

# Senate Judiciary Committee

*Brendan Bunnell 271-4063*

**HB 1240-FN**, relative to the apparent use of a deadly weapon during the offense of criminal threatening.

**Hearing Date:** March 31, 2026

**Time Opened:** 1:38 p.m.

**Time Closed:** 1:58 p.m.

**Members of the Committee Present:** Senators Gannon, Abbas, Altschiller and Reardon

**Members of the Committee Absent:** Senator Carson

**Bill Analysis:** This bill makes it a class B felony to violate certain provisions of the criminal threatening statute while using what reasonably appears to the victim to be a deadly weapon.

This bill is a request of the county attorneys.

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**Sponsors:**

Rep. Roy  
Rep. D. Mannion  
Sen. Gannon

Rep. Devoid  
Rep. Paquette

Rep. Lascelles  
Sen. Abbas

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**Who supports the bill:** None.

**Who opposes the bill:** Representative Popovici-Muller, J.R. Hoell, Penny Dean, Elizabeth McKinney, Cory Stone, Curtis Howland, Pamela Harders and Jay Simkin.

**Who is neutral on the bill:** None.

**Summary of the testimony presented:**

**Representative Popovici-Muller** introduced the bill in the absence of any sponsors.

**Penny Dean**, an attorney and resident of Concord, spoke in opposition to the bill. She expressed her disapproval for the bill's passage through the House and stated that "the road to heck is paved with good intentions."

- Explained that there are many cases in New Hampshire in which an individual lawfully displayed a firearm and where the other individual claimed that they had threatened them with it.
- Stated her ownership of paint guns and squirt guns that look like real firearms; explaining that an individual could easily confuse them if viewed from a distance or if part of the toy is covered.
- Asked the members of the committee whether they wanted children playing with such fake weapons to be charged with criminal threatening by an overly zealous police officer.
- Explained that this would allow police officers a significant level of additional power, akin to “charge stacking.” She stated that some individuals will be intimidated by this and might plead guilty to an additional crime that they did not commit. These individuals are often unable to afford a trial or the burden that imprisonment might place upon their families; instead, being compelled to take a plea deal.
- Stated that this bill would bring about future consequences and needed to be found inexpedient to legislate or reworked in a major way.
- Cited a recent case she had wherein a child had dressed as a soldier on Halloween. She asked the members of the committee to recall how often it is that they see fake firearms that look real while in a Walmart or other stores.
- Senator Abbas expressed his understanding for Ms. Dean’s perspective, but questioned whether the charge of criminal threatening required more threatening actions from the individual than just holding or displaying a firearm.
  - Ms. Dean answered that it often did not as a practical matter, citing her experiences viewing body camera footage from such cases.
  - Explained that officers often claim that the suspect had turned towards them when asked whether the firearm had been pointed towards them, ultimately being found sufficient in court to convict the individual by judges that provide those officers with leading questions.
  - Stated that there are many police officers in New Hampshire that don’t wear body cameras, making it difficult to determine how many of these cases are illegitimate.
- Senator Abbas questioned what ought to happen in the case that an individual pointed a fake firearm at another person, stating that this was the situation which the bill was probably meant to address.

- o Ms. Dean stated that she felt this was not the way we wanted to be charging individuals in New Hampshire regardless, questioning whether an individual ought to be charged with criminal threatening for imitating its shape with a hand in a coat pocket.
- Senator Gannon questioned whether imitating a firearm with your hand in a pocket in a bank would be putting the victim in a reasonable state of fear that you are in possession of a firearm and robbing the bank.
  - o Ms. Dean stated that the individual would be rightfully seen as attempting to rob the bank, but that it would be a false presumption that the offender possessed a firearm.
  - o Asked whether the Senator would be comfortable giving law enforcement all of that extra power given that they already have plenty of ways to charge the individual in this case.
  - o Stated that if it were a real gun, the individual could already be charged with criminal threatening under current laws. She asked that proponents of this bill point out in which cases the lack of this power has been an issue for the prosecution.
- Senator Gannon asked whether judges lead the witnesses towards certain conclusions in these cases.
  - o Ms. Dean answered that they often did.
- Senator Reardon stated that she understood Ms. Dean's testimony as she read the first part of the bill, but pointed out that the lines 3 through 4 stated that this was only when in violation of RSA 625:11, V, Subparagraph I(a), I(b), I(c), or I(d), in the circumstances that an individual was using that fake firearm to coerce or threaten another individual. She stated that this was intended for cases in which an offender was attempting to convince a victim that they were in possession of a real firearm.
  - o Ms. Dean stated that while this might have been the intention of the bill, it still allowed for the practice of "charge stacking," and provided unnecessary tools in cases where law enforcement had plenty of options for how to charge the offending individual.
  - o Stated that police departments have absolute prosecutorial discretion and that this law echoed the parallel behavior of police departments towards federal law in relation to civil rights during the 1940s through the 1960s.

**J.R. Hoell**, a former Representative of the New Hampshire House of Representatives, spoke on behalf of the New Hampshire Firearms Coalition and against the bill. He explained that the bill had passed its House committee 7-6 and through the House floor 170-162. During its public hearing, no individuals testified in favor of it online, while 162 testified against its passage.

- Explained that this bill would raise the current offense for this crime from a potential year in jail for a misdemeanor to a Class B felony.
- Stated that this bill would expand the statute in a way that was very vague, explaining that a baseball bat could be seen as a deadly weapon and as constituting criminal threatening under this bill.
- Stated that this bill would allow for additional prosecutions that might not be necessary.
- Explained that his biggest concern was for gun owners that chose to openly carry their firearm. He presented a hypothetical where a gun owner might be prosecuted for criminal threatening after being recorded walking into a store and being accused of saying something threatening which could not be proved via that recording. He stated that the burden of proof in such cases was often low.
- Read the testimony of a member of the public that had expressed concern for the broad language within the bill and the potential that lawful gun owners might be prosecuted for practicing their right to self-defense. The testifier explained that current laws were already sufficient for maintaining both public safety and the rights of gun owners, while expressing their concern that this bill could provide prosecutors with overly broad discretion that could be misused against lawful firearms owners.
- Senator Abbas asked how this would apply to lawful firearms owners given that the bill was aimed at items that only appeared to be deadly weapons.
  - Mr. Hoell answered that an individual might be prosecuted for criminal threatening under this bill when all they had done was unholster a firearm to legally carry it.
- Senator Gannon asked for clarification on whether this would apply to weapons that appeared deadly like starter pistols.
  - Mr. Hoell answered that there were many cases where an individual was falsely accused of criminal threatening with a deadly weapon when they had simply been holding a fake or non-deadly firearm.
- Senator Reardon stated that her understanding of the bill was that a lawful gun owner carrying their firearm would not be treated differently at all.

She stated that it was not whether you had touched the gun or not, but whether the gun was real or not.

- o Mr. Hoell stated that in such case, the language required a lot of work and that the word “appeared” was insufficient within the language of the bill.
- Senator Reardon stated that while she, as a hypothetical victim, might not know whether a firearm was real or fake, the circumstances were the same for her. She asked whether you wouldn’t be able to charge an offender with criminal threatening currently if it was a fake firearm.
  - o Mr. Hoell stated that his concern was that the bill was vague enough that it would allow prosecutors to prosecute certain cases they might not have been able to. He explained that if an individual was truly threatening, a prosecutor already had enough to charge them with currently.
- Senator Abbas asked why it might be at issue to charge an individual with criminal threatening with a deadly weapon when the suspect’s intention had been to convince their victim that they were in possession of such a weapon.
  - o Mr. Hoell stated that this was already a Class A misdemeanor if prosecuted effectively and that this would only increase the crime to a Class B felony. He expressed his concern that this would provide excess room for prosecutors to compel the entry of a suspect into a plea bargain, citing the previous testimony of Ms. Penny Dean.

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Date Hearing Report completed: April 3, 2026