



GOLD STANDARD



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HOUSE SESSION - THURSDAY, JANUARY 26, 2017

HB 278, repealing criminal defamation.

Criminal Justice and Public Safety: ITL 14-6

HB 278

PRO-LIBERTY: This bill repeals the existing criminal defamation statute.

- Existing law makes defamation a class B misdemeanor. This subjects citizens exercising the right to free speech to both criminal and civil penalties. While there ought to be consequences to untruthful and irresponsible speech that may cause others to face contempt or ridicule, the use of criminal statute is a poor substitute for the civil remedies.
- The burden of proof in the current law is quite high as it requires proof of knowledge on two counts "which he knows to be false" and "knows will tend to expose any other living person to public hatred, contempt or ridicule" - while this high burden helps to limit the potential for successful prosecution of speech made in error, it also means that the law is unlikely to lead to conviction.
- Nash v. Keene Publishing Corp., 127 N.H. 214 (1985) further found that statements of opinion rather than fact to not qualify as criminal defamation which further limits the applicability of the law.
- The theoretical benefit of a potential rare prosecution using the existing law is outweighed by the chilling effect that the law may have on unpopular political speech.

NAY ITL

RULE 63, amendment relative to training requirements for legislators carrying a firearm in the state house.

House Rules:

ANTI-LIBERTY: This rule change would mandate training prior to allowing a legislator to exercise a constitutionally protected right on the house floor.

- The proposed rule change would infringe upon the rights of legislators to defend themselves, their property and the state.
- Training is not defined, and as such, it is an arbitrary and costly additional requirement placed on already law-abiding legislators.
- The rule change would have broader impact than the text implies as legislators would effectively be prohibited from carrying firearms from their vehicles into the state house prior to complying with the ill defined training requirement.
- No other training is required for legislators prior to taking office.
- Members have not been given any time to review the proposed language. The rule change should be tabled or voted down.

RULE 63

NAY Amend Rules