CONSENT CALENDAR

January 31, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Children and Family Law to which was referred HB 547-FN,

AN ACT relative to rebuttable presumptions of sole custody determinations. Having considered the same, report the same with the following resolution:

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Maria Perez

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Children and Family Law**
Bill Number:	**HB 547-FN**
Title:	**relative to rebuttable presumptions of sole custody determinations.**
Date:	**January 31, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

The committee feels there was not enough information and the testimony provided showed it is hard to prove domestic violence. This goes along with the timeline needed and would be difficult to create a parenting plan with a restraining order in place.

Vote 14-0.

Rep. Maria Perez
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Children and Family Law

HB 547-FN, relative to rebuttable presumptions of sole custody determinations. **INEXPEDIENT TO LEGISLATE.**

Rep. Maria Perez for Children and Family Law. The committee feels there was not enough information and the testimony provided showed it is hard to prove domestic violence. This goes along with the timeline needed and would be difficult to create a parenting plan with a restraining order in place. **Vote 14-0.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 547-FN

BILL TITLE: relative to rebuttable presumptions of sole custody determinations.

DATE: January 31, 2023

LOB ROOM: 206-208

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. M. Perez Seconded by Rep. Moulton Vote: 14-0

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 547 Motion: ITL AM #: _____ Exec Session Date: 1/31/23

Members	YEAS	Nays	NV
Pearson, Mark A. Chairman	✓		
Long, Patrick T. Vice Chairman	✓		
DeSimone, Debra L.	✓		
Bickford, David A.	✓		
Nelson, Jodi L	✓		
McMahon, Charles E.	✓		
Ball, Lorie	✓		
Panek, Sandra L			✓
Seidel, Sheila C	✓		
Grossman, Gaby M.			✓
Levesque, Cassandra N.	✓		
Petrigno, Peter Clerk	✓		
Perez, Maria	✓		
Gregg, Alicia C	✓		
Moulton, Candace	✓		
Raymond, Heather	✓		
TOTAL VOTE:	14	0	2

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 547-FN

BILL TITLE: **relative to rebuttable presumptions of sole custody determinations.**

DATE: **January 31, 2023**

LOB ROOM: **206-208** **Time Public Hearing Called to Order:** **9:33 am**

Time Adjourned: **10;00 am**

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

Bill Sponsors:
Rep. Testerman

TESTIMONY

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

Rep. Testerman
- Was not in attendance to introduce his bill

Erin Jasina - NH Legal Assistance
- Spoke in apposition
- Thanked the sponsor's effort but the bill would dramatically alter the law and would have many negative consequences.
- Abusive parents having to go to one center in Dover with metal detectors
- Therapists will never "clear" the parent.
- Restraining order - no provision for co-parenting
- Recommends ITL or a study committee.

Randall Collier
- Spoke in opposition
- Cited his personal experiences.

***Dana Albrecht**
- Spoke in opposition "Is a disaster."
- Submitted written testimony

Vivian Girard
- Spoke in opposition
- Cited personal situation which would be detrimental

Atty. Richard Head
- Judicial branch in opposition
- "Family violence" is not a defined term.
- Agrees with points previously made by Erin Jasina.
- Does not allow for judicial discretion.
- The statute would "weapon ize"

Pamela Keiliey - NHCADN

- In opposition
- Cited concerns previously stated

Respectfully submitted,

Rep. Lorie Ball, Clerk

House Remote Testify

Children and Family Law Committee Testify List for Bill HB547 on 2023-01-3

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
Cullen, Andrew	Marlborough, NH drewski0352@gmail.com	A Member of the Public	Myself	Support	No	No	1

HB 547-FN

House Children and Family Law Committee

(January 31, 2023)

H.B. 547-FN

Exhibit A

N.H. Supreme Court

C.B. v. A.K., No. 2022-0463

NH Supreme Court 1-19-23

Case Name: C.B. v A.K.

Case No: 2022-0463

POSTED

RECEIVED
JAN 24 2023
NH SUPREME COURT

Mr. Timothy A. Gudas
Clerk, NH Supreme Court
1 Charles Doe Drive
Concord, NH 03301

Dear Mr. Gudas,

In the first instance, please find enclosed a change of address form effective December 20th 2022.

I am presently incacerated without bail while awaiting the decision of this honorable court.

I am here for no other reason than sending a non-threatening text message concerning our son.

Parenting rights are protected under article 2 of our State constitution.

Unfortunately, state domestic violence statutes can be used as a weapon in high conflict parenting cases.

See: Szymkowski v. Szymkowski
No. 01-P-118 Appeals Court of Massachusetts
57 Mass. App. Ct. 284 (Mass. App. Ct. 2003)
(also enclosed)

Will you please let me know when I can expect a decision from this honorable Court in my case?

In the alternative, how can I get a fair and speedy trial in front of a jury of my peers.

Thank you,
Sincerely,

Anthony P. Kinney

No. 01-P-118
Appeals Court of Massachusetts. Essex

Szymkowski v. Szymkowski

57 Mass. App. Ct. 284 (Mass. App. Ct. 2003) · 782 N.E.2d 1085
Decided Feb 5, 2003

No. 01-P-118.

October 8, 2002.

February 5, 2003.

Present: Kantrowitz, Kass, Mills, JJ.

Abuse Prevention. Child Abuse. Protective Order.

In an action for a protective order under G.L.c. 209A, the conduct of the defendant father in telling his seven year old daughter about peculiar and frightening dreams; tossing a milk container at the child; cuffinig her under the chin in irritation; giving her a kick in the bakc of the legs while both were in bed, again in irritation; and pinching his daughter on the arm so that it left a mark did not constitute abuse with the meaning of the statute. [286-289]

Complaint for protection from abuse filed in the Essex Division of the Probate and Family Court Department on February 28, 2000.

The case was heard by *Edward J. Rockett*, J.

Patrick Szymkowski, pro se.

KASS, J.

Violence among family or household members is the social ill for which G.L.c. 209A attempts a remedy. [2] *Turner v. Lewis*, 434 Mass. 331, 334 (2001). We decide that the conduct described by the Probate Court judge as the basis of a c. 209A order against the defendant did not, within the 285 meaning of the *285 statute, involve the infliction of physical harm on his daughter — she was seven years old at the time of the c. 209A hearing — nor did the defendant place her in fear of imminent serious physical harm.[3] *Facts.* We take the facts largely from those found by the Probate Court judge. Chapter 209A proceedings are civil in nature, *Jones v. Gallagher*, 54 Mass. App. Ct. 883, 886 (2002), and we accord the judge's findings the great deference prescribed by Mass.R.Civ.P. 52(a), 365 Mass. 816 (1974). We may supplement those findings with inspection of the transcript of the c. 209A proceedings to assist us in determining whether the evidence, as matter of law, warranted issuance of the c. 209A order. See *Larkin v. Ayer Div. of the Dist. Court Dept.*, 425 Mass. 1020, 1020 (1997). [4]

[2] Section 1 of G.L.c. 209A defines "family or household members," as persons who: "(a) are or were married to one another; (b) are or were residing together in the same household; (c) are or were related by blood or marriage; (d) hav[e] a child in common regardless of whether they have ever married or lived together; or (e) are or have been in a substantive dating or engagement relationship, which shall be adjudged by district, probate or Boston municipal courts [upon] consideration of the following factors: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship."

[3] Conformably with G.L.c. 209A, § 3, the abuse prevention order was for a period of time that did not exceed one year. The order had an expiration date of March 19, 2001. Although the c. 209A order has expired, the appeal from it is not moot. See *Frizado v. Frizado*, 420 Mass. 592, 593-594 n. 2 (1995); *Wooldridge v. Hickey*, 45 Mass. App. Ct. 637, 638 (1998).

[4] The evidence was conflicting. We read it in the light most favorable to the plaintiff. See *Ford v. Grafton*, 44 Mass. App. Ct. 715, 721, cert. denied, 525 U.S. 1040 (1998).

Patrick Szymkowski, the defendant, and his wife, Christine, were divorced January 9, 1998. Christine remarried and is now known as Christine King- Leland. The divorce judgment provided for shared legal custody of three minor children, primary custody to be with the mother. The defendant had regular visitation with the child, Brittany. Relations between the defendant and King- Leland since their separation have been hostile and distant.

The precursor to the filing of the abuse complaint by King-Leland, on behalf of Brittany, against the defendant was a five-day Vermont skiing trip in February, 2000, that the defendant had taken with Brittany. Brittany complained of four events during that trip. *First.* On a Saturday morning, while in bed at a motel where she and her father had shared the available bed, Brittany said that she missed her mother. That annoyed the defendant and he kicked Brittany "hard" in the back of her legs. *Second.* Brittany woke up in the middle of
286 the night *286 and asked for a glass of milk. The defendant said, "Wait, I'm finishing a dream. . . ." In the dream, as he then related it to Brittany, she was on the floor playing; dust bunnies and monsters came out from under the bed and cut her with a knife until she died. He, the father, then took the dust bunnies and monsters outside, poured gunpowder on them and killed them. *Third.* On a Wednesday morning, the fifth day of the ski trip, Brittany said she did not feel well and did not want to go to ski school, in which her father had enrolled her. The defendant told her that "quitters never win, and winners never quit." Brittany reported that the defendant, by way of emphasis, threw an empty plastic milk container at her that hit her foot. *Fourth.* On the way back from the Killington, Vermont, ski area, the defendant stopped with Brittany at a K-Mart store in New Hampshire to buy a piece of jewelry for her. The two became separated when he walked to a cashier to conclude his purchase. She was looking at "pretty pink Easter eggs." The defendant asked a customer service representative to page his daughter but spotted her before a page went out. Loud enough for Brittany to hear, and for her benefit, the defendant said to the customer representative, "Don't call the police." He then took Brittany aside and struck her twice with his hand under her chin.

In addition to the ski trip incidents, the Probate Court judge found that the father had pinched Brittany's arm "on one occasion in the past, and that this incident caused her physical harm that resulted in bruises." In his findings, the Probate judge also noted with disapproval that the defendant frequently had shared a bed with Brittany in motel or hotel rooms when traveling with her. The judge further found that there had been an occasion when the defendant had angrily pushed Brittany into the back seat of a car "and press[ed] and pin[ned] her down."

Discussion. Administration of the potent remedies of G.L.c. 209A requires great sensitivity for the suffering and, sometimes, the mortal danger that flow from domestic violence. See *Commonwealth v. Contach*, 47 Mass. App. Ct. 247, 253 (1999); *Jones v. Gallagher*, 54 Mass. App. Ct. at 887-889. With good reason, c. 209A has teeth, including: bail review consequences (see G.L.c. 276, § 57, as
287 amended by St. 1992, c. 201, § 2); *287 entry on a State record of abusers (St. 1992, c. 188, § 7); [5] criminal record for violation of a c. 209A order; and deportation (see *Commonwealth v. Villalobos*, 437 Mass. 797, 798 [2002]).

5 *Vaccaro v. Vaccaro*, 425 Mass. 153, 155 (1997).

For those reasons, among others, a court "should not issue a G.L.c. 209A order simply because it seems to be a good idea or because [it seems] it will not cause the defendant any real inconvenience." *Smith v. Joyce*, 421 Mass. 520, 523 n. 1 (1995). A c. 209A order will infallibly cause inconvenience. In considering whether to issue a c. 209A order, the judge must focus on whether serious physical harm is imminent. *Ibid. Wooldridge v. Hickey*, 45 Mass. App. Ct. at 639. *Carroll v. Kartell*, 56 Mass. App. Ct. 83, 87 (2002). Generalized apprehension does not rise to the level of fear of imminent serious physical harm. *Id.* at 86-87. In considering an application for a c. 209A order, a judge must be alert against allowing the process to be used, as it sometimes is, "abusively by litigants for purposes of discovery and harassment." *Jones v. Gallagher*, 54 Mass. App. Ct. at 887 n. 4.

In the instant case, there are distinct overtones of the use of c. 209A as a weapon in circumstances of reciprocal hostility between divorced parents and differences, as well as genuine concern, about how to deal with a child. We have, in recapitulation of the judge's findings, a father who told his seven year old about peculiar and frightening dreams; tossed a milk container at the child; cuffed her under the chin in irritation; gave her a kick in the back of her legs while both were in bed, again because he was irritated; and pinched his daughter on the arm so that it left a mark. [6]

6 The evidence upon which that finding depends is testimony by King-Leland that Brittany said her father, in December, 1998, had pinched her down her arm and made a line. In a literal sense that might come within the "causing physical harm" category of "abuse" as defined in G.L.c. 209A, § 1, but as in *Cobble v. Commissioner of the Dept. of Social Serv.*, 430 Mass. 385, 391-392 (1999), there was an absence of affirmative evidence of "soft-tissue swelling or skin bruising," except for the child's own statements. The *Cobble* case involved a complaint of "abuse" under G.L.c. 119, § 51A.

On the basis of the findings that the judge made, the defendant is hardly entitled to an "A" grade as a parent. Indeed, his conduct is unacceptable
288 parental behavior, but c. 209A is not *288 designed as a prod toward better parenting. Rather, the statute, as we have said, aims to prevent physical harm. Cf. *Petition of the Dept. of Pub. Welfare to Dispense with Consent to Adoption*, 383 Mass. 573, 591-592 (1981) (it is not the quality of parental conduct that justifies State action but the fact of endangerment to the child). Of course, violence to children may not be tolerated, and c. 209A is part of the arsenal to prevent such violence. The facts in this case lie more on the intemperate parenting side of the line than the parental violence side of the line. Cf. *Cobble v. Commissioner of the Dept. of Social Serv.*, 430 Mass. 385, 391-393 (1999). In such circumstances, as we suggest below, a court concerned that a parent may be interacting with a child in hurtful ways should consider the less draconian but equally, if not more, effective measures that are available.

It misconceives the level of social pathology at which c. 209A aims, however, to categorize the defendant's conduct as abuse within the meaning of that statute. By definition, as we have discussed, abuse that warrants a protective order in the c. 209A sense implicates physical harm or anticipation of imminent serious physical harm. See *Commonwealth v. Gordon*, 407 Mass. 340, 349 (1990).

Much of what the judge found — that Brittany did not enjoy visits with her father and wished to avoid them, that those visits upset her, and that the father and daughter should attend counseling — points the way to the appropriate remedy, namely, a modification in the custody and visitation

components of the divorce judgment, which could include supervised visitation or the cessation of visitation pending the further order of the court.

At the c. 209A proceedings, the defendant offered to place in evidence a contemporaneous report completed pursuant to G.L.c. 119, § 51B, by a social worker of the Department of Social Services (DSS), dated March 10, 2000 (the c. 209A hearing occurred on March 10, 2000, and March 17, 2000). The DSS social worker had investigated a non-mandated report of abuse filed under G.L.c. 119, § 51A, and had determined in her § 51B report that the allegations of abuse and
289 neglect by the *289 defendant were unsupported. [7] The judge refused to consider the report for any purpose on the ground that it was hearsay. Although the judge was entitled to reject the ultimate evaluation of the DSS social worker, a judge, in the exercise of discretion, may consider the factual content of such reports in cases involving the care and custody of children. See *Adoption of George*, 27 Mass. App. Ct. 265, 269-275 (1989); *Custody of Michel*, 28 Mass. App. Ct. 260, 267 (1990); *Adoption of Irene*, 54 Mass. App. Ct. 613, 620 n. 8 (1990). Those cases arose out of care and protection (G.L.c. 119, §§ 24-26) and termination of parental rights (G.L.c. 210, § 3) proceedings, but the considerations that favored the admission in evidence, on a discreet basis, of government reports in those contexts bear as well on c. 209A proceedings. The very nature of c. 209A proceedings "is intended to be expeditious and as comfortable as it reasonably can be for a lay person to pursue." *Frizado v. Frizado*, 420 Mass. at 598. "[T]he rules of evidence need not be followed, provided that there is fairness in what evidence is admitted and relied on . . . The process must be a practical one." *Id.* at 597-598.

[7] The charges that underlay the § 51A complaint were substantially the same ones as those advanced in support of the application for a c. 209A order.

Order issued under G.L. c. 209A is vacated.

290 *290

casetext

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

POSTED

Court Name: NH Supreme Court
Case Name: C.B. v A.K
Case Number: 2022-0463
(if known)

CHANGE OF ADDRESS NOTIFICATION

I, Anthony Kinney (Print Name), hereby notify the court of my change of address

☐ effective immediately ☑ effective on 12/20/2022

New Address:

~~Street Address~~	C/o Carroll County HOC
Mailing Address	PO Box 6688
City, State & Zip	Ossipee, NH 03864-0688
Telephone (Cell)	Telephone (Home)

Previous Address:

Street Address	42 Lakeshore Dr
Mailing Address	
City, State & Zip	Middleton, NH 03887
Telephone (Cell)	603-520-7174 Telephone (Home)

1/19/2023
Date

Signature

~~I certify that on this date I provided~~ Please Forward to a copy of this document to Christine Berlind (other party) or to _____ (other party's attorney) by: ☐ Hand-delivery OR ☑ ~~US~~ Mail OR ☐ E-mail (E-mail only by prior agreement of the parties based on Circuit Court Administrative Order).

This notice requirement does not apply to the Plaintiff in a Domestic Violence or Stalking action.

Date

Signature

Anthony Kinney
% Carroll County HOC
PO Box 688
Ossipee, NH 03864-0688

MANCHESTER NH 030
23 JAN 2023 PM 3



State of NH Supreme Court
ATTN: Timothy Gudas, Clerk
1 Charles Doe Drive
Concord, NH 03301

POSTED

RECEIVED
JAN 24 2023
NH SUPREME COURT

03301-616099

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2022-0463, C.B. v A.K., the court on December 16, 2022, issued the following order:

On October 19, 2022, the plaintiff was ordered to file a brief or memorandum of law on or before December 5, 2022. The plaintiff having failed to file a brief or memorandum of law, the case will proceed on the defendant's brief only. If the court schedules oral argument in this matter, the plaintiff will not be permitted to argue orally. See Rule 18(2) ("A party who has not filed a brief shall not be heard orally.").

This order is entered by a single justice (Hantz Marconi, J.). See Rule 21(7).

Timothy A. Gudas,
Clerk

Distribution:
Ms. Christine E. Berlind
Mr. Anthony P. Kinney
File

CARROLL COUNTY
DEPARTMENT OF CORRECTIONS

P.O. Box 688
50 County Farm Road
Ossipee, New Hampshire 03864
Phone 603-539-2282
Fax 603-539-7381

Sean Eldridge
Superintendent

Cherie Iannuzzi
Administrative Assistant

Patrick Bachelder
Deputy Superintendent

Michael Baker
Captain

To: Mr. Dana Albrecht

Fr: Superintendent Sean Eldridge

Re: Cost of incarceration

Date: 1-19-23

Dear Dana Albrecht,

I am in receipt of your 91-A right to know request that had been sent to our County Attorney's office, but was forward to myself to handle. This request is regarding the daily cost of housing two inmates here at the Carroll County Facility.

I wanted to take a minute and explain that there is really no true dollar amount to use to determine what the true cost of housing an inmate with in a correctional facility. This number can and will all ways be different based on the amount of inmates processed in and out of the correctional facility. In addition, how many actually stay or just are booked and released within the same day. A correction facility daily population changes day-to-day, or even throughout the day so much it is very difficult to get a true cost. In addition, there is no documentation that covers the daily cost to house an inmate either that I am aware of.

However, with this all said most facility's try to put an average number out there. Throughout my years of service I have all ways heard the number tossed around at $96.50 per day per inmate, which again is not 100% accurate.

If we were to use the cost of $96.50 per day per inmate, that price would include the cost of three meals per day at an average cost per meal of $3.10 per inmate per meal. This price would also have to cover any medical cost like daily medication, Medical Assisted Treatment (MAT) and any other medical services. This price would also have to include a percentage of the cost of electricity, heating and cooling, and staffing the facility. Again, as I first mentioned it is very difficult to get a true cost.

Therefore, with that all said you asked for what it cost to house Ms. Christine Berlind here at the Carroll County facility from March 22, 2021 through March 26, 2021. This cost at the above-mentioned Dailey price of $96.50 for 5 days would be $482.50

The cost to house Mr. Anthony Kinney who is currently being housed with us here at the Carroll County facility at the time of this letter at $96.50 per day would be $2,991.50.

I hope this information is helpful to you and answers your 91-A request.

If you have any further questions and or concerns, please feel free to contact me anytime by telephone or email.

Respectfully Submitted,

Superintendent Sean Eldridge

HB 547-FN

House Children and Family Law Committee

(January 31, 2023)

H.B. 547-FN

Exhibit B

Stephen Edgerly



Date of Photo
3/11/2020

EDGERLY, STEPHEN P.

Last Reported Address: P - HOMELESS EPPING, NEW HAMPSHIRE 03042 ROCKINGHAM County		**Date of Birth:** 2/21/1973 **Age:** 49
Race: White	**Sex:** Male	**Height:** 5'10"
Hair: Brown	**Eyes:** Blue	**Weight:** 190 lbs.

Other Relevant Physical Descriptions:

Scars, Marks, Tattoos, Piercings:
TATTOOS: Arm, left
TATTOOS: Arm, right
TATTOOS: Back
TATTOOS: Calf, left
TATTOOS: Head, nonspecific
TATTOOS: Leg, left

Court: STRAFFORD **Adjudication Date:** 11/14/1995

Qualifying Offense(s):
NH RSA 632-A:3,II Felonious Sexual Assault(Victim 13 or older & under 16 & age diff more than 3 years)

Status of Parole, Probation or Supervised Release: Work Release **Date:** 1/1/2020

Criminal History:

651-B:4, Duty To Report FELONY B **Conviction Date:** 6/17/2021
642:6, Escape FELONY B **Conviction Date:** 8/3/2018
631:1, 1st Degree Assault FELONY B **Conviction Date:** 9/6/2005
641:5, Witness Tampering FELONY **Conviction Date:** 9/6/2005
631:2-a, Simple Assault MISDEMEANOR A **Conviction Date:** 2/15/2005
633:3-a, Stalking MISDEMEANOR A **Conviction Date:** 2/15/2005
631:2-a, Simple Assault MISDEMEANOR A **Conviction Date:** 4/27/2004
504-A:4, Violation of Terms of Probation or Parole **Conviction Date:** 3/31/2003
651-B:4, Duty To Report FELONY **Conviction Date:** 3/28/2003
651-B:4, Duty To Report FELONY B **Conviction Date:** 3/28/2003
631:2-a, Simple Assault MISDEMEANOR A **Conviction Date:** 1/7/2003
597:7-a, Breach Of Bail Cond MISDEMEANOR A **Conviction Date:** 2/14/2002
631:2-a, Simple Assault MISDEMEANOR A **Conviction Date:** 2/14/2002
641:4, False Report **Conviction Date:** 8/13/2001
631:2-a, Simple Assault VIOLATION **Conviction Date:** 7/11/2001
644:2, Disorderly Conduct VIOLATION **Conviction Date:** 7/11/2001
504-A:4, Violation of Terms of Probation or Parole **Conviction Date:** 8/8/2000
504-A:4, Violation of Terms of Probation or Parole **Conviction Date:** 1/4/2000
641:4, False Report MISDEMEANOR A **Conviction Date:** 6/18/1999
651-B:4, Duty To Report MISDEMEANOR A **Conviction Date:** 6/18/1999
504-A:4, Violation of Terms of Probation or Parole **Conviction Date:** 3/9/1999
632-A:3, Felonious Sexual Aslt FELONY B **Conviction Date:** 11/14/1995
318-B:2, Possession C/drug MISDEMEANOR A **Conviction Date:** 5/24/1995

EDGERLY is required to register under New Hampshire law. Positive identification cannot be established unless a fingerprint comparison is made.

* **Address Types:** P = Permanent Address

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT
DOMESTIC VIOLENCE TEMPORARY ORDER OF PROTECTION

Case Number: 618-2022-DV-00091 PNO Number: NH822100091
Court: 10th Circuit - Family Division - Brentwood
Court ORI: NH008293J
County: Rockingham
Address: PO Box 1208 Kingston NH 03848-1208

PLAINTIFF First Middle Last	PLAINTIFF IDENTIFIERS Date of Birth	Sex	Race
Stephen Edgerly	02/21/1973	Male	White

V.

DEFENDANT'S NAME First Middle Last	DEFENDANT IDENTIFIERS			
Christy Marcoux	DOB	10/01/1982	HEIGHT	5 Ft. 6 In.
DEFENDANT'S ADDRESS: 10 Access Road Sanbornville NH 03872	SEX	Female	WEIGHT	110 Lbs.
	RACE	White	EYES	Green
	State/Birth	New Hampshire	HAIR	Blond or Strawberry
	ETHNICITY	Non Hispanic		

RELATIONSHIP to PLAINTIFF

- ☐ Married
- ☐ Divorced
- ☐ Separated
- ☐ Cohabit / cohabited
- ☐ Child in common
- ☐ Household member
- ☒ Other ex girlfriend

DISTINGUISHING FEATURES:
SKIN TONE
SCARS, MARKS, TATTOOS: Location and description: tattoo on back "Destiny"

CAUTION
- ☐ Weapon involved
- ☐ Weapon is ordered to be relinquished pursuant to New Hampshire state law RSA 173-B

LICENSE INFO:	DRIVER'S LICENSE#			
	STATE		EXP DATE	
VEHICLE INFO:	YEAR	2013?	STYLE	SUV
	MAKE	Nissan	COLOR	Dk. Gray
	MODEL	Rogue	VIN #	

WARNING: The attached order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced on Tribal Lands (18 U.S.C. section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. section 2262).

The court has found as evidenced by this order:
That it has jurisdiction over the parties and subject matter, and the defendant, upon service, will be given reasonable notice and opportunity to be heard.

☒ The above named defendant is restrained from committing further acts of abuse or threats of abuse.

☒ The above named defendant shall not have any contact with the plaintiff, whether in person or through third persons, including but not limited to contact by telephone, letters, fax, e-mail, the sending or delivery of gifts or any other method unless specifically authorized by the court. The defendant is prohibited from coming within 300 feet of the plaintiff.

Case Name: In the Matter of Stephen Edgerly v. Christy Marcoux

Case Number: 618-2022-DV-00091 PNO: 6182210091

DOMESTIC VIOLENCE TEMPORARY ORDER OF PROTECTION

The court, having jurisdiction over the parties and subject matter under New Hampshire RSA 173-B (Protection of Persons from Domestic Violence), and having considered the plaintiff's Domestic Violence Petition dated October 31, 2022 hereby finds that the plaintiff is in immediate and present danger of abuse as defined in RSA 173-B and makes the following **TEMPORARY ORDERS OF PROTECTION:**

1. ☒ The defendant shall not abuse the plaintiff.
2. ☒ The defendant shall not have any contact with the plaintiff, whether in person or through third persons, including but not limited to contact by telephone, letters, fax, texting, social media, e-mail, the sending or delivery of gifts or any other method unless specifically authorized by the court. The defendant is prohibited from coming within 300 feet of the plaintiff.
   ☐ This includes any household animals.
3. ☐ The defendant shall not enter the premises or curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries, medication, clothing, business equipment, and any other items as determined by the court:

   _____
4. ☒ The defendant shall not contact the plaintiff at or enter upon plaintiff's place of employment, school, or any other place she knows him to be.
5. ☒ The defendant shall not abuse plaintiff's relatives (including children) regardless of their place of residence, or members of the plaintiff's household.
6. ☒ The defendant shall not take, convert or damage any property in which the plaintiff has a legal or an equitable interest.
7. ☐ The plaintiff is awarded exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by the petitioner, defendant, or a minor child in either household, and the defendant is prohibited from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, or disposing of the animal(s).
8. ☐ The plaintiff is awarded custody of the minor child(ren). The defendant may exercise the following visitation: _____ or

   ☐ Visitation is denied pending a hearing.
9. ☐ The defendant shall relinquish to a peace officer all firearms and ammunition in his/her control, ownership or possession, or in the possession of any other person on behalf of the defendant, and the defendant is prohibited from purchasing or possessing any firearms or ammunition during the pendency of this order.
10. ☐ The defendant shall also relinquish all deadly weapons as defined in RSA 625:11,V which may have been used, intended to be used, threatened to be used or could be used in an incident of abuse. These weapons may include the following: _____

    _____
11. ☐ Other protective orders: _____

    _____

Case Name: In the Matter of Stephen Edgerly v. Christy Marcoux

Case Number: 618-2022-DV-00091 PNO: 6182210091

DOMESTIC VIOLENCE TEMPORARY ORDER OF PROTECTION

ADDITIONAL ORDERS:

12. ☐ The Plaintiff is awarded the temporary and exclusive use of the motor vehicle identified as follows:

13. ☐ The Plaintiff is awarded the temporary and exclusive use of the residence located at:

14. ☐ The defendant shall relinquish all concealed weapons permits and hunting licenses.

15. ☐ Other:

Date

Signature of Judge / Marital Master Recommendation

Print / Type Name of Judge / Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

10/31/22
Date

Signature of Judge Approving Marital Master's Recommendation

1-855-212-1234
Telephone Number of Court

Jennifer A. Lemire
Print / Type Name of Judge Judge

THESE ORDERS ARE EFFECTIVE IMMEDIATELY AND REMAIN IN EFFECT UNTIL FINAL ORDERS ARE MADE BY THE COURT. ANY WILLFUL VIOLATION OF THE PROTECTIVE PROVISIONS OF THESE ORDERS IS A CRIME. VIOLATIONS SHALL RESULT IN ARREST AND MAY RESULT IN IMPRISONMENT. ALL FUTURE NOTICES AND ORDERS SHALL BE MAILED. BOTH PARTIES MUST KEEP THE COURT INFORMED OF THEIR CURRENT ADDRESS.

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

10th Circuit - Family Division - Brentwood
PO Box 1208
Kingston NH 03848-1208

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
https://www.courts.nh.gov

DOMESTIC VIOLENCE TEMPORARY ORDER AND NOTICE OF HEARING
PURSUANT TO RSA 173-B

Case Number: **618-2022-DV-00091** PNO: 6182210091

Stephen Edgerly (Plaintiff) v. **Christy Marcoux** (Defendant) **10/01/1982** (Def Date of Birth)

NOTICE OF HEARING

The plaintiff and defendant are summoned to appear at 10th Circuit - Family Division - Brentwood on 11/29/2022 at 2:00pm. The court will hear testimony from both parties. **One half hour will be allotted for this hearing.** FINAL ORDERS may be issued at that time.

October 31, 2022
Date

Lorraine Herard
Clerk of Court

NOTICE TO DEFENDANT

PURSUANT TO RSA 173-B:4, you have a right to a hearing on these temporary orders within five business days, but not earlier than three business days, after you file a written request with the court. Unless you request this hearing in writing, the case will be heard on the date shown above.

****

NOTICE OF INTERSTATE ENFORCEMENT AND COMPLIANCE WITH THE VIOLENCE AGAINST WOMEN ACT (VAWA)

1. This temporary protective order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. sec. 2265 (1994). This Court has jurisdiction of the parties and the subject matter; the defendant is afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. This order is valid and enforceable throughout New Hampshire and all other states, the District of Columbia, all tribal lands and all U.S. Territories, and shall be enforced as if it were an order of that jurisdiction.
2. Pursuant to Section 2265 of Title 18, United States Code, violation of any provision(s) of this Order, including support, child custody or visitation provisions issued under the authority of RSA 173-B of this State, is enforceable by court and/or law enforcement personnel of any other State, Indian tribal government, or Territory, as if it were their own order.
3. Violations of this order are subject to state and federal criminal penalties. If the restrained party (the defendant) travels across state or tribal boundaries, or causes the protected party (the plaintiff) to travel across state or tribal boundaries, with the intent to violate the protective orders and then violates a protective provision of this order, the defendant may be prosecuted for a federal felony offense under the Violence Against Women Act, 18 U.S.C. sec. 2262(a)(1) or (2) (1994).
4. The National Domestic Violence Hotline provides information on a 24-hour basis on interstate enforcement of protection orders, how to reach an advocate, and the location of shelters. The Hotline number is: 1-800-799-7233.

****

REPORTING A VIOLATION OF THIS ORDER: If the defendant violates any portion of this order, the plaintiff may report the violation to the local law enforcement agency and file a written notice in the form of a petition for contempt requesting a further hearing on the matter. Forms are available at the court or on the court website www.courts.nh.gov.

THE STATE OF NEW HAMPSHIRE
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DOMESTIC VIOLENCE PETITION
Pursuant to RSA 173-B

Case Number: 618-2022-DV-00091 PNO CH2022100091

STEPHEN EDGERLY 8/21/1973 (Plaintiff / Plf Date of Birth) v. CHRISTY MARCOUX 10/1/1982 (Defendant / Def Date of Birth)

Sex: ☒ M ☐ F
Race: ☐ Asian ☐ Other ☐ Black ☐ Unavailable ☐ Indian ☒ White ☐ Multiracial ☐ Native Hawaiian or Other Pacific Islander.
Ethnicity: ☐ Hispanic ☒ Non-Hispanic ☐ Refused

Sex: ☐ M ☒ F

Street Address: WAKEFIELD NH (City / State / Zip)

RELATIONSHIP to DEFENDANT
☐ Married
☐ Divorced
☐ Separated
☐ Cohabit / cohabited
☐ Child in common
☐ Household member
☐ Other EX GIRLFRIEND

TO THE JUSTICE OF THE COURT: I am in immediate danger of abuse by the defendant. I base my request for protection from abuse on the following facts that occurred on the following dates, and ask the court to issue orders as noted below:

~~This Sa~~ I was threatened this morning by christy by the form of text msg. telling me that payback is a bitch & that 3 men were going to physically assault me for her. I haven't spoke to her in a few days the only before that was her threatening to put me in prison she is also harrassing my family calling my mothers landlord w/ false accusations. I have also lost my job because of her actions on the job sites continue → over

☐ SEE ATTACHED ADDITIONAL PAGE(S)

The defendant and I are currently involved in or have received orders in the following court actions:
☐ divorce ☐ custody ☐ protective order ☐ none ☐ other _____

Please list the court(s) handling the case(s): _____

Are you represented by a lawyer in any of these matters? ☐ Yes ☒ No

Residence: ☒ own ☐ rent ☐ in whose name? _____

Children living in household:

NAME	DOB	BIRTH PARENTS	WHO HAS CUSTODY

Note: If you have minor children born to or adopted by you and the defendant, you must submit a UCCJEA Affidavit (Form NHJB-2660-FP)

I have suffered the following financial losses as a result of the abuse: ☐ medical/dental/optical expenses
☒ loss of wages ☒ loss of personal property ☐ other (explain) _____

Case Name: Edgerly v. Curcuru

Case Number: 6P8-2022-DV-00091 PNO: 41622100 91

DOMESTIC VIOLENCE PETITION

REQUEST FOR PROTECTIVE ORDERS:

1. [X] Restrain the defendant from abusing me, having any contact with me, whether in person or through third persons, including but not limited to contact by telephone, letters, fax, texting, social media, e-mail, the sending or delivery of gifts or any other method, unless specifically authorized by the court.
2. [X] Restrain the defendant from entering in or on the premises (including curtilage) where I reside except with a peace officer for the purpose of removing defendant's personal possessions; my place of employment; my school.
3. [X] Restrain the defendant from abusing my relatives or members of my household.
4. [ ] Restrain the defendant from taking, converting or damaging property in which I have a legal or equitable interest.
5. [ ] Direct the defendant to temporarily relinquish to a peace officer any firearms or other deadly weapons, including _____
6. [ ] Award temporary custody of our minor child(ren) to me.
7. [ ] Restrain the defendant from contact and from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect or disposing of any animal owned, possessed, leased, kept or held by me or the defendant or a minor child in either household.

REQUEST FOR ADDITIONAL ORDERS:

8. [ ] Direct the defendant to make child support payments to me for the care of our minor children.
9. [ ] Direct the defendant to follow a court approved visitation plan if defendant wishes to exercise child visitation rights.
10. [ ] Award me the exclusive right to use and possession of our residence and household furnishings.
11. [ ] Award me the exclusive right of use and possession of the following vehicle: _____
12. [ ] Award me the exclusive care, custody or control of any animal owned, possessed, leased, kept or held by me, the defendant or a minor child in either household.
13. [ ] Order the defendant to pay me for financial losses suffered as a direct result of the abuse.
14. [ ] Recommend that the defendant attend a batterers treatment program or personal counseling.
15. [ ] Other relief: _____

Additional Space for Statement of Facts

Christy is a very unstable person that I have been with appox 3 years, her behavior 3 outbursts 3 violence have escalated to the point I am scred for my life and I worry for the sadety of my mother when I am not close as I sit here ~~writing~~ write this now I just got a text from her. 12:36 pm that she would see me tonight at the pool hall with her friends to fuck me up.

Christy has also vandelised my home on several occassions and physically threatened my mother

Case Name: Edgerly v. Kurcouz

Case Number: 618-2022-DV-00091 PNO: NH22100091

DOMESTIC VIOLENCE PETITION

She has been stalking me on social media business websites. I do not want this person near me I am in fear for my life safety I live alone please help

THIS PETITION MUST BE SIGNED BY THE PETITIONER WHILE AT COURT.

THIS PETITION WILL NOT BE ACCEPTED BY FAX, E-MAIL, OR U.S. MAIL.

I swear that the foregoing information is true and correct to the best of my knowledge. I understand that making a false statement on this petition will subject me to criminal penalties.

10-31-22
Date

Signature of Plaintiff

State of NH, County of Rockingham

This instrument was acknowledged before me on 10/31/2022 by Stephen P. Edgerly.

My Commission Expires _____
Affix Seal, if any

Julianne French
Clerk of Court/Deputy Clerk/Justice of Peace/Notarial Officer

JULIANNE FRENCH
JUSTICE OF THE PEACE
State of New Hampshire
My Commission Expires
February 3, 2026

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

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https://www.courts.nh.gov

DOMESTIC VIOLENCE OR STALKING RETURN OF SERVICE
Pursuant to RSA 633:3-a or 173-B

Case Number: 618-2022-DV-00091 PNO: 6182210091

Stephen Edgerly	02/21/1973	V. Christy Marcoux	10/01/1982
Plaintiff	Pif Date of Birth	Defendant	Def Date of Birth

DEFENDANT IDENTIFIERS (to be obtained or verified by serving officer)

Race: ☐ Asian ☐ Other ☐ Black ☐ Unavailable ☐ Indian ☒ White ☐ Multiracial ☐ Native Hawaiian or Other Pacific Islander

Ethnicity: ☐ Hispanic ☒ Non-Hispanic ☐ Refused

DOB	10/01/1981	HEIGHT	5'5"
SEX	F	WEIGHT	100 165
State/Birth	NH	EYES	GRN
		HAIR	BLN

Service was completed on the defendant: Christy Marcoux
who resides at: 10 Access Rd, Wakefield, NH, 03872
by giving in hand on 11/1/2022 at 948 ☑ a.m. ☐ p.m. an attested copy of the attached

[Please check all that apply]:

☑ Petition ☑ Temporary Order with Notice of Interstate Enforcement and Compliance with VAWA ☐ Final Order with Notice of Interstate Enforcement and Compliance with VAWA

☐ UCCJEA Affidavit ☑ Notice of Hearing ☐ Other _____

Identity was verified by means of: ☑ Driver's License ☐ Other identification: _____

☐ Firearms and ammunition were relinquished: (specify) _____

☐ Deadly weapons were relinquished: (specify) _____

☐ Concealed Weapons Permits were relinquished: (specify) _____

☐ Hunting Licenses were relinquished: (specify) _____

11/1/2022
Date

Law Enforcement Official

(603) 642-7076
Court Fax Number

LoriAnne Hensel
Court Official

Wakefield Police Dept.
2017 Wakefield Rd,
Wakefield, NH, 03872

Law Enforcement Agency Name and Address

TITLE I
THE STATE AND ITS GOVERNMENT

CHAPTER 14
LEGISLATIVE OFFICERS AND PROCEEDINGS

Section 14:9-a

14:9-a Effective Dates. –

I. Except as provided in paragraphs II and III, and except for resolutions, which shall take effect upon their passage, each law passed by the general court shall take effect 60 calendar days following passage, excluding the date on which it is signed by the governor, or the last date on which the general court acts on the matter, as the case may be.

II. The office of legislative services shall include a section in each bill drafted for introduction specifying the act's effective date, if passed. The effective date section shall indicate that the law shall take effect as follows or at such other time as the bill's prime sponsor shall indicate in writing:

(a) Each law affecting judicial practice and procedure, or establishing or eliminating criminal prohibitions, civil causes of action or remedies, or limitations of actions, shall take effect on the January 1 following passage.

(b) Each law affecting local property taxes shall take effect on the April 1 following passage.

(c) Each law affecting state tax laws and statutory fees shall take effect on the July 1 following passage.

(d) If the law affects only one particular person, town, city, or political subdivision, it shall take effect upon its passage.

(e) Each law making appropriations shall take effect on the July 1 following passage.

(f) Each law establishing a legislative committee shall take effect upon its passage.

(g) All other laws shall take effect 60 days after the bill's passage.

III. A law may be repealed in the bill enacting the law, with the repeal taking effect at a prospective date specified in the bill.

IV. The office of legislative services shall, at the request of the sponsor of an amendment, include in the amendment the effective date requested by the sponsor of the amendment.

V. Unless specifically provided otherwise, each law enacted by the general court shall take effect at midnight, 12:00 a.m., on the date the law becomes effective.

VI. The secretary of state shall record the date each law was enacted and its effective date on all enrolled and printed copies of such law, and such record shall be conclusive.

Source. 1983, 278:2. 1995, 308:42. 2000, 223:1. 2005, 152:1, eff. Aug. 20, 2005.

Testimony of Pamela Keilig
Public Policy Specialist, NH Coalition Against Domestic and Sexual Violence
House Children & Family Law
January 31, 2023; 9:30pm

HB547, relative to rebuttable presumptions of sole custody determination

Good morning, Mister Chair and Members of the Committee. My name is Pamela Keilig, and I am the Public Policy Specialist at the NH Coalition Against Domestic and Sexual Violence. The Coalition is the umbrella organization for 12 community-based crisis centers who provide free and confidential services to nearly 15,000 survivors of sexual and domestic violence annually. I am here to speak in opposition to HB547 as written, legislation that would make significant changes to our state's parental rights and responsibilities statute. Thank you for the opportunity to testify today.

We appreciate the sponsor's efforts to recognize the importance of protecting victims and their children when determining parental rights and responsibilities in domestic violence cases. There are components of this legislation that could potentially have a positive impact when it comes to improving the response to domestic abuse in family law cases. However, this bill would rewrite the entire parental rights and responsibilities statute under RSA 461-A. While we agree that there should be a closer look at what happens to parenting time when domestic violence is present in the family unit, we also want to make sure that we strike the right balance in the law. We are also concerned that there could be unintended consequences to the detriment of victims and their children should this legislation pass. Domestic violence is complex and nuanced and we want to ensure that abusers would not be able to inadvertently use any of the provisions in this bill to further abuse or harm their victims.

We ask that the committee consider voting this bill inexpedient to legislate. More time is needed to review the current statute and identify areas that could be improved in domestic violence cases. We look to the experts in family law, including New Hampshire Legal Assistance, to identify any possible solutions to consider in the future. Thank you so much for your time and I would be happy to take any questions.

HB 547-FN - AS INTRODUCED

2023 SESSION

23-0662
06/05

HOUSE BILL ***547-FN***

AN ACT relative to rebuttable presumptions of sole custody determinations.

SPONSORS: Rep. Testerman, Merr. 3

COMMITTEE: Children and Family Law

ANALYSIS

This bill defines family and domestic violence a rebuttable presumption when considering sole custody determinations.

This bill also changes the way guardians ad litem are selected.

- -

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 547-FN - AS INTRODUCED

23-0662
06/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to rebuttable presumptions of sole custody determinations.

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

1 Statement of Purpose. Amend the introductory paragraph of RSA 461-A:2, I to read as follows:

I. Because children do best when both parents have a stable and meaningful involvement in their lives, ***except when there is evidence of family violence under RSA 173-B or RSA 169-C,*** it is the policy of this state, unless it is clearly shown that in a particular case it is detrimental to a child, to:

2 Procedure and Jurisdiction. Amend RSA 461-A:3, II to read as follows:

II. In cases where husband and wife or unwed parents are living apart, the court, upon petition of either party, [~~may~~] ***shall*** make such order as to parental rights and responsibilities and support of the children as justice may require. All applicable provisions of this chapter and of RSA 458-A, 458-B, 458-C, and 458-D shall apply to such proceedings.

3 Parenting Plans; Contents RSA 461-A:4, III is repealed and reenacted to read as follows:

III. If the court believes that exposure to domestic violence or child abuse is a problem for the parent found to have abused a child, it can condition future contact upon adequate proof the parent has sought the appropriate counseling with a therapist who has a doctoral degree and the counselor is satisfied that the parent has adequately addressed his or her propensity to abuse as defined under RSA 173-B, RSA 169-C:3, and RSA 633. If the protective parent wishes to cross examine a therapist in any such petition to change court order following therapy, it shall be the responsibility of the abusive parent to pay any witness fees to the therapist for appearing in court.

4 Parenting Plans; Contents. Amend RSA 461-A:4, V and VI to read as follows:

V. If***, after a full custodial hearing,*** the court orders supervised visitation, it [~~may~~] ***shall*** order that such visitation shall take place only at a visitation center that uses a metal detection device and has trained security personnel on-site.

VI. Each parenting plan shall include a detailed parenting schedule for the child, specifying the periods when each parent has residential responsibility or non-residential parenting time. ***In the absence of a finding of family violence creating rebuttable presumption for sole parenting decisions,*** neither parent shall be described as having the child "reside primarily" with him or her or as having "primary residential responsibility" or "custody" or be designated as the "primary residential parent."

5 Decision-making Responsibility. Amend RSA 461-A:5 to read as follows:

461-A:5 Decision-making Responsibility.

I. Where the court finds that abuse as defined in RSA 173-B:1 or RSA 169-C:3, I has occurred, the court shall consider such abuse as harmful to children and as evidence in determining whether joint decision-making responsibility is appropriate. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the children or the abused spouse or both. If joint decision-making responsibility is granted despite evidence of abuse, the court shall provide both parents with written findings to support the order. ~~[Except as provided in paragraph III,]~~ ***For all other cases,*** in the making of any order relative to decision-making responsibility, there shall be a presumption, affecting the burden of proof, that joint decision-making responsibility is in the best interest of minor children:

[~~I.~~] ***II.*** Where the parents have agreed to an award of joint decision-making responsibility or so agree in open court at a hearing for the purpose of determining parental rights and responsibilities for the minor children of the marriage. If the court declines to enter an order awarding joint decision-making responsibility, the court shall state in its decision the reasons for the denial.

[~~II.~~] ***III.*** Upon the application of either parent for joint decision-making responsibility, in which case it may be awarded at the discretion of the court. For the purpose of assisting the court in making a determination whether an award of joint decision-making responsibility is appropriate under this section, the court may appoint a guardian ad litem to represent the interests of the children according to the provisions of RSA 461-A:16. If the court declines to enter an order awarding joint decision-making responsibility, the court shall state in its decision the reasons for the denial.

~~[III. Where the court finds that abuse as defined in RSA 173-B:1, I has occurred, the court shall consider such abuse as harmful to children and as evidence in determining whether joint decision-making responsibility is appropriate. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the children or the abused spouse or both. If joint decision-making responsibility is granted despite evidence of abuse, the court shall provide written findings to support the order.~~]

6 Determination of Parental Rights and Responsibilities; Best Interest. Amend RSA 461-A:6 to read as follows:

I. ***In determining parental rights and responsibilities, the court shall presume that the presence of child abuse as defined in RSA 169-C or domestic violence under RSA 173-B creates a rebuttable presumption that the abuse or domestic violence is harmful to the child, and that the protective parent should have sole decision making authority, and visitation with the other parent shall be supervised at his or her own expense. Only after a full and final custodial hearing may the court order supervised visitation. If there are 2 instances of continued abuse in or around the exchange of the supervised visitation of the***

child, either as defined in RSA 173-B or RSA 169-C, the court shall suspend visitation altogether until the abusive parent provides adequate documentation that they have addressed their behavior in therapy and are ready to prove to the court in supervised visitation that their behavior has changed. Otherwise, in determining parental rights and responsibilities, the court shall be guided by the best interests of the child, and shall consider the following factors:

(a) The relationship of the child with each parent and the ability of each parent to provide the child with nurture, love, affection, and guidance.

(b) The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.

(c) The child's developmental needs and the ability of each parent to meet them, both in the present and in the future.

(d) The quality of the child's adjustment to the child's school and community and the potential effect of any change.

(e) ***Except when the presence of domestic violence or child abuse creates a rebuttable presumption of sole decision making,*** the ability and disposition of each parent to foster a positive relationship and frequent and continuing physical, written, and telephonic contact with the other parent, including whether contact is likely to result in harm to the child or to a parent.

(f) The support of each parent for the child's contact with the other parent as shown by allowing and promoting such contact, [~~including whether contact is likely to result in harm to the child or to a parent~~] ***except when child abuse or domestic violence creates a rebuttable presumption of sole decision making***.

(g) The support of each parent for the child's relationship with the other parent, including whether contact is likely to result in harm to the child or to a parent.

(h) The relationship of the child with any other person who may significantly affect the child.

(i) [~~The ability of the parents to communicate, cooperate with each other, and make joint decisions concerning the children, including whether contact is likely to result in harm to the child or to a parent.~~

~~(j) Any evidence of abuse, as defined in RSA 173-B:1, I or RSA 169-C:3, II, and the impact of the abuse on the child and on the relationship between the child and the abusing parent.~~

~~(k)~~] If a parent is incarcerated, the reason for and the length of the incarceration, and any unique issues that arise as a result of incarceration.

[~~(l)~~] ***(j)*** The policy of the state regarding the determination of parental rights and responsibilities described in RSA 461-A:2.

[~~(m)~~] ***(k)*** Any other additional factors the court deems relevant.

[~~I-a. If the court concludes that frequent and continuing contact between each child and both parents is not in the best interest of the child, the court shall make findings supporting its order.~~]

II. If the court finds by clear and convincing evidence that a minor child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature minor child as to the determination of parental rights and responsibilities. [~~Under these circumstances, the court shall also give due consideration to other factors which may have affected the minor child's preference, including whether the minor child's preference was based on undesirable or improper influences.~~]

III. In determining parental rights and responsibilities under this section, including residential responsibility, the court shall not apply a preference for one parent over the other because of the sex of the child, the sex of a parent, or the financial resources of a parent.

7 Mediation of Cases Involving Children RSA 461-A:7 is repealed and reenacted to read as follows:

461-A:7 Mediation of Cases Involving Children. The court shall make a list of all certified marital mediators in the state and make that list available to parents in the clerk's office. The court shall further inform the parents of their right to mediate, but shall not influence the parental choice of a mediator. The court shall not order mediation.

8 Temporary Orders. Amend the introductory paragraph of RSA 461-A:8 to read as follows: After the filing of a petition concerning a minor child under this chapter, the court ***within 30 days, shall hold a temporary hearing.*** ***[***~~may issue orders with such conditions and limitations as the court deems just.~~] ***The court shall, within 45 days of the filing of a petition, issue temporary orders on support and temporary parenting plans using as many of the factors under RSA 461-A:6 as the court can determine. The court shall prioritize the safety of the child or children in writing temporary orders.*** The orders may be issued ex parte. The orders may include the following:

9 Restraining Orders. Amend the introductory paragraph of RSA 461-A:10, I to read as follows:

I. After the filing of a petition concerning a minor child under this chapter, the court [~~may~~] ***shall*** issue restraining orders with such conditions and limitations as the court deems just. At the discretion of the court, such orders may be made on a temporary or permanent basis. Temporary orders may be issued ex parte as provided in RSA 461-A:9. The orders may include the following:

10 Restraining Orders New Subparagraph; Restraining Orders. Amend RSA 461-A:8, I by inserting after subparagraph (d) the following new subparagraph:

(e) Any restraining order issued by the court shall not have exceptions for co-parenting contract.

11 Restraining Orders. Amend the introductory paragraph of RSA 461-A:10, I to read as follows:

I. After the filing of a petition concerning a minor child under this chapter, the court [~~may~~] ***shall*** issue restraining orders with such conditions and limitations as the court deems just. At the discretion of the court, such orders may be made on a temporary or permanent basis. Temporary orders may be issued ex parte as provided in RSA 461-A:9. The orders may include the following:

12 New Subparagraph; Restraining Orders. Amend RSA 461-A:10, I by inserting after subparagraph (d) the following new subparagraph:

(e) Any restraining order issued by the court shall not have exceptions for co-parenting contact.

13 Relocation of the Residence of a Child. Amend RSA 461-A:12, I to read as follows:

I. This section shall apply any time after the filing of a parenting petition or a divorce petition. This section shall not apply if the relocation results in the residence being closer to the other parent or to any location within the child's current school district. ***This section shall not apply when the factors of child abuse or domestic violence creates a rebuttable presumption of sole parental decision making.***

14 Support. Amend RSA 461-A:14, XVIII to read as follows:

XVIII. Any motion for contempt of a court order regarding nonpayment of child support, if filed by a parent, shall be reviewed by the court within 30 days. When the arrearage equals or exceeds the equivalent of 8 weeks of child support under the existing order, the matter of the arrearage may be scheduled for mediation through the court within 30 days of the filing of the motion for contempt of court unless a hearing on the motion is scheduled earlier. The mediation shall not consider modification of the child support order. The court shall not order mediation if there is a finding of domestic violence as defined in RSA 173-B:1, ***or a finding of child abuse as defined by RSA 169-C:3,*** unless all parties agree to the mediation.

15 Guardian Ad Litem. Amend the introductory paragraph of RSA 461-A:16, I to read as follows:

I. In contested proceedings under RSA 461-A, the court may appoint a guardian ad litem for a minor child when the court has reason for special concern regarding the welfare of the child. ***The court shall appoint a guardian ad litem from a list of qualified guardian ad litems in the order presented on the list. The court shall not deviate from the order presented on the list unless the next guardian ad litem on the list is unable or unwilling to accept the appointment.*** The role of the guardian ad litem shall be to gather information to assist the court in determining the best interests of the child. In determining whether to appoint a guardian ad litem, the court shall consider:

16 Guardian Ad Litem RSA 461-A:16, II is repealed and reenacted to read as follows:

II. In no case shall a guardian ad litem file an objection to a witness selected by a parent in a custody matter.

17 Modification of Parental Rights and Responsibilities; Cross Reference Changed. Amend RSA 461-A:11, II to read as follows:

II. Except as provided in RSA 461-A:11, I(b)-(i) for parenting schedules and RSA 461-A:12 for a request to relocate the residence of a child, the court may issue an order modifying any section of a permanent parenting plan based on the best interest of the child. [~~RSA 461-A:5, III~~] ***RSA 461-A:5, I*** shall apply to any request to modify decision-making responsibility.

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

LBA
23-0662
Revised 1/13/23

HB 547-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to rebuttable presumptions of sole custody determinations.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General [ ] Education [ ] Highway [X] Other - Judicial Branch Mediation and Arbitration Fund			

METHODOLOGY:

This bill defines family and domestic violence a rebuttable presumption when considering sole custody determinations. The bill also changes the way guardians ad litem are selected.

The Judicial Branch indicates the fiscal impact on the Branch is indeterminable. Regarding the changes to mediation the Judicial Branch assumes, by removing authority to order mediation, fewer mediations will occur. The Branch reports that, on average, the Mediation and Arbitration Fund pays approximately $68,600 annually in mediation fees for indigent parties. The Judicial Branch assumes this amount would no longer be available with the change described in the bill. Because there will likely be fewer mediations, the Branch assumes fewer cases will be settled by the parties and more cases will result in contested hearings or trials which will have an increased cost to the Judicial Branch. The requirement that a hearing be scheduled for all initial temporary orders would significantly increase the number of hearings held and limit the time for the parties to reach agreement without court intervention. This will result in more contested proceedings and compress the time by which hearings must be held. The Judicial Branch is unable to determine how many additional hearings would be held or the impact the compressed schedule would have on other court resources or the scheduling of hearings.

The Department of Health and Human Services, Bureau of Child Support Services does not anticipate any programmatic costs associated with this bill where it does not have an impact on program operations.

AGENCIES CONTACTED:

Judicial Branch and Department of Health and Human Services