HB 545-FN - AS INTRODUCED

2023 SESSION

23-0651
02/04

HOUSE BILL ***545-FN***

AN ACT amending the victims' bill of rights.

SPONSORS: Rep. Hynes, Hills. 2

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill expands crime victims' rights to cover misdemeanors, grants victims the right to remove no contact orders between them and the accused, authorizes victims to withdraw or reduce restitution paid to them, and grants victims the right to have misdemeanor charges against them be dismissed following an accord and satisfaction agreement.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0651
02/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT amending the victims' bill of rights.

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

1 Rights of Crime Victims. Amend RSA 21-M:8-k, I(b) to read as follows:

(b) "Crime" means a [~~violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law to be a felony; a misdemeanor sexual offense~~] ***felony or misdemeanor***; an offense listed in RSA 173-B:1, I; a violation of a protective order under RSA 458:16, III; or after arraignment, a violation of a protective order issued under RSA 173-B.

2 Rights of Crime Victims. Amend RSA 21-M:8-k, II(f) to read as follows:

(f) The right to confer with the prosecution and to be consulted about the disposition of the case, including ***bail conditions and*** plea bargaining. ***A victim has the right to remove a no-contact order between them and the accused as a bail condition. A victim has a right in misdemeanor cases to have a charge against them dismissed due to an accord and satisfaction.***

3 Rights of Crime Victims. Amend RSA 21-M:8-k, II(j) to read as follows:

(j) The right to full and timely restitution, as granted under RSA 651:62-67 or any other applicable state law, or victim's compensation, under RSA 21-M:8-h or any other applicable state law, for their losses. ***A victim has a right to withdraw restitution, or allow partial restitution, at any point after restitution has been ordered in sentencing.***

4 New Paragraph; Rights of Crime Victims. Amend RSA 21-M:8-k by inserting after paragraph IV the following new paragraph:

V. The arresting department shall promptly provide a printout including all of the information in RSA 21-M:8-k, II and RSA 21-M:8-k, II-a to any victim as alleged in the complaint. If the department does not have the contact information of the victim, the department shall take reasonable steps to determine the victim's information. A department may mail, email with permission from the victim, or hand deliver the required information to the victim.

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

LBA
23-0651
1/9/23

HB 545-FN- FISCAL NOTE
AS INTRODUCED

AN ACT amending the victims' bill of rights.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, **as introduced**, at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

AGENCIES CONTACTED:

Department of Justice

CONSENT CALENDAR

February 10, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Criminal Justice and Public Safety to which was referred HB 545-FN,

AN ACT amending the victims' bill of rights. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Jennifer Rhodes

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Criminal Justice and Public Safety**
Bill Number:	**HB 545-FN**
Title:	**amending the victims' bill of rights.**
Date:	**February 10, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

On the surface this bill might appear to strengthen the victims' bill of rights; it in fact does the exact opposite. The committee heard strong testimony from the New Hampshire Domestic Violence and Sexual Abuse Coalition and law enforcement that if enacted, this legislation could provide an incentive for abusers to further intimidate their victims by coercing them to remove no contact orders between them and the accused, to withdraw or reduce restitution paid to them, and to request misdemeanor charges against their abusers be dismissed. It would also create an opportunity for an abuser to offer to pay a victim to drop the charges against them. The victims' bill of rights was carefully written by this legislature with input from all stakeholders, to ensure certain systems and protections are in place in order to hold abusers accountable. Changes should only be contemplated after a careful evidenced based review demonstrates that change is necessary. The committee heard no such evidence. Victims should never bear responsibility for enforcement of the law or court orders related to the crimes committed against them.

Vote 20-0.

Rep. Jennifer Rhodes
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 545-FN, amending the victims' bill of rights. **INEXPEDIENT TO LEGISLATE.**

Rep. Jennifer Rhodes for Criminal Justice and Public Safety. On the surface this bill might appear to strengthen the victims' bill of rights; it in fact does the exact opposite. The committee heard strong testimony from the New Hampshire Domestic Violence and Sexual Abuse Coalition and law enforcement that if enacted, this legislation could provide an incentive for abusers to further intimidate their victims by coercing them to remove no contact orders between them and the accused, to withdraw or reduce restitution paid to them, and to request misdemeanor charges against their abusers be dismissed. It would also create an opportunity for an abuser to offer to pay a victim to drop the charges against them. The victims' bill of rights was carefully written by this legislature with input from all stakeholders, to ensure certain systems and protections are in place in order to hold abusers accountable. Changes should only be contemplated after a careful evidenced based review demonstrates that change is necessary. The committee heard no such evidence. Victims should never bear responsibility for enforcement of the law or court orders related to the crimes committed against them. **Vote 20-0.**

Original: House Clerk
Cc: Committee Bill File

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB 545-FN Date: 1/27/23

Committee: Criminal Justice and Public Safety

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Natalie Belville	New Boston, NH	(949) 885-6361	Self		X
Alyssa Kuehne		603-594-3500	Nashua PD		X
Milena Cuadra	3000 Bedford, NH	603-594-1621	Nashua PD		X
Jennifer Dickinson		603-589-1620	Nashua PD		X
Katherine Muzzy		603-594-3500	NashuaPD		X
W JOSEPH FRANCES		6033258021	SELF		X
Melissa White	Peterborough, NH		Self		X

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 545-FN

BILL TITLE: **amending the victims' bill of rights.**

DATE: **January 27, 2023**

LOB ROOM: **202-204** **Time Public Hearing Called to Order:** **12:17 p.m.**

Time Adjourned: **1:00 p.m.**

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

Bill Sponsors:
Rep. Hynes

TESTIMONY

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

Rep Dan Hynes introduces his bill

● Expands the bill of rights to misdemeanor, currently only applies to felonies. No contact orders can get issued until a hearing can be held, but sometimes the victim's may not want that. Restitution is supposed to make someone whole so it makes sense to give the victim the authority to dismiss charges or not.

● Chairman Roy asks if there are any concerns about victims being pressured to drop charges if either they don't have legal representation or the offender is threatening them? Rep Hynes says the victims do have access to witness advocates, and says he would support an amendment to address the concern of a victim being pressured

● Rep Newell asks what is the normal length of these types of cases, Rep Hynes says 2-6 weeks

● Rep Selig asks for clarification on what "victim" is referring to, Rep Hynes says he is not changing the definition of victim but there is a typo in the bill that makes that confusing and he has submitted an amendment to address that
Steven Endres, prosecutor at Merrimack County Attorney's Office

● Opposes the bill

● Crime in NH is against the peace and dignity of the state, even though there may be individual victims. 80% of domestic violence victims recant. The state has interest in pursuing domestic violence charges that may differ from the victim's. This bill sets the stage for victim and witness intimidation. Attorneys in all counties oppose this bill.

● Rep Newell asks if the attorney could speak to domestic violence being correlated to other violent crimes, Endres does not have stats but says this is essentially murder intervention
Lynn Schollett, Executive Director of NH Coalition Against Domestic and Sexual Violence

● Opposes the bill

● These laws are meant to ensure victims' have meaningful participation in court proceedings, and protect them from intimidation in the court room and out of it
Chief David Goldstein, Franklin Chief of Police and Chair of NH Association of Chiefs of Police and Attorney Andrea Muller

● Both oppose the bill

● Over 50% of homicides he's investigated have been domestic violence related. Agrees with the first paragraph's expansion of the definition of victims.

● Attorney worked in Manchester for 9 years and now in Franklin for 2

● Both have witnessed victim intimidation and are concerned about how a removing a no-contact order could facilitate more of that. On top of that, many of these offenders will continue to harm other victims down the line and dropping charges before a case is seen through enables that harm.

● Chairman Roy asks if the changes in the bill are already able to be enacted on an individual basis as requested to the judge, Attorney Muller says yes but they would likely still be held until a hearing

● Rep Rhodes asks for clarification regarding the fact that the victim in these cases is essentially the state's witness in their charges against the defendant, Muller says yes
Attorney Richard Head, Government Affairs Coordinator for Judicial Branch

● Opposes the bill

● This disrespects the court system and order of law. It allows an offender who already has control over the victim to exercise this control in a way that benefits them only.
Attorney Jeff Strelzin, NH Attorney General's Office

● Opposes the bill

● 45-50% of all murder cases are domestic violence related

● Victims are emotionally involved in their cases and sometimes their allegiances can change. It's important to have an objective person keeping them and their families safe. This bill also essentially allows an offender to pay a victim off. Creates a second system of justice for those who are rich or connected. People later down the line may now be at risk because the offender wasn't held accountable.

Respectfully submitted,

Rep. Alissandra Murray, Clerk

House Remote Testify

Criminal Justice and Public Safety Committee Testify List for Bill HB545 on 2023-

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

Export to Excel

Melissa Hinebauch

Dear Members of Criminal Justice and Public Safety Committee ,
Please oppose HB 545. If passed, HB 545 would create an incentive for abusers to further intimidate their victims.
The Victims' Bill of Rights was carefully written to ensure certain systems and protections are in place in order for the state to hold abusers accountable. Victims should never bear responsibility for the crimes committed against them, nor is it the victim's job to impose bail conditions or determine restitution – that is the job of attorneys and, ultimately, the court.
Specifically HB 545 would: Open the door for abusers to have leverage over victims in criminal proceedings. Force victims into a position where they lose their financial restitution.Create situations where victims are pressured by abusers into removing their no-contact order, and place them at risk of re-victimization.
This legislation ignores the dangerous dynamics within abusive relationships and the strategies that abusers employ to keep a victim in the relationship. Domestic and sexual violence is rarely a one-time occurrence, and often escalates in frequency and severity over time. The Victims' Bill of Rights should never become a tool to perpetuate abuse.
Thank you for opposing HB 545.
Sincerely,
Melissa HinebauchConcord, NH 03301

please keep these victims safe at all costs.

Brendan LaFlamme

I oppose this bill.

•Open the door for abusers to have leverage over victims in criminal proceedings. •Force victims into a position where they lose their financial restitution. •Create situations where victims are pressured by abusers into removing their no-contact order, and place them at risk of re-victimization.

Victoria Gaouette

This bill creates an incentive for abusers to use NH's Bill of Rights to intimidate their victims

HB545

January 27, 2023

Natalie Belville
208 Chestnut Hill Rd.
New Boston, NH 03070

Representative Terry Roy, Chair
Criminal Justice and Public Safety Committee

RE: Opposition to HB 545

Dear Chairman Roy and Honorable Committee Members:

My name is Natalie Belville, and I am currently a student at UNH Law. I have some unique experience to share as you consider HB545 and I urge you to vote HB545 inexpedient to legislate.

Prior to law school, I spent over two years working for the Special Victim's Unit in a major U.S. city. I worked on countless cases of domestic or intimate partner violence, stalking, and sexual assault. Throughout my time there, my biggest take-away was the prevalence of the cycle of abuse and revictimization – an incredibly important aspect of all types of victims or survivors. It is this cycle that I urge you to consider carefully as you act on this bill. Although our victims' bill of rights applies to victims of all crimes, I believe these proposed changes will have the greatest effect on victims of domestic or intimate partner violence. As this committee surely knows, this problem is as prevalent in New Hampshire as it is elsewhere.

According to a recent CDC study on Domestic Violence ***in New Hampshire***, over 34% of women and over 35% of men experience intimate partner violence or stalking in their lifetimes.[1] Additionally, a study by the U.S. Department of Justice reported that, "most female victims of intimate partner violence were previously victimized by the same offender." 77% of 18–24-year-old women are revictimized. 76% of 25–34-year-old women are revictimized. And 81% of 35–49-year-old women are revictimized.[2] The statistics can be even higher for victims who were also victimized as children or experienced other types of abuse.

Part of why revictimization occurs – particularly for victims of intimate partner violence – is due to dependency. Victims may depend on their abusers financially if they are not allowed to work, if they have children in common, or if they believe they cannot support themselves. Abusers often isolate their victims, causing victims to feel like they can't escape. Particularly after prolonged abuse, victims fall into co-dependent tendencies with their abusers, perpetuating the abuse.

[1] National Center for Injury Prevention and Control (2019). The national intimate partner and sexual violence survey: 2010-2012 State Report. Centers for Disease Control and Prevention. Retrieved from https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf.

[2] United States, Congress, Bureau of Justice Statistics, and Shannon Catalano. *Intimate Partner Violence, 1993-2010*. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://bjs.ojp.gov/content/pub/pdf/ipv9310.pdf. Accessed 26 Jan. 2023.

As written, HB545 would enable, and possibly even encourage, the cycle of abuse for countless victims. Although some may believe giving victims more options within the legal system is beneficial, it will undoubtedly increase revictimization. The victims' bill of rights, as currently written, protects victims by holding abusers responsible for their actions. This bill would weaken those protections. And, in weakening them, it will permit abusers to maintain power and control over their victims – not empower, support, or benefit victims.

For these reasons, please vote HB 545 inexpedient to legislate. Thank you.

Testimony of Lyn Schollett
Executive Director, NH Coalition Against Domestic and Sexual Violence
House Criminal Justice & Public Safety
January 27, 2023; 12:15pm

HB545, amending the victims' bill of rights

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 the umbrella organization for 12 community-based crisis centers, which provide free and confidential services to nearly 15,000 survivors of sexual and domestic violence annually. **I am here to provide testimony in opposition to HB545, which proposes harmful changes to New Hampshire's Victims' Bill of Rights.** Thank you for the opportunity to testify today.

While HB545 appears to strengthen the Victims' Bill of Rights under RSA 21-M:8-k, it in fact does the exact opposite. If passed, this legislation would create an incentive for abusers to further intimidate their victims. The Victims' Bill of Rights was carefully written to ensure certain systems and protections are in place in order for the state to hold abusers accountable. Victims should never bear responsibility for the crimes committed against them, nor is it the victim's job to impose bail conditions or determine restitution—that is the job of attorneys, and, ultimately, the court.

After reviewing this proposed legislation, we have three specific concerns:

1) This legislation would open the door to further abuse and re-victimization through the criminal justice process.
2) This bill would force victims into a position where they could lose their financial restitution. We know that 99% of domestic violence victims experience financial abuse and abusers should not be provided opportunities to legal perpetuate that abuse.
3) It would create situations where victims are pressured by abusers to remove a no-contact order, and thereby place them at extreme risk of future violence. **The Victims' Bill of Rights should never become a tool to perpetuate violence.**

The amendments proposed by this legislation to the Victims' Bill of Rights would reverse the progress we've made over decades to ensure that victims are afforded the chance to have their voices heard and are an active part of court proceedings. Victims already face significant barriers when leaving an abusive situation, and this legislation discounts the very dangerous dynamics present in those relationships. Please consider **voting ITL on HB545**. Thank you for your time, and I'm happy to take any questions.

OFFICE OF THE MERRIMACK COUNTY ATTORNEY

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Cristina E. Brooks
Carley McWhirk
Casey M. Callahan
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Jessica L. Clarke
Jacqueline L. Lawrie
Kelsey Heinemann

INVESTIGATORS
Stacey F. Edmunds
Michael A. Russell

January 27, 2023

New Hampshire House of Representatives
Standing Committee on Criminal Justice and Public Safety
Concord, NH 03301

Ref: Testimony on House Bill 545

Committee Members:

I'm writing today express my opposition to HB 545 and also to request you find HB 545 inexpedient to legislate.

I believe this bill will only increase the power abusers have over their victims. I urge you to review our Attorney General's Model Protocol for Law Enforcement Response to Domestic Violence, issued in 2020, specifically at pages 5 and 6 where the issue of a victim's response to domestic violence is discussed. I've attached those specific pages to this letter. As you review the Protocol the detrimental impact of HB 545 is evident.

It should be our State's public policy to ensure victims of domestic violence are protected. I agree with the NHCADSV that HB 545 would only "create an incentive for abusers to further intimidate their victims." I support the NHCADSV and prosecutors state-wide in opposing this bill.

Paul Halvorsen
Merrimack County Attorney
(Signature applied electronically)

VICTIM RESPONSES

VICTIM REACTIONS

A victim of domestic violence who calls law enforcement often **just wants the violence to stop**. The victim may use a variety of strategies that may have worked in the past to avoid another physical assault, such as:

- Agreeing with the perpetrator's denial or minimization of the violence in public;
- Accepting promises that it will never happen again;
- Requesting that the court dismiss the protective order; and
- Not showing up for court hearings.

REASONS FOR VICTIM RELUCTANCE

The reasons given by victims of domestic violence who are or become reluctant to cooperate with law enforcement are often the same as those given by victims of other types of violent crime, such as:

- Fear of retaliation by the perpetrator;
- Unwilling to face the perpetrator again in the courtroom;
- Afraid of the perpetrator's anger for involving the justice system;
- A feeling of shame or guilt; and
- Denial, ambivalence, withdrawal, and emotional swings as a result of being a victim of severe trauma.

Domestic violence was a causal factor in 77% of the murder/suicides in New Hampshire during 2009-2019.

New Hampshire Domestic Violence Fatality Report, 2018-2019

In domestic violence cases, the above reasons are often heightened for the victim because of the following realities:

- The perpetrator may be living with the victim, be familiar with the victim's daily routine, and have on-going access to the victim at home, work, or at the home of relatives or friends;
- The intimate relationship between the perpetrator and the victim creates a unique vulnerability resulting from the perpetrator's knowledge of details about the victim's life not found in cases in which they are strangers;
- Even when formal separations are initiated, the perpetrator often has access to the victim through child visitation arrangements;
- The victim may have genuine concern or love for the perpetrator. The victim may want the violence to end, but not the relationship;

- The victim may not have a place to stay safe from the perpetrator. Leaving home can mean becoming hunted or homeless. A victim may decide life with the perpetrator is better than the unknown;

There were an average of nearly 600,000 unreported nonfatal domestic violence victimizations each year between 2006 and 2015. In about a third (32%) of unreported victimizations, victims cited the personal nature of the incident as a reason for not reporting it. About a fifth of victimizations were not reported because the victim wanted to protect the offender (21%), felt the crime was minor or unimportant (20%), or feared reprisal from the offender or others (19%).

"Police Response to Domestic Violence, 2006-2015", US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, May 2017.

- The victim has learned that the perpetrator will follow through with threats of retaliation because of the victim's previous efforts to leave or seek help from the justice system which caused retaliation;
- The victim and the perpetrator may have children together, and the victim may have received threats that the children will be kidnapped or harmed if the victim cooperates;
- The victim and children may be dependent on the perpetrator for economic support. This concern may be even greater when the victim is not eligible for public benefits;
- The victim may be under religious, family, or social pressures to support the perpetrator;
- The victim may have a past experience in which the system failed to prevent violence. A domestic violence victim knows that law enforcement cannot provide constant protection. The victim may know that even if convicted the perpetrator will someday be released from custody and may find the victim, the victim's children or family; and
- **Due to the impact of the trauma which has occurred, memories may be fragmented, out of sequence, and filled with gaps. This can make it difficult for victims to recall details of the assault. They may recall some specific details and be unable to remember others. Victims fear that law enforcement may not believe them or become frustrated with the victim because of this**.

For more information and resources regarding the dynamics of domestic violence, please see ***Appendix B***.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 545-FN

BILL TITLE: amending the victims' bill of rights.

DATE: February 10, 2023

LOB ROOM: 202-204

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Rhodes Seconded by Rep. N. Murphy Vote: 20-0

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 #: SJS-FN Motion: ITL AM #: _____ Exec Session Date: 2/10/23

Members	YEAS	Nays	NV
Roy, Terry Chairman	20		
Rhodes, Jennifer M. Vice Chairman	1		
Pratt, Kevin M.	2		
Sytek, John	3		
Proulx, Mark L.	4		
Janvrin, Jason A.	5		
Mannion, Dennis	6		
Reid, Karen A	7		
Stone, Jonathan F.	8		
Tenczar, Jeffrey	9		
Harriott-Gathright, Linda C.	10		
Meuse, David	11		
Bouldin, Amanda C.	12		
Bradley, Amy Clerk	13		
Murphy, Nancy A.	14		
Newman, Ray E.	15		
Murray, Alissandra	16		
Newell, Jodi K	17		
~~Selig, Loren~~ Nutting-Wong	18		
Wheeler, Jonah O	19		
TOTAL VOTE:	20	0	