

# Senate Judiciary Committee

*Pete Mulvey 271-4063*

**HB 369-FN**, relative to misdemeanor sexual assault prosecutions.

**Hearing Date:** April 17, 2025

**Time Opened:** 1:16 p.m.

**Time Closed:** 1:27 p.m.

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

**Members of the Committee Absent :** None

**Bill Analysis:** This bill requires a defendant charged with a misdemeanor sexual assault of a minor under the age of 18 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.

---

**Sponsors:**

Rep. Potenza

Rep. Bjelobrk

Rep. Kuttab

Rep. Sabourin

Rep. Lynn

Rep. Burnham

Sen. Ricciardi

Sen. Sullivan

---

**Who supports the bill:** 20 individuals signed in support of HB 369-FN. Contact [peter.mulvey@gc.nh.gov](mailto: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:**

**Representative Kelly Potenza**

**Strafford - District 19**

- Representative Potenza offered written testimony from Assistant Merrimack County Attorney, Steven Endres.
- Rep. Potenza said that HB 369 closed a loophole which became evident to Rep. Potenza following a discussion among prosecutors.
- Rep. Potenza's family had to wait two years for a Class A misdemeanor sexual assault case to be heard in District Court.
- An appeal is clearly imminent – meaning the victim will have to relive everything over again.
- Rep. Potenza noted that witnesses may lose their recollection, or may not appear years after the event in question.
- The length of time for resolution and the turmoil individuals go through is discouraging.
- A class A misdemeanor penalty carries up to 12 months in a county house of corrections.

- Every criminal defendant who faces incarceration is entitled to a jury trial under the State Constitution. The superior court and circuit court handle felony and misdemeanor proceedings, respectively. Rep. Potenza stated that the circuit courts cannot accommodate jury trials.
- Superior Courts may hear class A misdemeanor cases, but may also dismiss cases at their discretion.
- The prosecutor who worked with the Potenzas on their case has left. Now, a chief of police, with no knowledge of the case, and no legal background, is going to be representing Rep. Potenza's family.
- HB 369 requires a defendant in proceedings relative to assault involving a minor to elect for a jury trial within 30 days of arraignment, or, proceed in circuit court while waiving the right to a jury trial or appeal with a jury trial.
- Sen. Reardon asked how the defendant having the choice of trial would benefit the victim.
  - Rep. Potenza said that it would provide clarity in the potential appeals process for victims.

### **Pamela Keilig**

#### **New Hampshire Coalition Against Domestic and Sexual Violence**

- Ms. Keilig supported HB 369.
- HB 369 recognized the impact that the judicial system had on victims.
- Criminal proceedings for sexual abuse cases took years.
- Court proceedings involving minors who survived sexual assault would be streamlined by HB 369.
- Under HB 369, a defendant would be required to choose whether they proceed with a bench trial or jury trial and would waive their right to an appeal by jury should they elect the former.
- Ms. Keilig added that the average age of disclosure from a victim was 52; predators used many tactics to manipulate a victim's perception of events.

PM

Date Hearing Report completed: April 22, 2025