

HB 369-FN - AS INTRODUCED

2025 SESSION

25-0419

09/11

HOUSE BILL ***369-FN***

AN ACT relative to misdemeanor sexual assault prosecutions.

SPONSORS: Rep. Potenza, Straf. 19; Rep. Bjelobrk, Graf. 5; Rep. Kuttab, Rock. 17; Rep. Sabourin, Rock. 30; Rep. Lynn, Rock. 17; Rep. Burnham, Straf. 2; Sen. Ricciardi, Dist 9; Sen. Sullivan, Dist 18

COMMITTEE: Judiciary

ANALYSIS

This bill requires a defendant charged with a misdemeanor sexual assault of a minor under the age of 16 to elect whether to proceed in circuit court and waive his or her right to a jury trial or to immediately appeal to superior court for a jury trial.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to misdemeanor sexual assault prosecutions.

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

1 1 District Courts; Jurisdiction; Appeals from Sentence. Amend RSA 502-A:12, I to read as
2 follows:

3 I. A person sentenced by a district court for a class A misdemeanor after trial or after
4 proceedings pursuant to [~~District Court Rule 2:14~~] **Rule of Criminal Procedure 21(a)** may appeal
5 therefrom to the superior court for a jury trial as provided in RSA 599, except [~~in cases in district~~
6 ~~courts served by regional jury trial courts as provided in RSA 502-A:12-a~~] **as provided in RSA 632-**
7 **A:9-a.**

8 2 Appeals from Convictions in Circuit Court. Amend RSA 599:1 to read as follows:

9 599:1 Appeals. **Except as provided in RSA 632-A:9-a**, a person convicted by a circuit court of
10 a class A misdemeanor, at the time the sentence is declared, may appeal therefrom to obtain a de
11 novo jury trial in the superior court, which shall hear the appeal. The appeal shall be entered by the
12 defendant at the next return day unless for good cause shown the time is extended by the superior
13 court. If, after a jury trial in the superior court, the defendant is found guilty, the superior court
14 shall sentence the defendant, and the defendant may appeal questions of law arising therefrom to
15 the supreme court. In the event the defendant waives the right to jury trial after the case has been
16 appealed, the superior court shall forthwith remand the case to the circuit court for imposition of the
17 sentence originally imposed by the circuit court, and the defendant may appeal questions of law
18 arising therefrom to the supreme court. In all misdemeanor cases which are appealed to superior
19 court, it shall be the duty of the superior court to transmit to the justice of the circuit court, within
20 10 days after the case is finally disposed of, a certificate showing the final disposition of the case.

21 3 New Section; Sexual Assault and Related Offenses; Cases Involving Misdemeanor Sexual
22 Assaults Against Minors. Amend RSA 632-A by inserting after section 9 the following new section:

23 632-A:9-a Misdemeanor Sexual Assault Prosecutions with Victim is Less Than 16 Years of Age.

24 I. In any prosecution for a violation of RSA 632-A:4 involving a victim 16 years of age or
25 under at the time the prosecution is commenced, and which is brought in the circuit court, the
26 defendant may elect to either:

27 (a) Appeal within 30 days after the arraignment to the superior court for a jury trial
28 pursuant to the provisions of Rule of Criminal Procedure 21(a); or

29 (b) Proceed with a trial in the circuit court, which will constitute a waiver of the right to
30 a jury trial and the right to appeal for a jury trial pursuant to RSA 502-A:12 and 599:1.

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1 II. A circuit court shall not proceed with a trial under subparagraph I(b) unless it has
2 conducted a colloquy with the defendant and finds that the defendant has knowingly, voluntarily,
3 and intelligently waived his or her right to a jury trial.

4 4 Effective Date. This act shall take effect January 1, 2026.

LBA
25-0419
12/19/24

**HB 369-FN- FICAL NOTE
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AN ACT relative to misdemeanor sexual assault prosecutions.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2025 through 2028.

AGENCIES CONTACTED:

Judicial Branch