

Committee Report

CONSENT CALENDAR

March 11, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Children and Family Law to which
was referred HB 317-FN,**

**AN ACT relative to the treatment of veterans' disability
benefits for purposes of determining child support.**

**Having considered the same, report the same with the
following resolution: RESOLVED, that it is
INEXPEDIENT TO LEGISLATE.**

Rep. John Lewicke

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Children and Family Law
Bill Number:	HB 317-FN
Title:	relative to the treatment of veterans' disability benefits for purposes of determining child support.
Date:	March 11, 2021
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would make disabled veterans a special class to be treated differently from all others in New Hampshire. Disability benefits are for the veteran and their families, although the federal government may be less generous than it should to veterans who become disabled in the service of their country. It is not the responsibility of the taxpayers of the state of New Hampshire to make up for those shortcomings.

Vote 15-0.

Rep. John Lewicke
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Children and Family Law

HB 317-FN, relative to the treatment of veterans' disability benefits for purposes of determining child support. **INEXPEDIENT TO LEGISLATE.**

Rep. John Lewicke for Children and Family Law. This bill would make disabled veterans a special class to be treated differently from all others in New Hampshire. Disability benefits are for the veteran and their families, although the federal government may be less generous than it should to veterans who become disabled in the service of their country. It is not the responsibility of the taxpayers of the state of New Hampshire to make up for those shortcomings. **Vote 15-0.**

Original: House Clerk

Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 317-FN

BILL TITLE: relative to the treatment of veterans' disability benefits for purposes of determining child support.

DATE: March 11, 2021

LOB ROOM: REMOTE

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Lewicke

Seconded by Rep. Rice

Vote: 15-0

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

Exec
Session
Date: 3/11/2021

Motion: ITL.

Bill # 317 AM #:

317. FP.

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

15-0-

Public Hearing

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 317-FN

BILL TITLE: relative to the treatment of veterans' disability benefits for purposes of determining child support.

DATE: February 3, 2021

LOB ROOM: remote **Time Public Hearing Called to Order:** 11:32 a.m.

Time Adjourned: 12:13 p.m.

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

Bill Sponsors:

Rep. Baldasaro

Rep. Spillane

Rep. Pearl

Rep. Hopper

Rep. Wallace

Rep. Leishman

Sen. Giuda

Sen. Bradley

Sen. Daniels

Sen. Gannon

TESTIMONY

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

Rep. Baldasaro, Sponsor - Rockingham undisclosed location State of NH does go after Veterans, they tried to get it corrected. Losing their homes, suicide, male and female a certain part of disability goes to child support. Sometimes children are used as pawns.

Rep. Rice - Please send federal law that he mentioned

Rep. Petrigno - we all want to support children and veterans. Do you know of other things that we can give increase etc.

Attorney Mahoney - Opposed. Complete administration for the veterans disability as set or a law, not to be part of maximum \$50 a month, it impacts their family.

Rep. Long - If a disabled vet wanted to get \$1200 for child would ?

Jerricka angellini - will loose her child support if this bill passes.

Rep. Seau Braunton - the bill will negatively impact her child.

Rep. Graham - opposed. Manipulation made by the payments receiving \$1000.00

Rep. Horrigan - No one ever wins a family court case. Supreme court says you are supporting a family.

Christopher Ciani - ?

Brenda Towne - supports this bill. Most were homeless

Carson Tucker - United Kingdom lawyer, advises them on their family, has had an enormous impact. Allows the states to cover 100%. Section of code 38 wants state law to be over written. Cultural and economic issue. significant injuries.

Recess to future date and time.

Respectfully submitted,

Rep. Caroletta Alicea, Clerk

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 317-FN

BILL TITLE: relative to the treatment of veterans' disability benefits for purposes of determining child support.

DATE: February 18, 2021

LOB ROOM: remote **Time Public Hearing Called to Order:** 9:45 a.m.

Time Adjourned: 11:04 a.m.

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

Bill Sponsors:

Rep. Baldasaro
Rep. Hopper
Sen. Giuda
Sen. Gannon

Rep. Spillane
Rep. Wallace
Sen. Bradley

Rep. Pearl
Rep. Leishman
Sen. Daniels

TESTIMONY

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

Derrick Champagne - Resident Lancaster NH. Parents rights center - opposed. 2009-2015 2 years in hospital, permanent disability list. 2 girls, 50/50 custody, came home and now fighting another war. Against federal law. \$1275 month for child support on top of disability, relying on SS benefits, \$411 to live on. Forced to choose seeing children or living. Soldiers deserve better. \$15, 403 in SS Benefit, \$6,285.60 is what he receives.

Rep. Belanger - statement?

Rep. Rice - not time for statements.

* Jessie Bolin, representing self. opposed. Bill was written about Mr. Bolin

Rep. Rice - here to speak about the bill Mr. Bolin

Mr. Champagne - butts in

* Mr. Sean Braustein - Hooksett, representing himself. Contentious divorce about not wanting to pay child support. Want protection on the child support.

*Carson Tucker - Attorney, Navy. 14 years appellate attorney. Representing veterans accross the country. 70% of 5 million are disabled. 3K in NH.

Rep. Long - Are you aware of any other state that has this waiver?

Mr. Tucker - To pay the amount of money they are entitled, VA determines other.

Rep. Long - Service connection disability, would that be waived?

Mr. Tucker - not sure what you mean by waived. Would check with the VNA as to what should be paid. Its established by federal law. The pure 100% disability would not pay that.

Rep. Litchfield - Veterans are lucky to have you on their side. Any child born to Veteran before or after disability?

Mr. Tucker - Their incentive is to report all dependents to the VA

Rep. Lewicki - All children must be supported.

Mr. Tucker - approach judge and former spouse.

Rep. Rice - Please answer the question.

Mr. Tucker - provisions for dependents to be taken care of regardless.

Rep. Belanger - how many are affected?

Rep. Rice - We are talking about NH. any further ?'s

*Warren Perry - Office in Concord. NH Military affairs and Veterans Services. He is to support veterans, children and their family.

Rep. Belanger - In regards to payments when Vet is disabled.

Mr. Perry - is the difference between dependent rate and gross would be determined.

*Karen Hebert - Dept. of HHS, Bureau chief. Concord office. Dept. believes the committee should be fully informed. All \$ is included. disability or less if sole source of income. Veterans pay \$50 month.

Rep. Rice - If the parent does initiate the process does the division do it.

Ms. Hebert - Apportionment does not replace child support. If an issue occurs there are instructions to follow.

Rep. Rice - Why wouldn't some one do that?

Ms Hebert - It is not a common request, don't know. The request is made to the VA directly.

*Mr. Matthew - Hayes Attorney. All states must follow rules and regulations when doing child support awards.

*Moiria Ryan - opposed - Londonderry. Military spouses, children for over a decade. VA states that the paren is to support their children. Child support is not an asset. Other states have laws like this.

Respectfully requested,

Rep. Caroletta Alicea, Clerk

House Remote Testify

Children and Family Law Committee Testify List for Bill HB317 on 2021-02-18

Support: 9 Oppose: 14 Neutral: 4 Total to Testify: 10

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>Non-Germane</u>	<u>Signed Up</u>
Champagne, Derek	dchampagne89@gmail.com	A Member of the Public	Myself	Support	Yes (5m)	No	2/13/2021 2:09 PM
Bruckshaw, Bjorn	bbruckshaw17@gmail.com	A Member of the Public	Myself	Support	Yes (5m)	No	2/13/2021 2:25 PM
Bolin, Jesse	Manchester, NH bolinforbucks@gmail.com	A Member of the Public	Myself	Oppose	Yes (4m)	No	2/17/2021 10:03 PM
Braunstein, Sean	seanjbraunstein@yahoo.com	A Member of the Public	Myself	Support	Yes (3m)	No	2/13/2021 1:57 PM
Tucker, Carson	cjtucker@lexfori.org	A Member of the Public	Myself	Support	Yes (30m)	No	2/13/2021 1:56 PM
Perry, Warren	warren.m.perry.nfg@mail.mil	State Agency Staff	Dept of Military Affairs and Veterans Services	Neutral	Yes (10m)	No	2/16/2021 12:36 PM
Hebert, Karen	karen.e.hebert@dhhs.nh.gov	State Agency Staff	Dept. of Health and Human Services	Neutral	Yes (10m)	No	2/16/2021 3:18 PM
Hayes, Matthew	Matthew.Hayes@dhhs.nh.gov	State Agency Staff	DHHS/BCSS	Neutral	Yes (10m)	No	2/17/2021 12:21 PM
Penasack, Timothy	tim@penasack.us	A Member of the Public	Myself	Support	Yes (0m)	No	2/16/2021 1:55 PM
Ryan, Moira	army51kilo@hotmail.com	A Member of the Public	Myself	Oppose	Yes (0m)	No	2/13/2021 11:50 AM
Fordey, Nicole	nikkif610@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/13/2021 8:24 PM
Edwards, Jesse	secure4posterity@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/14/2021 12:27 PM
Larson, Ruth	ruthlarson@msn.com	A Member of the Public	Myself	Oppose	No	No	2/15/2021 11:40 AM
Moulton, Candace	candaceleighm@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/15/2021 2:27 PM
Frost, Sherry	sherry.frost@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	2/15/2021 2:40 PM
Baldasaro, Rep Al	mbaldasaro@comcast.net	An Elected Official	Myself	Support	No	No	2/16/2021 12:21 PM
Hayden, Sam	hayden.sam@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/17/2021 7:56 AM
Fedorchak, Gaye	gayevf@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/17/2021 10:20 AM
Pauer, Eric	secretary@BrooklineGOP.org	A Member of the Public	Myself	Support	No	No	2/17/2021 12:28 PM

Hope, Lucinda	Tilton, NH lmhope46@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/17/2021 4:11 PM
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/17/2021 4:41 PM
Groetzing, Tonda	Farmington, NH groetzing6@aol.com	A Member of the Public	Myself	Support	No	No	2/18/2021 7:34 AM
HAMILTON, MELANIE	NORTHWOOD, NH mhamilton5908@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/18/2021 10:59 AM
McCue, Dara	Meredith, NH daramccue@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/18/2021 7:08 AM
Daniels, Senator Gary	Milford, NH gary.daniels@leg.state.nh.us	An Elected Official	Senate District 11	Support	No	No	2/18/2021 9:34 AM
Hebert, Jon	Center Conway, NH jhhebert@gmail.com	A Member of the Public	Myself	Neutral	No	No	2/18/2021 9:47 AM
Perry, Apryl	Antrim, NH apryl.perry@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/18/2021 4:18 PM

House Remote Testify

Children and Family Law Committee Testify List for Bill HB317 on 2021-02-03

Support: 40 Oppose: 18 Neutral: 3 Total to Testify: 19

[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>Non-Germane</u>	<u>Signed Up</u>
Bruckshaw, Bjorn	bbruckshaw17@gmail.com	A Member of the Public	Myself	Support	Yes (7m)	No	2/2/2021 9:41 PM
Mahoney, Marilyn	marilyn.t.mahoney@gmail.com	A Member of the Public	Myself	Oppose	Yes (5m)	No	2/2/2021 2:43 PM
Angelini, Jericka	Jerickalee@hotmail.com	A Member of the Public	Myself	Oppose	Yes (5m)	No	2/2/2021 3:27 PM
Donegan, Patrick	miltry06@yahoo.com	A Member of the Public	Myself	Support	Yes (5m)	No	2/2/2021 9:18 PM
Baldasaro, Al	mbaldasaro@comcast.net	An Elected Official	Myself	Support	Yes (5m)	No	1/30/2021 10:29 AM
Graham, Rep. John	graham4rep@hotmail.com	An Elected Official	Myself	Oppose	Yes (5m)	No	2/1/2021 4:10 PM
Jett, John	Johntjett@gmail.com	A Member of the Public	Myself	Support	Yes (5m)	No	2/1/2021 11:05 AM
Cianci, Christopher	christopher.j.cianci@gmail.com	A Member of the Public	Myself	Support	Yes (5m)	No	2/2/2021 4:18 PM
Lord, Claire	claire.lord38@gmail.com	A Member of the Public	Myself	Oppose	Yes (4m)	No	2/1/2021 1:44 PM
Horrigan, NH State Rep. Timothy	timothy.horrigan@leg.state.nh.us	An Elected Official	Strafford 6	Oppose	Yes (3m)	No	2/2/2021 9:54 AM
Towne, Brenda	btowne@protonmail.com	A Member of the Public	Myself	Support	Yes (3m)	No	2/2/2021 10:32 AM
Tucker, Carson	cjtucker@lexfori.org	A Member of the Public	Myself	Support	Yes (30m)	No	2/1/2021 4:48 PM
Hayes, Matthew	matthew.hayes@dhhs.nh.gov	State Agency Staff	DHHS/Bureau of Child Support Services	Neutral	Yes (10m)	No	2/2/2021 10:18 AM
Hebert, Karen	karen.e.hebert@dhhs.nh.gov	State Agency Staff	Dept. of Health and Human Services	Neutral	Yes (10m)	No	2/1/2021 10:28 AM
Penasack, Timothy	tim@penasack.us	A Member of the Public	Myself	Support	Yes (10m)	No	2/1/2021 10:55 AM
Champagne, Derek	dchampagne89@gmail.com	A Member of the Public	Myself	Support	Yes (10m)	No	2/2/2021 4:05 PM
Ryan, Moira	army51kilo@hotmail.com	A Member of the Public	Female Veterans and Military Kids	Oppose	Yes (0m)	No	1/27/2021 10:34 PM
Bolin, Jesse	bolinforbucks@gmail.com	A Member of the Public	Myself	Oppose	Yes (0m)	No	1/29/2021 8:08 AM
Braunstein, Sean	Seanjbraunstein@yahoo.com	A Member of the Public	Myself	Support	Yes (0m)	No	1/29/2021 11:18 AM

Bouchard, Lisa	batdoe@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/29/2021 2:18 PM
Jasina, Erin	ejasina@nhla.org	A Lobbyist	NH Legal Assistance	Oppose	No	No	1/29/2021 3:53 PM
Griffin, Alyssa	alysgriffin@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/30/2021 2:27 PM
Ashton, Miriam	miriamashton3@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/30/2021 8:34 PM
Munoz, Val	vm38696@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/31/2021 9:23 AM
Philbrick, Rachael	rachaelphilbrick@gmail.com	A Member of the Public	Myself	Support	No	No	1/31/2021 4:22 PM
Braunstein, Roberta	robertaebraunstein@gmail.com	A Member of the Public	Myself	Support	No	No	1/31/2021 4:23 PM
Bryans, Ed	xxedbryansxx@gmail.com	A Member of the Public	Myself	Support	No	No	2/1/2021 8:21 PM
Cass, Douglas	dougk9trainer@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:27 AM
Delfuoco, Janet	Upperbow@msn.com	A Member of the Public	Myself	Support	No	No	2/2/2021 10:26 AM
Towne, Rod	rod@northeast-marketing.com	A Member of the Public	Myself	Support	No	No	2/2/2021 10:28 AM
Brochu, Alicia	agrant83.ag@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 6:35 AM
Greenwood, Tony	Greenwoodtony@icloud.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:29 AM
Silva, Lance	Lancesilva33@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:29 AM
Wise, Jeremy	Jwise53@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:42 AM
Plante, Mark	Mark.plante@live.com	A Member of the Public	Myself	Support	No	No	2/1/2021 10:40 AM
Daniels, Senator Gary	debra.martone@leg.state.nh.us	An Elected Official	Senate District 11	Support	No	No	1/27/2021 3:48 PM
Leishman, Peter	prleishman@aol.com	An Elected Official	Myself	Support	No	No	1/27/2021 3:11 PM
Perkins, Max	rod@northeast-marketing.com	A Member of the Public	Myself	Support	No	No	2/2/2021 10:30 AM
Colon, Jessica	jessielynn090980@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 4:43 PM
Parker, Kelly	Kfezz99@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 4:44 PM
Perry, Warren	warren.m.perry.nfg@mail.mil	State Agency Staff	The Dept of Military Affairs and Veterans Services	Neutral	No	No	2/2/2021 5:44 PM
Costenbader, Melody	Cmelody4hair@yahoo.com	A Member of the Public	Myself	Support	No	No	2/2/2021 6:10 PM
Millina, Benjamin	benjamin.millina@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 6:26 PM
Rasmussen, Dorothy	drasmuss1@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 6:37 PM
Russin, Carlos	crussin@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 7:29 PM
Lofton, Stephanie	Slofton@comcast.net	A Member of the Public	Myself	Support	No	No	2/2/2021 8:27 PM

Chavis, Nicholas	nicholaschavis@tutanota.com	A Member of the Public	Myself	Support	No	No	2/2/2021 8:47 PM
Church, Devon	devon.p.church@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:13 PM
Church, Lisa	lisamchurch56@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:14 PM
Drobat, Gayle	drobat28@comcast.net	A Member of the Public	Myself	Support	No	No	2/2/2021 11:47 AM
P. Martin, Priscilla	FredMikePris@comcast.net	A Member of the Public	Myself	Support	No	No	2/2/2021 12:26 PM
Oligny, Jeffrey	Jeffreyoligny@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 1:42 PM
Tustin, Jessie	gitustin@yahoo.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:51 PM
Kerr, Brock	porschebk85@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 10:54 PM
Baer, Michael	Mik2002ma@yahoo.com	A Member of the Public	Myself	Support	No	No	2/3/2021 7:11 AM
Frey, Gina	ginagfrey@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/3/2021 8:17 AM
kennett, willow	willowkennett1989@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/3/2021 10:21 AM
Carmel, Randall	randall.carmel@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/3/2021 10:57 AM
Shartar-Howe, Esther	eshartarhowe@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/3/2021 11:02 AM
Rathbun, Eric	ericsrathbun@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/3/2021 11:17 AM
Frazier, Jason	Jasonjfrazier87@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/3/2021 7:55 PM

Testimony

Karen Karwocki

From: Moira Ryan <army51kilo@hotmail.com>
Sent: Wednesday, February 3, 2021 11:40 AM
To: ~House Children and Family Law Committee
Subject: Written Testimony
Attachments: Public Testimony on HB#17-FN.pdf

I am attaching my written testimony. I do not know if I will get an opportunity to speak, but there are a number of incorrect assertions in testimony that are not accurate.

Thank you.

Public Testimony on HB#17-FN

Madam Chair and members of the Child and Family Law Committee,

I am writing to you today to oppose HB317-FN. I am here advocating for custodial parent veterans, military spouses, and military dependents. I have worked for the VA and I am an expert in apportionments having There are a number of people from outside of our state who will be giving testimony from outside of our state, notably, Mr. Carson Tucker, who is an attorney from the state of Texas who is not a family law attorney and does not understand how the apportionment process works. I did work with Jackie who is the head of the apportionments division at the VA. First, what is a veteran apportionment? A veteran apportionment is a process in which a claim, the custodial parent, request that money be paid for the support of a dependent. First, let me state the apportionment claims were meant to be an additional means of enforcement of child support, not a substitute or re-litigation of a divorce proceeding. The VA has determined that VA disability is meant for the support of the veteran and their dependents as cited in the numerous apportionment cases which were heard before Veteran Law Judges.

These judges cite

VA's General Counsel has stated that the purpose of apportionment is to effectuate the responsibility of a VA beneficiary to support the beneficiary's dependent. VAOPGCPREC 74-90 (July 18, 1990)(citing Stone v. Stone, 67 S.W.2d 189 (Ark.1934). If Mr. Tucker plans to argue that only the VA has the right to determine the veteran's obligations, they have already dictated that with their policies and procedures which state that VA disability is for the support of the family (veteran, spouse, and dependents). The fact that the apportionment process exists affirms this because if VA funds were truly exempt from everyone, then the process would not exist.

This same sentiment has been echoed by the Supreme Court in the Rose V Rose case. Now, Mr. Tucker is going to argue that Howell v Howell and Wissner v Wissner, as well as other cases, reversed that policy. This is just not true. Mansell v Mansell specifically stipulated that it was only addressing community property and NOT spousal or child support. The Supreme Court, in its decision in subparagraph 7 stated that Wissner, like Howell, are issues of community property during a divorce proceeding and not held in the same light as alimony and child support claims. The veteran does have a duty to support dependents. Both the VA and its overseeing body, the DOD have policies making this mandatory and both rely on the state courts to determine whether or not that is occurring. The VA sees the support of the family as a moral obligation and not the equivalent of a creditor where no such obligation exists.

Mr. Tucker is going to engage the Supremacy clause here. As I have explained last year and in my written testimony, the Supremacy Clause separate the powers of the federal and state governments. Federal law overrides state law EXCEPT in areas of domesticity. What that means is, the federal government does not control our elections, our speed limits, our education system, or divorces. People can not file for divorce in the federal court and no federal court will not grant a divorce through it. As a result, it is the policy of the VA to stay out of divorces and

not get involved in them. The VA does not act on any matter of divorce without a decree from the state court and it is the veteran's duty to procure and report these events, not the VA's.

The VA apportionment process was meant to help state governments enforce child support orders. Veterans have a duty to support their dependents and there were many who were not doing so. VA apportionments will not go back and relitigate a child support court order and will not reduce an amount on the basis of a veteran's claim of hardship. An apportionment can not be filed to determine a child support amount because that is outside of the role of the VA. Rather, in order to grant a general apportionment, the claimant has to show that 1. The dependent is not living with the veteran more than 50% of the year and 2. That the veteran is not reasonably discharging their duty to provide support for the dependent. In this instance, hardship is NOT a factor. It is important to note here that some veterans believe that the VA will look at the finances of both spouses and make a fair determination of child support. This is not true. Financial statements are not necessary for general apportionments and the state court reviews the finances of both parties when determining child support following a predesigned formula. The VA will not change that as they don't have the authority to do so. The second type of apportionment is a special apportionment which would be due to a financial hardship on the part of the claimant. In this case, the claimant has to show that there is a financial hardship on the part of the dependent. Both parties submit financial statements. In this case, the VA will decide if additional funding for the dependent is needed. Apportionment claims are typically between 20 and 50% of the VA disability amount. VA considers apportionment claims for estranged spouses and dependent children. The current dependent stipend, which runs between roughly \$30 and \$80 is insufficient to support a child. Some VA clerks only assign the dependent stipend because collecting a dependent stipend and then failing to support the dependents is fraud. The claimant has the right to disagree with the amount, which violates the M-21 guideline of 20% to 50%. Child support is typically 25% for one child.

I also have to reflect on the lack of timeliness on the part of the VA. There are mythical claims that the VA can complete an apportionment claim in 30 days. This is simply not the case as the VA can hardly acknowledge that it received a claim from the veteran in 30 days much less act on it. Apportionment claims are considered contested claims which adds additional requirements to them and they often take several years to resolve. I have an apportionment claim which I have been fighting for 10 years. My ex is in arrears to me for over \$100k in child support, insurance payments, educational, and legal fees. My child has a disability and his dad, who fails to comply with child support enforcement, has a home paid for, no property taxes, and runs a business on the side. His wife works as a nurse and they take tons of vacations, have expensive vehicles, etc. Children deserve to be supported by BOTH of their parents. The taxpayer has no obligation to provide for children and the custodial parent should not have to bear the expenses of the child alone. That is unfair to ask of any parent, veteran or not.

The impact of this bill would be significant because it would 1. Place the state of NH outside of compliance with the federal government which mandates that child support must be paid. This law or type of law is not in any other state 2. Potentially cost the funds for TANF and other government programs 3. Unfairly place the burden of raising the child on one parent regardless

of financial status. Many military spouses earn significantly less than their counterparts because of the frequent moves and women earn on average 70% less than men. 4. Deprive the child of the right to be supported by both parents 5. Decrease the timeliness of attaining support quickly because the state court, who is vested with the jurisdiction for divorce can make those determinations more quickly. 6. Leave children without the things they need 7. Put the VA in a position of litigating divorce and child support issues which they don't have the authority to do which will leave all parties frustrated.

Karen Karwocki

From: Moira Ryan <army51kilo@hotmail.com>
Sent: Wednesday, February 3, 2021 12:15 PM
To: ~House Children and Family Law Committee
Subject: Fw: Written Testimony
Attachments: Public Testimony on HB#17-FN.pdf

I'm sorry, but Mr. Tucker has zero understanding of the apportionment process and is not a family law attorney and is misciting the law. Lawyers can make ANY argument which is BS. Every Veteran LAW Judge cites that the support is for the FAMILY. and the apportionment process is dependent on the state process. THE Supremacy clause separates federal and state powers and divorce and child support is the purvey of the STATE. You can't file for a divorce in the federal court. HOWELL is solely about DIVORCE Assets.

From: Moira Ryan <army51kilo@hotmail.com>
Sent: Wednesday, February 3, 2021 12:08 PM
To: CFL@leg.state.nh.us <CFL@leg.state.nh.us>
Subject: Fw: Written Testimony

Everything Ms. Towne is saying is a gross misinterpretation of the law. She doesn't understand the law. Carson Tucker won a case regarding divorce assets. NOT CHIDL SUPPORT>

From: Moira Ryan
Sent: Wednesday, February 3, 2021 11:40 AM
To: CFL@leg.state.nh.us <CFL@leg.state.nh.us>
Subject: Written Testimony

I am attaching my written testimony. I do not know if I will get an opportunity to speak, but there are a number of incorrect assertions in testimony that are not accurate.

Thank you.

Public Testimony on HB#17-FN

Madam Chair and members of the Child and Family Law Committee,

I am writing to you today to oppose HB317-FN. I am here advocating for custodial parent veterans, military spouses, and military dependents. I have worked for the VA and I am an expert in apportionments having There are a number of people from outside of our state who will be giving testimony from outside of our state, notably, Mr. Carson Tucker, who is an attorney from the state of Texas who is not a family law attorney and does not understand how the apportionment process works. I did work with Jackie who is the head of the apportionments division at the VA. First, what is a veteran apportionment? A veteran apportionment is a process in which a claim, the custodial parent, request that money be paid for the support of a dependent. First, let me state the apportionment claims were meant to be an additional means of enforcement of child support, not a substitute or re-litigation of a divorce proceeding. The VA has determined that VA disability is meant for the support of the veteran and their dependents as cited in the numerous apportionment cases which were heard before Veteran Law Judges.

These judges cite

VA's General Counsel has stated that the purpose of apportionment is to effectuate the responsibility of a VA beneficiary to support the beneficiary's dependent. VAOPGCPREC 74-90 (July 18, 1990)(citing Stone v. Stone, 67 S.W.2d 189 (Ark.1934). If Mr. Tucker plans to argue that only the VA has the right to determine the veteran's obligations, they have already dictated that with their policies and procedures which state that VA disability is for the support of the family (veteran, spouse, and dependents). The fact that the apportionment process exists affirms this because if VA funds were truly exempt from everyone, then the process would not exist.

This same sentiment has been echoed by the Supreme Court in the Rose V Rose case. Now, Mr. Tucker is going to argue that Howell v Howell and Wissner v Wissner, as well as other cases, reversed that policy. This is just not true. Mansell v Mansell specifically stipulated that it was only addressing community property and NOT spousal or child support. The Supreme Court, in its decision in subparagraph 7 stated that Wissner, like Howell, are issues of community property during a divorce proceeding and not held in the same light as alimony and child support claims. The veteran does have a duty to support dependents. Both the VA and its overseeing body, the DOD have policies making this mandatory and both rely on the state courts to determine whether or not that is occurring. The VA sees the support of the family as a moral obligation and not the equivalent of a creditor where no such obligation exists.

Mr. Tucker is going to engage the Supremacy clause here. As I have explained last year and in my written testimony, the Supremacy Clause separate the powers of the federal and state governments. Federal law overrides state law EXCEPT in areas of domesticity. What that means is, the federal government does not control our elections, our speed limits, our education system, or divorces. People can not file for divorce in the federal court and no federal court will not grant a divorce through it. As a result, it is the policy of the VA to stay out of divorces and

not get involved in them. The VA does not act on any matter of divorce without a decree from the state court and it is the veteran's duty to procure and report these events, not the VA's.

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I also have to reflect on the lack of timeliness on the part of the VA. There are mythical claims that the VA can complete an apportionment claim in 30 days. This is simply not the case as the VA can hardly acknowledge that it received a claim from the veteran in 30 days much less act on it. Apportionment claims are considered contested claims which adds additional requirements to them and they often take several years to resolve. I have an apportionment claim which I have been fighting for 10 years. My ex is in arrears to me for over \$100k in child support, insurance payments, educational, and legal fees. My child has a disability and his dad, who fails to comply with child support enforcement, has a home paid for, no property taxes, and runs a business on the side. His wife works as a nurse and they take tons of vacations, have expensive vehicles, etc. Children deserve to be supported by BOTH of their parents. The taxpayer has no obligation to provide for children and the custodial parent should not have to bear the expenses of the child alone. That is unfair to ask of any parent, veteran or not.

The impact of this bill would be significant because it would 1. Place the state of NH outside of compliance with the federal government which mandates that child support must be paid. This law or type of law is not in any other state 2. Potentially cost the funds for TANF and other government programs 3. Unfairly place the burden of raising the child on one parent regardless

of financial status. Many military spouses earn significantly less than their counterparts because of the frequent moves and women earn on average 70% less than men. 4. Deprive the child of the right to be supported by both parents 5. Decrease the timeliness of attaining support quickly because the state court, who is vested with the jurisdiction for divorce can make those determinations more quickly. 6. Leave children without the things they need 7. Put the VA in a position of litigating divorce and child support issues which they don't have the authority to do which will leave all parties frustrated.

Karen Karwocki

From: Hebert, Karen <Karen.E.Hebert@dhhs.nh.gov>
Sent: Friday, February 12, 2021 5:19 PM
To: ~House Children and Family Law Committee
Cc: Hayes, Matthew; Landry, Kevin; Williams, John; Perry, Warren M NFG NG NHARNG (USA); Cook, Amy; Mikolaities, David James MG USARMY NG NHARNG (USA); Graham, Jane; Santaniello, Christine
Subject: HB 317 Re: Treatment of Veterans Disability Benefits for Purposes of Determining Child Support
Attachments: Testimony HB317-FN DHHS Hebert.pdf

Chairwoman Rice and members of the Children and Family Law Committee,

On behalf of the Department of Health and Human Services, I am submitting the attached written testimony for your consideration regarding HB 317. The Department's intention is that you be appropriately and fully informed of matters related to the bill. Essentially, we want to ensure that the Committee is informed of the following:

- Federal regulation requires the State's Child Support Guidelines take into consideration all earnings and income of the obligor parent;
- The State is not in violation of federal or state law pertaining to the inclusion of veteran's disability benefits in the determination of child support awards;
- Federal and state case law clearly support the state's current Guidelines law, and are still current today;
- The passing of this bill will result in some children being awarded less financial support;
- The passing of this bill will place the state at risk of
 - losing significant federal funding and resources, hindering the state's ability to collect child support for all families statewide;
 - penalty assessments;
 - increased need for public assistance;
 - the inability to recover some public assistance expenditures;
- The state has services and statutory means to ensure the issuance of appropriate child support awards and address any barriers regarding their ability to pay

I and DHHS Attorney Matthew Hayes can be available to discuss any concerns in advance of the hearing on February 18th.

Karen E. Hebert, MBA

Bureau Chief
Title IV-D Child Support Director
Department of Health and Human Services
Division of Economic and Housing Stability
Bureau of Child Support Services
129 Pleasant Street
Concord, NH 03301
603-223-4822 office
603-573-6311 mobile
Karen.E.Hebert@dhhs.nh.gov

**DHHS, BUREAU OF CHILD SUPPORT SERVICE'S WRITTEN TESTIMONY TO THE
HOUSE CHILDREN AND FAMILY LAW COMMITTEE ON HB 317 AN ACT
RELATIVE TO THE TREATMENT OF VETERANS' DISABILITY BENEFITS FOR
PURPOSES OF DETERMINING CHILD SUPPORT**

For Committee Hearing, February 18, 2021

Karen Hebert, Bureau Chief

It is my intention to provide the Committee with information regarding this bill, to aid in your decision-making.

The Child Support Program structure

- An order for child support in NH is determined using the NH Child Support Guidelines statutory authority, RSA 458-C. The NH Guidelines statute defines “gross income” broadly as all income from any source, whether earned or unearned, which language follows federal child support regulation 45 CFR 302.56. This federal child support regulation is a requirement in the Child Support State Plan pursuant to the Social Security Act, Title IV-D.
- The Bureau of Child Support Services relies on federal funding, **and** federal resources that provide critical data, support, and sources for child support collections. The state would not be able to successfully serve families without this funding and resources. NH receives approximately \$11.8M each year from the federal government, which pays for over 2/3rds of the cost of the state’s program. The federal government also provides data to the state, for example: federal New Hire information; it provides direct support and resources to our employer community; and the Treasury Offset Program which is a major source of child support collected for families (\$13.6M FFY 2020). The NH courts also receive federal Title IV-D funding to establish and maintain Expedited Processes for the establishment of child support orders. With this funding and resources, we are effectively able to collect (on average) \$85M each year for approximately 40,000 children.
- Receipt of this federal funding and the availability of additional federal resources are conditioned on the state maintaining compliance with a State Plan, which is based on federal authority, including compliance with federal child support regulation 45 CFR 302.56 for the determination of child support orders. The state is currently in compliance with the federal law and regulation.
- This federal child support regulation requires that the state’s Child Support Guidelines must provide that the child support order is based on the [obligor] parent’s earnings, income and other evidence of ability to pay, that takes into consideration **all** earnings and income of the [obligor] parent.

If this bill is passed, the state will be at risk of

1. Losing \$11.8M each year;
2. Losing additional funding and resources for key stakeholders, namely the court and NH employers, in the collection of child support for families; and
3. Jeopardizing the state's ability to collect support on behalf of 40,000 children.

Other State Funding Impacts

Excluding veterans' disability benefits from gross income in the determination of child support awards, would also subject the State to other federal sanctions in addition to the total loss of federal funding and federal resources. These federal sanctions are fiscal penalties of up to \$1.9M assessed every year against the state's TANF Block Grant, as long as the state is not in compliance with the federal authority. If this bill passes, we will not be in compliance and will risk the penalty assessment.

Impact to Public Assistance

The amount of child support in certain cases will decrease if this bill is passed, which I will discuss in my testimony. This decrease will result in more families relying on public/economic assistance through various state assistance programs. This creates a greater burden on assistance programs in the state and on the taxpayers.

Excluding veterans' disability benefits from gross income will also negatively impact the Department's ability to **recover** public/economic assistance expenditures in cases where child support is assigned to the Department. This is an important responsibility of the child support program.

Impact to Families Awarded Child Support

The passing of this bill would ultimately reduce the amount of child support that children of veteran obligors would receive. The purpose of the Child Support Guidelines includes minimizing the economic consequences to children. This bill would be particularly impactful on recipient families whose income is **also** below the poverty level and for whom child support is often most, if not **their** only source of income, according to a 2018 study in NH. Consider the following:

- Veterans with child dependents who have a disability rating of 60% or less receive a benefit amount that is **less** than the Guidelines current Self-Support Reserve amount. If this was the veteran's sole source of income, he or she would be issued a statutory minimum child support obligation of \$50/m.
- However, veterans with child dependents who have a disability rating greater than 60% would receive a monthly benefit amount **greater** than the Self-Support Reserve amount, and thus be liable for support in accordance with NH law and the current Guidelines. For example,

Child Support Guidelines Example

- ✓ Guidelines Self-Support Reserve = \$1,223/m
 - ✓ Assume the sole income is the veteran's disability; veteran + 1 child
 - ✓ Benefit at 100% disability rate = \$3,263.74/m¹
 - Current Guidelines amount = \$668/m
 - Proposed Guidelines amount = \$50/m
- If this bill passes, children whose veteran parent is earning an amount greater than the Self-Support Reserve would lose the financial support they would otherwise receive under the current statute.

Setting and Satisfying Child Support Orders

The calculation of child support is the target subject of this bill, which is separate and distinct from federal and state authority on *garnishment*. The federal and state authority and case law on child support garnishment, which is an enforcement activity, state that while veterans' disability benefits are exempt from garnishment directly to the VA, once these funds are received by the veteran, they **can** be used to satisfy a state's order of child support.

Including veterans' disability benefits in the definition of gross income, to both determine a support obligation amount and to satisfy a support obligation are absolutely allowed by federal law and in accordance with federal and state case law.

Services Offered to Help the Veteran in Need

The Bureau of Child Support Services looks at ways to engage with and work with parents, including veterans, who want to support their children but experience barriers to comply with their court order, i.e. paying their child support. We are currently helping these parents using outreach and intervention services, and connecting them with the numerous resources that may be available to them. We use a debt reduction program to help address unmanageable past due child support. We also take steps to ensure the parent's support order is "right-sized" and based on their ability to pay.

When any obligor parent does not have the ability to pay, the Bureau can, at their request, review their court ordered amount and the circumstances that are impacting their ability to pay. If the circumstance warrants an adjustment of their court ordered amount, the Bureau can take it to court for them and request the amount be recalculated based on their actual income. For example: if the original order was issued based on earnings several years ago while in active duty at a higher rate of pay, but now the veteran is only earning \$1,000/month in benefits, the order should be adjusted in accordance with the current Guidelines statute. It is our experience that

¹ *Source: <https://www.va.gov/disability/compensation-rates/veteran-rates/>

many paying parents are not aware they can change their order, or know how to. We can and do help them with this.

These services are available to veterans. If a veteran does not have a case with the Bureau, he or she can apply for services at any time, even if their order was issued by another state or even another country. We can help them.

If this bill passes, the state will be at risk of not being able to provide these services that many parents...not just veterans, need.

NH is Complying with Federal Law

The New Hampshire Supreme Court has confirmed that the inclusion of veteran's disability benefits as income for child support purposes is consistent with federal law. The Court reinforced that the U.S. Supreme Court in Rose v. Rose, 481 U.S. 619 (1987), "addressed expressly whether veterans' disability benefits could be considered by state courts as 'income' for purposes of calculating [child] support". The Supreme Court determined that "...the broad statutory definition of "gross income" for child support purposes, which includes veterans' benefits and disability benefits, is consistent with federal law."

The NH Supreme Court found that Rose has **not** been overruled and that "Numerous state courts, relying upon Rose have determined that federal law does not preclude a state court from treating a veteran's disability benefits as income for child support purposes".

Summary

Including veterans disability benefits in the determination of child support awards, **is allowed** by federal law and supported by federal and state case law. There are effective services available now for veterans to address their needs.

Passing this bill will:

- Place children at risk of not receiving the appropriate financial support;
- Place the state at risk of losing significant federal funding and access to federal resources for the Child Support Program, the Court and NH employers;
- Place the state at risk of significant financial penalties;
- Jeopardize the state's ability to collect millions of dollars in child support for thousands of families in NH;
- Increase state expenditures in public assistance and increase taxpayer burden; and
- Reduce the state's ability to recover public assistance expenditures.

Thank you.

NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, One Charles Doe Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made before the opinion goes to press. Errors may be reported by e-mail at the following address: reporter@courts.state.nh.us. Opinions are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home page is: <http://www.courts.state.nh.us/supreme>.

THE SUPREME COURT OF NEW HAMPSHIRE

6th Circuit Court-Hooksett Family Division
No. 2019-0065

IN THE MATTER OF SEAN BRAUNSTEIN AND JERICKA BRAUNSTEIN

Submitted: January 14, 2020
Opinion Issued: February 13, 2020

Sean Braunstein, self-represented party.

Granite State Legal Resources, of Concord (Anthony Santoro on the brief), for the respondent.

HICKS, J. The petitioner, Sean Braunstein (Husband), appeals the final decree and associated orders entered by the Circuit Court (Sadler, J.) in his divorce from the respondent, Jericka Braunstein (Wife). He argues, among other things, that the trial court erred by including his monthly federal veterans' disability benefits as income for child support purposes. We affirm.

We briefly recite the facts necessary to decide this appeal. Husband is unemployed and describes himself as medically retired and disabled. He receives veterans' disability income, social security disability income, and other federal benefits. According to Husband's financial affidavit, he receives approximately \$5,000 monthly from those sources. Before the trial court, Husband asserted that his federal veterans' disability benefits did not qualify for inclusion as income for child support purposes pursuant to federal law, which, in turn, preempts state law. The trial court rejected Husband's assertion, determining that "under the statutory definition of income[,] all amounts should be included." (Footnote omitted.) See RSA 458-C:2, IV (2018)

(defining gross income for the purposes of calculating child support as including veterans' and disability benefits). This appeal followed.

On appeal, Husband reiterates the federal preemption arguments he made in the trial court. Preemption is essentially a matter of statutory interpretation. Hendrick v. N.H. Dep't of Health & Human Servs., 169 N.H. 252, 259 (2016). We review the trial court's statutory interpretation de novo. Id. We interpret federal law in accordance with federal policy and precedent. Id. When interpreting a statute, we begin with the language of the statute itself, and, if possible, construe that language according to its plain and ordinary meaning. Id. When the language of the statute is clear on its face, its meaning is not subject to modification. Id. We will neither consider what Congress might have said, nor add words that it did not see fit to include. Id. We interpret statutes in the context of the overall statutory scheme and not in isolation. Id.

The federal preemption doctrine is based upon the Supremacy Clause of the United States Constitution, U.S. CONST. art. VI, cl. 2. Id. at 260. Article VI provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. CONST. art. VI, cl. 2. "There can be no dispute that the Supremacy Clause invalidates all state laws that conflict or interfere with an Act of Congress." Rose v. Arkansas State Police, 479 U.S. 1, 3 (1986) (per curiam).

"Pre-emption may be either express or implied" FMC Corp. v. Holliday, 498 U.S. 52, 56 (1990) (quotation omitted). "Even without an express provision for preemption, . . . state law must yield to a congressional Act in at least two circumstances." Crosby v. National Foreign Trade Council, 530 U.S. 363, 372 (2000). "When Congress intends federal law to occupy the field, state law in that area is preempted." Id. (quotation omitted). "And even if Congress has not occupied the field, state law is naturally preempted to the extent of any conflict with a federal statute." Id. An actual conflict exists when "it is impossible for a private party to comply with both state and federal requirements or where state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." English v. General Electric Co., 496 U.S. 72, 79 (1990) (quotation and citation omitted); see Wenners v. Great State Beverages, 140 N.H. 100, 104 (1995). "What is a sufficient obstacle is a matter of judgment, to be informed by examining the federal statute as a whole and identifying its purpose and intended effects" Crosby, 530 U.S. at 373.

Traditionally, "the regulation of domestic relations is . . . the domain of state law," and, therefore, there is "a presumption against preemption of state laws governing domestic relations." Hillman v. Maretta, 569 U.S. 483, 490 (2013) (quotation omitted). "[F]amily and family-property law must do major

damage to clear and substantial federal interests before the Supremacy Clause will demand that state law be overridden.” *Id.* at 490-91 (quotations omitted). “But family law is not entirely insulated from conflict pre-emption principles,” and, thus, the United States Supreme Court has “recognized that state laws governing the economic aspects of domestic relations must give way to clearly conflicting federal enactments.” *Id.* at 491 (quotation and ellipsis omitted).

Applying these principles, the United States Supreme Court in *Rose v. Rose*, 481 U.S. 619 (1987), “addressed expressly whether veterans’ disability benefits could be considered by state courts as ‘income’ for purposes of calculating [child] support.” *Alwan v. Alwan*, 830 S.E.2d 45, 49 (Va. Ct. App. 2019). The issue in *Rose* was whether a state court had jurisdiction “to hold a disabled veteran in contempt for failing to pay child support” when federal veterans’ disability benefits were his “only means of satisfying [that] obligation.” *Rose*, 481 U.S. at 621-22; see *In the Matter of Brownell & Brownell*, 163 N.H. 593, 598 (2012). The veteran argued that federal law conflicted with, and, thus, preempted, state statutes purporting to grant state courts jurisdiction over veterans’ disability benefits. *Rose*, 481 U.S. at 625; see *Brownell*, 163 N.H. at 598.

The federal statutes upon which the veteran primarily relied were 38 U.S.C. § 3101(a), 42 U.S.C. § 659(a), and 42 U.S.C. § 662(f)(2). See *Rose*, 481 U.S. at 630-35. At the time, 38 U.S.C. § 3101(a) provided, “[P]ayments of benefits due or to become due under any law administered by the Veterans’ Administration made to, or on account of, a beneficiary shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary.” *Rose*, 481 U.S. at 630 (quotation and ellipses omitted). Section 3101(a) “exists currently in similar form in” 38 U.S.C. § 5301(a)(1) (2012). *Holmes v. Dept. of Human Resources*, 279 So. 3d 572, 576 (Ala. Civ. App. 2018).

In *Rose*, the veteran argued that, pursuant to 38 U.S.C. § 3101(a), only the Federal Veterans’ Administration could order him to pay child support and that the state court lacked jurisdiction over his federal veterans’ disability benefits. *Rose*, 481 U.S. at 623; see *Alwan*, 830 S.E.2d at 49. In rejecting that argument, the Court explained that this statute serves two purposes: (1) “to avoid the possibility of the Veterans’ Administration being placed in the position of a collection agency”; and (2) “to prevent the deprivation and depletion of the means of subsistence of veterans dependent upon these benefits as the main source of their income.” *Rose*, 481 U.S. at 630 (quotations and ellipsis omitted). The Court held that the state’s assertion of its contempt power did not frustrate the first purpose because the Federal Veterans’ Administration was neither a party to the contempt proceedings nor required to pay the veteran’s disability benefits directly to his ex-wife. *Holmes*, 279 So. 3d at 576; see *Rose*, 481 U.S. at 630. The second purpose was not frustrated because veterans’ disability benefits “are not provided to support [the veteran]

alone.” Rose, 481 U.S. at 630. Rather, the Court ruled, Congress intended those benefits “to provide reasonable and adequate compensation for disabled veterans and their families.” Id. (quotation omitted); see Alwan, 830 S.E.2d at 50.

Because federal veterans’ disability benefits “are intended to support not only the veteran, but the veteran’s family,” the Court recognized an exception in the context of child support to the statutory prohibition against attachment, levy, or seizure of a veteran’s benefits. Rose, 481 U.S. at 634; see Brownell, 163 N.H. at 598. The Court ruled, therefore, that a veteran’s disability benefits are not protected from seizure when the veteran invokes Section 3101(a) “to avoid an otherwise valid order of child support.” Rose, 481 U.S. at 634; see Brownell, 163 N.H. at 598.

The veteran also relied upon 42 U.S.C. § 659(a), which, at the time, provided:

[M]oneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support.

Rose, 481 U.S. at 634 (quotation and ellipses omitted). 42 U.S.C. § 662(f)(2) specifically excluded veterans’ disability benefits from the statutory definition of an entitlement “based upon remuneration for employment.” Rose, 481 U.S. at 634-35 (quotation omitted). The current version of 42 U.S.C. § 659(a) is substantially the same as the version at issue in Rose. Compare Rose, 481 U.S. at 634-35 (quoting version of the statute then in effect), with 42 U.S.C. § 659(a) (2012). Currently, veterans’ disability benefits are deemed to be remuneration from employment only under certain circumstances. See 42 U.S.C. § 659(h)(1)(A)(ii)(V), (h)(1)(B)(iii) (2012).

In Rose, the veteran argued that the exclusion of veterans’ disability benefits from the statutory definition of remuneration for employment “embodie[d] Congress’ intent that veterans’ disability benefits not be subject to any legal process aimed at diverting funds for child support, including a state-court contempt proceeding.” Rose, 481 U.S. at 635. In rejecting that argument, the Court explained that 42 U.S.C. § 659(a) “was intended to create a limited waiver of sovereign immunity so that state courts could issue valid orders directed against agencies of the United States Government attaching funds in the possession of those agencies.” Id. Observing that “[w]aivers of sovereign immunity are strictly construed,” the Court found “no indication in the statute that a state-court order of contempt issued against an individual is

precluded where the individual's income happens to be composed of veterans' disability benefits." Id. (emphasis omitted). "Thus," the Court reasoned, "while it may be true that [veterans' disability benefits] are exempt from garnishment or attachment while in the hands of the Administrator, we are not persuaded that once these funds are delivered to the veteran a state court cannot require that veteran to use them to satisfy an order of child support." Id.

Numerous state courts, relying upon Rose, have determined that federal law does not preclude a state court from treating a veteran's disability benefits as income for child support purposes. See Goldman v. Goldman, 197 So. 3d 487, 493-94 (Ala. Civ. App. 2015); Loving v. Sterling, 680 A.2d 1030 (D.C. 1996); Casey v. Casey, 948 N.E.2d 892, 901-02 (Mass. App. Ct. 2011) (deciding that "[i]t was error . . . for the husband to fail to include the [veterans'] disability payment amount in his financial statement listing his income" because "State courts are not precluded from considering these benefits as a portion of the husband's income for purposes of child support"); Nieves v. Iacono, 77 N.Y.S.3d 493, 493-94 (App. Div. 2018) (father's veterans' disability benefits are income; federal statute exempting veterans' benefits from claims in general did not apply to child support obligations); Alwan, 830 S.E.2d at 51 (ruling that the trial court "did not err in . . . calculat[ing] father's gross income based on the income he received from all sources, including his [federal] veterans' disability benefits").

In Brownell, we relied upon "the logic of Rose" to hold that federal law does not preclude a state court from including veterans' disability benefits as income for alimony purposes. Brownell, 163 N.H. at 598-99 (quotation omitted). We did not then have occasion to apply Rose to child support calculations. We now join the courts that have applied Rose and hold that the trial court in this case did not err by including Husband's veterans' disability benefits as income for the purposes of calculating child support.

In arguing for a contrary result, Husband asserts that Rose is not dispositive because it "was wrongly decided." However, "[w]hen interpreting federal law, . . . we are bound by the United States Supreme Court's current explication of it." State v. Melvin, 150 N.H. 134, 140 (2003); see Marmet Health Care Center, Inc. v. Brown, 565 U.S. 530, 531 (2012) (per curiam) ("When this Court has fulfilled its duty to interpret federal law, a state court may not contradict or fail to implement the rule so established.").

To the extent that Husband contends that Rose has been "overruled" by subsequent amendments to the pertinent federal statutes, he is mistaken. The statutes upon which Husband relies "to counter the viability and reach of the Rose decision . . . are essentially the same statutes that were rejected as controlling in Rose." Alwan, 830 S.E.2d at 50; see Iannucci v. Jones, No. 345886, 2019 WL 6977116, at *4 (Mich. Ct. App. Dec. 19, 2019) (reviewing the current versions of 42 U.S.C. § 659 and 38 U.S.C. § 5301(a)(1) and deciding

that they “do not prevent state courts from considering veterans’ disability benefits as income in calculating child support and . . . do no[t] preempt state law in this field”).

Husband is also mistaken to the extent that he argues that Howell v. Howell, 137 S. Ct. 1400 (2017), abrogated Rose. “Howell addressed the treatment and division of military benefits as ‘property’ in divorce, not as income used to support a veteran’s dependents.” Alwan, 830 S.E.2d at 51; see Howell, 137 S. Ct. at 1403-06. “Howell did not address the calculation of a veteran’s income for child support purposes.” Alwan, 830 S.E.2d at 51; see Lesh v. Lesh, 809 S.E.2d 890, 899 (N.C. Ct. App. 2018) (“Nothing in Howell alters the holding in Rose that military disability benefits are not required to be excluded from the definition of income for the purposes of calculating the resources a party can draw upon to fulfill child support obligations.”).

Husband’s reliance upon In re Marriage of Cassinelli, 229 Cal. Rptr. 3d 801 (Ct. App. 2018), is equally misplaced. That case concerned a divorced spouse’s share of her ex-husband’s military retired pay. Cassinelli, 229 Cal. Rptr. 3d at 806-08. It did not concern the inclusion of veterans’ disability benefits as income for child support purposes. Moreover, in Cassinelli, the court specifically agreed with other courts that “a court may include [veterans’] disability benefits as a source of income to be considered in awarding spousal support.” Id. at 807 (quotation omitted).

Husband asserts that by incorrectly calculating his income for child support purposes, the trial court infringed upon his constitutionally-protected property right to veterans’ disability benefits. This argument is insufficiently developed for our review. “Judicial review is not warranted for complaints regarding adverse rulings without developed legal argument, and neither passing reference to constitutional claims nor off-hand invocations of constitutional rights without support by legal argument or authority warrants extended consideration.” Appeal of Omega Entm’t, 156 N.H. 282, 287 (2007).

Husband next contends that “the NH Legislation branch, and the Department of Health and Human Services, knew they were out of compliance with federal mandates when the state attempted to submit HB-652-FN in 2017,” a bill that, when it was introduced, sought to amend the statutory definition of gross income for child support purposes to include veterans’ benefits only “to the extent permitted by federal law and to the extent such benefits are intended to support not only the veteran but also the veteran’s family.” H.B. 652-FN, 2017 Leg., Reg. Sess. (N.H. 2017) (bolding omitted). The fiscal note accompanying the bill stated, in pertinent part:

The Department of Health and Human Services states the definition of gross income in this bill appears to conflict with 45 CFR 302.56(c)(1) requiring state child support guidelines take into

consideration all earnings and income of the noncustodial parent. If this bill results in state law being out of compliance with the federal mandate, the state may be subject to various federal sanctions that could include the total loss of federal funding of the child support program, loss of federal child support performance measures incentive funds, and loss of five percent of the State's TANF block grant.

Id. The version of the bill that the legislature eventually passed and the Governor signed into law did not amend the statutory definition of gross income. See Laws 2017, ch. 169.

As the above discussion demonstrates, the broad statutory definition of "gross income" for child support purposes, which includes veterans' benefits and disability benefits, is consistent with federal law. Moreover, neither the intent of the New Hampshire Legislature nor of the New Hampshire Department of Health and Human Services is relevant to the federal question of preemption. Thus, for all of the reasons stated above, we hold that federal law did not preclude the trial court from including Husband's federal veterans' disability benefits as income for child support purposes.

We have reviewed Husband's remaining arguments and conclude that they do not warrant extended discussion. See Vogel v. Vogel, 137 N.H. 321, 322 (1993). In his remaining arguments, Husband challenges several of the trial court's discretionary decisions, such as its decisions to: (1) hold a final hearing even though Wife had not answered all of Husband's interrogatories; (2) not find that Wife is voluntarily underemployed; (3) not hold Wife in contempt; (4) not specifically rule upon Husband's motion in limine to prevent Wife from testifying about finances; (6) find Wife's testimony credible; (7) not "remove the clause of the parties mutually releasing one another" (footnote omitted); (8) require Husband to pay for private kindergarten; (9) decline to follow the recommendation of the guardian ad litem regarding the child's legal residence for school; (10) divide the current cash value of an insurance policy on Wife's life unequally; and (11) not refer the case to the complex case docket.

The trial court has broad discretion in fashioning a final divorce decree. In the Matter of Spenard & Spenard, 167 N.H. 1, 3 (2014). Its discretion necessarily encompasses decisions concerning property distribution, child support, and parenting rights and responsibilities. See id.; see also In the Matter of Conant & Faller, 167 N.H. 577, 582 (2015). The trial court's discretion also extends to managing the proceedings before it, including resolving discovery disputes. See In the Matter of Kempton & Kempton, 167 N.H. 785, 792 (2015); see also In the Matter of Jones and Jones, 146 N.H. 119, 121 (2001).

We will not overturn the trial court's rulings on such matters absent an unsustainable exercise of discretion. Spenard, 167 N.H. at 3; Conant & Faller, 167 N.H. at 582; Kempton, 167 N.H. at 793; see Jones, 146 N.H. at 121. This standard of review means that we review only whether the record establishes an objective basis sufficient to sustain the discretionary judgment made, and we will not disturb the trial court's determination if it could reasonably have been made. In the Matter of Kurowski & Kurowski, 161 N.H. 578, 585 (2011). We defer to the trial court's judgment in matters of conflicting testimony and evaluating the credibility of witnesses. In the Matter of Aube & Aube, 158 N.H. 459, 465 (2009). As the trier of fact, the trial court could accept or reject, in whole or in part, the testimony of any witness or party, and was not required to believe even uncontroverted evidence. Brent v. Paquette, 132 N.H. 415, 418 (1989). We also defer to the trial court's judgment as to the weight to be accorded evidence, including the recommendations of a guardian ad litem. In the Matter of Heinrich & Curotto, 160 N.H. 650, 657-58 (2010). If the trial court's findings could reasonably have been made on the evidence presented at trial, they will stand. Spenard, 167 N.H. at 3.

“Our standard of review is not whether we would rule differently than the trial court, but whether a reasonable person could have reached the same decision as the trial court based upon the same evidence.” Cook v. Sullivan, 149 N.H. 774, 780 (2003). We will not substitute our judgment for that of the trial court. See Brent, 132 N.H. at 419. Nor will we reweigh the equities. In the Matter of Heinrich & Heinrich, 164 N.H. 357, 365 (2012).

As the appealing party, Husband has the burden of demonstrating reversible error. Gallo v. Traina, 166 N.H. 737, 740 (2014). Based upon our review of the trial court's discretionary decisions, Husband's challenges to them, the relevant law, and the record submitted on appeal, we conclude that Husband has not demonstrated reversible error with respect to those decisions. See id.

Affirmed.

BASSETT, HANTZ MARCONI, and DONOVAN, JJ., concurred.

Hello, my name is Jesse Bolin. I would like to start out by expressing my most sincere appreciation for our veterans who have served this country to preserve our freedom and way of life. Thank you. I'd also like to thank the committee members for the opportunity to express my thoughts and feelings about the bill before us today.

I would like to explain briefly why I am in opposition of House Bill 317.

As the language states in the proposed bill, HB317 seeks to eliminate counting disabled veteran's income as "gross income" when calculating child support in NH. When reading the text of the two referenced laws (42 U.S.C. section 659 and IM-98-03), HB317 would dramatically change the existing process in NH for calculating child support when either party is receiving disabled veteran compensation, essentially taking the power out of the hands of the family courts for resolving pay disparities and putting that burden directly on the taxpayers of NH. For example, if a 100% disabled veteran receives all their income from the government, the other party would have to seek aid from the State of NH instead in the way of TANF (or similar) funds. I would put this question before the committee: Do you believe it is the responsibility of all NH taxpayers to pay child support to the ex-spouse of a disabled veteran? If the answer is no, I implore you to vote Inexpedient to Legislate on HB 317.

Next, the NH Supreme Court has already ruled on this matter, just about one year ago, on this exact matter. In reference to "In the Matter of Sean Braunstein and Jericka Braunstein", the NH Supreme Court roundly dismissed the case presented by Sean Braunstein (who also happens to be the original author of HB 317) by referencing existing precedent in both NH and Federal cases. In essence, the NH Supreme Court found no existing laws, whether Federal or in the State of NH, meant to exempt any compensation to veterans from child support. I have submitted this case as evidence to the committee for review in support for these statements.

Passage of HB-317 would have an adverse effect on NH residents in a variety of ways. Most directly, those who are (or will) receive child support from a veteran receiving disability compensation will find that support disappear. As it is now, because income from all sources is considered when calculating child support, if the ex-spouse of a disabled veteran happens to make more than the vet, it's possible they would have to pay child support to the disabled veteran. However, by this logic, people who make less would see their support cut, and those barely making ends meet now may face dire repercussions from this loss of income. To put it bluntly, this bill would hurt the most vulnerable of NH residents first and foremost. And when those people have nowhere else to go, they will utilize NH support services, costing NH taxpayers.

Lastly, I have known Sean Braunstein for many years. Jericka, Sean's ex-wife who testified in the first hearing on this bill, is my partner and the mother of my son. Sean seeks to personally demean Jericka's reputation by trying to discredit her. This is old hat for Sean Braunstein who has spent the better part of the last six years trying to make Jericka miserable since she decided to leave him. Just last night, after 9pm, Sean spoke with Jericka on the phone and told her his plan for his testimony for today. Sean said he would spend his time "destroying" Jericka's testimony, pointing out flaws about her personal life, and proceeded to threaten to call on the State to investigate her for imagined crimes he believes she has committed. He hopes by threatening her, it will silence and weaken her resolve to stand up against him. We who know Sean best recognize this persistent pattern of abuse. Unfortunately, it has culminated in the House Bill before you today, with Sean having exhausted all other options to not have to pay child support to Jericka.

For these reasons, I again humbly ask the committee to vote Inexpedient to Legislate on House Bill 317.

Thank you again for your time and consideration.

Karen Karwocki

From: John Lewicke
Sent: Thursday, March 11, 2021 11:14 AM
To: ~House Children and Family Law Committee
Subject: HB317

HB317 would make disabled veterans a special class to be treated differently from all others in New Hampshire. Disability benefits are for the veteran and their families. Although the federal government may be less generous than it should to veterans who become disabled in the service of their country. It is not the responsibility of the taxpayers of the state of New Hampshire to make up for those shortcomings.

Sent from [Mail](#) for Windows 1

Bill as
Introduced

HB 317-FN - AS INTRODUCED

2021 SESSION

21-0391

05/10

HOUSE BILL **317-FN**

AN ACT relative to the treatment of veterans' disability benefits for purposes of determining child support.

SPONSORS: Rep. Baldasaro, Rock. 5; Rep. Spillane, Rock. 2; Rep. Pearl, Merr. 26; Rep. Hopper, Hills. 2; Rep. Wallace, Rock. 12; Rep. Leishman, Hills. 24; Sen. Giuda, Dist 2; Sen. Bradley, Dist 3; Sen. Daniels, Dist 11; Sen. Gannon, Dist 23

COMMITTEE: Children and Family Law

ANALYSIS

This bill provides that a veteran's disability benefit shall not be considered as gross income for purposes of determining child support unless the veteran waived a portion of retirement pay for the disability benefit.

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 the treatment of veterans' disability benefits for purposes of determining child support.

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

1 1 Child Support Guidelines; Definition of Gross Income; Veterans Disability Compensation.

2 Amend the introductory paragraph of RSA 458-C:2, IV to read as follows:

3 IV. "Gross income" means all income from any source, whether earned or unearned,
4 including, but not limited to, wages, salary, commissions, tips, annuities, social security benefits,
5 trust income, lottery or gambling winnings, interest, dividends, investment income, net rental
6 income, self-employment income, alimony, business profits, pensions, bonuses, and payments from
7 other government programs (except public assistance programs, including aid to families with
8 dependent children, aid to the permanently and totally disabled, supplemental security income, food
9 stamps, and general assistance received from a county or town), including, but not limited to,
10 workers' compensation, veterans' benefits (***except as otherwise provided in subparagraph (d)***),
11 unemployment benefits, and disability benefits; provided, however, that no income earned at an
12 hourly rate for hours worked, on an occasional or seasonal basis, in excess of 40 hours in any week
13 shall be considered as income for the purpose of determining gross income; and provided further that
14 such hourly rate income is earned for actual overtime labor performed by an employee who earns
15 wages at an hourly rate in a trade or industry which traditionally or commonly pays overtime wages,
16 thus excluding professionals, business owners, business partners, self-employed individuals and
17 others who may exercise sufficient control over their income so as to recharacterize payment to
18 themselves to include overtime wages in addition to a salary. In addition, the following shall apply:

19 2 New Subparagraph; Definition of Gross Income; Veterans Disability Compensation. Amend
20 RSA 458-C:2, IV by inserting, after subparagraph (c) the following new subparagraph:

21 (d) A veteran's compensation for service-connected disability shall not be considered as
22 gross income unless the veteran waived a portion of retirement pay in order to receive such
23 compensation, as verified by an apportionment review conducted by the United States Department
24 of Veterans Affairs in accordance with 42 U.S.C. section 659(h)(1)(A)(ii)(V) and Informational
25 Memorandum IM-98-03, dated September 25, 1998, as amended or updated by the Department.

26 3 Effective Date. This act shall take effect January 1, 2022.

**HB 317-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the treatment of veterans' disability benefits for purposes of determining child support.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General Funds <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Federal			

METHODOLOGY:

This bill amends the definition of "gross income" under the NH child support guidelines by excluding veterans' disability benefits from the calculation of gross income in most instances. The Department of Health and Human Services notes that in certain cases, any decrease in child support could result in additional families seeking aid through various state assistance programs. In addition, the Department states that the bill may subject the Bureau of Child Support Services to federal sanctions, in that it may conflict with federal regulation 45 CFR 302.56(c)(1), which requires state child support guidelines to take into consideration all earnings and income of the noncustodial parent. The Department speculates that such sanctions could include the loss of federal funding for child support programs, loss of federal child support performance measure incentive funds, and up to 5 percent of the state's Temporary Assistance to Needy Families (TANF) block grant. In total, federal funds received by the Bureau of Child Support Services equal \$11.8 million per year in the current FY 2020/21 budget.

AGENCIES CONTACTED:

Department of Health and Human Services