

Bill as Introduced

SB 437 - AS INTRODUCED

2010 SESSION

10-2863

09/01

SENATE BILL **437**

AN ACT relative to the authority of district court justices to issue emergency orders in any district court.

SPONSORS: Sen. Reynolds, Dist 2; Sen. Lasky, Dist 13; Sen. Houde, Dist 5; Sen. Roberge, Dist 9; Rep. Cote, Hills 23

COMMITTEE: Judiciary

ANALYSIS

This bill authorizes district court justices to issue emergency orders in any matter in any district court.

This bill was requested by the supreme court.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 relative to the authority of district court justices to issue emergency orders in any district court.

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

1 1 District Courts; Powers of Other Justices. Amend RSA 502-A:5 to read as follows:
2 502-A:5 Powers of Other Justices.

3 ***I.*** If the justice and special justice of a district court are disqualified, disabled, otherwise
4 unable to sit, or in need of assistance, a disinterested justice or special justice from another district
5 court, attending upon assignment of the administrative judge of the district [~~and municipal~~] court or
6 upon written request of the justice, may hear and determine all cases brought before that justice and
7 issue final process therein, and he *or she* shall keep a record thereof, which shall be kept with and
8 constitute a part of the records of said court, all of which shall have like effects as if it were heard
9 and determined by the justice of said court.

10 ***II.*** *Notwithstanding the requirement in paragraph I for assignment by the*
11 *administrative judge of the district court, any district court justice may issue an emergency*
12 *order of relief in any matter in any district court without prior assignment by the*
13 *administrative judge.*

14 2 Effective Date. This act shall take effect upon its passage.

CHAPTER 192
SB 437 - FINAL VERSION

28Apr2010... 1495h

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10-2863
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6 upon written request of the justice, may hear and determine all cases brought before that justice and
7 issue final process therein, and he *or she* shall keep a record thereof, which shall be kept with and
8 constitute a part of the records of said court, all of which shall have like effects as if it were heard
9 and determined by the justice of said court.

10 ***II.*** *Notwithstanding the requirement in paragraph I for assignment by the*
11 *administrative judge of the district court, any district court justice may issue an emergency*
12 *order of relief in any matter in any district court without prior assignment by the*
13 *administrative judge. An emergency order of relief is any order authorized by statute to be*
14 *considered or issued on an ex parte basis.*

15 192:2 Effective Date. This act shall take effect upon its passage.

16 Approved: June 21, 2010

17 Effective Date: June 21, 2010

Committee Minutes

**SENATE CALENDAR NOTICE
JUDICIARY**

- ✓ Senator Deborah Reynolds Chairman
- ✓ Senator Bette Lasky V Chairman
- ✓ Senator Matthew Houde
- ✓ Senator Sheila Roberge
- ✓ Senator Robert Letourneau

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/> Bill Status	
<input type="checkbox"/> Docket	
<input type="checkbox"/> Calendar	
Proof: <input type="checkbox"/> Calendar	<input type="checkbox"/> Bill Status

Date: January 21, 2010

HEARINGS

Tuesday

1/26/2010

JUDICIARY

SH 103

2:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

- 2:00 PM SB425-FN
- 2:15 PM SB398-FN
- 2:30 PM SB395-FN
- ~~2:45 PM~~ SB437

- relative to telephone utilities exemptions to the right-to-know law.
- relative to prohibited sales of alcoholic beverages.
- relative to motor vehicle records.
- relative to the authority of district court justices to issue emergency orders in any district court.

Sponsors:

SB425-FN

Sen. Jacalyn Cilley
Rep. Jacqueline Cali-Pitts

Sen. Robert Letourneau
Rep. William Remick

Sen. Betsi DeVries
Rep. Philip Preston

Sen. Martha Fuller Clark
Rep. Sandra Keans

SB398-FN

Sen. Martha Fuller Clark

Rep. John Hunt

SB395-FN

Sen. Molly Kelly

SB437

✓ Sen. Deborah Reynolds
Rep. David Cote

Sen. Bette Lasky

Sen. Matthew Houde

Sen. Sheila Roberge

2:55

Judiciary Committee

Hearing Report

TO: Members of the Senate

FROM: Susan Duncan, *Senior Legislative Aide*

RE: Hearing report on SB 437 – *AN ACT relative to the authority of district court justices to issue emergency orders in any district court.*

HEARING DATE: January 26, 2010

MEMBERS OF THE COMMITTEE PRESENT: Senators Reynolds, Lasky, Roberge, Letourneau and Houde

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Senator Reynolds with Senators Lasky, Houde and Roberge with Representative Cote

What the bill does: This bill authorizes District Court Judges to issue emergency orders in any matter in any District Court. This bill was requested by the Supreme Court.

Who supports the bill: Senator Reynolds; The Honorable John Korbey, Salem District Court

Who opposes the bill: No one

Summary of testimony received:

- Senator Reynolds introduced the legislation and explained that the intent is to allow other District Court Judges to issue emergency orders of relief on behalf of other courts.
- She explained that this most often occurs in cases where Domestic Violence Petitions are filed and used the example of Plymouth District Court. Perhaps someone comes up to the Court to file a Petition and at that moment, there isn't a Judge present. The court staff would fax the Petition up to Littleton or down to Franklin, where a Judge is present.
- She said that the intent is nothing more than to allow some flexibility.
- Judge Korbey testified in support.

- He thanked Senator Reynolds for her introduction and explained that Domestic Violence orders as well as some Landlord Tenant matters would be the most common occurrences.
- He explained that this has been the common practice among the courts for a long time, for years in fact, but someone raised the question of whether there is the authority to do this.
- District Court Judges are sworn in to specific courts – in his case, to the Salem District Court. Next Friday, he will be sitting in the Portsmouth District Court – so he has received a special order from Judge Kelly which empowers him to do this.
- This legislation merely puts into statute the practice that the courts have in place in order to appropriately and timely deal with these emergency orders, as required by statute, when a judge is not present in the court where the Petition was filed.

Fiscal Impact: Not applicable

Action: Senator Roberge moved 'Ought to Pass.' Senator Houde seconded the motion. The Committee voted 5 to 0 in support of the motion. Senator Reynolds will report the bill out of Committee.

sfd

[file: SB 437]

Date: January 26, 2010

JKB

relief. Is there something that constitutes an emergency? In other words, what is the legal description for emergency so that this doesn't get abused?

Senator Deborah R. Reynolds, D. 2: Thank you very much for the question, Senator Letourneau, and it is a good one. As I said, I think the classic example I could give you is, let's assume that someone who believes that they are victim of domestic violence goes into the Plymouth District Court or the Plymouth Family Division and asks for an emergency order and there is no judge presiding that day. They may be scheduled to be in different courthouse or whatever.

My assumption would be that, at least in the district courts, there may be some situations in a landlord/tenant case, for example. A tenant may come in and say, on an ex parte basis, I have an emergency because the landlord has terminated my water or has cut off my electricity. Under RSA 540, and RSA 540-A sometimes these emergencies arise.

So, I believe what the intent is is to allow some flexibility of the system so that if a judge who is, let's say, at the Plymouth District Court, for example, and there is no judge in the courthouse that day. That petition for ex parte relief may be faxed to the Littleton District Court or to the Franklin District Court, for that matter, and a judge who doesn't have the geographic venue for the Plymouth District Court can sign that order. I believe that's what the intent is.

Senator Bette R. Lasky, D. 13: Okay. Any further questions?

Senator Deborah R. Reynolds, D. 2: Thank you very much.

Senator Bette R. Lasky, D. 13: Seeing none, thank you, Senator Reynolds. John Korbey, did you wish to speak?

Senator Deborah R. Reynolds, D. 2: Welcome.

Judge John Korbey: Thank you. Good afternoon. My name is John Korbey. I am the judge of the Salem District Court and I'm here today on behalf of Judge Kelly, who has a medical appointment and couldn't be here. If I had known that Senator Reynolds was going to explain this so eloquently as she did, I would have stayed in Salem. But, here I am.

I'm not sure that I can add much to what Senator Reynolds has said, other than to say that this has been common practice for a long time. Senator Letourneau, if I'm here this afternoon and someone comes in for an

emergency order as defined by statute, I'm not there, they may send it to Derry to Judge Coughlin to sign. It has been done for years.

Someone raised the question recently, where is the authority for this? When you are sworn into a certain position in a court, you are sworn in to, I'm sworn in to do the business of the Salem District Court, not the Derry District Court. The way the statute reads now, if I am assigned to sit in a different court, and I happened to bring an assignment with me today because I am going to be sitting in Portsmouth next Friday. Judge Kelly issues an order for that in advance saying that I am authorized to sit in Portsmouth next Friday and conduct the business of that Court. That is when we know that is going to happen.

When these things come up in an emergency nature, and the two most common ones are exactly what Senator Reynolds said, domestic violence and landlord/tenant issues, they have to be dealt with because the statute allows the person to have immediate relief. So, they get faxed to a judge some place where they know there is a judge available. It has been done forever.

Someone questioned where is the authority for that, and so we thought, as a housekeeping matter, we ought to specify that in the statute.

I'm happy to answer questions.

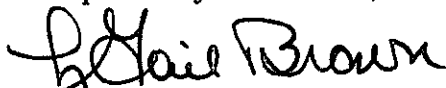
Senator Deborah R. Reynolds, D. 2: Are there any other questions of Judge Korbey? Judge Korbey, thank you very much for being here today.

Judge Korbey: Thank you.

Senator Deborah R. Reynolds, D. 2: Is there anyone else here who is here to testify relative to SB 437? Seeing none, I will close the hearing on SB 437.

Hearing concluded at 3:00 p.m.

Respectfully submitted,



L. Gail Brown

Senate Secretarial Supervisor

2/5/10

Speakers

Voting Sheets

Senate Judiciary Committee

EXECUTIVE SESSION

Bill # SB 437

Hearing date: 1/26/10

Executive session date: 1/26/10

Motion of: OTP

VOTE: 5-0

Made by Reynolds
Senator: Lasky
 Houde
 Letourneau
 Roberge

Seconded Reynolds
by Senator: Lasky
 Houde
 Letourneau
 Roberge

Reported Reynolds
by Senator: Lasky
 Houde
 Letourneau
 Roberge

Motion of: _____

VOTE: _____

Made by Reynolds
Senator: Lasky
 Houde
 Letourneau
 Roberge

Seconded Reynolds
by Senator: Lasky
 Houde
 Letourneau
 Roberge

Reported Reynolds
by Senator: Lasky
 Houde
 Letourneau
 Roberge

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Reynolds, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Lasky, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Houde	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Letourneau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roberge	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Committee Report

New Hampshire General Court - Bill Status System

Docket of SB437

Docket Abbreviations

Bill Title: relative to the authority of district court justices to issue emergency orders in any district court.*Official Docket of SB437:*

Date	Body	Description
01/06/2010	S	Introduced and Referred to Judiciary; SJ 1 , Pg.15
01/21/2010	S	Hearing; January 26, 2010, Room 103, State House, 2:45 p.m.; SC4
01/27/2010	S	Committee Report: Ought to Pass 2/3/10; SC5
02/03/2010	S	Ought to Pass, MA, VV; OT3rdg, SJ 5 , Pg.64
02/03/2010	S	Passed By Third Reading Resolution, SJ 5 , Pg.65
02/17/2010	H	Introduced and Referred to Judiciary; HJ 18 , PG.1017
03/10/2010	H	Public Hearing: 3/17/2010 10:00 AM LOB 208
04/13/2010	H	Executive Session: 4/20/2010 10:00 AM LOB 208
04/21/2010	H	Committee Report: Ought to Pass with Amendment #1495h for April 28 (Vote 17-0; CC); HC 33 , PG.1592
04/21/2010	H	Proposed Committee Amendment #1495h; HC 33 , PG.1619
04/28/2010	H	Amendment #1495h Adopted, VV; HJ 36 , PG.1699
04/28/2010	H	Ought to Pass with Amendment #1495h: MA VV; HJ 36 , PG.1699
05/13/2010	S	Sen. Reynolds Concurs with House Amendment 1495h, MA, VV
05/19/2010	H	Enrolled; HJ 46 , PG.2245
05/19/2010	S	Enrolled
06/21/2010	S	Signed by the Governor on 06/21/2010; Effective 06/21/2010; Chapter 0192

NH House

NH Senate

Contact Us

*New Hampshire General Court Information Systems
107 North Main Street - State House Room 31, Concord NH 03301*

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB437 ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED 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. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE on which you have taken attendance
- HEARING REPORT (written summary of hearing testimony)
- 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 # _____ ____ - 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: _____

EXECUTIVE SESSION REPORT

____ **OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):**

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK

7/10/10

Hail Brown
COMMITTEE SECRETARY