

Committee Report

REGULAR CALENDAR

March 11, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Children and Family Law to which was referred HB 139,

AN ACT relative to the submission of evidence in divorce proceedings. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. Josh Yokela

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Children and Family Law
Bill Number:	HB 139
Title:	relative to the submission of evidence in divorce proceedings.
Date:	March 11, 2021
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill addresses the current problem of evidence submitted on the day of court, which is in violation of current court rules that are not always enforced. The bill allows for the opposing party to request a continuance if evidence was submitted 5 days prior to the hearing, allowing for preparation of a rebuttal. It also allows for a judge to declare evidence as de minimis and to record reasoning for not granting a continuance.

Vote 8-7.

Rep. Josh Yokela
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Children and Family Law

HB 139, relative to the submission of evidence in divorce proceedings. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Josh Yokela for the **Majority** of Children and Family Law. This bill addresses the current problem of evidence submitted on the day of court, which is in violation of current court rules that are not always enforced. The bill allows for the opposing party to request a continuance if evidence was submitted 5 days prior to the hearing, allowing for preparation of a rebuttal. It also allows for a judge to declare evidence as de minimis and to record reasoning for not granting a continuance.

Vote 8-7.

REGULAR CALENDAR

March 11, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Children and Family Law to which was referred HB 139,

AN ACT relative to the submission of evidence in divorce proceedings. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Debra Altschiller

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Children and Family Law
Bill Number:	HB 139
Title:	relative to the submission of evidence in divorce proceedings.
Date:	March 11, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill is well-intentioned, but will undermine current NH Family Division rules which actually provide for submissions of evidence up to five days before a hearing, as set forth in the bill. The committee heard testimony from both the NH Judicial branch and from NH Legal Assistance that this bill would have the opposite effect than is intended. The testimony reinforced that current rules already provide the mechanisms necessary to exclude evidence that is not submitted in a timely fashion. The bill seeks to undermine the judicial rules process where there is already legislative representation and is potentially harmful to an already stressed court.

Rep. Debra Altschiller
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Children and Family Law

HB 139, relative to the submission of evidence in divorce proceedings. **INEXPEDIENT TO LEGISLATE.**

Rep. Debra Altschiller for the **Minority** of Children and Family Law. This bill is well-intentioned, but will undermine current NH Family Division rules which actually provide for submissions of evidence up to five days before a hearing, as set forth in the bill. The committee heard testimony from both the NH Judicial branch and from NH Legal Assistance that this bill would have the opposite effect than is intended. The testimony reinforced that current rules already provide the mechanisms necessary to exclude evidence that is not submitted in a timely fashion. The bill seeks to undermine the judicial rules process where there is already legislative representation and is potentially harmful to an already stressed court.

Original: House Clerk
Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 139

BILL TITLE: relative to the submission of evidence in divorce proceedings.

DATE: March 11, 2021

LOB ROOM: remote

MOTIONS: OUGHT TO PASS

Moved by Rep. Yokela

Seconded by Rep. DeSimone

Vote: 8-7

Respectfully submitted,

Rep Caroletta Alicea, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 9:54:23 AM
Roll Call Committee Registers
Report

2021 SESSION

Children and Family Law

Bill #: 139 Motion: OTP. AM #: _____ Exec Session Date: 3-4-201

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Rice, Kimberly A. Chairman	✓		
DeSimone, Debra L. Vice Chairman	✓		
Yokela, Josh S.	✓		
Lewicke, John	✓		
Belanger, Cody M.	✓		
Cross, Kenna E. <i>Rep. Hill</i>	✓		
Litchfield, Melissa A.	✓		
Smith, Denise M. <i>Rep Johnson</i>	✓		
Long, Patrick T.		✓	
Alicea, Caroletta C. Clerk		✓	
Grossman, Gaby M.		✓	
Levesque, Cassandra N.		✓	
Wazir, Safiya		✓	
Petrigno, Peter		✓	
Altschiller, Debra		✓	
TOTAL VOTE:	8	7	

STATE OF
NEW
HAMPSHIRE
OFFICE OF
THE HOUSE
CLERK



1/22/2021 9:54:23 AM
Roll Call Committee Registers
Report

2021
SESSION

Children
and
Family
Law

Exec
Session *3-11-2021*
Date:

Motion:

Bill
#: *139* AM
#:

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Rice, Kimberly A. Chairman			
DeSimone, Debra L. Vice Chairman			
Yokela, Josh S.			
Lewicke, John			
Belanger, Cody M.			
Cross, Kenna E.			
Litchfield, Melissa A.			
Smith, Denise M.			
Long, Patrick T.			
Alicea, Caroletta C. Clerk			
Grossman, Gaby M.			
Levesque, Cassandra N.			
Wazir, Safiya			
Petrigno, Peter			
Altschiller, Debra			
TOTAL VOTE:			

Public Hearing

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 139

BILL TITLE: relative to the submission of evidence in divorce proceedings.

DATE: March 3, 2021

LOB ROOM: **Time Public Hearing Called to Order:** 10:03 AM

Time Adjourned: 10:51 AM

Committee Members: Reps. DeSimone, Alicea, Yokela, Lewicke, Belanger, Cross, Litchfield, D. Smith, Long, Grossman, Levesque, Wazir, Petrigno and Altschiller

Bill Sponsors:

Rep. Yokela

Rep. Wallace

Rep. Gould

TESTIMONY

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

Rep. Yokela – Bill Sponsor

- To allow for at least 5 days prior to the hearing to share info so that at the last minute, they are not inundated at the last moment

Q: Rep. Altschiller – If someone appears with a stack of new info, the date would be pushed out. Alimony and child support – did you consider this when you wrote the bill?

A: There is a court rule – it is potentially possible that the judge waves the rule. He believes it increases their rights

Q: Rep. Belanger – When filing initial motion is there a wait time for the court to make a decision on the motion – the other party has 10 days to seek out evidence

A: Not for motions, it's for a hearing- evidence should be submitted 10 days prior – provides the opportunity to prepare

Q: Rep. Long – With respect to the court – document de minimis to the court

A: Main reason for having it written is so you can have something to base his find

Aaron Justina – Opposed

- They will not have time to look (paperwork) ITL – 5 minutes before the hearing – due to COVID the court has extended time

Q: Yes, in the attendees list

Alice Giordano - Case recorder for National Press

- Gross misrepresentation in terms of in the state of NH judges multiple requests – the courts are waving their wands
- This bill is critical to pass

Q: If it's not spelled out the judges will not do it?

A: No

Paula Werme

- Not there x2 technical difficulties on Zoom

Anthony Mackel –

- This bill may not be the way to do it – scheduling hearings, discovery, exhibits
- This bill is well intended

- What is the trial scheduling like? Says to the judge because they were late – it's prejudice to the other party's case
- Courts manage their own courts schedule
- Written motions have a 10-day threshold, no?

Paula Werme – Not 547

Richard Head – Government Affairs for the Judicial Branch

- Makes conflict with current court rules

Q: Rep. Long – How many of the request are denied? It would be helpful if they were never allowed. We have to weigh both sides – constituents say it never happens; court says it always happens

A: We do not have evidentiary manners in getting that info

Rep. Lewicke – Ms. Werme has sent a lot of info that will be very helpful

Rep. Long – Emergency order says if public can not get through, we must redo it

Respectfully submitted,

Rep. Caroletta Alicea

House Remote Testify

Children and Family Law Committee Testify List for Bill HB139 on 2021-03-

Support: 4 Oppose: 2 Neutral: 0 Total to Testify: 1

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>S</u>
Jasina, Erin	Portsmouth, NH ejasina@nhla.org	A Lobbyist	NH Legal Assistance	Oppose	Yes (2m)	3
ploszaj, tom	center harbor, NH tom.ploszaj@leg.state.nh.us	An Elected Official	Myself	Support	No	3
Howard Jr., Raymond	Alton, NH brhowardjr@yahoo.com	An Elected Official	Myself	Support	No	3
Giordano, Alice	New York, NY theprofessionalpen@protonmail.com	A Member of the Public	Myself	Support	No	3
Green, Mindy	Derry NH, NH mindygreen2020@gmail.com	A Member of the Public	Myself	Support	No	3
Coss, Adrian	Concord, NH ac1459@unhlaw.unh.edu	A Member of the Public	Myself	Oppose	No	3

Testimony

Archived: Friday, March 12, 2021 3:26:46 PM
From: [Marissa Chase](#)
Sent: Wednesday, March 10, 2021 4:09:00 PM
To: [~House Children and Family Law Committee](#)
Subject: House Child & Family Law executive session 3/11/21
Importance: Normal

Good afternoon Representatives,

Ahead of tomorrow's executive session, I wanted to provide the following information from the NH Association for Justice relative to our positions on HB 139 and HB 547:

[HB139](#): Relative to the submission of evidence in divorce proceedings: While certainly well-intentioned, this bill would actually have the unintended effect of undermining current New Hampshire Family Division rules which actually provide for submissions of evidence greater than 5 (five) days before a hearing as set forth in the bill. As the testimony at the hearing reinforced, the current rules already provide the mechanisms necessary to exclude evidence that is not submitted in a timely fashion. We believe the bill is unnecessary and potentially harmful and respectfully ask the Committee to vote ITL.

[HB547](#): Relative to the opportunity for evidentiary hearings in parenting cases: Again, while well-intentioned, this bill is so generally and vaguely worded that it could conceivably have the unintended effect of limiting the number of hearings afforded in a parenting case. The sad reality is that parenting cases, especially highly contentious ones, typically require numerous hearings. It should also be noted that the Courts almost always provide for a hearing on issues unless the issues plead are so clear that a hearing is not necessary, such as if the question is purely based on statutory interpretation. We believe the bill is unnecessary and potentially harmful and respectfully ask the Committee to vote ITL.

If you have any questions or would like any additional information, please do not hesitate to contact me.

Thank you,
Marissa

Marissa Chase
Executive Director
New Hampshire Association for Justice
10 Ferry Street, #311
Concord, NH 03301
O 603.224.7077 **F** 603.224.3256 **I** **C** 603.854.9330

Bill as
Introduced

HB 139 - AS INTRODUCED

2021 SESSION

21-0214

05/08

HOUSE BILL **139**

AN ACT relative to the submission of evidence in divorce proceedings.

SPONSORS: Rep. Yokela, Rock. 33; Rep. Wallace, Rock. 12; Rep. Gould, Hills. 7

COMMITTEE: Children and Family Law

ANALYSIS

This bill permits the parties to request a continuance if evidence in a divorce proceeding is not submitted prior to the hearing.

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 Twenty One

AN ACT relative to the submission of evidence in divorce proceedings.

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

1 1 New Section; Annulment, Divorce and Separation; Submission of Evidence. Amend RSA 458
2 by inserting after section 13 the following new section:

3 458:13-a Submission of Evidence. Evidence submitted to the court in a proceeding under this
4 chapter shall be disclosed to the opposing party at least 5 days prior to the date of the hearing. If a
5 party submits evidence less than 5 days prior to the hearing, the opposing party may request a
6 continuance, which shall be granted for a period of not more than 90 days from the originally
7 scheduled hearing date unless the court finds that such evidence is de minimus or that such
8 evidence was not available to the party submitting evidence 5 days prior to the hearing. If the court
9 does not grant a continuance due to the de minimis nature of the evidence submitted, the court shall
10 document the basis for its finding in the court order. This section shall not apply to evidence
11 introduced for purposes of rebuttal or impeachment.

12 2 Effective Date. This act shall take effect 60 days after its passage.