

Bill as Introduced

HB 1556 - AS INTRODUCED

2010 SESSION

10-2222

05/09

HOUSE BILL **1556**

AN ACT restricting courts from ordering counseling not covered by the parties' health insurance.

SPONSORS: Rep. A. Perkins, Rock 14; Rep. L. Perkins, Rock 14; Rep. Comerford, Rock 9; Rep. Weare, Rock 14

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits the court from ordering parties to a divorce or child support proceeding to participate in counseling not covered by the parties' insurance.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT restricting courts from ordering counseling not covered by the parties' health insurance.

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

1 1 Causes for Divorce; Reconciliation; Counseling. Amend RSA 458:7-b to read as follows:

2 458:7-b Reconciliation. Whenever, before or during a hearing but before a final decree, the court
3 shall determine that there is a likelihood for rehabilitation of the marriage relationship, the court
4 shall refer the parties to an appropriate counseling agency within its jurisdiction, which referral may
5 be made according to RSA 167-B or as the parties request, with the approval of the court. If the
6 court determines that there is a reasonable possibility of reconciliation, the court shall continue the
7 proceedings and require that both parties submit to marriage counseling, ***provided that the***
8 ***counselor accepts direct payment from the parties' health insurance carrier.***

9 2 Marriage Counseling Referral Service. Amend RSA 167-B:1 to read as follows:

10 167-B:1 Service Established; Court Referrals. Whenever a petition for divorce or petition for
11 legal separation has been filed with the superior court the presiding justice or his ***or her*** authorized
12 representative, subject to rules to be established by the superior court, pending a hearing upon the
13 merits, shall exercise his ***or her*** discretion to determine if the matter before the court shall be
14 referred for marriage counseling to an approved family service agency within the jurisdiction of the
15 court. ***The referral shall be made only if the counselor accepts direct payment from the***
16 ***parties' health insurance carrier.*** Any such referral shall be binding upon the petitioner and
17 upon any petitionee who enters an appearance or otherwise submits himself ***or herself*** to the court's
18 jurisdiction.

19 3 New Paragraph; Parental Rights and Responsibilities. Amend RSA 461-A:4 by inserting after
20 paragraph II the following new paragraph:

21 III. No parenting plan shall require a parent to participate in counseling unless the service
22 provider accepts direct payment from the parties' health insurance carrier.

23 4 Effective Date. This act shall take effect 60 days after its passage.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1556

BILL TITLE: restricting courts from ordering counseling not covered by the parties' health insurance.

DATE: January 21, 2010

LOB ROOM: 208 **Time Public Hearing Called to Order:** 4:00 pm

Time Adjourned: 4:25 pm

(please circle if present)

Committee Members: Reps. D. Cote, Wall, Potter, Hackel, P. Preston, G. Richardson, L. Weber, B. Browne, Nixon, Thompson, Watrous, Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Mead and Read.

Bill Sponsors: Rep. A. Perkins, Rock 14; Rep. L. Perkins, Rock 14; Comerford, Rock 9; Rep. Weare, Rock 14

TESTIMONY

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

Rep. Amy Perkins, sponsor. Concerns regarding family court. Her eight-year-old was ordered by the court to counseling from a counselor who does not accept insurance. Others have had this problem as well. Obligation can be \$4,000 or more. She had insurance coverage which would have paid for a counselor closer to home with a small co-pay. Concerned with drafting on Lines 19-21, re: parenting plan. These orders are often stand-alones.

Rep. Gary Richardson: Why is this needed? Guardian ad litem recommended a specific therapist who did not accept insurance.

Rep. Lucy Weber: What about people who do not have insurance coverage? Ans. Is financial burden. If no health insurance, does the court have no right to order counseling? Ans. Yes. No right to order counseling if no insurance.

Rep. David Nixon: Doesn't the court take into account ability to pay? Ans. No. Costs may be \$2,500 up front.

Timothy Comerford, co-sponsor.

Consistent had the concern. This is a 28-A analogy. The courts should not be allowed unfunded mandates. Families have a hard time financially doing divorce.

Rep. Laurence Perkins. Reaffirmed the fairness of what Rep. Amy Perkins said. Court should consider best interests of child and not put this financial burden on the family as it is not in the best interest of a child. One and one half hour drive to therapist is not right. No statute allowing court to order therapy.

Rep. Gary Richardson: Was this done intentionally to create a burden? Ans. Issue before marital master for year and half, may have been done to soften position.

Respectfully submitted,

A handwritten signature in black ink that reads "Philip Preston". The signature is written in a cursive style with a large, stylized "P" at the beginning.

Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1556

BILL TITLE: restricting courts from ordering counseling not covered by the parties' health insurance.

DATE: 01/21/2010

LOB ROOM: 208

Time Public Hearing Called to Order:

4:00

~~3:45 pm~~

Time Adjourned:

4:25

(please circle if present)

Committee Members: Reps. D. Cote, Wall, Potter, Hackel, P. Preston, G. Richardson, L. Weber, B. Brown, Nixon, Thompson, Watrous, Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Mead.

Read

Bill Sponsors: Rep. A. Perkins, Rock 14; Rep. L. Perkins, Rock 14; Comerford, Rock 9; Rep. Weare, Rock 14

TESTIMONY

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

Rep. Amy Perkins, sponsor

FROM: Rep. Philip Preston, Clerk

DATE: Public hearing January 21, 2010

SUBJECT: Meeting minutes on HB 1556, restricting courts from ordering counseling not covered by the parties' health insurance.

HB 1556 restricting courts from ordering counseling not covered by partner's health insurance

Rep. Amy Perkins, sponsor. Concerns regarding family court. Her eight-year-old was ordered by the court to counseling from a counsellor who does not accept insurance. Others have had this problem as well. Obligation can be \$4,000 or more. She had insurance coverage which would have paid for a counsellor closer to home with a small copay. Concerned with drafting on Lines 19-21 re: parenting plan. These orders are often stand-alones.

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Rep. Lucy Weber: What about people who do not have insurance coverage? A: Is financial burden.

Rep. Lucy Weber: If no health insurance, does the court have no right to order counseling? A: Yes. No right to order counseling if no insurance.

Nixon Doesn't the court take into account ability to pay? A: No. Costs may be \$2,500 up front.

Timothy Comerford, cosponsor.

Consistent had the concern. This is a 28-A analogy. The courts should not be allowed unfunded mandates. Families have a hard line financially doing divorce.

Rep. Laurence Perkins. Reaffirmed the fairness of what Rep. Amy Perkins (the sponsor) said. Court should consider best interests of child and not put this financial burden on the family as it is not in the best interest of a child. One and one half hour drive to therapist is not right. No statute allowing court to order therapy.

Rep Rep. Gary Richardson: Was this done intentionally to create a burden? A: Issue before marital master for year and half, may have been done to soften position.

Testimony

Perkins, Amy**From:** Greg & Carri Brede [brede@hughes.net]**Sent:** Thu 1/21/2010 6:47 AM**To:** Perkins, Amy**Cc:****Subject:** Fw: HB 1556**Attachments:**

Amy,

I had to fight pretty hard to ensure the therapy was covered by my insure. My ex made a unilateral decision to change my youngest daughter's therapist once the therapist told the new GAL that she does not believe any abuse occurred. Four days later the child was taken to another therapist (shopping). I filed a motion for contempt on violating the parenting plan and changing the child's therapist without my knowledge or consent. That was back in June 09. This was presented to the court in Aug 09 and despite the Master saying that she should have asked me first, delayed hearing this until Feb 2010. WTF???

Master did say that she would have to pay 1/2 if contempt is granted. The new therapist was not on my insurers list so there was a fee for her direct bill. The other therapist charges \$155 per hour and the parent split the balance of what the insurance company is capped at. I believe the insurance company is capped at \$65 per session and we split the balance of \$90 per session.

Greg Brede

----- Original Message -----

From: Greg & Carri Brede**To:** amy.perkins@leg.state.nh.us**Sent:** Wednesday, January 20, 2010 10:40 PM**Subject:** HB 1556

HB 1556 Restricting courts from ordering counseling not covered by the parties' health insurance.

NH House Rep Amy Perkins

I support HB 1556.

Despite me being proactive to insure that the children's therapist were covered my insurance, I am in favor to amend test to 458:7-b and 167-B:1 along with the new paragraph including
 III. No parenting plan shall require a parent to participate in counseling unless the service provider accepts direct payment from the parties' health insurance carrier.

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1556

BILL TITLE: restricting courts from ordering counseling not covered by the parties' health insurance.

DATE: February 4, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:

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Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Thompson

Seconded by Rep. Wall

Vote: 10-8 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1556

BILL TITLE: restricting courts from ordering counseling not covered by the parties' health insurance.

DATE: February 4, 2010

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Seconded by Rep. Wall

Vote: 10/8 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

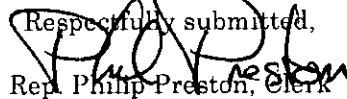
Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

JUDICIARY

Bill #: ~~HB 1530~~ ¹⁵³⁶ Title: _____

PH Date: ____/____/____ Exec Session Date: 02, 04, 10

Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Cote, David E, Chairman	Y	
Wall, Janet G, V Chairman	Y	
Potter, Frances D	Y	
Hackel, Paul L	Y	
Preston, Philip, Clerk	Y	
Richardson, Gary B	Y	
Weber, Lucy M	Y	
David B. Brown Read, Robin	Y	
Nixon, David L		N
Thompson, Robert B	Y	
Watrous, Rick H	Y	
Rowe, Robert H		N
Elliott, Nancy J		N
DiFruscia, Anthony R <i>abs</i>		
Mead, Robert D		N
O'Brien, William L		N
Hagan, Joseph M <i>abs</i>		
Perkins, Lawrence B		N
Silva, Peter L		N
Smith, William B		N

TOTAL VOTE: 10 8

Committee Report

REGULAR CALENDAR

February 17, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on JUDICIARY to which was referred HB1556,

AN ACT restricting courts from ordering counseling not covered by the parties' health insurance. Having considered the same, report the same with the following Resolution:

RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Robert B Thompson

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB1556
Title: restricting courts from ordering counseling not covered by the parties' health insurance.
Date: February 17, 2010
Consent Calendar: NO
Recommendation: INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

While the intent of this bill was to eliminate undue burdens upon children and the financial hardship that a divorce can cause, the bill would also prohibit a court from ordering counseling, when needed, for those who are uninsured. This legislation ties the hands of the court and removes the ability of the court to use discretion when ordering counseling.

Vote 10-8

Rep. Robert B Thompson
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1556, restricting courts from ordering counseling not covered by the parties' health insurance.
INEXPEDIENT TO LEGISLATE.

Rep. Robert B Thompson for the **Majority** of JUDICIARY. While the intent of this bill was to eliminate undue burdens upon children and the financial hardship that a divorce can cause, the bill would also prohibit a court from ordering counseling, when needed, for those who are uninsured. This legislation ties the hands of the court and removes the ability of the court to use discretion when ordering counseling. **Vote 10-8.**

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

MAJORITY REPORT

HB 1556, restricting courts from ordering counseling not covered by the parties' health insurance.

RECOMMENDATION: INEXPEDIENT TO LEGISLATE

VOTE: 10-8

REP. ROBERT B. THOMPSON

While the intent of this bill was to eliminate undue burdens upon children and the financial hardship that a divorce can cause, the bill would also prohibit a court from ordering counseling, when needed, for those who are uninsured. This legislation ties the hands of the court and removes the ability of the court to use discretion when ordering counseling.

REGULAR CALENDAR

February 17, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on JUDICIARY to which was referred HB1556,

AN ACT restricting courts from ordering counseling not covered by the parties' health insurance. Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill OUGHT TO PASS.

Rep. Lawrence B Perkins

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB1556
Title: restricting courts from ordering counseling not covered by the parties' health insurance.
Date: February 17, 2010
Consent Calendar: NO
Recommendation: OUGHT TO PASS

STATEMENT OF INTENT

Counseling will only work if both parties are receptive. It is our belief that judges/marital masters should promote counseling not mandate it. All avenues of insurance coverage should be exhausted before either party makes direct payment for services.

Rep. Lawrence B Perkins
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1556, restricting courts from ordering counseling not covered by the parties' health insurance.
OUGHT TO PASS.

Rep. Lawrence B Perkins for the **Minority** of JUDICIARY. Counseling will only work if both parties are receptive. It is our belief that judges/marital masters should promote counseling not mandate it. All avenues of insurance coverage should be exhausted before either party makes direct payment for services.

REGULAR CALENDAR

MINORITY REPORT

HB 1556, restricting courts from ordering counseling not covered by the parties' health insurance.

RECOMMENDATION: OUGHT TO PASS

REP. LAWRENCE B. PERKINS

Counseling will only work if both parties are receptive. It is our belief that judges/marital masters should promote counseling not mandate it. All avenues of insurance coverage should be exhausted before either party makes direct payment for services.