

To: Children and Family Law Committee
From: Lauren Warner, Deputy General Counsel on behalf of the NH Judicial Branch
Date: February 17, 2026

Re: HB 1687 – removing the power of courts within the judicial branch family division to issue criminal determinations, judgments, and penalties.

The Judicial Branch does not take a position on HB 1687, as it leaves all matters of policy up to the Legislature. This written testimony serves as further explanation as to HB 1687's potential impact on the Judicial Branch. I am happy to answer any additional questions the Committee might have in relation to this bill.

This bill would add a section to the statute defining the jurisdiction of the Circuit Court – Family Division stating that the Family Division:

shall not have jurisdiction to make any criminal determinations, enter criminal judgments, or impose criminal penalties and no finding, ruling, or order issued by the judicial branch family division¹ shall constitute a criminal determination. Jurisdiction over such criminal determinations, criminal judgments, and criminal penalties relative to the matters set forth in RSA 490-D:2 shall be reserved for the superior court pursuant to RSA 592-A:1.

The bill has an additional provision stating that these restrictions shall not be construed to limit the Family Division's jurisdiction over RSA 490-D:2 civil disputes.

The Circuit Court – Family Division is a court of limited jurisdiction with its powers and duties conferred by statute. In general, the Family Division has exclusive jurisdiction over various family law matters, including divorce, custody, child support, paternity, and actions under RSA 173-B:4 relating to protection from domestic violence. In addition, the Family Division has jurisdiction over juvenile matters including delinquency², CHINS, Abuse and Neglect cases, and Guardianship of Minors. The Family Division does not have jurisdiction to make criminal determinations, enter criminal judgments, or impose criminal penalties. Rather, the Circuit Court – District Division does have jurisdiction over such matters. Family Division cases and District Division cases may at times have overlapping elements, for example a divorce or civil domestic violence cases could arise from similar facts and circumstances as a criminal domestic violence proceeding. Additionally, Circuit Court judges are all certified as judges of both the Family Division and District Division and may based on availability or assignment sit on related cases before each division. Nevertheless, when acting in a Family Division case, the Circuit Court judge would be unable to impose nearly all criminal judgments. The only criminal judgment that a Family Division judge would be able to enter is criminal contempt of court. It is very likely HB 1687 would be found unconstitutional if the purpose was to restrict the ability of the court to enter contempt findings because doing so is part of the Court's constitutional authority to control the proceedings in front of it. Additionally, the bill could create unnecessary jurisdictional confusion by stating the non-existent criminal proceedings should fall under superior Court jurisdiction. It is unclear what criminal proceedings this bill seeks to address.

¹ In addition to the issues raised below, this bill improperly names the Circuit Court – Family Division. It appears this nomenclature was taken from other bills during this legislative session attempting to disband or reassign Family Division cases.

² Although juvenile delinquency matters have the trappings and potential loss of liberty associated with a criminal proceeding, the rehabilitative nature of the proceeds have been interpreted to not be criminal in nature. Additionally, if a juvenile is to face criminal sanctions there is a process for removal to superior court.