

# Bill as Introduced

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HB 575 - AS INTRODUCED

2011 SESSION

11-0426

05/04

HOUSE BILL

**575**

AN ACT

relative to the calculation of child support in cases of shared parenting.

SPONSORS:

Rep. Gargas, Hills 5; Rep. Gile, Merr 10

COMMITTEE:

Children and Family Law

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ANALYSIS

This bill revises the child support formula in cases where the parents have approximately equal residential responsibility for the child. The bill also grants the court discretion to adjust the child support guidelines under special circumstances based on the parenting schedule generally or based on an agreement between the parents regarding variable, child-related expenses.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the calculation of child support in cases of shared parenting.

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

1 1 Child Support Guidelines; Minimum Support Order. Amend RSA 458-C:2, V to read as  
2 follows:

3 V. "Minimum support order" means an order of support equal to \$50 per month, unless the  
4 court determines that a lesser amount is appropriate under the particular circumstances of the case.  
5 ***There shall be no minimum support if both parents have an equal child support obligation,***  
6 ***as provided in RSA 458-C:3, II-a.***

7 2 New Paragraph; Application of Guidelines; Calculation of Child Support in Cased of Shared  
8 Parenting. Amend RSA 458-C:3 by inserting after paragraph II the following new paragraph:

9 II-a. In the case of equal or nearly equal residential responsibility as determined by the  
10 parenting plan adopted pursuant to RSA 461-A:4, the child support obligation shall be determined in  
11 a separate calculation for each parent. The parent with the greater annual child support obligation  
12 shall be designated as the obligor, and the child support owed to the other parent shall be based on  
13 the obligor's annual child support obligation less the annual child support obligation of the other  
14 parent. If both parents have an equal annual child support obligation, no child support payment  
15 shall be ordered by the court. For purposes of this paragraph, equal or nearly equal residential  
16 responsibility means each parent has residential responsibility for between 165 and 183 nights per  
17 year.

18 3 Adjustments to Child Support Guidelines; Parenting Schedule. Amend RSA 458-C:5, I(h) to  
19 read as follows:

20 (h) Parenting schedule.

21 ~~(1) Equal or approximately equal parenting residential responsibilities in and of~~  
22 ~~itself shall not eliminate the need for child support and shall not by itself constitute ground for an~~  
23 ~~adjustment.~~

24 ~~(2) In considering requests for adjustments to the application of the child support~~  
25 ~~guidelines based on the parenting schedule, the court may consider the following factors:~~

26 ~~(A) Whether, in cases of equal or approximately equal residential responsibility,~~  
27 ~~the parties have agreed to the specific apportionment of variable expenses for the children, including~~  
28 ~~but not limited to education, school supplies, day care, after school, vacation and summer care,~~  
29 ~~extracurricular activities, clothing, health insurance costs and uninsured health costs, and other~~  
30 ~~child-related expenses.~~

1                   ~~(B) Whether the obligor parent has established that the equal or approximately~~  
2 ~~equal residential responsibility will result in a reduction of any of the fixed costs of child rearing~~  
3 ~~incurred by the obligee parent.~~

4                   ~~(C) Whether the income of the lower earning parent enables that parent to meet~~  
5 ~~the costs of child rearing in a similar or approximately equal style to that of the other parent.]~~

6           4 New Subparagraph; Adjustments to Child Support Guidelines; Variable Expenses. Amend  
7 RSA 458-C:5, I by inserting after subparagraph (j) the following new subparagraph:

8                   (k) Whether the parties have agreed to a specific apportionment of variable expenses for  
9 the children, including but not limited to education, school supplies, child care, after school, vacation,  
10 and summer care, extracurricular activities, clothing, health insurance costs and uninsured health  
11 costs, and other child-related expenses.

12           5 Effective Date. This act shall take effect January 1, 2012.

# Amendments

Amendment to HB 575

*Amendment  
not offered  
2/24*



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

2

3 1 New Paragraph; Application of Guidelines; Calculation of Child Support in Cased of Shared  
4 Parenting. Amend RSA 458-C:3 by inserting after paragraph II the following new paragraph:

5 II-a. In the case of equal or nearly equal residential responsibility as determined by the  
6 parenting plan adopted pursuant to RSA 461-A:4, child support may be determined in a separate  
7 calculation for each parent. The parent with the greater annual child support obligation may be  
8 designated as the obligor, and the child support owed to the other parent may be based on the  
9 obligor's child support obligation less the child support obligation of the other parent. If both parents  
10 have equal child support obligations, the court may determine that no child support payment is  
11 required. For purposes of this paragraph, equal or nearly equal residential responsibility means  
12 each parent has responsibility for at least 45 percent of parenting time. Additional adjustments to  
13 child support in equal and nearly equal residential responsibility may be considered based on  
14 RSA 458-C:5, I(h), adjustments to the application of guidelines under special circumstances.

15 2 Effective Date. This act shall take effect January 1, 2012.



2011-0483h

**AMENDED ANALYSIS**

This bill permits modification of the child support obligation in cases where the parents have approximately equal residential responsibility for the child.

# Speakers





# Hearing Minutes

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HOUSE BILL 575

BILL TITLE: relative to the calculation of child support in cases of shared parenting.

DATE: February 24, 2011

LOB ROOM: 206 Time Public Hearing Called to Order: 10:20 am

Time Adjourned: 11:30 am

(please circle if present)

Committee Members: Reps. Moran, Hogan, J. Brown, Gargas, Dowling, J. Johnson, DeSimone, Katsakiores, Sapienza, Soucy, Perkins, Oligny, Robbins, Grassie, Gould, Covejoy and Porter.

Bill Sponsors: Rep. Gargas, Hill 5; Rep. Gile, Merr 10

TESTIMONY

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

Rep. Gargas, sponsor introduced the bill.

Rep. Gargas: In court, currently, cross-calculation happening. This bill has a goal of making shared to nearly equal. Explains details of the bill and amendment.

Rep. Oligny: Point out number of "MAYS" allowing more court discretion.

Rep. Gargas: Equal time = shared responsibility, references 458:II - FLEXIBLE

Rep. Oligny: Q. Why more room for discretion when we have discretion now?

Rep. Gargas: Reads from HB 575, lines 6-11 as explanation and these are additional thus, "MAY-NOT SHALL"

To make more fair

Rep. Robbins: Should we define residential status"

Rep. Gargas: explains

Rep. Sapienza: Compares time night : day hypothetical.

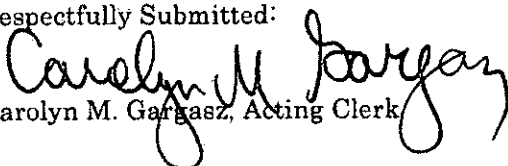
Rep. Soucy: We complicate. If focus is child, they'll make these decisions as caring parents.

Rep. Gargas: Refers to parenting plan in our process.

Rep. Porter: Questions to clarify thinking.

Rep. Gargas: explains

Respectfully Submitted:

  
Carolyn M. Gargas, Acting Clerk

165  
200.

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 575

BILL TITLE: relative to the calculation of child support in cases of shared parenting.

*This bill is to clarify*

DATE: February 24, 2011

LOB ROOM: 206

Time Public Hearing Called to Order: ~~10:00 am~~ 10:20 a.m.

Time Adjourned: 11:30 am

(please circle if present)

Committee Members: Reps. Moran, Hogan, J. Brown, Gargas, Dowling, J. Johnson, DeSimone, Katsakiores, Sapienza, Soucy, Perkins, Oigny, Robbins, Grassie, Gould, Lovejoy and Porter

Bill Sponsors: Rep. Gargas, Hill 5; Rep. Gile, Merr 10

Rep. Gargas intros the Bill HB 575

TESTIMONY

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

Rep Gargas: In court, currently, cross-calculation happening.  
This bill has a goal of making shared to nearly equal  
Explains details of bill + Amendment

Rep Oigny: points out # of "MAYS" allowing more Court Discretion

Rep G. Ans: equal time = shared responsibility References 458:II - FLEXIBLE

Rep Oigny: Why more room for discretion when we have discretion now

Rep. Gargas: Reads from HB575 lines 6-11 as explanation and these are additional thus MAY-NOT SHALL to make more fair

Rep. Robbins: Should we define residential status?

Rep Gargas: explains (reverse)

Respectfully Submitted:

Jane B. Johnson, Clerk

Rep. Sapienza: compares time night: day hypothetical

Rep. Soucy: We complicate. If focus is child they'll make these decisions as caring parents.

Rep. Gargasz: Refers to parenting plan in our process.

Rep. Porter - Questions to clarify thinking

Rep. Gargasz explains

Rep. Downing - are we trying to solve a problem? How much <sup>at</sup> issue?

Rep. Gargasz - attempting to give guidance to Court solutions

Rep. Oligny - Bill attempts to define "shared parenting" other than 50/50

Rep. Grassie - We are talking about time not quality

Witness: D. Bickford, New Durham (supports) esp. (K)

\*Refers to handout

Suggests "cross orders" Refers to HB 1580 (2006)

Dr. Malcolm Smith: (neutral)

Outside the Study recommendation

2 problems to consider on HB 575A

Judges + attys: Some new way good

- but takes up court's time + \$\$ budget
- % leads to fractions of minutes complicates (overnight battles)
- No trend info available (easier court)

Our recommendation - current VT schedule model (1.5 formula)

Doesn't think it'll ease court work

Quadrennial review (FED.) is to reduce deviation

Rep. Gould - Downsides / VT plan? | If we look into?

Rep. Dr. Smith - works for VT

Rep. Soucy - what happens when a parent doesn't want the time share?

Dr. Smith & happens but not what we're dealing with here.

see attached

# Testimony

## Task Force on Family Law Members 2002-2004

- Nina C. Gardner, Chair, Executive Director, Judicial Council
- Honey Hastings, Esq., Vice Chair, Member at Large
- > Rep. David A. Bickford, House Children and Family Law Committee Alternate\*\*\*\*\*
- Honorable Stephanie Nute, Marital Master
- Patti Blanchette, Esq., New Hampshire Bar Association Representative
- David Braiterman, Esq., New Hampshire Bar Association Representative
- John Cameron, Esq., Guardian Ad Litem Representative
- Catherine Cauthorne, Ph. D., Psychologist
- Rep. Terri Dudley, House Judiciary Committee\*\*
- Rep. Larry Elliot, House Judiciary Committee\*
- Rep. Peter Franklin, House Judiciary Committee\*\*\*
- Rep. Carolyn Gargasz House, Children and Family Law Committee
- Michael Geanoulis, Commission on the Status of Men\*\*\*\*
- Amanda Grady, N.H. Coalition Against Domestic and Sexual Violence\*\*\*\*\*
- Linda Griebisch, N.H. Coalition Against Domestic and Sexual Violence\*\*\*\*\*
- Byry Kennedy, Esq., Division of Children, Youth and Families
- Honorable John R. Maher, Supervisory Judge, Family Division, Rockingham County\*\*\*\*\*
- Colonel Richard Martell, Experienced Consumer, Male
- Eileen Mullen, Child Impact Provider, Representative
- Marilyn Mahoney, Esq., Member at Large
- Honorable Tina Nadeau, Associate Justice, Superior Court
- Senator Sheila Roberge, Senate Judiciary Committee
- Susan Stearns, Experienced Consumer, Female
- Honorable Gerald Taube, Supervisory Judge, Rockingham Family Division
- John Williams, Esq., Division of Child Support Enforcement
- Ronna Wise, Esq., Commission on the Status of Women
- Peter Wolfe, Esq., Court Alternative Dispute Resolution Representative

All original appointments were made by Governor Shaheen and Speaker of the House, Gene Chandler, and Senate President, Thomas Eaton.

- \*resigned from Task Force when no longer member of House Judiciary Committee
- \*\*replaced Rep. Elliot as representative of House Judiciary, later resigned
- \*\*\*replaced Rep. Terri Dudley as representative of House Judiciary
- \*\*\*\*appointed by Governor Craig Benson
- \*\*\*\*\*resigned from Task Force
- \*\*\*\*\*appointed by Governor Craig Benson to replace Linda Griebisch
- \*\*\*\*\*resigned from Task Force
- \*\*\*\*\*appointed by Governor Craig Benson to replace Judge Maher
- \*\*\*\*\*appointed as alternate member, House Children and Family Law Committee

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## Recommendations

HB 575

(j) Any evidence of abuse, as defined in RSA 173-B:1 or RSA 169-C:3, and the impact of the abuse on the child and on the relationship between the child and the abusing parent.

(k) The court may consider any preference shown by the child. Considerable weight may be given to the stated preference of a mature minor, provided that preference was not unduly influenced.

(l) If a parent is incarcerated, the court shall consider the reason for and length of the incarceration, and any unique issues that arise as a result of incarceration.

(m) Any other additional factors the court deems relevant.

\* 7. The Child Support Guidelines (RSA 458-C) have done much to decrease uncertainty and adversarialness, by removing the question of what is the right amount of child support from the agenda in most cases. However, one section of the Guidelines, (RSA 458-C:5), lists 10 "special circumstances" for a court to vary from the Guidelines amount. One of these circumstances is "split or shared custody arrangements."

When parents have shared or split custody, the statute provides no guidance as to what child support would be fair. The decisions from the Supreme Court are not very helpful - essentially, the appropriate support can be anything from full Guidelines to zero, depending on the facts.

Because of the lack of a formula, or at least a checklist of factors to be considered, parents have difficulty agreeing on support in these situations. The result is often a feeling that the other parent is being "unfair," anger develops, and then litigation results.

The Task Force makes no specific recommendation as to how support issues should be resolved in split or shared arrangements but clarifying legislation would reduce conflict over this subject.

8. RSA 458-C:7 provides for a review of child support every three years. Such reviews are very helpful in updating support orders in light of changes in incomes, health insurance, and daycare costs. (If either parent has a "substantial change in circumstances," support may be reviewed at any time.)

However, if the other parent will not provide the needed information, the parent seeking the 3 year review must reopen the divorce or custody case, begin litigation, and ask the court to make the decisions for the family. This result could be avoided in many cases by requiring that the parties exchange standard information needed to calculate support in advance.



# Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW  
EXECUTIVE SESSION on HOUSE BILL 575

**BILL TITLE:** relative to the calculation of child support in cases of shared parenting.  
**DATE:** March 7, 2011  
**LOB ROOM:** 206

Amendments:

Sponsor: Rep. OLS Document #:  
Sponsor: Rep. OLS Document #:  
Sponsor: Rep. OLS Document #:

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

Moved by Rep. C. Gargasz

Seconded by Rep. P. Katsakiores

Vote: 9-2 (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.)

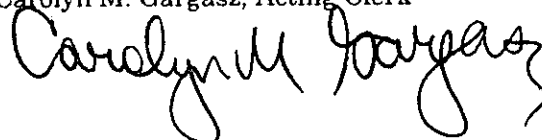
CONSENT CALENDAR VOTE: YES NO

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carolyn M. Gargasz, Acting Clerk



HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 575

BILL TITLE: relative to the calculation of child support in cases of shared parenting.

DATE: {Type DATE} 3/7/11

LOB ROOM: 206

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Gargasz

Seconded by Rep. Katsakiores

Vote: 9-2 (Please attach record of roll call vote.) 9-yes 2-no

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: {Type VOTE}

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jane Johnson, Clerk

Carolyn Gargasz  
CAROLYN GARGASZ

CHILDREN AND FAMILY LAW

Bill #: 575 Title: Relative to calculation of child support

PH Date: 2, 24, 11

Exec Session Date: 3, 7, 11

Motion: JTL

Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Moran, Edward P, Chairman	✓	
Hogan, Edith A, V Chairman	A	
Brown, Julie M	✓	
Gargasz, Carolyn M	✓	
Dowling, Patricia A	✓	
Johnson, Jane B	A	
DeSimone, Debra L	A	
Katsakiores, Phyllis M	✓	
Sapienza, Marie N	A	
Soucy, Connie M		✓
Perkins, Amy S	A	
Oligny, Jeffrey D		✓
Robbins, David S	✓	
Grassie, Anne C <i>Giles Mary</i>	✓	
Gould, Franklin F	✓	
Lovejoy, Patricia T	✓	
Porter, Marjorie A	A	
TOTAL VOTE:		

# Committee Report

**REGULAR CALENDAR**

**March 8, 2011**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on CHILDREN AND FAMILY LAW to which  
was referred HB 575,

AN ACT relative to the calculation of child support in cases of  
shared parenting. Having considered the same, report the  
same with the following Resolution: RESOLVED, That it is  
INEXPEDIENT TO LEGISLATE.

Rep. Carolyn M. Gargasz

FOR THE COMMITTEE

## COMMITTEE REPORT

Committee:	CHILDREN AND FAMILY LAW
Bill Number:	HB 575
Title:	relative to the calculation of child support in cases of shared parenting.
Date:	March 8, 2011
Consent Calendar:	NO
Recommendation:	INEXPEDIENT TO LEGISLATE

### STATEMENT OF INTENT

Currently adjustments are being made in court regarding parents sharing expenses in cases of equal and near equal parenting time. Upon further reflection constituents who requested the bill and the sponsor decided the court was functioning well enough in this area that this legislation was essentially superfluous. Therefore, there is no need for this legislation.

Vote 9-2.

Rep. Carolyn M. Gargasz  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

**REGULAR CALENDAR**

**CHILDREN AND FAMILY LAW**

**HB 575**, relative to the calculation of child support in cases of shared parenting. **INEXPEDIENT TO LEGISLATE.**

Rep. Carolyn M. Gargasz for **CHILDREN AND FAMILY LAW**. Currently adjustments are being made in court regarding parents sharing expenses in cases of equal and near equal parenting time. Upon further reflection constituents who requested the bill and the sponsor decided the court was functioning well enough in this area that this legislation was essentially superfluous. Therefore, there is no need for this legislation. **Vote 9-2.**

Original: House Clerk  
Cc: Committee Bill File



Bergasy

COMMITTEE REPORT

COMMITTEE: Children & Family Law

BILL NUMBER: 575

TITLE: Relative to calculation of child support in cases of shared parenting

DATE: 3/7/11 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No. _____
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STATEMENT OF INTENT:

Currently adjustments are being made in court regarding parents sharing expenses in cases of equal and near equal parenting time. Therefore, there is no need for this legislation. Upon reflection <sup>for the</sup> ~~sponsor~~ constituents who requested the bill and <sup>the</sup> sponsor decided the ~~system court system~~ was functioning well enough in this area that this legislation was essentially superfluous.

COMMITTEE VOTE: 9-2 o/c ED MORAN

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Carolyn Bergasy  
For the Committee