

HB 1770-FN - AS INTRODUCED

2026 SESSION

26-3135

06/09

HOUSE BILL **1770-FN**

AN ACT relative to the allocation of parental rights and responsibilities and establishing a presumption of equal parenting time.

SPONSORS: Rep. Sabourin dit Choiniere, Rock. 30; Rep. Bernardy, Rock. 36; Rep. Comtois, Belk. 7; Rep. DeRoy, Straf. 3; Rep. D. Kelley, Hills. 32; Rep. Perez, Rock. 16; Rep. Sirois, Hills. 32; Rep. Kofalt, Hills. 32; Rep. Popovici-Muller, Rock. 17

COMMITTEE: Children and Family Law

ANALYSIS

This bill:

I. Replaces the discretionary best-interest standard in RSA 461-A:2 with a constitutional presumption of equal parenting time.

II. Defines equal parenting as a 50/50 overnight split with limited deviation.

III. Establishes strict scrutiny for any reduction in a fit parent's time.

IV. Limits rebuttal to clear and convincing evidence of specific harm under RSA 170-C:5.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to the allocation of parental rights and responsibilities and establishing a presumption of equal parenting time.

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

1 1 Statement of Purpose; Parental Rights and Responsibilities. Amend RSA 461-A:2 to read as
2 follows:

3 461-A:2 Statement of Purpose.

4 I. Because children do best when both parents have a stable and meaningful involvement in
5 their lives, it is the policy of this state, [~~unless it is shown that in a particular case it is not in the~~
6 ~~best interest of a child, to~~] ***there shall be a constitutional presumption of equal parenting***
7 ***time:***

8 (a) [~~Encourage approximately equal parenting time between each child and both parents~~
9 ~~if it is in the best interest of the child~~] ***In any suit affecting the child-parent relationship,***
10 ***including initial determinations, temporary orders, and modifications of parenting time,***
11 ***the court shall begin with a constitutional presumption that equal parenting time is the***
12 ***least restrictive means of protecting the rights of the child, or children, and both parents.***

13 (b) [~~Encourage parents to share in the rights and responsibilities of raising their~~
14 ~~children after the parents have separated or divorced~~] ***Parents are presumed fit unless proven***
15 ***unfit by clear and convincing evidence of harm as defined in subparagraph (d). The court***
16 ***shall not require a parent to prove fitness.***

17 (c) [~~Encourage parents to develop their own parenting plan with the assistance of legal~~
18 ~~and mediation professionals, unless there is evidence of domestic violence, child abuse, or neglect~~] ***Equal parenting time means an allocation of parenting time and overnights on a***
19 ***substantially equal basis, such that each parent receives 50 percent of annual overnights,***
20 ***with no parent receiving more than three overnights more than the other in any given year.***
21 ***Any such difference shall be corrected the following year to maintain balance.***

22 (d) [~~Grant parents and courts the widest discretion in developing a parenting plan~~] ***This***
23 ***presumption may be rebutted only under RSA 170-C:5 upon clear and convincing evidence***
24 ***of:***

25 (1) ***Abuse, neglect, or domestic violence that poses actual harm;***

26 (2) ***A parent’s incapacity rendering them unable to safely care for the child;***

27 ***or***

28 (3) ***Specific, identifiable harm to the child.***
29

1 (e) ~~[Consider both the best interests of the child in light of the factors listed in RSA 461-~~
2 ~~A:6 and the safety of the parties in developing a parenting plan]~~ ***General conflict, parenting style***
3 ***differences, or judicial opinions of “best interest” are insufficient grounds to rebut equal***
4 ***parenting.***

5 (f) ***This section applies to original suits, temporary orders, and suits for***
6 ***modification under this chapter.***

7 (g) ***Any order reducing or limiting a fit parent’s equal parenting time shall be***
8 ***subject to strict scrutiny. The court must make written findings showing:***

9 (1) ***A compelling state interest justifying the limitation;***

10 (2) ***That the limitation is narrowly tailored to prevent or remedy specific,***
11 ***identifiable harm;***

12 (3) ***That no less restrictive alternative would adequately protect the child, or***
13 ***children; and***

14 (4) ***Orders granting less than 50/50 equal shared parenting shall have a***
15 ***judicial officer pursuant to part 2, article 72-a and 73-a of the New Hampshire***
16 ***constitution, review and sign all orders ensuring the correct constitutional protections***
17 ***have been applied.***

18 2 Effective Date. This act shall take effect January 1, 2027.

HB 1770-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the allocation of parental rights and responsibilities and establishing a presumption of equal parenting time.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2027 through 2029.

AGENCIES CONTACTED:

Judicial Branch and Department of Health and Human Services