CONSENT CALENDAR

March 15, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Children and Family Law to which was referred HB 438-FN,

AN ACT relative to the right of representation in family court. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Heather Raymond

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Children and Family Law**
Bill Number:	**HB 438-FN**
Title:	**relative to the right of representation in family court.**
Date:	**March 15, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

While the committee appreciated the intent of this bill and the testimony of its supporters, members had significant concerns about the impact of the bill on cases where there could be domestic violence or child abuse. Further, the language of the bill restricts judicial discretion when it comes to who is allowed to be in the courtroom during hearings concerning private family matters. The committee was not convinced this would be in the best interests of NH children and families.

Vote 16-0.

Rep. Heather Raymond
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Children and Family Law

HB 438-FN, relative to the right of representation in family court. **INEXPEDIENT TO LEGISLATE.**

Rep. Heather Raymond for Children and Family Law. While the committee appreciated the intent of this bill and the testimony of its supporters, members had significant concerns about the impact of the bill on cases where there could be domestic violence or child abuse. Further, the language of the bill restricts judicial discretion when it comes to who is allowed to be in the courtroom during hearings concerning private family matters. The committee was not convinced this would be in the best interests of NH children and families. **Vote 16-0.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 438-FN

BILL TITLE: relative to the right of representation in family court.

DATE: March 15, 2023

LOB ROOM: 206-208

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. M. Pearson | Seconded by S. Pearson | AM Vote: 5-11

Amendment # 2023-0771h

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Raymond | Seconded by Rep. Gregg | Vote: 16-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Peter Petrigno, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2023 7:58:02 AM
Roll Call Committee Registers Report

2023 SESSION

Children and Family Law

Bill #: HB 438 **Motion:** ITL **AM #:** _____ **Exec Session Date:** 3/15/23

Members	YEAS	Nays	NV
Pearson, Mark A. Chairman	✓		
Long, Patrick T. Vice Chairman	✓		
DeSimone, Debra L.	✓		
~~Bickford, David A.~~ Larry Gagne	✓		
Nelson, Jodi L	✓		
McMahon, Charles E.	✓		
Ball, Lorie	✓		
Panek, Sandra L	✓		
~~Seidel, Sheila C~~ Stephen Pearson	✓		
Grossman, Gaby M.	✓		
Levesque, Cassandra N.	✓		
Petrigno, Peter Clerk	✓		
Perez, Maria	✓		
Gregg, Alicia C	✓		
Moulton, Candace	✓		
Raymond, Heather	✓		
TOTAL VOTE:	16	0	

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2023 7:58:02 AM
Roll Call Committee Registers Report

2023 SESSION

Children and Family Law

Bill #: HB 438 Motion: Adoption AM #: ✓ 2023-0771h Exec Session Date: 3/15/23

Members	YEAS	Nays	NV
Pearson, Mark A. Chairman	✓		
Long, Patrick T. Vice Chairman		✓	
DeSimone, Debra L.		✓	
~~Bickford, David A.~~ Larry Gagne	✓		
Nelson, Jodi L		✓	
McMahon, Charles E.	✓		
Ball, Lorie		✓	
Panek, Sandra L	✓		
~~Seidel, Sheila C~~ Stephen Pearson	✓		
Grossman, Gaby M.		✓	
Levesque, Cassandra N.		✓	
Petrigno, Peter Clerk		✓	
Perez, Maria		✓	
Gregg, Alicia C		✓	
Moulton, Candace		✓	
Raymond, Heather		✓	
TOTAL VOTE:	5	11	

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 438-FN

BILL TITLE: **relative to the right of representation in family court.**

DATE: **January 24, 2023**

LOB ROOM: **206-208** **Time Public Hearing Called to Order:** **11:57 am**

Time Adjourned: **12:25 pm**

Committee Members: Reps. M. Pearson, Long, Petrigno, DeSimmone, Bickford, J. Nelson, McMahon, Ball, Panek, Seidel, Grossman, Levesque, Gregg, Moulton and Raymond.

Bill Sponsors:

Rep. M. Pearson	**Rep. Moffett**	**Rep. McMahon**
Rep. Nutter-Upham	**Rep. Palmer**	**Rep. O. Ford**
Rep. Stapleton	**Rep. Cannon**	**Rep. Love**
Sen. Ward		

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. M. Pearson

- Simply wants to assure a youngster have a friend, companion when he deposed
- To relieve child's anxiety in this situation
- Youngsters need a person next to them when giving testimony in courtroom.
- If child picks a bad companion for misbehaving in court - a judge can address situation and remove companion from court room.
- Companion would be for anyone, not just youngsters.
- Support animal may be mandated and federal law
- Not anticipating training for support person - but good idea
- Could this become contentious? Can person who abused others could also have support person? Court could handle misbehavior.
- Not know if precedent in criminal cour**t**

Richard Head

- Concerned about how bill is written
- Any party/any family -could create additional litigation
- Potential support person could be in court strategically to intimidate another party in the court room.
- Court needs discretion to allow or disallow support persons - concerned making this an absolute right of party to have support person
- Signals can be made that are not obvious to a judge (touching etc.)

***Lynn Schollett**

- Opposes bill
- Suggest alternative way sponsors bill is written
  1. Remove Section #1 reference NHCADSV as it is inaccurate
  2. Statute is not the way to address this.
     Use of protocols in place with victims can have a person with them in temporary hearings but protocol is not law, so it is not widely known
- Use revisionary process to address this change
- Agree victims should have support personnel, but it is already in protocol
- Asked committee to vote ITL

Lynn Schollett - continued

- At what level is someone a victim? A claim or a report? Referrals come from a variety of ways.
- Referring to paragraph #1, - vast majority of people served by organization never end up in court.

***Hon. Betty Gay**

- Supports bill
- Puzzled by FN because it doesn't cost the court anything for someone to be in court for support.
- By Fed law victims with PTSD can have a dog in court.
- When a person is a victim of a crime may also have PTSD but do not have enough time to get a support animal.
- When person in court and scared to testify they should have the same rights as person with PTSD.
- Law does not say you have to prove you are a victim
- Wording in paragraph #1 does need to be changed - advocates can't always fulfill need - victim needs a close family or friend with then.
- People in family court deserve the same as people in Criminal court with PTSD.

Respectfully submitted,

Rep. Lorie Ball, Clerk

House Remote Testify

Children and Family Law Committee Testify List for Bill HB438 on 2023-01-2

Support: 1 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	S
Ward, Senator Ruth	Stoddard, NH Ruth.Ward@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB 438-FN

Date: 1/24/23

Committee: Children and Family Law

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Rep Frances Nutter-Upham	Nashua			✓	
Kathy Carey [illegible]			NH Association for Justice		✓
Hon Betty Gay	10 Woodmeadow, Salem 03079	C) 603-818-1614	self	✓	
~~Beth Morgan not speaking - Signed up [illegible]~~ by mistake					

Testimony of Lyn Schollett
Executive Director, NH Coalition Against Domestic and Sexual Violence
House Children & Family Law Committee
January 24, 2023; 11:30am

HB438, relative to the right of representation in family court

Good morning, Mister Chair and Members of the Committee. My name is Lyn Schollett, and I am the Executive Director of the NH Coalition Against Domestic and Sexual Violence. The Coalition is the umbrella organization for 12 community-based crisis centers, which each year provide free and confidential services to nearly 15,000 survivors of sexual and domestic violence. I am here to speak in opposition to HB438, relative to the right of representation in family court and also to suggest an alternate way to achieve the stated goal of this bill. Thank you for the opportunity to testify today.

We appreciate the intent of this legislation in ensuring that victims of domestic violence receive the support they need after experiencing abuse. However, the Coalition has two specific concerns that we would like to address:

1) The Coalition does not employ direct-service advocates.
2) The practice of having advocates sitting with the victim is not enshrined in state law and would be better managed through amending existing protocols.

The Coalition does not employ advocates

Should the committee move forward with this legislation, we ask that you please remove section (I) of paragraph 1, which references "NHCADSV 'advocate' employees" because it is inaccurate. Crisis center advocates are employed by each community-based crisis center throughout the state and provide critical life-saving services to victims, including safety planning and court advocacy. Advocates receive extensive training on how to support survivors as they navigate the family court system.

Protocols are the appropriate venue to amend the role of the crisis center advocate in protective order hearings

For over 20 years, the Family and District Divisions of the Circuit Court have issued comprehensive protocols to be used in domestic violence cases in New Hampshire. These protocols are developed with input from a wide array of professionals who are part of the court process in family law cases. These protocols reflect best practices in the courtroom and are regularly updated to ensure that they align with any changes to state or federal law.

Moreover, the domestic violence protocols were intentionally designed with victim safety in mind. Unfortunately, one of the most dangerous times for victims is when they try to leave an abusive relationship and file for a protective order. A trained advocate is able to provide options and resources to victims at this risky time.

Currently, these protocols allow a victim of domestic violence to have a crisis center advocate present with them during a protective order hearing. However, these protocols **are not** enshrined in state law and, therefore, advocates do not have statutory authority to accompany victims to the counsel table. Specifically, Protocol 7-7 states, "if the plaintiff is accompanied by an advocate, the advocate should be allowed at counsel table and may be allowed limited participation in the proceedings at the request of the plaintiff." Even when advocates are present in the courtroom, the protocols outline specific limitations when it comes to the scope of their role in supporting a victim during a protective order hearing. As I mentioned previously, these protocols are routinely updated, and in fact are undergoing a revision now. That revision would be the appropriate place for a dialogue about changing the role of support people allowed in the courtroom.

In conclusion, **we ask the committee to vote ITL on HB438.** We agree with the bill's sponsor that victims should be allowed to have critical support during protective order hearings. However, this authority is granted under court protocols and not in state law. Thank you, and I'd be happy to answer any questions that the committee may have.

Crime Victims Who Develop PTSD Deserve to Be Heard

Victims who have an assistance dog especially trained to help them deal with PTSD can take the dog anywhere they are permitted to go, like on the stand in court, a right guaranteed by the American Disabilities Act.

Assuming that victims of frightening attack have not had time to decide that they need a service dog, or the money to pay for the training, or the several months it takes to train a dog for them, is it fair to deny them the chance to testify against the person who attacked them?

A couple of months ago a NH Representative told me that victim of violence is supposed to be counseled so that they can stand up for themselves and testify on their own. I wonder if that Rep thinks that a victim of Post Traumatic Stress Disorder, PTSD, does not deserve to testify. Or perhapsthat Rep thinks that counseling can always cure PTSD.

When a guaranteed way to cure PTSD is discovered, there will be a rush by millions to learn the secret to the cure. Because there is no known cure now.

1/24/2023 Hon. Betty Gay 603-818-1614

When You Don't Have a Service Dog

1/24/23

Service Dogs for PTSD

www.servicedogcertifications.org/service-dogs-for-ptsd/#:~:text=Any%20service%20dog%2C%20including%20PTSD%20service%20dogs%2C%20follow,are%20appropriately%20leashed%20and%20controlled%20by%20their%20handler.



"According to the American Disabilities Act, or ADA for short, service animals must be trained to work or perform tasks for a disabled person to qualify as a service animal. PTSD dogs are a type of service dog that specializes in handling a person with any significant trauma. These dogs have rights to all public access areas and are individually trained to work with people with PTSD. Trainers authorized by Assistance Dogs International and organizations that follow the standards set by the ADI train these dogs with specific requirements in mind. Each dog is trained according to these standards, and those who will work with people with PTSD will need additional training according to the person's needs. These dogs provide a lifetime of support, helping ease people with PTSD.

"Most studies involving PTSD dogs centralize around veterans. However, experts in the field state that these service dogs can be beneficial for those with non-military related PTSD, including sexual-assault victims and those who have experienced significant traumas such as car accidents and accidental fires.

"Any service dog, including PTSD service dogs, follow under the guidelines of the ADA, which state that service dogs have legal access to all public areas as long as they are appropriately leashed and controlled by their handler. PTSD service dogs usually cost on average $20,000 or more, depending on the organization."



HB 438-FN - AS INTRODUCED

2023 SESSION

23-0715
06/04

HOUSE BILL ***438-FN***

AN ACT relative to the right of representation in family court.

SPONSORS: Rep. M. Pearson, Rock. 34; Rep. Moffett, Merr. 4; Rep. McMahon, Rock. 17; Rep. Nutter-Upham, Hills. 8; Rep. Palmer, Sull. 2; Rep. O. Ford, Rock. 3; Rep. Stapleton, Sull. 6; Rep. Cannon, Straf. 12; Rep. Love, Rock. 13; Sen. Ward, Dist 8

COMMITTEE: Children and Family Law

ANALYSIS

This bill permits a support person to be present in family court proceedings for parties that wish to have a support person.

- -

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.

HB 438-FN - AS INTRODUCED

23-0715
06/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the right of representation in family court.

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

1 Findings. The general court finds:

I. While New Hampshire Coalition Against Domestic and Sexual Violence (NHCADSV) "advocate" employees are great at helping in multiple ways, they are no substitute for a close relative or friend present and physically close to offer emotional support, even when the NHCADSV advocate is already in the room, during hearings and depositions.

II. Victims of abuse often cannot face testifying or deposing the devastating memories in the presence of their abuser or even otherwise without a support person close to them emotionally and physically.

III. This right must be offered to everyone at the beginning of family court proceedings or in deposition because if it is offered only after domestic abuse or PTSD is proven, then the alleged victims may end up emotionally unable to testify. When victims do not testify, then abusers have not been found guilty despite other testimony of their harm or threats of harm, which is a crime in itself. Therefore, this right must be granted before findings have been made against an alleged abuser.

2 New Paragraph; Protection of Persons from Domestic Violence; Commencement of Proceedings; Hearing; Establishing Right to Support Person. Amend RSA 173-B:3 by inserting after paragraph VIII the following new paragraph:

IX. A party in family court proceedings or in deposition shall be permitted a support person as physically close as the party chooses, including physically touching if desired. Such use of a support person shall not be denied by the presiding judge.

3 Effective Date. This act shall take effect January 1, 2024.

LBA
23-0715
1/8/23

HB 438-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the right of representation in family court.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation, as introduced, has a total fiscal impact of less than $10,000 in each of the fiscal years 2023 through 2026.

AGENCIES CONTACTED:

Judicial Branch