

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 142,

AN ACT relative to causes for divorce. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. Debra DeSimone

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Children and Family Law
Bill Number:	HB 142
Title:	relative to causes for divorce.
Date:	March 11, 2021
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

The current NH statute, reflected in section 458:7, is more than 20 years old and does not reflect societal changes such as same gender marriage and serious drug and alcohol addiction problems. This bill simply updates the law to encompass these issues.

Vote 8-7.

Rep. Debra DeSimone
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Children and Family Law

HB 142, relative to causes for divorce. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Debra DeSimone for the **Majority** of Children and Family Law. The current NH statute, reflected in section 458:7, is more than 20 years old and does not reflect societal changes such as same gender marriage and serious drug and alcohol addiction problems. This bill simply updates the law to encompass these issues. **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 142,

AN ACT relative to causes for divorce. 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. Gaby Grossman

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Children and Family Law
Bill Number:	HB 142
Title:	relative to causes for divorce.
Date:	March 11, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill is attempting to revise fault-based grounds for divorce to include adultery for same-sex marriage and habitual alcohol and drug abuse. The Supreme Court of NH is currently addressing the issue of adultery in same-sex situations and a finding from the courts related to this matter is expected. The bill text lacks specific language related to alcohol and drug abuse Substance Use Disorder (SUD) treatment may not always be consecutive and recovery from SUD can be a fluid situation which, due to vague language in this legislation, may result in more problems for someone actively seeking treatment .

Rep. Gaby Grossman
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Children and Family Law

HB 142, relative to causes for divorce. **INEXPEDIENT TO LEGISLATE.**

Rep. Gaby Grossman for the **Minority** of Children and Family Law. This bill is attempting to revise fault-based grounds for divorce to include adultery for same-sex marriage and habitual alcohol and drug abuse. The Supreme Court of NH is currently addressing the issue of adultery in same-sex situations and a finding from the courts related to this matter is expected. The bill text lacks specific language related to alcohol and drug abuse Substance Use Disorder (SUD) treatment may not always be consecutive and recovery from SUD can be a fluid situation which, due to vague language in this legislation, may result in more problems for someone actively seeking treatment .

Original: House Clerk

Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 142

BILL TITLE: relative to causes for divorce.

DATE: March 11, 2021

LOB ROOM: remote

MOTIONS: OUGHT TO PASS

Moved by Rep. DeSimone

Seconded by Rep. Lewicke

Vote: 8-7

Respectfully submitted,

Rep Caroletta Alicea, Clerk

Public Hearing

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 142

BILL TITLE: relative to causes for divorce.

DATE: March 3, 2021

LOB ROOM: 210-211 **Time Public Hearing Called to Order:** 9:11 AM

Time Adjourned: 9:35 AM

Committee Members: Reps. DeSimone, Alicea, Yokela, Lewicke, Litchfield, Long, Grossman, Levesque, Wazir and Altschiller

Bill Sponsors:
Rep. DeSimone

TESTIMONY

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

***Mindy Greene – Derry, NH**

- To revise wording for cause of divorce can only come between man and women
- She is gay
- She has the right to marry but not to divorce as two women
- Was told by the lawyer to go to legislation
- It's unfair how far gay rights have come, but hope that whether woman to woman, man to man, or women to man
- RE: sexual misconduct – not right in LGBTQ+

***Attorney J Markell –**

- Bill was based on what sexual contact was – but how NH's court
- Court turned down “adultery gets sexual intercourse between a man and a woman
- Bringing couples unity – applies to same sex and heterosexual – must be intentional touching

Q: Rep. Altschiller – Are you aware at this time that the problem you have is now in the supreme court? There will be a finding in the next few months. Case name Blaisdell

Q: Rep. Long – Does this consecutive or concurrent? It's two or more years – left to the discretion of the court

It's not current and in a row. What happens if

Attorney Markell: to prevail, the other party must be blameless – Does not do divorce for short period of time

Q: Rep. Grossman – What happens if someone is actively trying to get sober and relapses

Attorney Markell: Please your case – i.e. he/she went into rehab came out started again. It is very common – the judge must decide – improves the statute

Q: Rep. Altschiller – You mentioned you have 2 cases now – how many are fault specific?

A: We plead fault grounds – better than 90% that are filed are solved to irreconciled differences if you have them impotence can be plead.

Respectfully submitted,

Rep. Caroletta Alicea

House Remote Testify

Children and Family Law Committee Testify List for Bill HB142 on 2021-03-03

Support: 11 Oppose: 0 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>Signed Up</u>
Green, Mindy	Derry, NH Mindygreen2020@gmail.com	A Member of the Public	Myself	Support	Yes (2m)	3/2/2021 5:00 PM
Leach, Kyle	Farmington, NH outleft@metrocast.net	A Member of the Public	Myself	Support	No	3/3/2021 8:02 AM
perez, maria	Milford, NH mariaeli63@gmail.com	An Elected Official	Distric 23	Support	No	3/3/2021 8:11 AM
Hayden, Sam	Hopkinton, NH hayden.sam@gmail.com	A Member of the Public	Myself	Support	No	3/3/2021 8:11 AM
Howard Jr., Raymond	Alton, NH brhowardjr@yahoo.com	An Elected Official	Myself	Support	No	3/3/2021 8:52 AM
Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 3:22 PM
Nelson, Elizabeth	Derry, NH BethDavid@comcast.net	A Member of the Public	Myself	Support	No	2/28/2021 5:12 PM
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Support	No	2/28/2021 7:45 PM
Pedersen, Michael	Nashua, NH PedersenUSA@aim.com	An Elected Official	Hillsborough 32	Support	No	2/28/2021 10:36 PM
Frost, Sherry	Dover, NH sherry.frost@leg.state.nh.us	An Elected Official	Myself	Support	No	3/2/2021 9:22 AM
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Support	No	3/2/2021 2:27 PM

Testimony

Archived: Thursday, March 4, 2021 10:39:32 AM
From: Daniel Itse
Sent: Tuesday, March 2, 2021 9:34:16 PM
To: ~House Children and Family Law Committee
Subject: Divorce Bills, 3/3
Importance: Normal

Members of the House Committee on Children and Family Law,

You are considering a number of Bills tomorrow on divorce. As a 16 yr member of the Committee, and former Vice Chairman, I want to give you my perspective.

9:00 a.m.HB 142, relative to causes for divorce.

I think this is an important change. Keeping causes for divorce in play is a very good idea. Moving from divorce for cause to irreconcilable differences has led to a lot of confusion. When there is a cause for divorce, it can be an important factor is the disposition of resources and parenting time.

9:30 a.m.HB 547, relative to the opportunity for evidentiary hearings in parenting cases.

I think this bill should be given serious consideration. While this may not be the best implementation, I have heard of far too many cases where one party is not allowed to present their case. This tied with HB139 will product parity of due process. It may not be a dedicated hearing, but it may be a guaranteed minimum of time, for example not less than 2 hr.

10:00 a.m.HB 139, relative to the submission of evidence in divorce proceedings.

This Bill is the product of three previous terms of effort. It was recommended OTP/A (13-0) by the Committee in 2018. The last two sentences were the work of Rep. Mary Beth Waltz. It failed in the Senate because the 5 day period was increased. This Bill is vitally necessary to avoid "ambush" evidence, which the other party is not prepared to rebut, and may irrevocably alter the outcome of the divorce.

10:45 a.m.HB 556, relative to state-ordered counseling.

1:00 p.m.HB 577, relative to parenting and divorce cases involving allegations of domestic violence.

1:30 p.m.HB 548, relative to the role of a guardian ad litem in cases where domestic violence is suspected or alleged.

I would considered these three Bills together. Again, I cannot tell you that these comprise the best solution. However, I have seen repeated cases where counselling, especially for reunification or alienation results in the bankrupting of one party. I have seen cases where one party accumulates expenses and debts that reach into six figures. There appears to be a pattern where the ordered counselling is assigned to repeated associate (multiple cases) of the GAL in the case. This is especially true where one party has perpetrated domestic violence, and is therefore given little responsibility; then then claims alienation and then pursues reunification and eventual exclusion of the abused party at the expense of the abused party. Yes, I have seen this more than once. I would advise that a subcommittee be formed and the bills retained to be studied at length.

2:00 p.m.HB 460, establishing a committee to study cases involving the determination of parental rights and responsibilities.

To this I would add studying cases in which majority parenting responsibility shifts from one party to the other even to the complete exclusion of the party originally having majority

responsibility. This is closely coupled to the prior three Bills. It might be wise to put the subject matter of the prior three Bills into this Bill as a method of dealing with them.

Dan

Former Vice Chairman of the House Committee on Children and Family Law

603-702-0381

PS. I will try to follow the Hearings throughout the day. However, I am now responsible for upgrading the three wood fired power plants in New Hampshire that have been brought back on line as one plant in Mass, one in Vermont and two down east in Maine.

Daniel C. Itse

Senior Project Manager

Stored Solar, LLC

(603) 702-0381

Bill as
Introduced

HB 142 - AS INTRODUCED

2021 SESSION

21-0099

05/04

HOUSE BILL **142**

AN ACT relative to causes for divorce.

SPONSORS: Rep. DeSimone, Rock. 14

COMMITTEE: Children and Family Law

ANALYSIS

This bill revises the fault-based grounds for divorce.

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 Twenty One

AN ACT relative to causes for divorce.

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

1 1 Causes for Divorce; Absolute Divorce; Sexual Misconduct. RSA 458:7, II is repealed and
2 reenacted to read as follows:

3 II. Sexual misconduct of either party, which includes the following:

4 (a) Adultery of either party. In this section, "adultery" means voluntary sexual
5 intercourse with someone other than a party's legal spouse.

6 (b) Other sexual misconduct. In this section, "other sexual misconduct" means
7 voluntarily engaging in oral genital sex or anal intercourse, and includes, but is not limited to, the
8 intentional touching of the genitalia, anus, breasts, or buttocks that can be reasonably construed as
9 being for the purpose of arousal or gratification between a married person and someone other than
10 the married person's legal spouse.

11 2 Causes for Divorce; Absolute Divorce; Alcohol or Drug Abuse. Amend RSA 458:7, VII to read
12 as follows:

13 VII. When either party [~~is an habitual drunkard, and has been such for 2 years together~~]
14 ***habitually abuses alcohol or drugs and has been doing so for 2 or more years.***

15 3 Effective Date. This act shall take effect January 1, 2022.