓		
Pratt, Kevin M.	✓		
Sytek, John		✓	
Proulx, Mark L.	✓		
Janvrin, Jason A.	✓		
Mannion, Dennis	✓		
Reid, Karen A	✓		
Stone, Jonathan F.	✓		
Tenczar, Jeffrey	✓		
Harriott-Gathright, Linda C.	✓		
Meuse, David	✓		
Bouldin, Amanda C.	✓		
Bradley, Amy Clerk Newman, Sue	✓		
Murphy, Nancy A.	✓		
Newman, Ray E.	✓		
Murray, Alissandra	✓		
Newell, Jodi K	✓		
Selig, Loren	✓		
Wheeler, Jonah O not present			###
TOTAL VOTE:	18	1	###