

Senate Judiciary Committee

Pete Mulvey 271-4063

SB 58-FN, relative to venue in criminal cases.

Hearing Date: February 4, 2025

Time Opened: 1:02 p.m.

Time Closed: 1:15 p.m.

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

Members of the Committee Absent : Senator Carson

Bill Analysis: This bill broadens criminal venue to allow for prosecution in the county or judicial district where an element of the offense occurred in situations where all of the elements of the offense do not occur in one county or judicial district.

This bill is a request of the office of the Merrimack county attorney.

Sponsors:

Sen. Pearl

Sen. Lang

Sen. Reardon

Sen. Innis

Sen. Rochefort

Sen. Watters

Sen. Murphy

Rep. Moffett

Rep. Seaworth

Rep. Wood

Rep. Aures

Who supports the bill: Eight individuals signed in support of SB 58-FN. Contact Pete Mulvey (peter.mulvey@gc.nh.gov) for further details.

Who opposes the bill: N/A

Who is neutral on the bill: N/A

Summary of testimony:

Senator Howard Pearl

Senate District 17

- SB 58 broadens the criminal venue for prosecution in a county or judicial district for instances in which the elements of a crime are dispersed across jurisdictional lines.
 - A case may be prosecuted where a death took place, or where the manufacturing/sale of the attributable substance occurred.
- Sen. Pearl referred to State v. Fortune (2024), a N.H Supreme Court case relative to appropriate venue for cases with death resulting.

- SB 58 addressed the venue limitations contemplated by the N.H Supreme Court.
- Currently, a sale which transpires beyond state borders while culminating in a death within state borders could not be prosecuted in-state as the defendant must commit elements of the crime in question within state boundaries.
- Sen. Pearl provided an amendment to rectify an erroneous citation.
- Additional language was provided to mitigate conflict with the recently passed SB 15.
- SB 58 was requested by the Merrimack County Attorney's Office.

Paul Halvorsen and Steven Endres

Merrimack County Attorney's Office

- Mr. Halvorsen actively served as the Merrimack County Attorney, while Mr. Endres actively served as the County Solicitor.
- Mr. Halvorsen stated that four pending cases were dropped based on venue following the State v. Fortune decision.
- RSA 318-B:26 (IX) established criminal liability for the manufacturing/sale of drugs with a death resulting.
- Mr. Endres stated that in most instances, a body is reported, and a sequence of events is reverse engineered from the investigation.
- Mr. Endres contemplated the elements for a death resulting prosecution. Only one of the elements could be considered intentional action on part of the defendant - the sale. Therefore, that element took precedence in determining venue according to the N.H Supreme Court.
- In the RSAs for insurance fraud, identity theft and computer crimes, flexibility regarding venue was provided for prosecutors.
- Mr. Endres stated that the County Attorneys for Grafton, Carroll, Rockingham, Cheshire, Sullivan, Belknap, and Strafford counties supported the bill.
- Sen. Gannon asked if an individual may be brought up on charges in N.H if the substance they sold in Massachusetts killed a resident in N.H.
 - Mr. Endres said the individual in question may be charged in-State under SB 58.
- Sen. Abbas contemplated if such an individual would be prosecuted under Massachusetts law.
 - Mr. Endres indicated that Massachusetts did not have any death resulting laws, and therefore, would not be prosecuted in the hypothetical scenario.
- Sen. Abbas asked how individuals would be charged under RSA 318-B:26 (IX) in the absence of evidence confirming a defendant's presence in N.H.
 - Mr. Endres clarified that existing statute enabled territorial jurisdiction in such a scenario, however the question of venue was unresolved until SB 58 had been conceptualized.
- Sen. Reardon sought clarification whether SB 58 simply facilitated prosecutions for death resulting or out-of-state drug distribution in general.
 - Mr. Endres pointed specifically to cases with death resulting.
- Sen. Reardon asked if the individual prosecuted in N.H would be charged with death resulting or something else.
 - Mr. Endres said such an individual would be charged with death resulting.
- Mr. Halvorsen expressed uncertainty that the proposed amendment found a better citation. Mr. Halvorsen proposed the creation of a new paragraph (c) under RSA 318-B:26 (IX).

Date Hearing Report completed: February 10, 2025