

HB 1231 – AS INTRODUCED

2014 SESSION

14-2202
04/05

HOUSE BILL **1231**

AN ACT relative to jury instructions in sexual assault cases.

SPONSORS: Rep. Robertson, Ches 6; Rep. Warden, Hills 39

COMMITTEE: Judiciary

ANALYSIS

This bill makes changes to the jury instructions procedure in sexual assault cases.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to jury instructions in sexual assault cases.

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

1 1 Sexual Assault and Related Offenses; Testimony and Evidence. Amend RSA 632-A:6 to read
2 as follows:

3 632-A:6 Testimony and Evidence.

4 I. The testimony of the [victim] **complainant** shall not be required to be corroborated in
5 prosecutions under this chapter. ***When the court instructs a jury that the complainant's***
6 ***testimony need not be corroborated, the court shall give a corresponding instruction that***
7 ***the defendant's testimony also need not be corroborated.***

8 II. Prior consensual sexual activity between the [victim] **complainant** and any person other
9 than the [actor] **defendant** shall not be admitted into evidence in any prosecution under this
10 chapter.

11 III. Consent is no defense if, at the time of the sexual assault, the [victim] **complainant**
12 indicates by speech or conduct that there is not freely given consent to performance of the sexual act.
13 A jury is not required to infer consent from a [victim's] **complainant's** failure to physically resist a
14 sexual assault.

15 III-a. The [victim's] **complainant's** manner of dress at the time of the sexual assault shall
16 not be admitted as evidence in any prosecution under this chapter to infer consent.

17 IV. At the request of a party the court shall, in cases under RSA 632-A, order witnesses
18 excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its
19 own motion. This does not authorize exclusion of a party who is a natural person or [a] **an alleged**
20 victim of the crime, or a person whose presence is shown by a party to be essential to the
21 presentation of the party's cause.

22 V. In any sexual assault case under RSA 632-A where the [victim] **complainant** is 16 years
23 of age or younger, and the defense has listed as a witness or subpoenaed a parent or parents to
24 testify in the case and requested that the parent or parents be sequestered, the court shall appoint a
25 guardian ad litem to determine the best interests of the minor [victim] **complainant**. The guardian
26 ad litem shall make a recommendation to the court, based on the preferences and best interests of
27 the [victim] **minor complainant**, as to whether the parent or parents should be permitted to sit
28 with the [victim] **minor complainant** in the court room during the duration of the trial.

29 2 Effective Date. This act shall take effect 60 days after its passage.