

# Bill as Introduced

HB 634-FN - AS INTRODUCED

2011 SESSION

11-0824  
09/05

HOUSE BILL

***634-FN***

AN ACT

relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent.

SPONSORS:

Rep. G. Richardson, Merr 4; Sen. Houde, Dist 5

COMMITTEE:

Children and Family Law

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ANALYSIS

This bill abolishes a special fund for compensation of mediators and guardians ad litem in marital cases where the parties are indigent. The bill also repeals an obsolete provision regarding the regulation of guardians ad litem by the supreme court.

This bill was requested by the supreme court.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 payment of guardian ad litem and mediator fees in marital cases where the parties are indigent.

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

1 1 Repayment of Mediator Fees by Indigent Parties. Amend RSA 461-A:7, X to read as follows:

2 X. In the event both parties are indigent, the mediator shall be paid a set fee for his or her  
3 services. The amount of the fee shall be set annually by supreme court rule. The court may order  
4 each party to pay a proportional amount of said fee. The fee shall be paid [~~from the special fund~~  
5 ~~established pursuant to RSA 461-A:17]~~ **by the judicial council** and repaid by the parties in  
6 accordance with RSA 461-A:18, **including fees for pre-suit marital mediation authorized**  
7 **pursuant to RSA 490-E:2, V.**

8 2 Repayment of Guardian Ad Litem Fees by Indigent Parties. Amend RSA 461-A:16, IV to read  
9 as follows:

10 IV. The fees for services for the guardian ad litem and others utilized by the guardian and  
11 approved by the court shall be a charge against the parties in a proportional amount as the court  
12 may determine. Where the parties are indigent, compensation for guardians ad litem and others  
13 utilized by the guardian and approved by the court shall be based upon the applicable fee schedule  
14 established by the supreme court for indigent defense counsel **and shall be paid by the judicial**  
15 **council and repaid by the parties in accordance with RSA 461-A:18.**

16 3 Repayment of Mediator and Guardian Ad Litem Fees. Amend RSA 461-A:18, I to read as  
17 follows:

18 I. In any case where a mediator has been appointed pursuant to RSA 461-A:7 or a guardian  
19 ad litem has been appointed pursuant to RSA 461-A:16 and the responsible party's proportional  
20 share of the expense is ordered to be paid by the judicial council [~~from the special fund established~~  
21 ~~pursuant to RSA 461-A:17]~~, the party shall be ordered by the court to repay the state through the  
22 unit of cost containment, office of administrative services, the fees and expenses paid on the party's  
23 behalf as the court may order consistent with the party's ability to pay, such ability to be determined  
24 by the unit of cost containment.

25 4 Repeal. The following are repealed:

- 26 I. RSA 6:12, I(b)(81), relative to moneys deposited in the mediator and guardian ad litem fund.  
27 II. RSA 461-A:16, VI, relative to regulation of guardians ad litem by the supreme court.  
28 III. RSA 461-A:17, relative to a special fund for compensation of mediators and guardians ad  
29 litem.

30 5 Effective Date. This act shall take effect July 1, 2011.

LBAO  
11-0824  
01/20/11

**HB 634-FN - FISCAL NOTE**

AN ACT relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent.

**FISCAL IMPACT:**

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 634-FN

**BILL TITLE:** relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent.

**DATE:** February 17, 2011

**LOB ROOM:** 206 **Time Public Hearing Called to Order:** 11:00 am

**Time Adjourned:** 11:59 am

(please circle if present)

**Committee Members:** Reps. Moran, Hogan, J. Brown, Gargasz, Dowling, Johnson, DeSimone, Katsakiores, Sapienza, Soucy, Perkins, Oligny, Robbing, Grassie, Gould, Lovejoy and Porter.

**Bill Sponsors:** Rep. G. Richardson, Merr 4; Sen. Houde, Dist 5

TESTIMONY

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

**Rep. Gary Richardson, sponsor,** introduced the bill.  
Explains the bill was at the request of the Court.

**Nina Gardner, Judicial Council – supports**

Gives overview of Judiciary Fund. Early percent of another fee = \$41 put aside. Since 1995-2009 court deposit. The amount in Judicial Council was is now \$240,000 because of much nonpayment. Her budget showed the Dedicated Fund amount, but deducted it from the account. Clumsy bookkeeping causing her to have to call and ask to have a transfer. This bill would have the initial mounts to go into General fund making it easier bookkeeping. Some wording changes incorporate marital mediation. This bill facilitates much cleaner, transparent bookkeeping.

**Rep. Dowling:** Does this change jeopardize your fund making it possible for the fund to be transferred to another use.

**Ms. Gardner:** No, not a large risk.

**Rep. Sapienza:** Questions in relation to Gov. Budget mention of Guardian ad Litem (GAL) fund.

**Ms. Gardner:** No, this is already there. GAL money almost always over \$300,000. Mediators much less.

**Rep. Oligny:** questions "overrun" and what was referred to in Governors budget.

**Ms. Gardner:** Clarifies, wants to appear before Finance committee to address first. \$800K including \$240K for this spends \$1.2 million all flows through General Fund. \$2.55 off budget.

**Rep. Oligny:** Assumes original fund set up to monitor performance in relation to indigents, etc. Passage of HB 634 would lose some accountability of amount spent?



**Ms Gardner:** Hard to say because of off-budget money used, too. \$168K plus spend last year. She supports going through the General Fund.

**Rep. Sapienza:** Your position is that you choose not to address. If Governor gets his way, what happens to your fund?

**Ms Gardner:** Nothing. The money is in the General Fund.

**Rep. Sapienza:** If this bill doesn't pass?

**Ms. Gardner:** This bill clarifies and makes transparent the bookkeeping.

**Rep. Moran:** Clarifies this for Committee.

**Rep. J. Brown:** Refers to listening sessions. New Hampshire is not getting its money's worth from GAL system. Gives example.

**Rep. Grassie:** Expresses understanding of Ms Gardner's problems with dedicated fund. Whether or not we continue GAL is not the question before us.

**Ms. Gardner:** Agrees and reiterates that this is related to simplification of her budget.

**Rep. Lovejoy:** Complete support from an accountant's viewpoint.

**Rep. Porter:** Questions 3/4 -time person who does "payroll".

**Ms. Gardner:** Not related to HB 634.

**Rep. Sapienza:** If GAL is discontinued, freed up to cover court expenses.

**Ms. Gardner,** No, would go to the General Fund.

**Rep. DeSimone:** Refers to municipal funds, asks who accepts fee?

**Ms. Gardner:** \$41 to General Fund out of entry fee.

**Rep. DeSimone:** We know where it came from. Pull amount specific to GAL, would surplus go to General Fund?

**Ms. Gardner.** I have 300K, spend \$2 + million.

**Rep. DeSimone:** Intent merely clear bookkeeping.

**Ms. Gardner:** Yes

**Dale Twombly,** Fiscal Manager, Judicial Branch – supports

**Rep. Oligny:** With money in the General fund, how do we know when you're over budget?

**Ms. Twombly:** You're referring to Nina Gardner's budget and this bill would make that more transparent.

**Rep. Oligny:** Ms. Gardner says she's given \$300K and usually overruns last year \$1.2 million spent.

**Ms. Twombly:** There's authority that allows her to request.... Indigent fund 14% judicial branch and technical fund, 7% facility escrow, \$41 to GAL Fund and \$140 to General Fund \$181+tax)(marital entry)

**Ms Gardner:** Gives detailed lengthy clarification to Rep. Oligny's question.

**Rep. Moran:** Clarifies purpose of Judicial Council as due process and indigent coverage.

Michael Brewster, Pittsfiled – opposed

Ms. Gardner said her office provides attorney for person like me? Isn't GAL federal? What about ombudsman? \$200K in Federal Funds. Refers to 1987 letter to N. Gardner. Question government: private business. Asks all to bet together and try to understand.

Respectfully Submitted:

A handwritten signature in cursive script that reads "Jane B. Johnson". The signature is written in black ink and is positioned above the typed name.

Jane B. Johnson, Clerk

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 634-FN

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Bill Sponsors: Rep. G. Richardson, Merr 4; Sen. Houde, Dist 5

TESTIMONY *(separate)*

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

Respectfully Submitted:

Jane B. Johnson, Clerk

HB 634 FN @ 11:03 a.m. 02/17/11

Rep. Gary Richardson: explains HB 634 @ request of Court

Nina Gardiner - overview of Judiciary Fund

early - % of another fee - \$41 put aside

since 1995 - 2009 CT depos. amt in Judicial Council  
was \_\_\_\_\_, now \$240,000 because of much  
nonpayment

Dedicated Fund

Her Budget showed the amount, but deducted it  
from the acct. Clemsy bookkeeping causing  
her to have to call & ask to have a transfer

HB 634 wd have the initial amts to go into

Gen. Fund making easier bk keeping

Some wording changes incorporate marital  
mediation

This bill facilitates much cleaner,

transparent bookkeeping

Rep Downing: Does this change jeopardize your fund  
making it possible for the fund to be transferred  
to another use.

Ms. Gardiner - No, not a large risk

Rep Sapienza - Questions in relation to Gov. Budget mention  
of GAL fund.

Ms Gardiner - No, this is already there.

GAL money almost always over \$300,000

Mediators much less.

Rep Moran: Riterate path of the money appropriate

Rep. Sapienza - Refers to RSA

Remains in statute post GAL in effect / No longer  
now auth. w/ GAL BOARD in effect

Rep. Ohigny: Questions "over run"  
and what was referred to in  
Gov's budget

Ms. Gardiner: clarifies, wants to appear  
before Finance Committee to address  
first

\$800K including \$240K for this  
Spends \$1.2M all flows through  
General Fund. \$2.55M off budget

Rep. Ohigny - assumes orig. fund set up to monitor  
performance in relation to indigents, etc  
Passage of HB634 would lose some  
accountability of amt. spent?

Ms. Gardiner: Hard to say because of  
off-budget money used, too.  
\$168K + spent last year.

Ms. Gardiner supports going through  
General Fund.

Rep. Sapienza: Your position is that you choose  
not to address If Gov. gets his way  
what happens to your fund?

N.G. Ans. - nothing - The money is in the Gen. Fund

Rep. Sapienza - If HB634 doesn't pass?

Ms. Gardiner - This bill clarifies and makes transparent  
the book keeping.

Rep. Moran - Clarifies this for Committee

Rep. Brown refers to listening sessions

"NH is not getting it's money's worth.  
from GAL system" Gives example,

# N. Gardener testimony

Rep. Grassie: expresses understanding of Ms. Gardiner's problems w/ dedicated fund  
Whether or not we continue GAL is not the question before us.

(Nina Gardener): agrees and reiterates that this is related to simplification of her budget

Rep. Lovejoy: Complete support from a accountant's viewpoint

Rep. Porter: ?s  $\frac{3}{4}$  time person who does "payroll"

(N. Gardener): not related to HB 634

Rep. Sapienza: If GAL discontinued, \$ freed up to cover court expenses.

(N. Gardner): No, would go to Gen. Fund.

Rep. DeSimone: Refers to municipal funds, asks who accepts fee?

(N. Gardner) \$41 to Gen Fund out of entry fee

Rep. DeSimone - We know where it came from

pull amt. specific to GAL

~~any left~~ would go to Gen Fund  
Surplus

(N. Gardner) I have 300K, spend \$2M

Rep. DeSimone - Intent merely clear bookkeeping.

(N. Gardner) Yes.

Paul Trombley - Fiscal Mgr, Judicial Branch

Olegny, Rep - With \$ in Gen. Fund, how do we know when you're over budget?

Ms. Trombley You're referring to Nma G's budget and this bill would make that more transparent.

Rep. Oigny - Ms. Gardner says she's given \$300K and usually over runs - last year \$1.2M spent.

(Ms. Trombley) There's authority that allows her to request.. indigent fund

14% judicial br. & tech fund  
7 facility escrow  
\$41 to GAL fund } marital entry  
140 to Gen. Fund

(\$181+tx)

(Ms. Gardner) gives detailed lengthy clarification to Rep Oigny's question

Rep. Moran - clarifies purpose of Judicial Council as due process & indigent coverage

(M. Brewster)

"Ms. Gardner said her office provides atty for persons like me?"

Isn't GAL federal? What about ombudsman?  
\$200K in Fed Funds

Refers to 1987 - Letter to N. Gardner

Questions govt's private business

Asks all to get together + try to understand

Closed at 11:55 a.m.

# Voting Sheets



HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HOUSE BILL 634

**BILL TITLE:** relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent.

**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. P. Lovejoy

Seconded by Rep. Julie Brown

Vote: 12-1 (Please attach record of roll call vote.)

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

Moved by Rep.

Seconded by Rep.

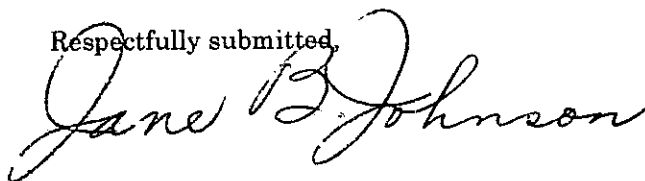
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO Vote: 13-0

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep. Jane B. Johnson, Clerk

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HOUSE BILL 634

**BILL TITLE:** relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent.

**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. P. Lovejoy

Seconded by Rep. Julie Brown

Vote: 12-1 (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. Jane B. Johnson, Clerk

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 634

BILL TITLE: relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent.  
DATE: ~~2011 2/17/11~~ 3/17/11  
LOB ROOM: 206

Amendments:

*N/A*

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. *Lovejoy, Patricia*

Seconded by Rep. *Brown, Julie*

Vote: (Please attach record of roll call vote.) *12 yea*  
*1 nay 4 abs.*

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: Yea -Unanimous vote *13-0*

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

Statement of Intent:

Refer to Committee Report

Respectfully submitted,

*Jane B. Johnson*  
Rep. Jane Johnson, Clerk

CHILDREN AND FAMILY LAW

Bill #: HB 634-FN Title: \_\_\_\_\_

PH Date: 02 / 17 / 11 Exec Session Date: 03 07 / 02 / 11

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

MEMBER	YEAS	NAYS
Moran, Edward P, Chairman	✓	
Hogan, Edith A, V Chairman	✓	
Brown, Julie M	✓	
Gargas, Carolyn M	abs	
Dowling, Patricia A	✓	
Johnson, Jane B	✓	
DeSimone, Debra L	✓	
Katsakiores, Phyllis M	✓	
Sapienza, Marie N	✓	
Soucy, Connie M	✓	
Perkins, Amy S	abs.	
Oigny, Jeffrey D	✓	
Robbins, David S	abs	
Grassie, Anne C	✓	
Gould, Franklin F	—————	✓
Lovejoy, Patricia T	✓	
Porter, Marjorie A	abs	
	12	1

Consent 13-0

# Committee Report

**CONSENT CALENDAR**

**February 18, 2011**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on CHILDREN AND FAMILY LAW to which  
was referred HB 634-FN,

AN ACT relative to payment of guardian ad litem and  
mediator fees in marital cases where the parties are indigent.

Having considered the same, report the same with the  
recommendation that the bill OUGHT TO PASS.

Rep. Patricia T Lovejoy

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	CHILDREN AND FAMILY LAW
Bill Number:	HB 634-FN
Title:	relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent.
Date:	February 18, 2011
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS

### STATEMENT OF INTENT

This bill streamlines the accounting process for the compensation of mediators and guardians ad litem in marital cases where the parties are indigent. The bill also repeals an obsolete provision regarding the regulation of guardians ad litem by the Supreme Court. Both issues addressed by this bill are "housekeeping issues." This bill was brought at the request of the Supreme Court.

Vote 13-0.

Rep. Patricia T Lovejoy  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### CHILDREN AND FAMILY LAW

**HB 634-FN**, relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent. **OUGHT TO PASS.**

Rep. Patricia T. Lovejoy for CHILDREN AND FAMILY LAW. This bill streamlines the accounting process for the compensation of mediators and guardians ad litem in marital cases where the parties are indigent. The bill also repeals an obsolete provision regarding the regulation of guardians ad litem by the Supreme Court. Both issues addressed by this bill are "housekeeping issues." This bill was brought at the request of the Supreme Court. **Vote 13-0.**

Original: House Clerk  
Cc: Committee Bill File



COMMITTEE REPORT

COMMITTEE: Children and Family Law

BILL NUMBER: 634-FN

TITLE: Relative to payment of guardian ad litem and mediator fees in marital cases where the parties are indigent

DATE: 2/19/11 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. \_\_\_\_\_

STATEMENT OF INTENT:

This bill streamlines the accounting process for the compensation of mediators and guardians ad litem in marital cases where the parties are indigent. The bill also repeals an ~~old~~ obsolete provision regarding the regulation of guardians ad litem by the Supreme Court. Both issues addressed by this bill are "housekeeping issues." This bill was brought at the request of the Supreme Court.

COMMITTEE VOTE: 13-0

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

RESPECTFULLY SUBMITTED,  
 Rep. Patricia Lovejoy  
 For the Committee  
 Patricia Lovejoy