

Senate Judiciary Committee

Sonja Caldwell 271-2117

SB 464-FN, relative to civil rights enforcement.

Hearing Date: February 12, 2026

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

Members of the Committee Absent : None

Bill Analysis: This bill changes the standard for civil rights enforcement by requiring that prohibited conduct be substantially motivated by hostility toward the victim's protected characteristics.

Sponsors:

Sen. Abbas

Sen. Murphy

Sen. Pearl

Sen. Sullivan

Sen. Gannon

Sen. Avard

Sen. Birdsell

Sen. Innis

Rep. Ammon

Who supports the bill: 5 people signed in support of the bill.

**Full sign in sheets available upon request*

Who opposes the bill: 636 people signed in opposition to the bill

**Full sign in sheets available upon request*

Who is neutral on the bill: no one

Summary of testimony presented in support:

Sen. Abbas

- Sen. Abbas said this bill makes a minor change to the existing law that he believes will better reflect the original intent behind that law.
- The current law takes into consideration whether the conduct itself is motivated by a protected class, such as race, religion, sex, or sexual orientation, but it doesn't factor in whether there was any hostility toward the alleged victim.
- He provided an example of how the current law could be applied, explaining that if there was a sign on a wall that had a hate message and someone took it down because they felt insulted, an argument could be made that they violated the law as written. This puts the prosecutor and the Attorney General's Office in a position where they have to pick and choose what is appropriate.

- He believes that the intent or goal of the law was to capture situations where the person's conduct was hostile toward the victim because of their protected class.
- This bill provides additional clarity that will eliminate potentially inadvertent violations of the law. He explained that this bill tightens up what the original intent was.

Sen. Gannon asked him how much "substantially" was.

Sen. Abbas stated he did not believe it was appropriate to assign an exact percentage. He clarified that it has to be something that is driving the conduct. He said if one were to accidentally run over someone's sign, their conduct would not be substantially motivated by hostility toward a protected class.

Sen. Gannon asked if he thought that was vague and would result in problems.

Sen. Abbas responded that he did not. He said that language is commonly used in other statutory contexts.

Sen. Reardon asked about the word "hostility." She asked a hypothetical question, asking if she were to block someone's access to someplace they were entitled to be, because of their protected class, but she did it in a nice way, if that would mean that she couldn't be charged under this statute based on this bill.

Sen. Abbas said hostility doesn't have to do with how polite one is while going about their business. Hostility refers to the conduct toward that individual as a result of their protected class. The protected category has to be the primary thing motivating the person.

Sen. Reardon asked if he agreed that hostility in actions was fairly easy to prove and hostility toward someone's thoughts about their intent was much more difficult to prove in court.

Sen. Abbas said it depended and that you need a specific fact pattern. He again cited the example of someone ripping down an insulting poster with a racial slur on it. One might be motivated by what it says but they are not motivated by the race of the person who hung it up. The act of tearing it down might be considered a hostile act, but you're not reacting to them because of their race.

Sen. Reardon asked if there has been a lot of trouble in legal cases charging under this statute that brought this bill about. She asked if prosecutors asked him to file this bill.

Sen. Abbas said no, prosecutors did not ask him to file this bill. The legislature discussed this topic when the original law was passed, and the idea was to capture situations where the bad actor was acting adverse to an individual and motivated by that individual's protected class. The intent was that the protected class was driving their behavior. He thinks this bill better captures what was originally discussed. He does not think someone should be in violation of this statute because they saw something offensive toward their protected class and reacted.

Sen. Reardon read the existing language in statute and asked why it wasn't adequate.

Sen. Abbas said he doesn't want a person on the receiving end of a hate message to fall under this because of their reaction.

Sen. Reardon noted that it would be up to a prosecutor, a judge, or a jury to make that determination.

Sen. Abbas said the judge and jury are the fact-finding decision makers, but it would be the prosecutorial discretion of the county attorney or attorney general's office to decide whether to prosecute such a case. He does not want this law to result in selective prosecution. His bill tightens up a good law and makes clearer the original intent.

Sen. Altschiller expressed concern that adding in the word "substantially" motivated by hostility toward the victim's protected class creates a window where you can threaten violence or damage to someone and say you didn't really mean it. She asked what the bar is and how we would get from a threat against someone based on the protected class to what is a "substantial" threat.

Sen. Abbas brought up that he is of middle eastern descent and gave an example of someone yelling a rude comment at him, saying he is not a good senator, and said that would not fall under this statute; however, if someone used a racial slur toward him, it would be clear what that person was doing when they said that because of the meaning of what they said.

Summary of testimony presented in opposition:

Steve Boczenowski

- He is an active member of the Congregational Church of Amherst. He said he has been an active Christian for his entire life.
- He spoke about his church's openness and inclusiveness. He read their welcome statement, which mentioned accepting everyone as they are, and noted how important that is to their church.
- They work hard to make it known that they welcome those who have felt unwelcome in other churches.
- They recently got a new sign for the front of their church. The sign includes a rainbow and the words "welcoming to all."
- They have heard of other churches being attacked for similar messages of inclusion.
- They feel somewhat protected by the current NH law, however if SB464 is passed and the current law is weakened, he feels their church will be more vulnerable to the criminal element fueled by hate.

Sen. Altschiller asked if it is the opinion of his church that this bill weakens current law. She also asked if his church had experiences where there have been attacks on their signs or displays.

Mr. Boczenowski said his church does feel that this bill weakens the law and makes them more vulnerable. They haven't had such an experience yet, but other churches have. Believing that might eventually happen to them, they are considering adding cameras to the front of the church.

Sean Locke - Senior Assistant Attorney General

- The NH Dept. of Justice is opposed to the bill.
- The department is concerned that SB464 takes NH in the wrong direction by reducing the protections afforded to the public to protect their civil rights from hate or biased-motivated violence, property damage, threats, and trespass.
- He said we should be looking for ways to expand or modernize the civil rights laws to better protect those who have experienced unlawful acts motivated by hate or bias.
- Of the three changes that this bill makes, the word "hostility" is the least concerning to them.
- The Attorney General's Office is the only office in the state that can bring these actions and when looking at them, they look for that evidence of hostility or animus even though it's not written in the statute.
- If the language were included, he would share some of the concerns that were expressed by Sen. Reardon about hostility. When looking at similar laws in other states, not all of them have the hostility requirement. Many of them use similar language to what the Civil Rights Act does, such as "motivated by" or "because of."
- Civil laws are generally broader. 28 states have civil laws.
- With regard to the word "substantially," he said it creates a risk of vagueness. He said there is a real example of when this became the linchpin of a case. There was a same sex couple walking down the street in Manchester, and they were followed by a group making slurs at them. They turned around to ask the group to leave them alone and they were assaulted. This went to a bench trial, and the judge acquitted the individuals of a hate crime because of that "substantially" language. The judge did not know what quantum of motivation needed to be present to secure a conviction.
- He said the substantial language is relatively unique. It is not common to say "substantially" in other hate crime laws in other states. Most use language such as "motivated by" or "in whole or in part by." Some might use discriminatory victim selection in the criminal laws. In the civil laws, those are generally lacking, and that is the concern with including "substantially" in this bill. It

creates the question of what quantum of evidence needs to be present, which could create disparities across different courts.

- He said the most significant change is that the statute creates a through line between the unlawful act and the victim and their protected characteristics.
- The two laws in NH that govern bias motivated acts are RSA354B and RSA651:6. RSA 651:5 says that the person was substantially motivated to commit the crime because of hostility toward the victim's protected characteristics. The Civil Rights Act, on the other hand, has three elements: interference with the rights and lawful activities of another, using certain specific unlawful acts, that are motivated by protected characteristics; it is not necessarily tied to the victim of the unlawful act. Many states that have civil components to their hate law lack that through line.
- He gave the example of the civil rights movement when many white people advocated for the rights of people of color. They were victims of threats and violence and some were killed because of hostility toward the race of black people. The way this law is written now, without that nexus between the victim and the motivation, it would protect victims from that race motivated violence and allow for a restraining order to protect them from that harm. That has played out in NH with the Laconia state school property which was abandoned and individuals affiliated with hate groups spray painted swastikas and caused fear in the community. It wasn't, however, targeting a specific person. It was causing fear through property damage. He questioned whether the property owner has to be Jewish. He gave another example of how this could play out if a person flies a pride flag at their house and someone wanting to instill fear in them vandalizes the home across street, so they see it. They are the indirect target of this act of property damage. His concern is that there are other ways that people's civil rights can be violated than being the immediate victim of the act.
- This statute looks to restrain future unlawful activity. No one goes to prison for violating the Civil Rights Act. They get a restraining order that says don't engage in other hate motivated conduct again and don't have contact with the victims of your act to protect the public from future harm. Some of the rigidity and specificity needed in criminal law is not as necessary in civil statutes.
- He looked at states that have similar civil laws. Seventeen of them lack that victim, act or protected characteristic nexus. Ten do require it, but three of them include targeting someone because of their association with people of certain protected classes in their list of protected characteristics. That still allows you to capture someone being targeted indirectly for supporting or advocating on behalf of certain groups.
- These are their concerns with adding some of these terms.

- The hostility piece is the lowest of their concerns, the nexus is the highest of their concerns, and “substantially” is somewhere in the middle.
- In terms of enhancing our civil rights law, there are tools and recommendations from certain organizations like the Anti-Defamation League, such as creating a hate crimes commission that could look at our laws and see what enhancements or changes are needed. NH is one of seven states that doesn’t have a law that specifically protects religious institutions.
- The most common complaint they receive is harassment, or people receiving communications because of who they are. Harassment is not included in the Civil Rights Act, so they have no ability to take up those cases. Including something like that would enhance their ability to protect those individuals.

Sen. Abbas noted that Attorney Locke said that when these cases are taken up by his office they are generally looking for hostility so he asked why including “hostility” in the statute is a concern.

Attorney Locke reiterated that it is the least of their concerns but the word itself creates a certain definition in people’s minds and could create disparity in how these cases get litigated or in outcomes. If that becomes an element that has to be proven, the issue becomes what that actually has to look like.

Sen. Abbas said if for some reason someone is upset with another man and they hit the wrong man, but their conduct is motivated by that person’s sex, they would fall under this statute, not because of any hostility or prejudice they have toward the person. He is trying to remedy situations like that with this bill.

Attorney Locke said he would be happy to help Sen. Abbas work on the language.

Sen. Abbas asked why not put this principle into the law. He doesn’t think this will change the type of cases the AG’s office prosecutes.

Attorney Locke said they want to make sure we don’t use language that is over or underinclusive in making that determination.

Sen. Abbas agreed he did not want to under include. He asked for an example of a situation where someone might be under included.

Attorney Lock gave the example of someone blocking someone’s access to a house of worship but may not be making derogatory comments or doing things in a way that would suggest overt hostility even though they have that motivation to prevent that person from exercising their civil rights. Using the word hostility requires or creates an expectation that someone has to be shouting slurs or doing something overt.

Sen. Altschiller referred to one of his examples of targeting a house across the street from an LGBTQ couple as an indirect way of getting a message across and asked if this bill creates plausible deniability.

Attorney Locke said that is always something that could exist regardless of this law. A real example was a couple who put up a pride flag, and someone tore it down because

they didn't want children walking to school to see it. They were a same sex couple, but the person who tore down the flag didn't know that. If they have to prove a link, that makes it more challenging to bring those cases forward.

Neutral Information Presented:

Senate Legal Counsel Rick Lehmann said the language in this bill is the same as what is found in the criminal hate crimes statute in NH. This bill modifies the civil statute using an existing standard.

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Date Hearing Report completed: February 13, 2026