

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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August 6, 2021

His Excellency, Governor Christopher T. Sununu
State House
Concord, NH 03301

Re: House Bill 239

Dear Governor Sununu:

We are writing to call your attention to concerns regarding House Bill 239, an act relative to prosecutions for certain assaults against minors. The bill would amend RSA 625:8, I, which is the statute of limitations for criminal prosecutions, by adding two new subparagraphs to the existing paragraph of the statute. The new subparagraphs appear intended to extend the statute of limitations in cases where a juvenile is a victim of either RSA 631:1, first-degree assault, or RSA 631:2, second-degree assault. In reviewing the language of the bill, however, we are concerned that contrary to the legislative intent, the language could create a problematic unintended result. In particular, the language found in HB 239 can be interpreted such that an offense under RSA 631:1 could not be prosecuted once a victim of such a crime had reached his or her twenty-fourth birthday. HB 239 reads:

(g) Notwithstanding subparagraphs (a) and (b), for any offense under RSA 631:1, within 6 years of the victim's eighteenth birthday.

This amendment to RSA 625:8 does not include language—in bold below—that is found in another section of RSA 625:8, III, specifically subparagraph (d) which states:

For any offense under RSA 632-A or for an offense under RSA 639:2, where the victim was under 18 years of age when the alleged offense occurred, within 22 years of the victim's eighteenth birthday.

RSA 625:8, III (d). Without this language making clear the tolling provision applies to juvenile victims *only*, HB 239 could readily be interpreted to preclude any prosecution for a crime under RSA 631:1 beyond a victim's twenty-fourth birthday. As such, cases under RSA 631:1 with adult victims over twenty-four years of age simply would not be able to be charged or prosecuted.

His Excellency, Governor Christopher T. Sununu

Re: HB 239

Page 2 of 2

In addition, the proposed amendment in HB 239 is to paragraph I of RSA 625:8. We would recommend that the amendments be made to paragraph III of RSA 625:8, which contains the extension provisions for the statute of limitations, such as that we reference above, and where the HB 239 language would more appropriately be added. As such, the inclusion of the “notwithstanding” language is unnecessary.

Therefore, we would recommend that the following changes be considered to implement what we understand to be the legislative intent of HB 239, which is to extend the statute of limitations for juvenile assault victims beyond their eighteenth birthday. Bolded language is my recommended addition; strikethrough is a recommended deletion.

Amend RSA 625:8, **III**, by inserting after subparagraph [(f)] **(i)** the following new subparagraphs:

~~[(g)]j~~ Notwithstanding subparagraphs (a) and (b), **[f] For any offense under RSA 631:1, where the victim was under 18 years of age when the alleged offense occurred,** within 6 years of the victim’s eighteenth birthday.

~~[(h)]k~~ Notwithstanding subparagraphs (a) and (b), **[f]For any offense under RSA 631:2, where the victim was under 18 years of age when the alleged offense occurred,** within 6 years of the date the offense was committed or within 3 years of the victim’s eighteenth birthday, whichever is greater.

We stand ready to work with you and the Legislature to create amended legislation that could be pursued next session. Please let us know if you have any questions or would like to discuss this matter further.

Sincerely,

/s/ John M. Formella

John M. Formella

Attorney General

/s/Michaela D. Andruzzi

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