

Bill as  
Introduced

HB 1586 - AS INTRODUCED

2018 SESSION

18-2361  
05/03

HOUSE BILL

**1586**

AN ACT

relative to judicial review for underage marriage.

SPONSORS:

Rep. Cilley, Straf. 4; Rep. Altschiller, Rock. 19; Rep. Gourgue, Straf. 25; Rep. Rosenwald, Hills. 30; Rep. Lerner, Rock. 4; Rep. Read, Rock. 17; Sen. Soucy, Dist 18

COMMITTEE:

Children and Family Law

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ANALYSIS

This bill prohibits the court from granting permission for a marriage involving a minor if the other party, but for the marriage, would be guilty of sexual assault.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to judicial review for underage marriage.

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

1 Marriages; Granting of Permission. Amend RSA 457:7 to read as follows:

2 457:7 Granting of Permission.

3 *I.* Such justice or judge shall at once hear the parties, and, if satisfied that special cause  
4 exists making such marriage desirable, shall grant permission therefor, which shall be filed with  
5 the court and shall be reported to the division of vital records. The division shall note the fact of the  
6 granting of such permission upon the certificate and upon all copies thereof which are by law  
7 required to be kept.

8 *II.* *In no circumstance shall a justice or judge grant permission to marry under*  
9 *this section if sexual contact or sexual penetration between the parties would, but for the*  
10 *solemnization of the proposed marriage, constitute sexual assault, felonious sexual*  
11 *assault, or aggravated felonious sexual assault under RSA 632-A.*

12 2 Effective Date. This act shall take effect January 1, 2019.

# Committee Minutes

**Senate Judiciary Committee**  
*Jennifer Horgan 271-3092*

HB 1586, relative to judicial review for underage marriage.

**Hearing Date:** April 3, 2018

**Time Opened:** 10:30 a.m.

**Time Closed:** 10:53 a.m.

**Members of the Committee Present:** Senators Carson, Lasky, French, Gannon and Hennessey

**Members of the Committee Absent :** None

**Bill Analysis:** This bill prohibits the court from granting permission for a marriage involving a minor if the other party, but for the marriage, would be guilty of sexual assault.

**Sponsors:**

Rep. Cilley

Rep. Altschiller

Rep. Gourgue

Rep. Rosenwald

Rep. Lerner

Rep. Read

Sen. Soucy

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**Who supports the bill:** Representative Cilley; Senator Soucy; Representative Campion; Representative Itse; Representative Altschiller; Representative Gourgue; Representative Rice; Representative Walz; Representative Lerner; Representative Rosenwald; Representative Mulligan; Sarah Mattson Dustin, NH Women's Foundation; Keith Kuenning, Child and Family Services; Louise Spencer; Elizabeth Corell; Susan Covers; Patricia Levesque; Cassandra Levesque; Larry Levesque

**Who opposes the bill:** No one

**Summary of testimony presented in support:**

**Representative Cilley (provided written testimony)**

- There are is a package of bills to address child marriage.
- They were brought forward due to Cassandra Levesque's advocacy.
- The actual age of marriage where someone can independently decide to get married is 18.
- Judicial review and parental consent are required for anyone looking to get married under 18. Currently, that is 13/14 years old in NH.
- Same sex marriage is not legal until the individuals are 18 years old.
- This has been a bipartisan effort.
- Since 18 years of age for any marriage was not passed in the House last year, these bills have come forward.
- This bill says that if the Senate does not agree to raise the marriage age or that judges need more guidance on this, then the sanctity of marriage should never be used to paper over a crime.

- Many of these marriage situations begin with a crime.
- 87% of the minors who petition to marry are young girls.
- About 87% of them are marrying adults.
- 47% of those adults are over the age of 21.
- There have been 250,000 marriages like this in the past ten years in NH.
- In the past 5-6 years there have been only been 27 marriages under the age of 18.
- Only one has been the age of 13, out of Newmarket. Judge Kelly who ruled on that case stated that there was not sufficient guidance in the RSAs on this issue.
- In these marriages, the likelihood that it will end in divorce is higher than any other age group.
- For many, this concept is passed down to the next generation.
- The Governor was planning on sending a letter to the Committee in support of HB1586 and HB1587. Provided the Committee with his letter to the House.
- Senator Lasky asked if because the age of 18 was denied in the first year of the Session then it cannot be brought forward now.
  - Had a lengthy discussion with the former Speaker to clarify what the indefinite postpone meant. It has been ruled that the age of 18 could not be brought forward again.
- Senator Lasky asked if the Speaker could rule the age of 18 be allowed in.
  - The House rules say that with an indefinite postponement it cannot be brought in.
  - Senator Carson stated that the Speaker cannot overturn a vote of the House.
- Senator Lasky raised the concern that voting on 16 will end the discussion on raising it to 18 in the future.
  - This is something that is not settled across the country. There is resistance to at least allow some exceptions. Many folks do say 16 is too young, but at the moment this is the best we are going to get.

#### **Representative Rice**

- This is a great standalone bill that protects younger children from being forced into a marriage by someone who has coercion/authority over them.
- When someone with authority over a minor gets that minor pregnant, they marry them to cover that up.
- This creates more rigorous guidelines to prevent people from taking advantage of the law to cover up a crime.
- Senator Lasky asked about how this addresses coercion.
  - There are guidelines in another bill.

#### **Representative Itse**

- Under current law the age of consent for sexual contact is 16.
- This bill says that if a person in authority, like a coach, teacher, or guardian, were to attempt to engage in marriage and there by gain access to that minor they cannot do it.
- Essentially, if the sexual contact would otherwise be sexual assault, a person cannot use marriage to obtain it
- Senator Carson asked if an adult will use marriage to cover up a crime because the court cannot force one spouse to testify against another
  - This bill says they will not be able to do that.
- Senator Lasky asked where it says a person of authority.

- That is in the other sexual assault statutes.

**Sarah Mattson Dustin (NH Women's Foundation)**

- This bill is doing something very narrow if HB1587 and HB1661 do pass and does something broad if they do not pass.
- Sexual assault laws on statutory rape generally only apply to those who are under the age of 16.
- RSA 632-A:2, I(k), which says if someone is under 18 and the other party is in a position of authority that is also statutory rape.
- If the marriage age goes to 16, this bill would only prohibit judicial approval of a marriage between a 17 year old girl and her high school teacher.
- If changing the marriage age to 16 does not pass, this would prevent judicial approval of all marriages in which sexual contact after the marriage would be a violation of the statutory rape laws.
- Currently, there are exceptions in the statute for married spouses.
- This says that, but for the fact of your marriage, if sex between these two people would be illegal, this marriage cannot be approved.
- Senator French asked if the passage of this it would prevent anyone under the age of 16 from being married.
  - Only if the other party were a certain number of years older than the minor. It would not prevent two 15 year olds from getting married, but it would prevent a 15 year old and a 19 year old.
- Senator French asked if it is based on a four year gap.
  - For the most part it is four years, sometimes its five because of there are a variety of sexual assault crimes.

**Summary of testimony presented in opposition:**

None

**Future Action:** Pending

jch

Date Hearing Report completed: April 6, 2018

# Speakers



# Senate Judiciary Committee SIGN-IN SHEET

Date: 04/03/2018 Time: 9:45 a.m.

HB1586 AN ACT relative to judicial review for underage marriage.

Name/Representing (*please print neatly*)

Name/Representing	Support	Oppose	Speaking?	Yes	No
Rep Polly Campion Grafton #12	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Donna Sawyer SD #18	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Dan Ijse C-2 FL Com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Louise Spencer Concord Self	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
Rep Debra Altschiller Stratham 19	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
Sarah Mattson Dustin NH Women's Foundation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jackie Cilley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KEITH KUENNING CFS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Elizabeth L Corell Concord	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Amanda Bourque	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUSAN COVERZ CONTOOCOOK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Kim Rice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Mary Beth White	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Patricia Levesque	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cassandra Levesque	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
LARRY Levesque	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
Rep Kari Lerner - Rockingham 4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep Cindy Rosenwald Hills 30	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Mary Jane Mulligan Grafton #12	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>

# Testimony



**STATE OF NEW HAMPSHIRE  
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU  
Governor

January 24, 2018

Dear Representative Rice and Members of the House Children and Family Law Committee,

I'm writing to you and the members of the House Children and Family Law commission to **express my support of House Bills 1586 and 1587. Virtually everyone agrees that the marriage of a 13-year-old child is unconscionable. It is long past time for us to take affirmative action to prevent child marriage.**

House Bill 1587 will raise the minimum marriage age to 16 for both boys and girls, while House Bill 1586 will prohibit judges from authorizing marriages in which sex between the parties would constitute sexual assault. These bills are about protecting our children. As the father of a young daughter and two young sons, I can tell you first hand that children do not have the lived experiences to make an important lifelong decision such as marriage. My experience and the experiences of parents across the Granite State are supported by science, the teenage brain is not fully developed and teenagers are not at a point in their lives where they are capable of making such a paramount decision.


I am thankful for the work I know the committee will put in to updating this antiquated statute. I encourage you to work toward legislation that creates a no-exceptions floor at age 16 and the requirement of clear and convincing evidence in the best interest of the minor for judicial authorization of the marriages of 16- and 17-year-olds. Family division judges are well equipped to deploy the "best interest of the minor" standard, to ensure that any potential marriages or 16- and 17-year-olds is in the best interest those individuals.

Finally, I want to recognize the effort of an extraordinary young Granite Stater who has worked tirelessly to address this important issue: Cassie Levesque, a lifelong Girl Scout from the Girl Scouts of Green and White Mountains. A few years ago, Cassie learned that child marriage was still prevalent in many communities worldwide, including some in the United States. She researched New Hampshire's marriage laws and found out that girls can be married at just 13 years old, and boys at 14. This is wrong and she has worked hard to advocate protecting children, including spear heading legislation last year. She has remained committed to this case and has

maintained her advocacy throughout the twists and turns of the legislative process over the past year.

Today, I am proud to stand with Cassie and a bipartisan group of legislators in asking that this committee to take an important step to protect our children and finally ban child marriage in New Hampshire.

Sincerely,

A handwritten signature in black ink that reads "Chit T. Sununu". The signature is written in a cursive, slightly stylized font.

Christopher T. Sununu  
Governor

**HB 1586, Restriction on Judicial Review for Underage Marriage**  
**Children & Family Law Committee**  
**Tuesday, April 3, 2018**  
**Rep. Jackie Cilley Testimony**

Madam Chair and Honorable Members of the Committee: Thank you for allowing me to introduce HB 1586, relative to judicial review for underage marriage in the state of New Hampshire and for allowing me to testify on this bill. For the record, I am Jackie Cilley serving Strafford District 4, the community of Barrington.

HB 1586 is part of a package of bills brought at the request of a constituent, Ms. Cassandra Levesque, and represent the culmination of her very diligent - and now world-renowned - advocacy to ban child marriage. You will hear about some of the research that Cassie has done during the pursuit of her Gold Star project.

Cassie first approached me about bringing legislation on this topic more than two years ago. As a result, we introduced a bill last year seeking to raise the age of marriage from the current 13 years old for girls and 14 years old for boys. The House Child and Family Law Committee changed the original bill, setting the age of marriage at 18 years old, and sent that to the House floor with a unanimous and bipartisan vote of ought to pass. That didn't happen and the bill was indefinitely postponed on the House floor.

Consequently, those of us who are working on this issue have brought before you this year another attempt to at least increase threshold at which someone is allowed to be married in our state and I will speak more to that when the Committee takes up HB 1587. In addition, we have two bills that will establish guidance for judicial review. Rep. Gourgue's bill HB 1661, that will be heard this morning as well, sets forth a comprehensive process for judicial review. HB 1586, the bill before you now, asks for only one condition - and that condition is of sufficient importance that we requested a stand-alone bill for it. If we accomplish nothing else for our New Hampshire girls this year, I ask that we at least say we will not allow the institution of marriage, something that many of us see as one of our most basic and solemn social contracts, to be used to shield perpetrators from a crime.

One of the things that we know about child marriage is that it most frequently occurs between a minor and an adult. Unfortunately, it is often the result of what would otherwise constitute the rape of a minor were it not for the granting of the permission to marry. I have handed out to the committee an article from the New York Times by Nicholas Kristof that relates, among other information, the story of Sherry Johnson, who at 11 years old was pushed

to marry her 20 year old rapist. While Johnson's story unfolded several decades ago, the laws that allowed for that travesty are still in effect, including here in New Hampshire. As legislators, perhaps our most important responsibility is the protection of our citizens against crime. If we allow the cover-up of that crime to be papered over with the solemnization of marriage, we fail in that most basic obligation.

Data that has been mined from every state in this country by organizations such as the Tahiri Justice Center and Unchained At Last, and published PBS *Frontline* speak to the scope of the issue before you today. The statistics demonstrate clearly that marriages are being granted primarily to underage girls to older men, some of those men much older.

For example, according to this data, we see that

- 86% of minors who marry, marry adults; only 14% marry other minors
- 47% of the adults marrying minors are 21 years or older, some as old as 40's, 50's and 60 years old
- 87% of minors who are granted permission to marry are girls

In light of this information I respectfully ask this Committee to find HB 1586 worthy of your consideration and passage.

I will be happy to answer any questions the Committee may have. Again, thank you for allowing me to bring this bill forward and to speak to it today.

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Tuesday, April 24, 2018

THE COMMITTEE ON Judiciary

to which was referred **HB 1586**

**AN ACT** relative to judicial review for underage marriage.

Having considered the same, the committee recommends that the Bill

**OUGHT TO PASS**

**BY A VOTE OF: 5-0**

Senator Bette Lasky  
For the Committee

This bill prohibits the court from granting permission for a marriage involving a minor if the other party, except for the marriage, would be guilty of sexual assault. Essentially, this will enshrine in law that if sexual contact between two parties seeking to be married would otherwise be sexual assault, the marriage will not be granted.

Jennifer Horgan 271-3092



FOR THE CONSENT CALENDAR

**JUDICIARY**

**HB 1586**, relative to judicial review for underage marriage.

Ought to Pass, Vote 5-0.

Senator Bette Lasky for the committee.

This bill prohibits the court from granting permission for a marriage involving a minor if the other party, except for the marriage, would be guilty of sexual assault. Essentially, this will enshrine in law that if sexual contact between two parties seeking to be married would otherwise be sexual assault, the marriage will not be granted.