

Bill as Introduced

HB 791-FN - AS INTRODUCED

2007 SESSION

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09/01

HOUSE BILL **791-FN**

AN ACT relative to religious freedom and civil marriage.

SPONSORS: Rep. Baxley, Merr 6; Rep. Morrison, Belk 2; Rep. Butler, Carr 1; Rep. DeChane, Straf 3; Rep. Lasky, Hills 26

COMMITTEE: Judiciary

ANALYSIS

This bill removes the marriage prohibition for same gender couples and makes references to marriage and terms associated with marriage gender neutral.

The bill also establishes that no religious official shall be required to solemnize any marriage in violation of his or her constitutional right to free exercise of religion.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Seven

AN ACT relative to religious freedom and civil marriage.

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

1 1 Marriages Prohibited; Men. Amend RSA 457:1 to read as follows:

2 457:1 Marriages Prohibited; Men. No man shall marry his mother, his father's sister, mother's
3 sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter, sister's daughter,
4 father's brother's daughter, mother's brother's daughter, father's sister's daughter, *or his* mother's
5 sister's daughter~~[, or any other man]~~.

6 2 Marriage Prohibited; Women. Amend RSA 457:2 to read as follows:

7 457:2 Marriages Prohibited; Women. No woman shall marry her father, her father's brother,
8 mother's brother, son, brother, son's son, daughter's son, brother's son, sister's son, father's brother's
9 son, mother's brother's son, father's sister's son, *or her* mother's sister's son~~[, or any other woman]~~.

10 3 New Section; Solemnization of Marriages; Religious Officials Not Required to Solemnize Any
11 Marriage. Amend RSA 457 by inserting after section 37 the following new section:

12 457:37-a No priest, minister, or rabbi of any religious denomination, and no official of any
13 nonprofit religious institution authorized to solemnize marriages, shall be required to solemnize any
14 marriage in violation of his or her right to free exercise of religion guaranteed by the First
15 Amendment to the United States Constitution and by part 1, article 5 of the New Hampshire
16 constitution.

17 4 New Section; Statutory Construction; Spouse. Amend RSA 21 by inserting after section 50 the
18 following new section:

19 21:51 Spouse. "Spouse" means a party to a marriage.

20 5 Marriage Registration Forms. Amend RSA 5-C:41 to read as follows:

21 5-C:41 Marriage Registration Forms.

22 I. There shall be 2 forms for the completion of a marriage registration. The marriage
23 application worksheet, which shall be the form that is used to record marriage intentions, shall be
24 completed by the prospective ~~[bride and groom]~~ **parties to the marriage** and the clerk of the town
25 or city and shall contain the information needed to complete the marriage license. The marriage
26 license, which shall be the form that is used to record that the marriage ceremony has taken place
27 and to record who solemnized the marriage, shall be completed by the ~~[bride, groom]~~ **parties to the**
28 **marriage**, the officiant and the clerk of the town or city in accordance with this section and RSA 5-
29 C:42. The marriage license shall be the official copy of the certificate of marriage when the marriage
30 is registered with the division.

1 II. The marriage application worksheet shall be completed by the prospective [~~bride and~~
 2 ~~groom~~] **parties to the marriage** in the office of the clerk of the town or city. The information
 3 supplied by [~~the groom~~] **each party to the marriage** shall include his *or her* full name; his *or her*
 4 usual residence by street and number, city, town or location, county and state; his *or her* birthplace;
 5 his *or her* date of birth; his *or her* social security number; his *or her* father's full name; his *or her*
 6 father's birthplace; his *or her* mother's maiden name; and his *or her* mother's birthplace[~~—The~~
 7 ~~information supplied by the bride shall include her full name and maiden surname, if different; her~~
 8 ~~usual residence by street and number, city, town or location, county and state; her birthplace; her~~
 9 ~~date of birth; her social security number; her father's full name; her father's birthplace; her mother's~~
 10 ~~maiden name; and, her mother's birthplace] **and any other legal name used by each party prior**
 11 **to the time of application.**~~

12 III. The clerk of the town or city shall complete the following statistical and legal
 13 information on the marriage application worksheet for both [~~the bride and groom~~] **parties** with
 14 information supplied by [~~the bride and groom~~] **each party**: the number which represents of the
 15 currently intended marriage; if previously married, whether a civil annulment occurred or the
 16 marriage ended by death or divorce; the date of civil annulment or that the last marriage ended;
 17 their race and ancestry; their level of education; any waivers presented by [~~the groom or the bride~~]
 18 **either party**, either for time or age pursuant to RSA 457:4 through RSA 457:9 or RSA 457:26 and
 19 RSA 457:27; whether proof of age of the [~~bride and groom~~] **parties** was demonstrated using
 20 identification with photograph; if applicable, the divorce decree; and, if applicable, the death record
 21 of the former spouse.

22 IV. The [~~bride and groom~~] **parties to the marriage** shall record the following on the
 23 marriage application worksheet after the clerk of the town or city completes information on the
 24 application worksheet as described in paragraph III: the date and the city or town where the
 25 marriage is intended to take place, if known; the name and address of the officiant for the marriage
 26 ceremony, if known; [~~the groom's~~] **each party's** mailing address and phone number; [~~the bride's~~
 27 ~~mailing address and phone number; the groom's~~] **each party's** signature and date signed; [~~the~~
 28 ~~bride's signature and date signed;~~] and certification that the information provided is correct to the
 29 best of his or her knowledge and belief and that he or she is free to marry under the laws of
 30 New Hampshire.

31 V. Once all of the information on the marriage application worksheet has been obtained, the
 32 clerk of the town or city shall transfer the information as listed in paragraphs II and III from the
 33 marriage application worksheet to the marriage license as well as record the following information
 34 on the marriage license: the date that the marriage license is issued, the signature of the clerk, and
 35 the name of the city or town of issuance.

36 VI. Pursuant to RSA 457:26, the date that the marriage license is issued shall be not less
 37 than 3 days nor more than 90 days from the date that marriage intentions were filed.

1 VII. Upon request of ~~[the groom]~~ *either party to the marriage*, the name of a legal
2 guardian shall be substituted on the marriage license for a natural parent's name, regardless of
3 whether the ~~[groom]~~ *party* who makes the request is of legal age at the time when intentions are
4 being filed.

5 ~~[VIII. Upon request of the bride, the name of a legal guardian shall be substituted on the~~
6 ~~marriage license for a natural parent's name, regardless of whether the bride who makes the request~~
7 ~~is of legal age at the time when intentions are being filed.]~~

8 ~~[IX.] VIII.~~ The substitution of stepparents' names shall not be permitted.

9 ~~[X.] IX.~~ Persons entering dates on the marriage license shall use the full or abbreviated
10 name of the month rather than numerals.

11 ~~[XI.] X.~~ When listing the birthplace on the marriage license, if the person is known to have
12 been born in the United States, but the state is unknown then "U.S. - Unknown" shall be entered,
13 and, if the person is known to have been born in a foreign country, but the country is unknown,
14 "Foreign Unknown" shall be entered.

15 ~~[XII.] XI.~~ If no information is available regarding place of birth, "Unknown" shall be entered.

16 ~~[XIII.] XII.~~ The prospective ~~[bride and groom]~~ *parties to the marriage* shall review the
17 information on the marriage license for completeness and accuracy prior to signing the marriage
18 license.

19 ~~[XIV.] XIII.~~ If a prospective ~~[bride or groom are]~~ *party to the marriage is* not of legal age
20 to marry, the co-signature of his or her parent shall be obtained, except when a court has issued a
21 waiver authorizing the marriage in accordance with RSA 457:6.

22 ~~[XV.] XIV.~~ The officiant shall record the following on the marriage license after the marriage
23 ceremony has taken place: certification that he or she is duly authorized to solemnize the marriage
24 in accordance with RSA 457; the officiant's status, pursuant to RSA 457:31; the date of the marriage
25 ceremony; the city, town or location and county where the couple were married; certification that the
26 ~~[bride and groom]~~ *couple* were married by the officiant in conformance with RSA 457 and that the
27 information noted is correct to the best of his or her knowledge; the signature of the officiant; the
28 officiant's typed or printed name; the officiant's title and address; and an indication of whether the
29 ceremony was religious or civil.

30 ~~[XVI.] XV.~~ The date the marriage license is received by the clerk of the town or city from the
31 officiant shall be recorded on the marriage certificate as the date the marriage registration is filed.

32 ~~[XVII.] XVI.~~ The marriage license shall include the signature of the clerk of the town or city
33 and the name of the town or city.

34 6 Marriage Licenses. Amend RSA 5-C:42, XIV to read as follows:

35 XIV. The date of the signing of the worksheet by either ~~[the bride or groom]~~ *party to the*
36 *marriage*, or the earlier of 2 dates if applicable, shall be used by the clerk of the town or city to
37 indicate when the intention of marriage was received and recorded and the date to be used to

1 establish the beginning of the time period during which the license shall be valid. The marriage
2 license shall be valid pursuant to RSA 457:26 for not less than 3 days nor more than 90 days from
3 the date the marriage intentions were filed. When 90 days have elapsed from the date the marriage
4 intentions were filed and a completed marriage certificate or a delayed certificate of marriage has
5 not been processed, the clerk of the town or city shall make a notation on the marriage application
6 worksheet stating the marriage presumably did not take place. In the case where the marriage
7 certificate is received within 6 months of the end of the 90-day period, the clerk of the town or city
8 shall remove the notation and issue the certificate. In the case where the marriage certificate is
9 received more than 6 months after the end of the 90-day period, the clerk of the town or city shall
10 follow the procedure for issuing a delayed certificate of marriage.

11 7 Delayed Certificate of Marriage. Amend the introductory paragraph of RSA 5-C:52, II to read
12 as follows:

13 II. Registration of marriage pursuant to paragraph I requires that an application for a
14 delayed certificate of marriage be initiated by [~~the bride, groom~~] **either party to the marriage**, or
15 their legal representative with the clerk of the town or city where the marriage license was allegedly
16 issued. To be acceptable for registration by the state registrar, the delayed certificate of marriage
17 shall be supported by a copy of the marriage worksheet application, if available, obtained from the
18 clerk of the town or city where the intentions were filed and at least 2 of the following:

19 8 Certified Copy of Marriage Certificate. RSA 5-C:57, I(a) is repealed and reenacted to read as
20 follows:

21 (a) The full names of both parties to the marriage.

22 9 Divorce; Separation; Annulment Forms. Amend RSA 5-C:58, III(b) to read as follows:

23 (b) The petitioner, identified as [~~husband, wife~~] **a party to the marriage**, both **parties**
24 **to the marriage**, or other, including but not limited to legal guardian.

25 10 Divorce, Separation, and Annulment Forms. Amend RSA 5-C:58, IV(g) to read as follows:

26 (g) The name to be used by [~~the wife~~] **each party to the marriage** after divorce.

27 11 Certified Copy of Divorce, Separation, and Annulment Certificate. Amend RSA 5-C:60, I to
28 read as follows:

29 I. An applicant for a copy of a divorce, legal separation, or civil annulment certificate shall
30 provide the following information, in writing, to the division:

31 (a) [~~The husband's~~] **Each party's** first and last name.

32 (b) [~~The wife's first and maiden~~] **Any other name used by each party.**

33 (c) The date of decree.

34 (d) The place of decree by county.

35 (e) The purpose for which the certificate is requested, in order to establish direct and
36 tangible interest in the record.

37 (f) The signature of the applicant.

1 (g) The applicant's relationship to ~~[the husband or wife]~~ **a party to the divorce,**
2 **separation, or annulment.**

3 (h) The applicant's name, address, and telephone number.

4 12 Amendments and Corrections to Divorce, Separation, and Annulment Records. Amend
5 RSA 5-C:93, I to read as follows:

6 I. Any change to a divorce, legal separation, or civil annulment record shall be initiated with
7 the clerk of court by ~~[the husband, wife,]~~ **either party to the divorce, separation, or annulment**
8 **or their legal representative or representatives.**

9 13 Vital Records Information Disclosure. Amend RSA 5-C:102, XI to read as follows:

10 XI. When publishing information regarding vital record events for statistical purposes in
11 city or town reports, the following procedure shall apply. A written request from a resident that a
12 particular vital event be omitted from the city or town report shall always be granted. A written
13 request from a resident registrant that a certain event be published in the city or town report,
14 including the birth of a child to a unwed mother, shall be granted. Items included in a city or town
15 report for birth shall be limited to: the child's name; the name of the father; the name of the mother;
16 the place of birth; and, the date of birth. Items included in a city or town report for death shall be
17 limited to: the name of deceased; the place of death; the name of the father; the maiden name of the
18 mother; and the date of death. Items included in a city or town report for marriage shall be limited
19 to: the ~~[groom's]~~ name and place of residence~~[- the bride's name and place of residence;]~~ **of each**
20 **party to the marriage** and the date of the marriage ceremony.

21 14 Liability for Resident Tax. Amend RSA 72:5 to read as follows:

22 72:5 Liability of ~~[Husband]~~ **Spouse**. A ~~[husband]~~ **spouse** shall be liable for the payment of his
23 ~~[wife's]~~ **or her spouse's** resident tax if, when it was assessed, they were living together as ~~[man and~~
24 ~~wife]~~ **a married couple**.

25 15 Property Tax Credits. Amend RSA 72:31 to read as follows:

26 72:31 ~~[Husband and Wife]~~ **Spouses**. A ~~[husband and wife]~~ **married couple**, each qualifying for
27 a tax credit, shall each be granted a tax credit upon their residential real estate as provided under
28 RSA 72:28, I or II.

29 16 Firefighters Retirement Benefits. Amend RSA 102:16, I(a) and (b) to read as follows:

30 (a) ~~[Legal wife]~~ **The spouse** cohabiting with member retiring;

31 (b) If there is no ~~[wife]~~ **spouse**, then totally dependent son or daughter.

32 17 Life Insurance; Married Woman. Amend RSA 408:1 to read as follows:

33 408:1 Married ~~[Women]~~ **Person**. Every policy of life or endowment insurance made payable to
34 or for the benefit of a married ~~[woman]~~ **person**, or after its issue assigned, transferred, or in any way
35 made payable to a married ~~[woman]~~ **person** or to any person in trust for **him or her** or **his or her**
36 benefit, whether procured by **himself or herself, his or her** ~~[husband]~~ **spouse**, or by any other
37 person and whether the assignment or transfer is made by **his or her** ~~[husband]~~ **spouse** or by any

1 other person, shall enure to *him or* her separate use and benefit, and to that of *his or* her children,
2 subject to the provisions of law, relative to premiums paid in fraud of creditors.

3 18 Absolute Divorce. Amend RSA 458:7, VIII to read as follows:

4 VIII. When either party has joined any religious sect or society which professes to believe
5 the [~~relation of husband and wife~~] *relationship of marriage* unlawful, and has refused to cohabit
6 with the other for 6 months together.

7 19 Divorce in Another Jurisdiction. Amend RSA 458:19-a to read as follows:

8 458:19-a Divorce in Another Jurisdiction. The superior court shall have a jurisdiction to make
9 such orders or temporary orders of alimony to a divorced [~~wife or divorced husband~~] *spouse*, or of
10 support to the children of divorced parents as justice shall require in cases where the decree of
11 divorce was not granted in this jurisdiction, even though said divorce decree makes provision for
12 alimony and support, subject to the provisions of RSA 546-B.

13 20 Legal Separation; Procedure. Amend RSA 458:27 to read as follows:

14 458:27 Procedure, etc. Upon such petition for legal separation the procedure shall be the same
15 as upon petitions for divorce, and the court shall have the same power in all matters relating to
16 restraining orders and decrees, allowances, alimony, parental rights and responsibilities under
17 RSA 461-A for children and division or apportionment of the property of the parties, as in cases of
18 divorce. The [~~name~~] *names* of the [~~wife~~] *parties* shall not be changed.

19 21 Chapter Heading. Amend the chapter heading of RSA 460 to read as follows:

20 CHAPTER 460

21 [~~HUSBANDS AND WIVES~~] *SPOUSES*

22 22 Spouses; Property Rights and Liabilities. Amend RSA 460:1 – RSA 460:8 to read as follows:

23 460:1 [~~Wife's~~] Property *Before Marriage*. Every [~~woman~~] *person* shall hold to *his or* her own
24 use, free from the interference or control of any [~~husband-she~~] *spouse he or she* may have, all
25 property at any time earned, acquired or inherited by, bequeathed, given or conveyed to *him or* her,
26 either before or after marriage, if such earning, acquisition, conveyance, gift, or bequest were not
27 occasioned by payment or pledge of the property of the [~~husband~~] *spouse*.

28 460:2 [~~Wife's~~] Contracts, etc. Every married [~~woman~~] *person* shall have the same rights and
29 remedies, and shall be subject to the same liabilities in relation to property held by *him or* her in
30 *his or* her own right, as if *he or* she were unmarried, and may convey, make contracts, and sue and
31 be sued, in all matters in law and equity, and upon any contract by *him or* her made, or for any
32 wrong by *him or* her done, as if *he or* she were unmarried. No damages shall be allowed to either
33 spouse in any action based on alienation of the affections of the other spouse.

34 460:2-a Antenuptial Agreements. [~~A man and woman~~] *Persons* in contemplation of marriage
35 may enter into a written interspousal contract and the courts of this state shall give the same effect
36 to such contracts entered in other jurisdictions as would the courts of that other jurisdiction.

1 However, no contract otherwise enforceable under this section may contain any term which attempts
2 to abrogate the statutory or common law rights of minor children of the contemplated marriage.

3 460:3 Antenuptial Debts. Marriage shall not render ~~[the husband]~~ **either party to the**
4 **marriage** liable for the debts contracted by ~~[his wife]~~ **the other party** prior to their marriage.

5 460:4 Conveyance of Real Estate. A married ~~[woman]~~ **person** of full age may convey **his or** her
6 real estate. A married spouse, though not of full age, may join with ~~[her (his) husband or wife]~~ **his**
7 **or her spouse** in release of homestead.

8 460:5 Between ~~[Husband and Wife]~~ **Spouses**. Real estate may be conveyed directly by ~~[husband~~
9 ~~to wife, or wife to husband]~~ **a person to his or her spouse**, in all cases where the same thing might
10 lawfully be done through the intervention of a third person.

11 460:6 Conveyance, Spouse Insane. A ~~[married man or woman]~~ **person**, whose ~~[wife or husband]~~
12 **spouse** is insane, and has continued insane for one year, and who wishes to convey real estate, may
13 apply by petition to the judge of probate for the county in which the real estate lies for a license to
14 convey the real estate in such manner as to bar all rights which the insane ~~[wife or husband]~~ **spouse**
15 has in the real estate. A verified statement by a psychiatrist licensed as a physician in this state or
16 by a psychologist licensed in this state shall accompany said petition and shall state that such
17 psychiatrist or psychologist has personally examined the insane ~~[wife or husband]~~ **spouse** and found
18 such person to be incompetent to participate in such a conveyance.

19 460:7 Procedure, etc. Upon the filing of the petition, a citation to the friends of the insane ~~[wife~~
20 ~~or husband]~~ **spouse** and to all interested shall issue and be published. A guardian shall be
21 appointed to represent the insane ~~[wife or husband]~~ **spouse**. If, after hearing, the judge is satisfied
22 that the interests of all concerned would be promoted by the conveyance of the whole or any part of
23 the petitioner's real estate, he **or she** may grant the license. A conveyance made under the license
24 shall be a complete bar to all rights of the insane ~~[wife or husband]~~ **spouse** in the premises so
25 conveyed.

26 460:8 Conveyance Barring Homestead Rights. A married ~~[man or woman]~~ **person** who is
27 justifiably living apart from his or her spouse because such spouse has been guilty of conduct which
28 constitutes cause for divorce, and who wishes to convey real estate, may apply by petition to the
29 judge of probate for the county in which the real estate lies for a license to convey the same in such
30 manner as to bar all rights of homestead therein to which such guilty spouse may then or thereafter
31 be entitled.

32 23 Spouses; Conveyance of Goods. Amend RSA 460:11 to read as follows:

33 460:11 Conveyance of Goods. No conveyance, lease or mortgage of household goods in use by ~~[a~~
34 ~~husband and wife]~~ **spouses** in their household shall be valid unless made in writing and executed by
35 the owner and the ~~[husband or wife]~~ **spouse** of the owner. This section shall not apply to liens
36 reserved on household goods sold conditionally.

1 24 Rights of Resident Spouse of a Nonresident. Amend the subdivision heading preceding
2 RSA 460:12 to read as follows:

3 Rights of Resident ~~[Wife]~~ *Spouse* of a Nonresident

4 25 Rights of Resident Spouse of a Nonresident. Amend RSA 460:12 – RSA 460:16 to read as
5 follows:

6 460:12 Property. If a ~~[woman]~~ *person*, the ~~[wife]~~ *spouse* of an alien or of a ~~[man]~~ *person*
7 residing in another state, has resided in this state for 6 months successively separate from *his or*
8 her ~~[husband, she]~~ *nonresident spouse, the person residing in this state* may convey all real and
9 personal estate, held by *him or* her in this state, the same as if ~~[she]~~ *such person* were sole and
10 unmarried.

11 460:13 Termination of Separation. If the ~~[husband]~~ *spouse* of such ~~[woman]~~ *person* becomes a
12 citizen of this state, and they cohabit together, the fact of his *or her* becoming such citizen, and such
13 cohabitation, shall have the same effect upon any contract or business of the ~~[wife]~~ *person* as if the
14 marriage between them had then first been solemnized.

15 460:14 Divorce. If the ~~[husband]~~ *spouse* of such ~~[woman]~~ *person* obtains a divorce from ~~[his~~
16 ~~wife]~~ *such person* in a court or tribunal of any other state or country, or if a divorce be decreed upon
17 application of ~~[the wife]~~ *such person* during such separate residence, ~~[she]~~ *such person* shall retain
18 the exclusive custody and guardianship and receive the earnings of *his or* her minor children living
19 with ~~[her]~~ *such person*.

20 460:15 Custody of Children. No *ex-spouse or other* person shall take from the custody of such
21 ~~[wife]~~ *person* any minor child of the marriage residing with ~~[her]~~ *such person*, or remove the child
22 from this state against the consent of ~~[the mother]~~ *such person*.

23 460:16 Guardianship, etc. Upon ~~[her]~~ *such person's* application, a guardian may be appointed
24 for the child, and the superior court may issue an injunction restraining the ~~[father]~~ *ex-spouse* and
25 all other persons from removing the child from this state against the consent of ~~[the mother]~~ *such*
26 *person*, and may make such further orders and decrees as shall secure to ~~[her]~~ *such person* or to
27 the guardian the custody of the child.

28 26 Both Spouses Under Guardianship. Amend RSA 464-A:31 to read as follows:

29 464-A:31 Both Spouses Under Guardianship.

30 I. When ~~[a married man and his wife]~~ *spouses* are both under guardianship, and the
31 guardian of the estate of either has obtained a license from the judge to sell real estate of the ward,
32 the guardian of the other may, without license, join in the sale and release the ward's interest.

33 II. In such case, the proceeds of the sale shall be equitably divided, as the judge may direct,
34 according to the value of the respective interests of ~~[the husband and wife]~~ *each spouse* in the
35 estate sold, and the respective guardians shall receive and be charged accordingly.

36 27 Superior Court Jurisdiction. Amend RSA 491:7 to read as follows:

1 491:7 Jurisdiction. The superior court shall take cognizance of civil actions and pleas, real,
 2 personal and mixed, according to the course of the common law, except such actions as are required
 3 to be brought in the district courts under RSA 502-A or the probate courts under RSA 547; of writs of
 4 mandamus and quo warranto and of proceedings in relation thereto; of actions for support for
 5 children of unwed parents; of petition and appeals relating to highways and property taken therefor
 6 and for other public use; of actions commenced in the probate or district courts where a right to jury
 7 trial is guaranteed by the constitution; of actions commenced in a district court which are
 8 transferable by statute to the superior court; of suits in equity under RSA 498:1; of petitions of
 9 divorce, nullity of marriage, alimony, custody of children and allowance to [~~wife~~] *a person* from
 10 [~~husband's~~] *an ex-spouses's* property for support of [~~herself~~] *his or her self* and children; of
 11 petitions for new trials; of petitions for the redemption and foreclosure of mortgages; of all other
 12 proceedings and matters to be entered in, or heard at, said court by special provisions of law; and of
 13 all other proceedings and matters cognizable therein for which other special provision is not made.

14 28 Superior Court; Equity Procedure. Amend RSA 491:14 to read as follows:

15 491:14 Equity Procedure. Suits in equity, petitions for divorce, nullity of marriage, alimony,
 16 custody of children, allowance to [~~wife~~] *a person* from [~~husband's~~] *an ex-spouse's* property, new
 17 trials, redemption and foreclosure of mortgages, writs of mandamus and quo warranto, and other
 18 similar proceedings may be heard upon oral testimony or depositions, or both; or when both parties
 19 consent, or service having been made and a notice of the time and place of the hearing having been
 20 given, when both parties appear, such suits may be heard by any justice of the court at any time, but
 21 nothing contained in this section shall be construed as limiting the power of the court to have issues
 22 of fact framed and tried by a jury, according to the rules in equity, or the course of such proceedings
 23 at common law.

24 29 Exemptions From Trustee Process. Amend RSA 512:21, X to read as follows:

25 X. Wages of the defendant earned before service of the writ upon the trustee if the defendant
 26 is a married [~~woman~~] *person* and the action is founded upon any loan contract subject to the
 27 provisions of RSA 399-A on which *his or her* [~~husband~~] *spouse* is or was at any time an obligor,
 28 jointly or severally, contingently or otherwise.

29 30 Wills; Revocation. Amend RSA 551:13, II and III to read as follows:

30 II. If after executing a will the testator is divorced or the marriage is annulled, the divorce or
 31 annulment revokes any disposition or appointment of property made by the will to the former
 32 spouse, any provision conferring a general or special power of appointment on the former spouse, and
 33 any nomination of the former spouse as executor, trustee, conservator, or guardian, unless the will
 34 expressly provides otherwise. Property prevented from passing to a former spouse because of
 35 revocation by divorce or annulment passes as if the former spouse and all heirs in the descending
 36 line of such former spouse who are not also heirs at law of the decedent failed to survive the
 37 decedent, and other provisions conferring some power or office on the former spouse are interpreted

1 as if the spouse and all heirs in the descending line of such former spouse who are not also heirs at
 2 law of the decedent failed to survive the decedent. Any bequest or devise to any such heirs in the
 3 descending line of such former spouse that is contingent upon such spouse predeceasing the testator
 4 is revoked by this section, unless the will expressly provides otherwise. If provisions are revoked
 5 solely by this section, they are revived by the testator's remarriage to the former spouse. A decree of
 6 separation which does not terminate the status of [~~husband and wife~~] *marriage* is not a divorce for
 7 the purposes of this section. No change of circumstances other than as described in this section
 8 revokes a will.

9 III. If after executing a trust instrument in which a sole grantor reserves a power to alter,
 10 amend, revoke or terminate the provisions of the trust, the grantor is divorced or the marriage is
 11 annulled, the divorce or annulment revokes any disposition or appointment of property made by the
 12 trust to the former spouse, any provision conferring a general or special power of appointment to the
 13 former spouse, and any nomination of the former spouse as trustee, unless the trust expressly
 14 provides otherwise. Property prevented from passing to a former spouse because of revocation by
 15 divorce or annulment passes as if the former spouse and all heirs in the descending line of such
 16 former spouse who are not also heirs at law of the decedent failed to survive the decedent, and other
 17 provisions conferring some power or office on the former spouse are interpreted as if the spouse and
 18 all heirs in the descending line of such former spouse who are not also heirs at law of the decedent
 19 failed to survive the decedent. Any devise or distribution to any such heirs in the descending line of
 20 such former spouse that is contingent upon such spouse predeceasing the grantor is revoked by this
 21 section, unless the trust expressly provides otherwise. If provisions are revoked solely by this
 22 paragraph, they are revived by the grantor's remarriage to the former spouse. A decree of separation
 23 which does not terminate the status of [~~husband and wife~~] *marriage* is not a divorce for the
 24 purposes of this paragraph. No change of circumstances other than as described in this paragraph
 25 revokes a trust.

26 31 Rights to Administer. Amend RSA 553:2, II to read as follows:

27 II. To the [~~widow, husband~~] *surviving spouse* or any of the next of kin, or to such suitable
 28 person as they or any of them may nominate.

29 32 Articles Not Assets. Amend RSA 554:4 to read as follows:

30 554:4 Articles Not Assets. The wearing apparel of the [~~widow~~] *surviving spouse* and *his or*
 31 her ornaments, according to the estate of her [~~husband~~] *spouse*, and the wearing apparel, Bibles and
 32 school books of the minor children, are their property, and shall not be regarded as assets, or be the
 33 subject of bequest by the [~~husband~~] *deceased*.

34 33 Articles Not to be Inventoried. Amend RSA 554:5 to read as follows:

35 554:5 Articles Not to be Inventoried. The wearing apparel, Bibles, family pictures, photographs,
 36 albums and any other personal trinkets of sentimental rather than intrinsic value belonging to the
 37 deceased leaving a [~~widow, husband~~] *surviving spouse*, children or heirs surviving, shall not be

1 inventoried or accounted for, but shall be delivered by the administrator to the surviving [~~husband or~~
2 ~~wife~~] **spouse**, if any, otherwise shall be divided by [~~him~~] **the administrator** among the children or,
3 if there are no surviving children, among the heirs; but the same may be otherwise disposed of by
4 will.

5 34 Sale by Consent. Amend RSA 559:5 to read as follows:

6 559:5 Sale by Consent. Whenever it shall be necessary to sell real estate for the payment of
7 debts the judge, on application of the administrator, with the assent of the [~~widow or~~] surviving
8 [~~husband~~] **spouse**, if any, and, if there is no [~~widow or~~] surviving [~~husband~~] **spouse**, then with the
9 assent of the guardian of the minor children, if any, may grant license for the sale of the whole real
10 estate of the deceased, including the homestead right and any other interest therein, and the
11 reversions thereof.

12 35 Making Account. Amend RSA 560:1 to read as follows:

13 560:1 Making; Account. The judge may make to the [~~widow~~] **surviving spouse** of the person
14 deceased, intestate, or testate, a reasonable allowance out of the personal estate, for **his or** her
15 present support; and, in the decree of distribution of the personal estate, the whole, or such part
16 thereof as the judge may deem reasonable, shall be accounted as part of **his or** her distributive
17 share; and shall be so accounted when **he or** she elects to take [~~one-third~~] **1/3** or [~~one-half~~] **1/2** of the
18 real estate, under the provisions of RSA 560:10.

19 36 Allowance to Surviving Spouse. Amend RSA 560:2 to read as follows:

20 560:2 Use of House, etc. The [~~widow~~] **surviving spouse** may remain in the house of her
21 [~~husband forty~~] **spouse 40** days next after his **or her** death without being chargeable with rent
22 therefor, and in the meantime shall have **his or** her reasonable sustenance out of the estate; and the
23 same shall be taken into consideration by the judge in the allowance he **or she** may make to [~~her~~]
24 **the surviving spouse**.

25 37 Curtesy or Dower. Amend RSA 560:3, I to read as follows:

26 I. [~~Neither husband or wife, widower or widow,~~] **No person** shall be vested with either
27 choate or inchoate right of curtesy or dower in the real estate of his or her spouse.

28 38 Settlements. Amend RSA 560:15 to read as follows:

29 560:15 Upon [~~Wife~~] **Surviving Spouse**. If a settlement was made upon the [~~wife~~] **surviving**
30 **spouse** before marriage, which was stipulated to be in lieu of **his or** her homestead right,
31 distributive share, or either of them, in **his or** her [~~husband's~~] **spouse's** estate, it shall be enforced
32 by the court of probate, and the [~~widow~~] **surviving spouse** shall not be entitled to any right or rights
33 in lieu of which the settlement was made.

34 39 Effect of Abandonment by Spouse. Amend RSA 560:18 to read as follows:

35 560:18 Effect of Abandonment [~~by Husband~~]. If a [~~husband~~] **person** has willingly abandoned
36 his [~~wife~~] **or her spouse** and has absented himself **or herself** from **him or** her, or has willfully
37 neglected to support **him or** her, or has not been heard from, in consequence of his **or her** own

1 neglect, for the term of [~~three~~] 3 years next preceding *his or* her death, he *or she* shall not be
2 entitled to any interest or portion in her estate, real or personal, except such as *he or* she may have
3 given to him *or her* in *his or* her will.

4 40 Inheritance of Person Born to Unwed Parents. Amend RSA 561:4, I to read as follows:

5 I. A child born of unwed parents shall inherit from or through his *or her* mother as if born
6 in lawful wedlock. The estate of a person born of unwed parents dying intestate and leaving no
7 issue[~~, nor husband, nor wife~~] *or spouse* shall descend to the mother, and, if the mother is dead,
8 through the line of the mother as if the person so dying were born in lawful wedlock.

9 41 Medical Examiners; Delivery of Body. Amend RSA 611:14, I to read as follows:

10 I. The [~~husband or wife, as the case may be~~] *surviving spouse*.

11 42 Repeal. The following are repealed:

12 I. RSA 115-A:2, V, relative to the definition of spouse.

13 II. The subdivision heading preceding RSA 460:17 and RSA 460:17 through 460:21, relative
14 to rights of resident husband of a nonresident.

15 III. RSA 560:16, relative to upon husband.

16 43 Reference Changes. Amend the following RSA provisions by replacing the term "husband
17 and wife" or "a husband and wife" or "husband, wife" or "husband; wife" with the term "spouses." 5-
18 C:1, XV(a); 77:5-a; 77-B:7, II; 161-F:48; 169-C:32; 170-B:4, I; 415:5, I(3); 457:39; 461-A:3, II; 546-A:9;
19 546-B:27, IX; and 632-A:5.

20 44 Reference Changes. Amend the following RSA provisions by replacing the term "husband or
21 wife" or "wife or husband" or "a wife or a husband" or "husband, or wife" or "wife, husband" or
22 "husband" or "wife" with the term "spouse:" 5-C:29, I; 72:29, V; 102:17; 103:15; 165:5; 165:19; 167:2;
23 167:3; 167:13; 168-B:4; 168-B:9, II(b); 168-B:13; 168-B:21, II(c); 168-B:23, IV; 168-B:25; 168-B:26;
24 281-A:2, V; 283:5; 325:37; 458:1; 464-A:30; 480:3-a; 480:5-a; 480:6-a; 480:8-a; 507:8-a; 512:21, III;
25 546-A:2; 551:3; 553:9; 560:10; 560:17; and 560:19.

26 45 Reference Changes. Amend the following RSA provisions by replacing the term
27 "(wife)(husband)" with the term "(spouse):" 477:27; 477:28; 477:29; and 477:44.

28 46 Reference Changes. Amend the following RSA provisions by replacing the term "bride and
29 groom" or "bride or groom" or "husband and wife" with the term "parties to the marriage:" 5-C:1,
30 XXII; 5-C:42, IV and V; 5-C:43; 5-C:49, VI; 5-C:52, II(f) and III; 5-C:53, III; 5-C:57, I(f); 5-C:58, I; 5-
31 C:91, I; and 5-C:97, I.

32 47 Reference Changes. Amend the following RSA provisions by replacing the term "widow" or
33 "widower" or "widow, widower" or "widow or widower" with the term "surviving spouse:" 73:21;
34 72:29, V; 102:17; 103:15; 165:5; 166:19; 281-A:2, V; 283:5; 304-A:7, IV(c); 320:11; 325:37; 402:69;
35 402:71; 550:7; 552:10; 554:32; 556:6; 556:13; 557:22; 557:34; and 559:18.

36 48 Applicability. This act shall apply to all marriages entered into pursuant to marriage
37 licenses which are issued under RSA 5-C on or after January 1, 2008. ,

1 49 Effective Date. This act shall take effect January 1, 2008.

LBAO
07-0892
01/30/07

HB 791-FN - FISCAL NOTE

AN ACT relative to religious freedom and civil marriage.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill as it is awaiting information from the Department of Health and Human Services. When completed, the fiscal note will be forwarded to the House Clerk's Office.

HB 791-FN - AS AMENDED BY THE HOUSE

04Apr2007... 0954h

2007 SESSION

07-0892
09/01

HOUSE BILL

791-FN

AN ACT establishing a commission to study the legal and social effects of permitting same gender marriage.

SPONSORS: Rep. Baxley, Merr 6; Rep. Morrison, Belk 2; Rep. Butler, Carr 1; Rep. DeChane, Straf 3; Rep. Lasky, Hills 26

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill establishes a commission to study the legal and social effects of permitting same gender marriage.

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 Seven

AN ACT establishing a commission to study the legal and social effects of permitting same gender marriage.

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

1 1 Commission Established. There is established a commission to study the legal and social
2 effects of permitting same gender marriage.

3 2 Membership and Compensation.

4 I. The members of the commission shall be as follows:

5 (a) Four members of the house of representatives, at least 2 of whom shall be members
6 of the judiciary committee, appointed by the speaker of the house of representatives.

7 (b) Four members of the senate, appointed by the president of the senate.

8 (c) One representative of the governor's office, appointed by the governor.

9 (d) Four public members, 2 of whom shall be appointed by the speaker of the house of
10 representatives and 2 of whom shall be appointed by the president of the senate.

11 (e) An attorney who specializes in family law, appointed by the New Hampshire Bar
12 Association.

13 II. Legislative members of the commission shall receive mileage at the legislative rate when
14 attending to the duties of the commission.

15 3 Duties. The commission shall study the legal and social effects of permitting same gender
16 marriage. The commission shall compile information on the legal and social effects of legislative acts
17 and judicial decisions to permit same gender marriage. The commission's study shall include, but
18 not be limited to, the collection and analysis of data to determine the legal and societal changes
19 which have occurred in other jurisdictions as a result of permitting same gender marriage.

20 4 Chairperson; Quorum; Hearing and Meetings.

21 I. The commission shall choose a chairperson, vice-chairperson, and clerk at its first
22 meeting. The clerk shall keep a complete record of the proceedings of the commission and may call
23 upon the resources of the legislature for assistance.

24 II. The first meeting of the commission shall be called by the first-named house member and
25 shall be held within 45 days of the effective date of this section. A majority of the members of the
26 commission shall constitute a quorum.

27 III. The commission shall hold no fewer than 3 public hearings in different parts of the state.
28 Notice of all commission meetings and hearings shall be printed in the house and senate calendars.
29 Commission meetings and hearings shall be open to the public and shall be subject to the

HB 791-FN – AS AMENDED BY THE HOUSE

- Page 2 -

1 requirements of RSA 91-A:2.

2 5 Report. The commission shall make a final report to the speaker of the house of
3 representatives and the senate president on or before December 1, 2008.

4 6 Effective Date. This act shall take effect June 30, 2007.

LBAO
07-0892
Revised 03/13/07

HB 791 FISCAL NOTE

AN ACT relative to religious freedom and civil marriage.

FISCAL IMPACT:

The Department of State indicates this bill will increase state expenditures and state and local revenue by an indeterminable amount in FY 2008 and each year thereafter. The Department of Health and Human Services and the New Hampshire Municipal Association indicate the fiscal impact of this bill is indeterminable. There is no fiscal impact on county and local expenditures or county revenue.

METHODOLOGY:

The Department of State states this bill removes the marriage prohibition for same gender couples. The Division assumes the following same gender marriages and divorces:

	FY 2008	FY 2009	FY 2010	FY 2011
Same gender marriages	3,400	3,800	3,400	2,800
Same gender divorces	0	10	20	30

The Division will need to modify policies, modify data collection forms for marriage and divorce, and make software changes to registration software. Policy changes and new marriage forms will need to be provided to the 234 municipalities and new divorce forms will need to be supplied to the Administrative Office of the Courts. The changes to the marriage and divorce forms will be low cost. Software changes for the marriage and divorce modules will cost as much as \$8,000 for each module or \$16,000. The Division also assumes there will be 1,700 requests for certified copies of marriages and divorces in FY 2008 and 3,600 requests in FY 2009 and each year thereafter, at \$12.00 per request. Approximately 75% of these requests will be handled by local clerks. Municipalities remit 75% of the revenue they collect for certified copies of marriages and divorces to the Vital Records Improvement fund. The Division handles the remaining 25% of the requests, with the revenue deposited into the state general fund. The table below shows estimated expenditures and revenue associated with this bill.

HB 791-FN - AS AMENDED BY THE HOUSE

- Page 4 -

	FY 2008	FY 2009	FY 2010	FY 2011
Expenditures				
Current Expenses (postage, printing, supplies, etc.	\$1,600	\$700	\$700	\$700
Software development and maintenance	\$16,000	\$1,500	\$1,500	\$1,500
Total Expenditures	\$17,600	\$2,200	\$2,200	\$2,200
Revenue				
State General Fund	\$5,100	\$10,800	\$10,800	\$10,800
Vital Records Improvement fund	\$10,200	\$21,600	\$21,600	\$21,600
Local Revenue	\$5,100	\$10,800	\$10,800	\$10,800

The Department of Health and Human Services and the New Hampshire Municipal Association cannot determine the fiscal impact of this bill.

Amendments



Amendment to HB 791-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a committee to study New Hampshire laws relating to marriage.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Committee Established. There is established a committee to study New Hampshire laws
8 relating to marriage.

9 2 Membership and Compensation.

10 I. The members of the committee shall be 5 members of the house judiciary committee,
11 appointed by the chairman of the house judiciary committee.

12 II. Members of the committee shall receive mileage at the legislative rate when attending to
13 the duties of the committee.

14 3 Duties. The committee shall study New Hampshire laws relating to marriage.

15 4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
16 among the members. The first meeting of the committee shall be called by the first-named member.
17 The first meeting of the committee shall be held within 45 days of the effective date of this section.
18 Three members of the committee shall constitute a quorum.

19 5 Report. The committee shall report its findings and any recommendations for proposed
20 legislation to the speaker of the house of representatives, the president of the senate, the house
21 clerk, the senate clerk, the governor, and the state library on or before November 1, 2007.

22 6 Effective Date. This act shall take effect upon its passage.



2007-1744h

AMENDED ANALYSIS

This bill establishes a committee to study New Hampshire laws relating to marriage.

Committee Minutes

Judiciary Committee

Hearing Report

TO: Members of the Senate

FROM: Molly Cowan, *Majority Director*

RE: Hearing report on **HB 791-FN** – *AN ACT establishing a commission to study the legal and social effects of permitting same gender marriage.*

HEARING DATE: May 22, 2007

MEMBERS OF THE COMMITTEE PRESENT: Senators Foster, Gottesman, Reynolds, Clegg and Letourneau

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Rep. Baxley, Merr 6; Rep. Morrison, Belk 2; Rep. Butler, Carr 1; Rep. DeChane, Straf 3; Rep. Lasky, Hills 26

What the bill does: This bill establishes a commission to study the legal and social effects of permitting same gender marriage.

Who supports the bill: *Rep. Baxley; Rep. Flockhart; Rep Lasky; Rep. Gail Morrison; Carol S. Perkins, PFLAG NH; Susan Hassan, self; David Weber, NH Freedom to Marry, Claire Ebel, NHCLU; Jane Lemeland, self; Betsey Janeway, self; Paul Belyea, self*

Who opposes the bill: *Rep. Nancy Elliot; Rep. Edith Hogan; Diane Quinlan, Roman Catholic Bishop of Manchester*

Summary of testimony received:

- Rep. Baxley testified in support of HB 791-FN. She presented the Committee with amendment 1744h, which creates a study committee for the House Judiciary Committee.
- Rep. Baxley testified that the House Judiciary Committee ran out of time, and wants more time to look at all of the marriage statutes.
- Rep. Lasky testified in support of the amendment introduced by Rep. Baxley. She said that this is the best use of everyone's time.

Funding: *See Fiscal Note* (however, the proposed amendment would turn the bill into a study committee, with no fiscal impact)

Future Action: The Committee took the bill under advisement.

msc

[file: HB 791-FN report]

Date: May 24, 2007

Date: May 22, 2007
Time: 3:05 p.m.
Room: State House Room 103

PMB

The Senate Committee on Judiciary held a hearing on the following:

HB 791-FN (New Title) establishing a commission to study the legal and social effects of permitting same gender marriage.

Members of Committee present: Senator Foster
Senator Gottesman
Senator Reynolds
Senator Clegg

The Chair, Senator Joseph A. Foster, opened the hearing on HB 791 and invited the prime sponsor, Representative Maureen Baxley, to introduce the legislation.

Representative Baxley: Good afternoon, again. For the record, I am Representative Baxley, representing Merrimack District 6.

I am offering to you an amendment to what the House passed. The House passed a commission and what I'm asking you to do is to just give it back to the House. Make a study committee for the House Judiciary Committee. We started looking at this issue, we began work on it and we simply ran out of time. We would like to continue that work. The more we looked at the statute and it hasn't really been looked at in decades, we found lots of little things that probably shouldn't be in there. Husbandly duties that we maybe don't want in our statute, and as I sit here and talk to you today, I'm not sure, entirely sure, that Jewish weddings are legal in New Hampshire.

Senator Joseph A. Foster, D. 13: That could be a problem for some of us.

Representative Baxley: So, there's a lot that needs to be looked at, cleaned up in the statute. There's all sorts of confusion. Where does the state end and religious institutions begin? Please pass the amendment, give it back to us, and let us continue our work and we won't bother you.

LHB

Senator Joseph A. Foster, D. 13: Any questions of the Committee? Seeing none, for the members of the public and members of the Committee – five members of the House Judiciary Committee whose duties shall solely be to study the laws relating to marriage. Okay? Thank you very much.

Representative Baxley: Thank you.

Senator Joseph A. Foster, D. 13: Representative Lasky?

Representative Lasky: Thank you, Mr. Chairman, members of the Committee. For the record, I am Bette Lasky representing Hillsborough District 26, Wards 5, 8 and 9 in Nashua.

Just for your edification, I was the chairman of the subcommittee which dealt with the so-called marriage bill that we had in the Judiciary Committee in the House. This was one of them and originally removed the marriage prohibition for same gender couples. As things progressed within the subcommittee, we, as you know, developed a civil unions bill which has since passed both houses and used this as a vehicle to establish a commission to look at the marriage laws. Having listened to Representative Baxley, I totally agree that in light of what has developed during that time, this was back in early March, that the best use probably of everyone's time would be her amendment which, if it pleases you people, that the Judiciary Committee would look at the marriage laws.

I have been involved in this issue for many years in different incarnations and have noticed that the marriage laws are truly antiquated. Regardless of wanting or not wanting them to lead anywhere, they truly do need to be looked at. Frankly, if you have five members of the Judiciary Committee who are willing to spend the time to do this, I think it would be time well spent. I also think it could help in the development of the civil unions as they progress. So, I would hope that you would look favorably on the amendment and certainly, if the commission is something that you would prefer to see, I'm not going to say I don't want you to pass that, but at any rate, I do hope that there will be something that comes out of this committee that would in fact look at the marriage laws as they pertain to everyone in the state. With that, I thank you.

Senator Joseph A. Foster, D. 13: Thank you for your testimony. Questions of the Committee? Seeing none, thank you. David Weber?

David Weber: Pass.

Senator Joseph A. Foster, D. 13: Claire Ebel?

Claire Ebel: Mr. Chair, I'm still Claire Ebel, and I'm still the Executive Director of the New Hampshire Civil Liberties Union and, given the extraordinary demands on the twenty-four members of the New Hampshire Senate, this seems like a great way to have the issue studied without having you guys give up the rest of your private lives. Thank you.

Senator Joseph A. Foster, D. 13: Thank you for your concern.

Ms. Ebel: I'm worried about you, Senator.

Senator Joseph A. Foster, D. 13: I do not have anybody else signed up wishing to speak. Is that correct? I will close the hearing.

Hearing concluded at 3:10 p.m.

Respectfully submitted,



L. Gail Brown

Secretarial Supervisor

7/26/07

Speakers

Testimony

Submission A

175 Quincy Road
Longview Farm
Plymouth, New Hampshire 03264
May 22, 2007

State of New Hampshire
Members of the Senate
Judiciary Committee

Dear Chairman and Members of the Committee,

My name is Carol Perkins. My husband and I have owned and operated Longview Farm in Plymouth for 31 years. We are the parents of three grown children and cherish our three grandchildren.

I am here in support of House Bill 791 which would create a Commission to study taking the next step toward full marriage equality. I look forward to a day when New Hampshire treats all citizens equally with full recognition and rights of marriage. This "Live Free" state can show the way with full civil marriage rights for all.

Forty two years ago, when my husband and I were married in a very traditional Episcopal service, I had no idea that some citizens in NH were not able to enjoy our same marriage rights and opportunities nor did I know that one of our children would be denied marriage rights as an adult in New Hampshire. I see marriage today as a civil marriage, authorized by the State. I would leave recognition of all unions up to individual religious institutions.

It is time to give all citizens full civil rights in New Hampshire.

Thank you for your consideration.

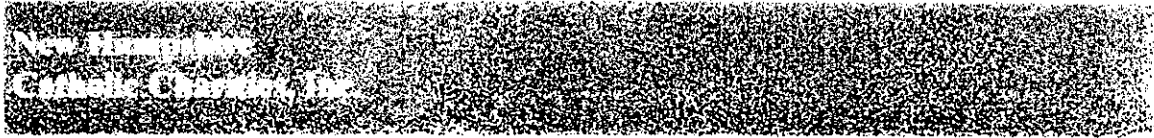
Sincerely,

Carol Shull Perkins

Carol Shull Perkins (Member of Parents, Families & Friends of
Lesbians and Gays) NH

Submission B

MAY 22 2007



MAIN OFFICE:
215 Myrtle Street, P.O. Box 686
Manchester, NH 03105-0686
Tel.: (603) 669-3030
Toll Free: 1-800-562-5249
Fax: (603) 626-1252
www.catholiccharitiesnh.org

MOST REV. JOHN B. MCCORMACK, D.D.
Chairman

THOMAS E. BLONSKI
President & CEO

May 21, 2007

SERVICE LOCATIONS:

633 Third Avenue
BERLIN, NH 03570-1698
752-1325

176 Loudon Road
CONCORD, NH 03301-6028
228-1108

161 Main Street, Ste. 200
KEENE, NH 03431-3772
357-3093

17 Gilford Avenue
LACONIA, NH 03246-2827
528-3035

24 Hanover Street, #8
LEBANON, NH 03766-1334
448-5151

41 Cottage Street, P.O. Box 323
LITTLETON, NH 03561-0323
444-7727

325 Franklin Street
MANCHESTER, NH 03101-1999
624-4717

261 Lake Street
NASHUA, NH 03060-4127
889-9431

23 Grant Street
ROCHESTER, NH 03867-3001
332-7701

23 Searles Road, P.O. Box 720
WINDHAM, NH 03087-0720
893-1971

Our Place
282 Concord Street
MANCHESTER, NH 03104-5012
647-2244

New Hampshire Food Bank
62 West Brook Street
MANCHESTER, NH 03101-1215
669-9725

Health Care Services
215 Myrtle Street, P.O. Box 686
MANCHESTER, NH 03105-0686
641-0577

St. Charles Children's Home
19 Grant Street
ROCHESTER, NH 03867-3099
332-4768

The Honorable Joseph A. Foster, Chair
Judiciary Committee
New Hampshire Senate
107 N. Main Street
Room 302 – State House
Concord, NH 03301

RE: HB 791

Dear Representative Foster and Members of the Committee:

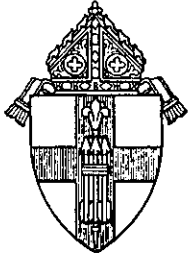
The Diocese of Manchester and New Hampshire Catholic Charities are opposed to HB51 permitting adoption by two unmarried adults in a familial relationship. We affirm and defend the Church's teaching on marriage and family life whereby a covenant between a man and a woman is established for the well-being of the spouses and the upbringing of children. Further, we believe that given the potential social and emotional challenges faced by adoptees that it is in the best interest of a child to be adopted and raised in an environment comprised of a traditional married couple whereby a child will receive the nurturing and benefit of complimentary role modeling of both a male and a female.

Because of this belief, New Hampshire Catholic Charities has a policy that only married couples can adopt. In our experience, there are far more couples available than there are children available for adoption. Therefore, we believe that the change proposed by HB51 would add confusion and complexity to the law and existing situation, all of which would be to the ultimate detriment of the children who are the appropriate focus of the adoption process.

We urge you to defeat HB51 as unnecessary and harmful.

Sincerely,

Joseph P. Naff, LICSW
Director of Clinical and Family Services



Diocese of Manchester

Diane Murphy Quinlan, Esq.
Chancellor

153 Ash Street - Box 310
Manchester, N.H. 03105-0310
(603) 669-3100
Fax: (603) 669-0377
dquinlan@rcbm.org

Submission C

May 22, 2007

The Honorable Joseph A. Foster, Chair
Judiciary Committee
New Hampshire Senate
107 N. Main Street
Room 302 - State House
Concord, NH 03301

RE: HB 791

Dear Representative Foster and Members of the Committee:

As the Chancellor of the Diocese of Manchester, and on behalf of Bishop John B. McCormack as a representative of the Catholic community in New Hampshire, I submit this letter in opposition to HB791, which proposes to establish a commission to study the legal and social effects of permitting same gender marriage. We do not believe that this bill serves the best interest of the people of New Hampshire.

The teachings of the Catholic Church regarding marriage flow first from our understanding of human nature and what is reasonable and true. While our Scripture and tradition have much to say about marriage, we believe that religious faith is not necessary to see that marriage is a unique relationship between a man and a woman.

What defines the marriage relationship is that it is based on sexual complementarity, which then makes it possible for the spouses to fulfill two equal fruits of marriage: the mutual love of husband and wife and the procreation of children. No other human relationship is the same as the marriage of one man and one woman.

Marriage is, by its nature, the exclusive union of a man and a woman. This is readily discoverable by human reason and is embedded in the law of nature. It is a truth institutionalized in human society since the beginning of time.

If one accepts this understanding of marriage and its uniqueness, then it becomes clearer why any relationship between two persons of the same sex cannot be "marriage." Neither two men nor two women can love one another as husband and wife, nor can they procreate and mutually bring the gift of new life into existence. Therefore, the matter of whether homosexual

persons ought to be allowed to "marry," properly is not framed as a matter of *rights*, but one of *ability*.

The marriage of one man and one woman also serves as a unique foundation of the common good because it is the cornerstone of family life with a particular orientation to raising children. While other relationships contribute to the common good and are part of family life, no other relationship except the love of husband and wife can "start a family."

Having said this, the Church does stand as a champion of human dignity, human rights, and justice as a requisite component of society. There are social benefits and rights that need to be guaranteed for every individual. The teachings of the Catholic Church affirm the dignity of homosexual persons and demands that they be treated with respect. In light of this, we believe that the state is responsible for developing laws that protect the rights of these individuals and to provide social benefits, including equal access to employment, housing, health care, the joint ownership of property, and the ability to make medical decisions for another.

In conclusion, I ask that you report HB 791 **as inexpedient to legislate**, because I do not believe this legislation serves the common good of the people of New Hampshire.

Thank you for your service to the people of the State of New Hampshire

Very truly yours,



Diane Murphy Quinlan
Chancellor

Voting Sheets

Senate Judiciary Committee

EXECUTIVE SESSION

Bill # HB 791-FX

Hearing date: 5/22/07
 Executive session date: 5/29/07
 Motion of: ITL

Room: SH 103

VOTE: 4-1

Made by Foster
Senator: Gottesman
 Reynolds
 Clegg
 Letourneau

Seconded Foster
by Senator: Gottesman
 Reynolds
 Clegg
 Letourneau

<u>Committee Member</u>	<u>Present</u>	<u>Vote</u> (Y/N)	<u>Reported out by</u>
Senator Foster, Chairman	✓		
Senator Gottesman, Vice-Chair	✓		
Senator Reynolds	✓		
Senator R. Clegg	✓		✓
Senator R. Letourneau	✓		

*Amendments: _____

NOTES: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: May 29, 2007

THE COMMITTEE ON Judiciary

to which was referred House Bill 791-FN

AN ACT (New Title) establishing a commission to study the legal and social effects of permitting same gender marriage.

Having considered the same, the committee recommends that the Bill:

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 4-1

AMENDMENT # s

Senator Robert E. Clegg, Jr.
For the Committee

L. Gail Brown 271-3076

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HB791 Docket

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Bill Title: (New Title) establishing a commission to study the legal and social effects of permitting same gender marriage.

<u>Date</u>	<u>Body</u>	<u>Description</u>
1/31/2007	H	Introduced and ref to Judiciary; HJ 14, pg.229
3/6/2007	H	Public Hearing: 3/14/2007 1:00 PM Representative's Hall
3/15/2007	H	Subcommittee Work Session: 3/19/2007 9:00 AM LOB 208
3/19/2007	H	Subcommittee Work Session: 3/20/07 2:00 PM LOB 208
3/21/2007	H	Subcommittee Work Session: 3/22/07 9:30 AM LOB 208
3/21/2007	H	Executive Session: 3/22/07 10:00 AM LOB 208
3/22/2007	H	Majority Comm Rpt: Ought to Pass with Amendment {0954h}NT for March 27 (vote 15-5; RC); HC23, pg.694
3/22/2007	H	Minority Comm Rpt: Inexpedient to Legislate; HC 23, pg.694
3/22/2007	H	Proposed Majority Committee Amendment: #0954h (New Title); HC 22, pg.600-601
3/28/2007	H	Special Order to April 4, Regular Place on Calendar: Without Objection; HJ 32, pg.1156
4/4/2007	H	Amendment #0954h (New Title) Adopted, DIV 245-120; HJ 34, pg.1206-1207
4/4/2007	H	(Rep Hunt) Lay on Table: MF DIV 158-207; HJ 34, pg.1207
4/4/2007	H	(Rep Wendelboe) Floor Amendment {1011h}NT: AF RC 148-219; HJ 34, pg.1207-1210
4/4/2007	H	Ought to Pass with Amendment #0954h (New Title): MA RC 210-160; HJ 34, pg.1210-1212
4/12/2007	S	Introduced and Referred to Judiciary; SJ 12, Pg.301
5/3/2007	S	Hearing; May 22, 2007, Room 103, State House, 2:45 p.m.; SC19
5/29/2007	S	Committee Report; Inexpedient to Legislate [05/31/07]; SC22-A
5/31/2007	S	Inexpedient to Legislate RC 24Y-0N, MA === BILL KILLED ===; SJ 19, Pg.475

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Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 791 ORIGINAL REFERRAL

_____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. COMMITTEE SECRETARY WILL CONFIRM ALL ENTRIES, SIGN AND DATE THIS INVENTORY.
5. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT (For calendar and floor)

HEARING REPORT (Written summary of hearing testimony, if produced)

HEARING TRANSCRIPT (Verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: _____

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 1744 _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED AS AMENDED BY THE HOUSE
_____ FINAL VERSION _____ AS AMENDED BY THE SENATE

PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: A, B, C

EXECUTIVE SESSION REPORT

_____ OTHER (Anything else deemed important but not listed above):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A NEW FILE FOLDER WITH THE CHAIRMAN'S COPY OF THE BILL AND THE LATEST DOCKET AND KEEP THOSE FILES IN YOUR OFFICE.

DATE DELIVERED TO SENATE CLERK 7/27/07

Debra Perrow
COMMITTEE SECRETARY