

Senate Judiciary Committee

Brendan Bunnell 271-4063

HB 1206, clarifying the equity jurisdiction of the judicial branch family division.

Hearing Date: April 14, 2026

Time Opened: 1:16 p.m.

Time Closed: 1:38 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Altschiller and Reardon

Members of the Committee Absent: Senator Carson

Bill Analysis: This bill clarifies the equity jurisdiction of the judicial branch family division (now the circuit court, family division).

Sponsors:

Rep. Love

Rep. Bernardy

Rep. Post

Who supports the bill: Rep. David Love, Russan Chester, Sherly Harianto, Robert Tanguay, Curtis Howland, Timothy Finney, Pamela Harders, Gayle Drobot, and Hon. Betty Gay.

Who opposes the bill: Rep. Timothy Horrigan, Benjamin Goguen, Charlotte Hann, Sophie Gold, Gabrielle O'Hearn-Veloza, Olivia Fanseca, Steven Zeimetz, Tami Lanzillo Zeimetz, Brooke Tuthill, Maya Wormald, and Finnia Cheftel.

Who is neutral on the bill: None.

Summary of the testimony presented:

Representative David Love introduced the bill and stated that he represents Derry and that he was introducing the bill on behalf of Daniel Itse. He stated that he was not deeply familiar with the legal language of the bill but would explain its general purpose.

- He stated that the bill concerns the relationship between common law, rules and equity, and statutory law.
- He explained that common law is the historical due process developed over time through judicial decisions and referred to William Blackstone as describing it as the rules of society. He stated that rules and equity represent adaptations of common law to civil cases and that common law is considered unwritten law because it originates from judicial opinions rather than legislation.

- He explained that statutory law is created by legislators and either clarifies or modifies common law.
- He stated that statutory law supplants common law and gave examples, including that without statutory law women would not have gained the right to vote and fathers would automatically have custody of children. He stated that in New Hampshire, common law is applied where statutes are silent.
- He referenced RSA 490D:3 which states " "But nothing contained in this section shall be construed as limiting the power of the judicial branch family division to have issues of fact framed and tried by a jury according to the rules and equity or the course of such proceedings at common law". He stated that it allows family division proceedings to follow rules of equity or common law, which he argued results in individuals not being treated as innocent until proven guilty and not having full access to evidence unless required by statute. He stated that courts do not consistently enforce statutory requirements regarding evidence.
- He argued that passing this bill would ensure basic due process protections in family court, particularly when the state intervenes in parental rights. He stated that the bill does not address all issues in family court and referenced Rule 1104A, stating that rules of evidence are not enforced in family court to the same extent as in other courts.
- He stated that family court represents approximately 70 percent of the court docket and shapes public perception of the judiciary. He stated that family court is commonly referred to as “liars court” and asserted that perjury is rarely addressed. He stated that he has personally experienced these issues.
- He stated that many litigants are self represented, estimating that approximately 74 percent of cases involve at least one pro se litigant. He argued that complicated legal language disadvantages these individuals and forces them to seek legal counsel when they often cannot afford it. He stated that financial strain is a major factor in divorce and that children are ultimately harmed by failures in the system.
- Senator Reardon asked what the difference is between the language being removed, “notwithstanding any law to the contrary,” and the language being added, “and where no other special provision has been made in the law.”
 - Representative Love responded that he could not explain the difference and suggested that the sponsor or attorneys on the committee might be better able to answer or they could contact Daniel Itse.
 - He said it is possible that the change could be as simple as altering the language so the average person could understand it.
- Senator Gannon stated that he is an attorney and also did not see a difference between the two phrases. He stated that he had not practiced family law in many years but recalled that equity allowed courts to make proceedings more

accessible by relaxing rules of evidence. He stated that he did not see how the change would alter the law but suggested further review might clarify it.

- o Representative Love urged once more for the committee to reach out to Daniel Itse for an answer.
- Senator Abbas asked about the broader concern that the phrase “notwithstanding any law to the contrary” appears in many statutes and questioned whether removing it in only one section addresses a larger issue.
 - o Representative Love responded that family law is different from other areas such as criminal or probate law because it directly affects children and families, and that even small changes that improve clarity and accessibility for pro se litigants would be beneficial.

Robert Tanguay testified in support of the bill. He identified himself as the author of New Hampshire Oliver Twist and stated that he is currently involved in litigation in superior court. He stated that the bill addresses the removal of the phrase “notwithstanding any law to the contrary” and argued that family courts were created in 2005 and that family court rules were created in 2011 under Article 73A, which he described as fraudulent since the language "the force and effect of law" was added.

- He stated that he supports the bill but believes amendments are needed. He argued that the bill should allow litigants to bring matters into superior court where they could have jury trials and application of rules of evidence. He stated that pro se litigants are being abused and that laws are being broken in family court, referencing his own case and stating that some judges are under review.
- He criticized the Bar Association, describing it as a for profit organization controlled by the Supreme Court, and alleged coordination with other organizations such as the Women's Bar Association to influence outcomes. He stated that he is suing a lawyer.
- He discussed RSA 491:7 which was updated in 1993 before the family courts and again in 2014 after the notwithstanding law came through in 2005. He stated that the "notwithstanding" language was added to make it so the superior court had no jurisdiction. He argued that the statute should be further amended to remove language requiring cases to be brought in family division under RSA 490-D in order to achieve the intent of the bill.
- He stated that superior court should provide an alternative forum and compared New Hampshire's system to other states with appellate courts. He made critical statements about the Supreme Court arguing that it is corrupt.
- He stated the committee should modify 491:7 jurisdiction to strike out "except where the family division" to retain the identity of the bill. He said otherwise it just says 'notwithstanding' and the legislature would have a bunch of other work to do in the future.

- He stated that the legislature itself is a court and referenced RSA 311:1 which states that "any person may represent themselves in the court".
 - Senator Gannon stated that this was not a court and that it is much different, referencing the three branches of government.
- He referenced Article 8 and how it allows the people to hold the government accountable. He stated that this is the wider issue, that judges and lawyers are lying.
 - Senator Abbas said respectfully that Tanguay's statement about lawyers was inaccurate.
- He said it was a fact that lawyers and judges are lying and that not all lawyers and judges are lying.
- He stated that RSA 311:6 requires attorneys to report misconduct under penalty of perjury and argued that this is not being enforced. He reiterated that RSA 491:7 should be amended to remove family division jurisdiction language.
- He stated that the premise being lobbied for by those opposed to the bill is not accurate.

Russan Chester testified in support of the bill. She stated that she is a resident of Bedford and had participated in committees examining family court and district court systems. She stated that family court operates differently and does not provide the same level of judicial process as other courts.

- She stated that the lack of clear guidelines creates confusion, particularly for pro se litigants, and that decisions affecting family relationships are being made without consistent standards. She stated that the bill would help provide clearer structure and fairness.

Sherly Harianto testified in support of the bill. She stated that she was speaking for herself and that she has an open case, limiting what she could disclose. She stated that she believes family court decisions are being made unfairly and without sufficient evidence.

- She stated that as a single mother she believes parental rights are being threatened due to poverty and that this is not consistent with due process. She stated that many parents lack understanding of legal guidelines and that changing standards make it difficult to navigate the system.
- She urged the committee to support families and prevent separation of children from parents, stating that such separation causes emotional harm and long term negative effects on children and society.