Bill as Introduced

HB 494 - AS INTRODUCED

2021 SESSION

21-0623
05/04

HOUSE BILL ***494***

AN ACT relative to temporary relief and permanent restraining orders issued in a divorce proceeding.

SPONSORS: Rep. DeSimone, Rock. 14; Rep. Harb, Rock. 14; Rep. Baldasaro, Rock. 5; Sen. Birdsell, Dist 19

COMMITTEE: Children and Family Law

ANALYSIS

This bill provides that the court shall not issue an order in a divorce proceeding that infringes on a party's constitutional rights unless the court determines there is no less restrictive means to achieve a compelling government interest.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 494 - AS INTRODUCED

21-0623
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to temporary relief and permanent restraining orders issued in a divorce proceeding.

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

1 New Paragraph; Annulment, Divorce, and Separation; Temporary Relief and Restraining Orders. Amend RSA 458:16 by inserting after paragraph II the following new paragraph:

II-a. If any order issued under this section, other than one brought under RSA 173-B, infringes on any right or rights a party may have as enumerated under either the federal or state constitution, the court shall identify the right or rights being infringed, and the compelling government objective to be achieved by the infringement. The court shall also make written findings that there is no less restrictive way to achieve the compelling government objective. Any party aggrieved by an order not meeting this standard may petition the court to have the order modified or vacated.

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

Committee Minutes

SENATE CALENDAR NOTICE
Judiciary

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: April 28, 2021

HEARINGS

Monday		05/03/2021	
(Day)		(Date)	
Judiciary		REMOTE	1:00 p.m.
(Name of Committee)		(Place)	(Time)

1:00 p.m.	**HB 139**	relative to the submission of evidence in divorce proceedings.
1:15 p.m.	**HB 161**	relative to the calculation of child support.
1:30 p.m.	**HB 142**	relative to causes for divorce.
1:45 p.m.	**HB 495**	relative to restraining orders issued in a parenting case.
2:00 p.m.	**HB 494**	relative to temporary relief and permanent restraining orders issued in a divorce proceeding.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: https://www.zoom.us/j/97554976568
2. To listen via telephone: Dial(for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: +13126266799,,97554976568# or +16465588656,,97554976568#
4. Webinar ID: 975 5497 6568
5. To view/listen to this hearing on YouTube, use this link: https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: http://gencourt.state.nh.us/remotecommittee/senate.aspx

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:
HB 139
Rep. Yokela Rep. Wallace Rep. Gould

HB 161

Rep. Yokela | Rep. Petrigno | Rep. Malloy | Rep. Abrami

HB 142

Rep. DeSimone

HB 495

Rep. DeSimone | Rep. Baldasaro | Sen. Birdsell

HB 494

Rep. DeSimone | Rep. Harb | Rep. Baldasaro | Sen. Birdsell

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 494, relative to temporary relief and permanent restraining orders issued in a divorce proceeding.

Hearing Date: May 3, 2021

Time Opened: 3:44 p.m. **Time Closed:** 4:09 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill provides that the court shall not issue an order in a divorce proceeding that infringes on a party's constitutional rights unless the court determines there is no less restrictive means to achieve a compelling government interest.

Sponsors:
Rep. DeSimone Rep. Harb Rep. Baldasaro
Sen. Birdsell

Who supports the bill: Representative DeSimone; Senator Birdsell; Jay Markell

Who opposes the bill: Representative Toll; Representative Pérez; Representative Porter; Pamela Keilig, New Hampshire Coalition Against Domestic and Sexual Violence; Richard Head, Judicial Branch; Mary Krueger, New Hampshire Legal Assistance; April Aucoin; Pamela Dodge; Amanda Vachon; Ashley Rochelle; Wendy Jensen; Paula Lesmerises; Ashley Stowers; Tina Smith; Adrian Coss; Emily Caswell; Kim Destefano; Marissa Chase, NH Association for Justice; Dawn Needham; Andrew Caskey; Jennifer Bidwell; Nicole Caskey; Pamela Oberg; Stephanie Greenwood

Summary of testimony presented in support:
Representative DeSimone

- The difference between this bill and HB495 is that HB494 speaks to RSA 458:16.
- The bills do the same thing.
- This bill does not affect the domestic violence RSAs.

Jay Markell (provided written testimony)

- This bill has nothing to do with domestic violence, harassment, or any other form of abuse.

- This bill has nothing to do with RSA173-B or with blocking civil restraining orders.
- The problems with the current statute is the language is that the courts frequently use to be anything they want it to be.
- While the first amendment would be a common in this, has also experienced an eighth amendment issue against excessive fines.
- Any person claiming abuse is going to get the protection they want, as this specifically exempts RSA 173-B.
- This is in the parenting and divorce statute because people should be treated equally when they come to court.
- Non-disparagement clauses will not create a problem because in a parenting plan it says that one parent cannot disparage the other to the children, and that will withstand strict scrutiny because children can be damaged by what they hear a parent say and protecting the wellbeing of a child is a compelling government interest/objective.
- The non-disparagement in the parenting plan is narrowly tailored to protect that government interest and there is no less restrictive means to get to that interest.
- In Shak v Shak, what the individual said about his ex-wife was not said in front of the children.
- This simply says that if the court is going to do something that is going to infringe on an enumerated right, the court must say why they have to do it and why there is no less restrictive way to do it.

Summary of testimony presented in opposition:
Richard Head (Judicial Branch)

- Reiterates his testimony on HB495.
- This is unnecessary and does not have a basis for a need.
- If there was a violation of an enumerated constitutional right in an order, the constitution and the facts of the case provide the factual legal basis for an appeal.
- Those appeals can be taken similar to Shak v Shak (MA) where the issue was a non-disparagement order and a first amendment issue, where there was an appeal.
- A similar situation would occur in NH where the appeal would go to the Supreme Court who would make a ruling as to whether the particular facts and the order violate a constitutional right.
- This is an unnecessary provision of putting in a requirement that says a person's constitutional rights are violated, where it is a goal of the court to not do so.
- This is not narrowly drafted, as it covers any enumerated right under the state and federal constitutions.
- There are no clear or measurable guidelines being issued under this.

- The bill simply says to the extent the court believes an order is infringing on a constitutional right that it is doing so under a strict scrutiny basis.
- Any time in this area, the court is going to issue an order describing the basis for its decision.
- This bill is unnecessary and seems driven towards creating more litigation.
- Anyone who disagrees with an order is always free to file a motion for reconsideration/rehearing or seek an amendment based on their review of the order.

Mary Krueger (NH Legal Assistance)

- Reiterates her testimony from HB495.
- The bill states "If any order issued under this section…" which refers to Temporary Relief and Permanent Restraining Orders (RSA 458:16).
- This bill is limited to any order issued under RSA 458:16.
- RSA 458:16 deals with restraining orders that not only restricts a person from going to someone's home but also other things, such as restricting the transfer of property in a divorce case.
- This bill makes it confusing for a court to have to sort through what, if any order it is issuing, might infringe upon any constitutional right.
- Some of the cases referenced had to do with parental rights and not disparaging the other parent in front of the children.
- If the court is looking at the best interest of the child, is not sure if those things are an infringement on free speech. If they were that could be properly appealed under the constitution, which is the current appropriate remedy.

Pamela Keilig (NHCADSV) (provided written testimony)

- This would make it harder for victims to get restraining orders under divorce proceedings.
- Reiterates her testimony from HB495.
- Advocates have spoken about how important these restraining orders are to address the ongoing abuse victims may experience during divorce proceedings.
- Abusers often utilize financial abuse as a means to maintain power and control over a victim.
- These types of orders work to mitigate further attempts to financially abuse a survivor, such as preventing an abuser from dropping a victim from their insurance, taking a victim's car out of their name, ensuring that the gas line or electricity is maintained, etc.
- These orders ensure that the courts have the discretion to act in these cases.
- Has seen cases where defendants continue to file unnecessary ex-parte motions with the intention of controlling a victim's time and burdening them with excessive court dates.
- The current statute allows judges to intervene if a defendant intentionally tries to abuse the court rules.
- This bill would limit the discretion judges have to intervene.

Representative Toll

- Shared her experience as a survivor of abuse.
- Restraining orders can play an important role in helping victims safely leave abusive relationships and they are important for courts to grant relief to survivors when no other options to ensure their safety are available.
- Many victims feel fear about leaving abusers due to the concern that courts may give unsupervised time with the children to the abuser.
- Some victims are financially dependent on their abuser.

Representative Perez

- Shared her experience as a survivor of domestic violence.
- Shared how she was threatened by her abuser regarding her immigration status and with threats of taking away her children.
- These types of bills will make it difficult for victims to get any protection.

jch
Date Hearing Report completed: May 7, 2021

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB494 on 2021-05-03

Support: 3 Oppose: 24 Neutral: 0 Total to Testify: 5

Name	Email Address	Phone	Title	Representing	Position	Testifing	Signed Up
Keilig, Pamela	pkeilig@nhcadsv.org	603-219-8474	A Lobbyist	New Hampshire Coalition Against Domestic and Sexual Violence	Oppose	Yes	4/29/2021 10:07 PM
Head, Richard	rhead@courts.state.nh.us	603-716-8235	State Agency Staff	Myself	Oppose	Yes	5/3/2021 8:00 AM
Krueger, Mary	mkrueger@nhla.org	603-206-2239	A Member of the Public	New Hampshire Legal Assistance	Oppose	Yes	5/3/2021 10:58 AM
DeSimone, Debra	debra.desimone@leg.state.nh.us	603-490-0381	An Elected Official	Myself	Support	Yes	5/3/2021 12:34 PM
Toll, Amanda	electamandanh@gmail.com	603.860.1994	An Elected Official	Myself	Oppose	Yes	5/3/2021 1:08 PM
Pérez, María	mariaeli53@gmail.com	603.801.7867	An Elected Official	District 23	Oppose	No	5/3/2021 3:30 PM
Aucoin, April	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/3/2021 9:52 AM
Dodge, Pamela	pdodge8611@gmail.com	603.608.6320	A Member of the Public	Myself	Oppose	No	5/3/2021 8:40 AM
Vachon, Amanda	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/3/2021 9:34 AM
Rochelle, Ashley	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/3/2021 10:34 AM
Birdsell, Senator Regina	Not Given	Not Given	An Elected Official	Senate District 19	Support	No	4/28/2021 3:36 PM
Jensen, Wendy	jensenhvp@gmail.com	603.225.2601	A Member of the Public	Myself	Oppose	No	4/30/2021 2:15 PM
Markell, Jay	jdmarkell@aol.com	603.362.8144	A Member of the Public	Myself	Support	No	4/30/2021 3:19 PM
Lesmerises, Paula	pcl1943@gmail.com	603.848.4080	A Member of the Public	Myself	Oppose	No	4/30/2021 3:24 PM
Stowers, Ashley	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/1/2021 12:05 AM
Smith, Tina	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/1/2021 11:58 AM
Porter, Marjorie	maporter995@gmail.com	603.464.0225	An Elected Official	Hillsborough District 1	Oppose	No	5/1/2021 4:43 PM
Coss, Adrian	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/2/2021 11:30 AM
Caswell, Emily	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/2/2021 12:48 PM
Destefano, Kim	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/2/2021 7:30 PM
Chase, Marissa	mchase@nhaj.org	603.854.9330	A Lobbyist	NH Association for Justice	Oppose	No	5/2/2021 4:14 PM
Needham, Dawn	dawnis31@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No	5/2/2021 4:30 PM
Caskey, Andrew	andrew.caskey.1@outlook.com	330.749.6341	A Member of the Public	Myself	Oppose	No	5/2/2021 8:23 PM
Bidwell, Jennifer	jennifer.hedderman@gmail.com	219-801-4021	A Member of the Public	Myself	Oppose	No	5/2/2021 8:28 PM
caskey, Nicole	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/2/2021 8:34 PM
Oberg, Pamela	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	5/2/2021 9:26 PM

Greenwood, Stephanie	Stephanie.e.greenwood@gmail.com	Not Given	A Member of the Public	Myself		Oppose	No	5/2/2021 9:31 PM

Testimony

TITLE XLIII
DOMESTIC RELATIONS

CHAPTER 458
ANNULMENT, DIVORCE AND SEPARATION

Alimony, Allowances, Custody, Etc.

Section 458:16

458:16 Temporary Relief and Permanent Restraining Orders. –
I. After the filing of a petition for divorce, annulment, separation or a decree of nullity, the superior court may issue orders with such conditions and limitations as the court deems just which may, at the discretion of the court, be made on a temporary or permanent basis. Temporary orders may be issued ex parte. Said orders may be to the following effect:
(a) Directing any party to refrain from abusing or interfering in any way with the person or liberty of the other party.
(b) Enjoining any party from entering the premises wherein the other party resides upon a showing that physical or emotional harm would otherwise result.
(c) Enjoining any party from contacting the other party at, or entering, the other party's place of employment or school.
(d) Enjoining any party from harassing, intimidating or threatening the other party, other party's relatives regardless of their place of residences, or the other party's household members in any way.
(e) Determining the temporary custody and maintenance of any minor children as shall be deemed expedient for the benefit of the children; provided, however, that no preference shall be given to either parent in awarding such custody because of the parent's sex.
(f) Ordering a temporary allowance to be paid for the support of the other.
(g) Enjoining any party from transferring, encumbering, hypothecating, concealing or in any way disposing of any property, real or personal, except in the usual course of business or for the necessities of life, and if such order is directed against a party, it may require such party to notify the other party of any proposed extraordinary expenditures and to account to the court for all such extraordinary expenditures.
(h) Ordering the sale of the marital residence provided that both parties have previously filed a written stipulation with the clerk of the court explicitly agreeing to the sale of the property prior to the final hearing on the merits. If the parties have not so stipulated, the sale of the marital residence shall not be ordered prior to the final hearing as long as the court deems the party residing within the marital residence to have sufficient financial resources to pay the debts or obligations generated by the property, including mortgage payments, taxes, insurance, and ordinary maintenance, as those debts and obligations come due.
II. (a) Ex parte orders may be granted without written or oral notice to the adverse party only if the court finds from specific facts shown by affidavit or by the verified petition, that immediate and irreparable injury, loss, or damage will result to the applicant, the children, or property before the adverse party or attorney can be heard in opposition.
(b) No ex parte order shall be granted without:
(1) An affidavit from the moving party verifying the notice given to the other party or verifying the attempt to notify the other party.
(2) A determination by the court that such notice or attempt at notice was timely so as to afford the other party an opportunity to be present.
(c) If temporary orders are made ex parte, the party against whom the orders are issued may file a written request with the clerk of the superior court and request a hearing thereon. Such a hearing shall be held no later than 5 days after the request is received by the clerk for the county in which the petition for divorce, annulment,

separation or decree of nullity is filed.

III. When a party violates a restraining order issued under this section by committing assault, criminal trespass, criminal mischief, stalking, or another criminal act, that party shall be guilty of a misdemeanor, and peace officers shall arrest the party, detain the party pursuant to RSA 594:19-a and refer the party for prosecution. Such arrests may be made within 12 hours after a violation without a warrant upon probable cause whether or not the violation is committed in the presence of a peace officer.

Source. RS 148:10. CS 157:10. GS 163:9. GL 182:9. 1887, 100:1; 103:1. PS 175:12. 1919, 39:1. PL 287:14. RL 339:14. 1949, 240:1. RSA 458:16. 1955, 262:3. 1967, 132:18; 259:1. 1971, 445:3. 1975, 426:1. 1992, 208:1. 1994, 259:12. 1996, 32:3. 2000, 258:1. 2002, 46:1; 79:2. 2004, 114:2, eff. May 17, 2004.

TITLE XLIII
DOMESTIC RELATIONS

CHAPTER 461-A
PARENTAL RIGHTS AND RESPONSIBILITIES

Section 461-A:10

461-A:10 Restraining Orders. –

I. After the filing of a petition concerning a minor child under this chapter, the court may issue restraining orders with such conditions and limitations as the court deems just. At the discretion of the court, such orders may be made on a temporary or permanent basis. Temporary orders may be issued ex parte as provided in RSA 461-A:9. The orders may include the following:

(a) Directing any party to refrain from abusing or interfering in any way with the person or liberty of the other party.

(b) Enjoining any party from entering the premises wherein the other party resides upon a showing that physical or emotional harm would otherwise result.

(c) Enjoining any party from contacting the other party at, or entering, the other party's place of employment or school.

(d) Enjoining any party from harassing, intimidating or threatening the other party, other party's relatives regardless of their place of residence, or the other party's household members in any way.

II. When a party violates a restraining order issued under this section by committing assault, criminal trespass, criminal mischief, stalking, or another criminal act, that party shall be guilty of a misdemeanor, and peace officers shall arrest the party, detain the party pursuant to RSA 594:19-a and refer the party for prosecution. Such arrests may be made within 12 hours after a violation without a warrant upon probable cause whether or not the violation is committed in the presence of a peace officer.

Source. 2005, 273:1, eff. Oct. 1, 2005.

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2018-0173, In the Matter of Gina Bundza and Brian Bundza, the court on April 24, 2019, issued the following order:

Having considered the parties' briefs and the record submitted on appeal, we conclude that a formal written opinion is unnecessary in this case. The respondent, Brian Bundza, appeals an order of the Circuit Court (Alfano, J.) awarding the petitioner, Gina Williams, formerly Gina Bundza, sole decision-making and residential responsibilities for the parties' minor child, ordering, among other things, that the father have no contact with the child, requiring that the father pay all attorney's fees and other litigation expenses, and forbidding the father from posting anything about the mother or the child on social media. The father argues that the order must be vacated for several reasons including that the court did not provide constitutionally adequate notice. We vacate and remand.

The following facts were found by the trial court or are supported by the record. The parties have one child born in January 2009. The parties divorced in August 2011. Their initial parenting plan awarded them joint decision-making responsibility and equal residential responsibility.

Before the parties divorced, the child's pediatrician reported to the New Hampshire Division for Children, Youth and Families (DCYF) that the mother suspected that the child had been sexually abused at a daycare facility, and DCYF reported the same to the Rochester Police Department. The police investigated and concluded that no "foul play or any type of crimes" had been committed against the child.

In January 2013, the court granted the mother's ex parte motion seeking "full parental rights and responsibilities" after the father was arrested for aggravated assault. In March 2014, the mother filed a petition to change the parenting plan, requesting "sole rights and responsibilities" because she was concerned that the child "could witness or experience domestic violence" while with the father. In August 2014, before the court had ruled on the mother's motion to modify, the father was incarcerated due to imposition of a suspended sentence. At that time, he also faced new misdemeanor charges of simple assault and stalking. As a result of his incarceration and pending charges, the Trial Court (Patten, J.) temporarily suspended the father's parenting time, stating, however, that it "anticipates restoring his parenting time in some capacity . . . as soon as his circumstances are stabilized."

In October 2014, after the child disclosed in therapy that the father had perpetrated sexual abuse, a medical doctor examined the child and found physical evidence of abuse. The doctor could not determine whether the father, or someone else, committed the abuse.

From January 2015 until March 2016, the father had weekly, supervised parenting time at a Parenting Support Center. In March 2016, the court temporarily suspended his parenting time, stating that "[w]hile it is far from clear that father committed the abuse, something clearly happened to [the child] that is causing [the child] distress." It reasoned that if the "father sexually abused [the child], their continued 'visits' could indeed be causing [the child] terrible psychological and emotional harm. If father did not abuse [the child], a temporary suspension of their 'visits,' while unfortunate, should cause no lasting harm to their relationship." The court ordered a "final hearing on the parenting issues in approximately 90 days."

In June 2016, after DCYF closed its assessment in the case as "Unfounded," the court held a "final hearing on mother's Motion to Modify." The mother argued that the parenting plan should be modified pursuant to RSA 461-A:11, I(c), which allows a court to modify a permanent order concerning parental rights and responsibilities if "the court finds by clear and convincing evidence that the child's present environment is detrimental to the child's physical, mental, or emotional health, and the advantage to the child of modifying the order outweighs the harm likely to be caused by a change in environment." RSA 461-A:11, I(c) (2018); see also Black's Law Dictionary 674 (10th ed. 2014) (defining "clear and convincing evidence" as "[e]vidence indicating that the thing to be proved is highly probable or reasonably certain"). Following the hearing, in July 2016, the Trial Court (Foley, J.) approved a detailed order recommended by a Marital Master (Cross, M.) that set forth the evidence in the case, some of which suggested that the father had sexually abused the child, and some of which suggested that the mother may have influenced the child to "'remember'" the father's abuse. The court concluded that, although it found credible and convincing evidence that the child had been sexually abused by someone, the evidence fell "short of proving it highly probable or reasonably certain" that the father was the perpetrator. The court observed that if it prevented the child from seeing the father without sufficient evidence that the father had perpetrated the abuse, the father would have "lost his parental rights without the due process that attaches to a child protection case or criminal prosecution. In effect, his parental rights would be suspended even though he has not been charged with or convicted of . . . abuse." The court then awarded the father weekly, supervised visitation time of gradually increasing length, and ordered a future review hearing with the "hope . . . that a longer-term parenting schedule can be developed that will help end this active litigation."

In December 2016, the Trial Court (Maloney, J.) stated after a review hearing that it was "not convinced" that visitation presented a "continuing danger" to the child and ordered continued weekly, supervised parenting time between the father and the child.

In December 2017, the Trial Court, (Alfano, J.) approved an order recommended by a Marital Master (Cross, M.) concluding that the child's "best interests require the 'normalization' of [a] relationship with father." At that time, the court had a report from Dr. Mart, a forensic psychologist, that opined that the child's statements suggesting abuse by the father "are the product of suggestive questioning and techniques by [the] mother and by [the child's therapist]." The report stated that the child "has no independent recollection of being abused by [the] father, and the investigations of possible abuse were not triggered by a disclosure by [the child] but were the product of a combination of confirmatory bias on the part of [the child's mother] and [the therapist] combined with suggestive questions, statements and techniques." Mart recommended that "any limitations on [the father's] contact with [the child] which [are] predicated on his having sexually abused [the child] should be removed, and decisions regarding custodial time should be made on the basis of parenting ability and parent-child fit." The guardian ad litem (GAL) supported Mart's recommendation that the father's parenting time no longer be supervised and that the parenting schedule be based on the parties' and the child's schedules and the parties' respective parenting abilities. The court concluded that Mart's "evaluation was comprehensive, well-reasoned, and consistent with the evidence the court has heard in the past several hearings." The court then restored the father's joint decision-making authority, temporarily awarded him increased parenting time, and ordered that a final hearing be scheduled. Days later, the court sent the parties a written notice stating that a final hearing on "BF PETITION #123" would take place on February 14, 2018. Prior to the hearing, both parents and the GAL developed proposed parenting plans requesting joint decision-making and approximately equal residential responsibility.

On February 14, 2018, Judge Alfano started the hearing, at which both parties were self-represented, by asking the mother to explain "what you want me to order and why?" The mother answered that she had a proposed parenting plan and that she was "asking for equal time." The court responded:

> [L]et me back up for a minute. And I want to be clear about one thing. We're starting from scratch here. . . . [S]o if I believe your allegations, I'm not bound by anything else. . . . I can award you what you ask for, sole. Okay? So if you want sole, you should ask for sole. . . . [I]f you think that's in [the child's] best interest, we're not in the middle of a case. We're really at the beginning because this is a final hearing; does that make[] sense?

The mother replied, "I do think that sole decision making would [be] in [the child's] best interests. . . . However, I'm understanding of the fact that everybody wants to move forward and for [the child's] sake, it might be best that we have shared." The court asked if the mother believed that the child was sexually molested by the father, and the mother answered: "All of the information points to that." The court responded: "Yep. So if that's your conclusion, do you want sole residential and sole decision making?" The mother replied: "I think it would be best for [the child] for me to make the decisions."

During the hearing, the GAL objected to the mother's characterization of a portion of the GAL's report as "pure conjecture"; however, the court overruled the objection on the basis that the GAL was not a party to the case because the legislature had changed the governing statute. See RSA 461-A:16 (2018) (amended 2018). The GAL later testified as a witness. During the father's testimony, the court questioned him about his history of domestic violence against third parties.

Following the hearing, the court issued the order that is now on appeal. The court found "by a preponderance of the evidence, that Father has likely sexually abused [the child] on more than one occasion" and that "Father had done significant harm . . . by sexually abusing [the child] and then denying that he did so." The court concluded that the GAL's recommendation that the parents share decision making and residential responsibilities was not in the child's best interest. The court also rejected Mart's report for failing to meet the standards required for an expert report under RSA 516:29-a. See RSA 516:29-a (2007). The court found it troubling that the report did not mention a February 2015 letter from the child's therapist detailing the child's accusation that the father had perpetrated sexual abuse.

Based upon its findings, the court awarded the mother sole decision-making and residential responsibilities and ordered that the father "have no contact with Mother or . . . child directly or indirectly." It ruled that "when and if" the child decides to have contact with the father, the mother should file a motion with the court, but "[o]therwise, there shall be no contact between Father and [the child]." The court also ordered that the father have no contact with the child's school, teachers, doctors, or counselors and ordered him not to "post anything about [the child] or [the] Mother on social media." The court reallocated all past, present, and future GAL expenses to the father. It also awarded the mother attorney's fees on the grounds that "this litigation was the result of Father's bad faith and unreasonable conduct." The court denied both the father's and the GAL's motions to reconsider. This appeal followed.

On appeal, the father argues that the trial court made several errors that require us to vacate the February 14, 2018 order. He argues that "[t]he issues on appeal primarily stem from the Court's improper interference with the

parties' agreement to share decision making and equal or approximately equal parenting time." He asserts that "despite a standing Order and agreement, the Court from the bench improperly influenced [the mother] into seeking sole decision making and sole residential responsibility." He contends that "[t]his abuse of process turned the agreement of the parties on its axis without notice to anyone, including the Guardian ad Litem" and that the "result effectively terminated [his] parental rights."

First, the father argues that the trial court violated his right to a properly noticed hearing when it awarded sole decision-making and residential responsibility to the mother on the basis that he had sexually abused his child. He asserts that, based on previous orders from the court and the parties' proposed parenting plans, he "had no notice, never mind adequate notice, that the Court would consider sole decision making at the February 14, 2018 hearing." He further contends that the trial court was precluded from considering allegations that the father had sexually abused the child because that issue had been previously — and finally — litigated more than 18 months earlier at the June 2016 hearing, after which "the only issue for the Court's consideration, was the detailed and anticipated expansion of the [father's] parenting time."

Next, he argues that the court unsustainably exercised its discretion, and exceeded its statutory authority, when it modified the parenting plan in the absence of sufficient evidence that any of the circumstances set forth in RSA 461-A:11, I exists. See RSA 461-A:11, I. He asserts that the "only 'evidence' that the court had to support" its order "was the evidence that the court created," and that "[a]side from the Court's manufactured and erroneous adjudication of abuse, there are no facts or testimony in evidence to support the award of sole residential and decision making to [the mother]."

Third, the father asserts that the trial court erred as a matter of law when, on the basis that the legislature had "changed the statute," it prevented the GAL from fully participating in the hearing, and denied the GAL's motion for reconsideration. He asserts that, because the legislature did not pass the new statute until June 2018, and the revised law did not go into effect until January 2019, see Laws 2018, 230:1, the trial court committed "judicial error, which, at the very least demonstrates a substantive misunderstanding of the pendency of legislation and may even amount to a blatant disregard for due process."

Fourth, the father argues that the trial court unsustainably exercised its discretion in ordering the father to pay attorney's fees, GAL fees, and other litigation expenses. He asserts that, because the mother had not requested that the father pay her attorney's fees and litigation expenses, and because the hearing notice did not suggest that the issue would be litigated, the court's allocation of fees must be vacated. He further contends that there are no facts

in evidence to support the trial court's conclusion that the father acted in "bad faith."

Fifth, the father asserts that the trial court violated his "most basic rights to due process" because it effectively terminated his parental rights without applying the "procedural and burden-of-proof protections" required by the State and Federal Constitutions and New Hampshire statute. See N.H. CONST. pt. I, art 2; U.S. CONST. amend XIV; RSA ch. 170-C (2014). He contends that "[t]he risk of erroneous deprivation of [his] constitutionally protected interest was exacerbated by the fact that the Court overlooked the parties' agreement and forced [him] to carry on with a hearing on issues that were not appropriately before the Court."

Sixth, the father argues that the trial court erred when it considered his domestic violence history, which did not involve the mother or the child, because New Hampshire law does not permit consideration of "abuse or behavior that has no impact on the relationship between the child and parent." See RSA 461-A:6, I(j) (2018) (stating that the court should be guided by the best interests of the child, which include "[a]ny evidence of abuse, as defined in RSA 173-B:1, I or RSA 169-C:3, II, and the impact of the abuse on the child and on the relationship between the child and the abusing parent").

Finally, the father argues that the trial court lacked authority to restrict his ability to make statements on social media. He asserts that there was no "evidence or testimony that social media had been used in a way that was harmful to the child." He contends that the prohibition constitutes an unconstitutional "prior restraint on free speech" because it prohibits him "from speaking in the modern public square" and "forecloses his ability to engage in the legitimate exercise of First Amendment Rights." See N.H. CONST. pt. I, art. 22; U.S. CONST. amend. I.

When determining matters of parental rights and responsibilities, a trial court's overriding concern is the best interest of the child. In the Matter of Miller & Todd, 161 N.H. 630, 640 (2011). The trial court has wide discretion in matters involving the allocation of parental rights and responsibilities. Id. We will not overturn a trial court's modification of an order regarding parental rights and responsibilities unless it clearly appears that the court unsustainably exercised its discretion. In the Matter of Muchmore & Jaycox, 159 N.H. 470, 472 (2009). We consider 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). The trial court's discretion necessarily extends to matters such as assigning weight to evidence and assessing the credibility and demeanor of witnesses. Id. Conflicts in the testimony, questions about the credibility of witnesses, and the weight assigned to testimony are matters for the trial court to resolve because

resolution of the best interests of a child depends to a large extent upon the firsthand assessment of the credibility of witnesses. Id. Findings of the trial court are binding upon this court if supported by the evidence. Id. To the extent an appealing party argues that the trial court committed error involving questions of law, we review such issues de novo. Id.

We first consider the father's notice arguments. He asserts that based on "the hearing notice, the prior orders and the parties' agreement, a reasonable person would not have been fairly informed" that the February 14, 2018 hearing would include adjudication of whether the mother should receive sole decision-making or sole residential responsibility, adjudication of whether the father had sexually abused the child, and allocation of attorney's fees and other litigation expenses. He contends that after the July 2016 order, "the only issue for the Court's consideration, was the detailed and anticipated expansion of the [father's] parenting time." He argues that had he known that

> the Court would ignore prior orders and that the hearing might result in a virtual abrogation of his parental rights due to erroneous findings of abuse, he would have prepared witnesses and evidence regarding issues such as his character. He would have subpoenaed expert witnesses regarding his non-involvement in the alleged sexual abuse, brought copies of the Orders relative to the prior adjudication that the Court clearly overlooked, and brought documentation of the satisfactory development of the child during the times he was engaged as a parent. Whatever the nature of the evidence he might have produced, he would have been prepared to contest the issue.

He asserts that the trial court's "abuse of process" violated his due process rights because it "turned the agreement of the parties on its axis without notice to anyone, including the Guardian ad Litem."

The mother counters with two arguments: 1) that the trial court actually premised its order on its determination that the father was not credible, not on its conclusion that the father sexually abused the child; and, 2) that the notice the father received was adequate because he received "actual notice of the Final Hearing in December 2017" and had sixty days to prepare. She further appears to assert that since 2013, when the court first ordered that the parenting plan be changed, the father was on notice that the parenting plan may be altered.

We disagree with the mother's interpretation of the trial court order. See In the Matter of Salesky & Salesky, 157 N.H. 698, 702 (2008) (explaining that the interpretation of a trial court order presents a question of law for this court, which we review de novo). We agree that the court concluded that the father's testimony was not credible and that the trial court has discretion to assess the

credibility and demeanor of witnesses. See Kurowski, 161 N.H. at 585. However, the trial court premised its order, at least in large part, on its conclusion "that by a preponderance of the evidence, that Father has likely sexually abused [the child] on more than one occasion. For purposes of this matter, it is clear that [the child] was sexually abused by [the] Father." Accordingly, we must analyze whether the father received constitutionally adequate notice that the issue of whether he had sexually abused the child years earlier would be relitigated at the February 14, 2018 hearing.

We address the father's due process claim under the State Constitution and rely upon federal law only to aid our analysis. State v. Ball, 124 N.H. 226, 231-33 (1983). Under both Part I, Article 15 of the New Hampshire Constitution and the Fourteenth Amendment of the Federal Constitution, "an elementary and fundamental requirement of due process is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Douglas v. Douglas, 143 N.H. 419, 423 (1999) (quotation omitted). Reasonable notice means notice that is "reasonably calculated to give the [litigant] actual notice of the issue and the hearing." Duclos v. Duclos, 134 N.H. 42, 44-45 (1991) (quotation omitted).

The actual notice that the Circuit Court sent the parties in December 2017 stated that a final hearing on "BF PETITION #123" would take place on February 14, 2018. It is our understanding, which it appears the parties share, that "BF PETITION #123" is the mother's March 2014 petition to change the parenting plan due to her concerns that the child would be exposed to domestic violence. That petition did not allege that the father had sexually abused his child; however, it is uncontested that after that petition was filed, new facts and legal issues, including allegations that the father had abused his child, entered the case. However, it is also uncontested that many of those issues, including whether the father had sexually abused the child, had been litigated during the pendency of the case. Indeed, in July 2016, after a "final hearing," the court approved a detailed order recommended by the marital master which concluded that "[t]he evidence, on balance, . . . falls short of proving it highly probable or reasonably certain that father sexually abused [the child]." The court then awarded the father parenting time and observed that it "hope[d] . . . that a longer-term parenting schedule can be developed that would help end this active litigation."

In December 2017, just two months before the final hearing, the trial court found that the child's "best interests require the 'normalization' of [the child's] relationship with father." At that time, the court found that the forensic psychologist's evaluation was "comprehensive, well-reasoned, and consistent with the evidence the court has heard in the past several hearings." The court then restored the father's joint decision-making, and temporarily awarded him overnight parenting time, including a week-long period when the

mother was out of the country. Both parents and the GAL entered the hearing on February 14, 2018 with proposed parenting plans that provided for joint decision-making, and approximately equal residential responsibility.

We agree with the father that — based on the hearing notice, the prior orders, and the parties' agreement — a reasonable person in the father's position would not have expected that the issue of whether he had sexually abused his child would be litigated at the February 14, 2018 hearing. We hold, therefore, that the notice the father received was inadequate to fairly inform him of the issues to be adjudicated at the hearing in violation of Part I, Article 15 of the New Hampshire Constitution. The Federal Constitution offers the father at least as much protection as does the State Constitution under these circumstances. See Douglas, 143 N.H. at 423-24. Accordingly, we reach the same result under the Federal Constitution as we do under the State Constitution.

Therefore, because the parties lacked adequate notice that the issue of whether the father had sexually abused the child would be relitigated at the hearing, we conclude that the trial court order must be vacated. Having so concluded, we need not address the father's additional appellate arguments, many of which raise significant questions of law that warrant careful consideration.

On remand, the court should consider whether the July 2016 order, which concluded after a "final hearing" that "[t]he evidence on balance . . . falls short of proving it highly probable or reasonably certain that father sexually abused [the child]," precludes relitigation of this issue. In addition, on remand the court should assess the relevance of the father's domestic violence history given the "best interests" factors set forth in RSA 461-A:6, and address whether any of the circumstances set forth in RSA 461-A:11 are present to justify modification of parental rights and responsibilities. See RSA 461-A:11. The court may also want to analyze the ramifications in this case, if any, of the amendment to RSA 461-A:16, the Guardian ad Litem statute, which became effective on January 1, 2019. See Laws 2018, 230:1.

In 2016, the court observed that this "litigation has been contentious and nearly continuous for 6 of the 7 years [the child] has been alive." We note that the case has become even more complicated in the subsequent three years. There have been three GALs appointed to date, and the case includes allegations of abuse, alienation, and domestic violence. This is a high conflict case. Additionally, the father has been prevented from having any contact with his child for over a year while this appeal has been pending. Because this case presents issues of the type appropriate for reassignment to the Family Division Complex Case Docket, see https://www.courts.state.nh.us/fdpp/complexcasedocket/ComplexFamilyDocketFAQ.pdf, the Administrative Judge of the Circuit Court should carefully

assess whether this case should be reassigned to that docket. See RSA 490-F:2 (Supp. 2018).

Vacated and remanded.

LYNN, C.J., and HICKS, BASSETT, HANTZ MARCONI, and DONOVAN, JJ., concurred.

Eileen Fox,
Clerk

MASHA M. SHAK

v.

RONNIE SHAK.

No. SJC-12748

Supreme Judicial Court of Massachusetts, Norfolk

May 7, 2020

Heard: November 4, 2019.

Complaint for divorce filed in the Norfolk Division of the Probate and Family Court Department on February 5, 2018. A complaint for contempt, filed on June 8, 2018, was heard by George F. Phelan, J., and questions of law were reported by him.

The Supreme Judicial Court granted an application for direct appellate review.

Richard M. Novitch (Gary Owen Todd & Julianna Zane also present) for the mother.

Jennifer M. Lamanna for the father.

Ruth A. Bourquin & Matthew R. Segal, for American Civil Liberties Union of Massachusetts, amicus curiae, submitted a brief.

Present: Gants, C.J., Lenk, Gaziano, Lowy, Budd, Cypher, & Kafker, JJ.

BUDD, J.

Nondisparagement orders often are issued as a means to protect minor children during contentious divorce or child custody proceedings in order to protect the child's best interest. At issue here are orders issued to the parties in this case in an attempt to protect the psychological well-being of the parties' minor child, given the demonstrated breakdown in the relationship between the mother and the father. We conclude that the nondisparagement orders at issue here operate as an impermissible prior restraint on speech.[1]

Background.

Ronnie Shak (father) and Masha M. Shak (mother) were married for approximately fifteen months and had one child together. The mother filed for divorce on February 5, 2018, when the child was one year old. The mother then filed an emergency motion to remove the father from the marital home, citing his aggressive physical behavior (including roughly grabbing their child and throwing items at their neighbors), temper, threats, and substance abuse. A Probate and Family Court judge ordered the father to vacate the marital home and issued temporary orders granting the mother sole custody of the child, and a date for a hearing was set. Before the hearing, the mother filed a motion for temporary orders, which included a request that the judge prohibit the father from posting disparaging remarks about her and the ongoing litigation on social media. After a hearing, the judge issued temporary orders that included, in paragraphs six and seven, nondisparagement provisions against both parties (first order):

"6. Neither party shall disparage the other -- nor permit any third party to do so -- especially when within hearing range of the child.

"7. Neither party shall post any comments, solicitations, references or other information regarding this litigation on social media."

The mother thereafter filed a complaint for civil contempt alleging that the father violated the first order by "publish[ing] numerous [social media] posts and commentary disparaging [her] and detailing the specifics of th[e] litigation on social media." The mother further alleged that the father had shared these posts with members of her religious community, including her rabbi and assistant rabbi, as well as with her business clients. In the father's answer, he denied having been timely notified of the judge's first order and raised the judge's lack of authority "to issue [a] prior restraint on speech."

After a hearing, a different judge declined to find contempt on the ground that the first order, as issued, constituted an unlawful prior restraint of speech in violation of the father's Federal and State constitutional rights. However, the judge concluded that orders restraining speech are permissible if narrowly tailored and supported by a compelling State interest. The judge sought to cure the perceived deficiencies of the first order by issuing further orders of future disparagement (orders) which stated in relevant part:

"1) Until the parties have no common children under the age of [fourteen] years old, neither party shall post on any social media or other Internet medium any disparagement of the other party when such disparagement consists of comments about the party's morality, parenting of or ability to parent any minor children. Such disparagement specifically includes but is not limited to the following expressions: 'cunt', 'bitch', 'whore', 'motherfucker', and other pejoratives involving any gender. The Court acknowledges

the impossibility of listing herein all of the opprobrious vitriol and their permutations within the human lexicon.

"2) While the parties have any children in common between the ages of three and fourteen years old, neither party shall communicate, by verbal speech, written speech, or gestures any disparagement to the other party if said children are within [one hundred] feet of the communicating party or within any other farther distance where the children may be in a position to hear, read or see the disparagement."[2]

The judge stayed those orders and purported to report two questions to the Appeals Court.[3] We allowed the mother's application for direct appellate review. Rather than answering the reported questions, we focus strictly on the correctness of the orders issued by the second judge in this case. See *McStowe v. Bornstein*, 377 Mass. 804, 805 n.2 (1979) ("Although a judge may report specific questions of law in connection with an interlocutory finding or order, the basic issue to be reported is the correctness of his finding or order. Reported questions need not be answered in this circumstance except to the extent that it is necessary to do so in resolving the basic issue"). See also Mass. R. Dom. Rel. P. 64(a).

Discussion.

The First Amendment to the United States Constitution provides that "Congress shall make no law . . . abridging the freedom of speech." "[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Ashcroft v. American Civ. Liberties Union*, 535 U.S. 564, 573 (2002), quoting *Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 65 (1983). Article 16 of the Declaration of Rights, as amended by art. 77 of the Amendments, is at least as protective of the freedom of speech as the First Amendment.[4] *Care & Protection of Edith*, 421 Mass. 703, 705 (1996):

"The term 'prior restraint' is used 'to describe administrative and judicial orders forbidding certain communications when issued in advance of the time that such communications are to occur.'" *Alexander v. United States*, 509 U.S. 544, 550 (1993), quoting M. Nimmer, Nimmer on Freedom of Speech § 4.03, at 4-14 (1984). Nondisparagement orders are, by definition, a prior restraint on speech. See *Care & Protection of Edith*, 421 Mass. at 705 ("An injunction that forbids speech activities is a classic example of a prior restraint"). Because the prior restraint of speech or publication carries with it an "immediate and irreversible sanction" without the benefit of the "protections afforded by deferring the impact of the judgment until all avenues of appellate review have been exhausted," it is the "most serious and the least tolerable infringement on First Amendment rights." *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976). See *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546, 559 (1975) ("a free society prefers to punish the few who abuse rights of speech *after* they break the law than to throttle them and all others beforehand").

As "one of the most extraordinary remedies known to our jurisprudence," *Nebraska Press Ass'n*, 427 U.S. at 562, in order for prior restraint to be potentially permissible, the harm from the unrestrained speech must be truly exceptional. See *Near v. Minnesota ex rel. Olson*, 283 U.S. 697, 716 (1931). [5][6] A prior restraint is permissible only where the harm expected from the unrestrained speech is grave, the likelihood of the harm occurring without the prior restraint in place is all but certain, and there are no alternative, less restrictive means to mitigate the harm. See *Nebraska Press Ass'n, supra*.

It is true that "[p]rior restraints are not unconstitutional per se." *Southeastern Promotions, Ltd.*, 420 U.S. at 558, citing *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 n.10 (1963). See *Nebraska Press Ass'n*, 427 U.S. at 570, and cases cited ("This Court has frequently denied that First Amendment rights are absolute and has consistently rejected the proposition that a prior restraint can never be employed"). However, the Supreme Court has made clear that prior restraints are heavily disfavored. See *Near*, 283 U.S. at 716 (prior restraint is appropriate "only in exceptional cases"). The Court has stated specifically that "[a]ny system of prior restraint . . . comes . . . bearing a heavy presumption against its constitutional validity" (quotations and citation omitted). *Southeastern Promotions, Ltd., supra* at 558, and cases cited.

A prior restraint "avoids constitutional infirmity only if it takes place under procedural safeguards designed to obviate the dangers of a censorship system." *Southeastern Promotions, Ltd.*, 420 U.S. at 559, quoting *Freedman v. Maryland*, 380 U.S. 51, 58 (1965). To determine whether a prior restraint is warranted, the Supreme Court has looked to (a) "the nature and extent" of the speech in question, (b) "whether other measures would be likely to mitigate the effects of unrestrained" speech, and (c) "how effectively a restraining order would operate to prevent the threatened danger." *Nebraska Press Ass'n*, 427 U.S. at 562. "[T]he barriers to prior restraint remain high and the presumption against its use continues intact" *Id.* at 570.

We have acknowledged that prior restraints "require an unusually heavy justification under the First Amendment" *Commonwealth v. Barnes*, 461 Mass. 644, 652 (2012), quoting *New York Times Co. v. United States*, 403 U.S. 713, 733 (1971) (White, J., concurring). Given the "serious threat to rights of free speech" presented by prior restraints, we have concluded that such restraints cannot be upheld unless "justified by a compelling State interest to protect against a

serious threat of harm." *Care & Protection of Edith*, 421 Mass. at 705. Additionally, "[a]ny limitation on protected expression must be no greater than is necessary to protect the compelling interest that is asserted as a justification for the restraint."[7] *Id.*

On the occasions that we have considered claims of prior restraint, we have concluded that the restraint in question was impermissible. See, e.g., *Barnes*, 461 Mass. at 656-657 (prior restraint on Internet streaming of court proceedings deemed unlawful in circumstances); *George W. Prescott Publ. Co. v. Stoughton Div. of the Dist. Court Dep't of the Trial Court*, 428 Mass. 309, 311-312 (1998) (prior restraint on newspaper publisher's ability to report on juvenile records and proceedings unlawful); *Care & Protection of Edith*, 421 Mass. at 705-706 (prior restraint forbidding father from discussing care and protection proceeding with press unlawful).

Turning to the order in question, the judge properly noted that "the State has a compelling interest in protecting children from being exposed to disparagement between their parents." See *Barnes*, 461 Mass. at 656, quoting *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 607-608 (1982) (safeguarding physical and psychological well-being of minor is compelling interest). However, as important as it is to protect a child from the emotional and psychological harm that might follow from one parent's use of vulgar or disparaging words about the other, merely reciting that interest is not enough to satisfy the heavy burden of justifying a prior restraint.

Assuming for the sake of discussion that the Commonwealth's interest in protecting a child from such harm is sufficiently weighty to justify a prior restraint in some extreme circumstances, those circumstances do not exist here. No showing was made linking communications by either parent to any grave, imminent harm to the child. The mother presented no evidence that the child has been exposed to, or would even understand, the speech that gave rise to the underlying motion for contempt. As a toddler, the child is too young to be able to either read or to access social media. The concern about potential harm that could occur if the child were to discover the speech in the future is speculative and cannot justify a prior restraint. See *Nebraska Press Ass'n*, 427 U.S. at 563. Significantly, there has been no showing of anything in this particular child's physical, mental, or emotional state that would make him especially vulnerable to experiencing the type of direct and substantial harm that might require a prior restraint if at any point he were exposed to one parent's disparaging words toward the other. Cf. *Felton v. Felton*, 383 Mass. 232, 233-234 (1981), and cases cited (reversing and remanding for further consideration probate judge's order restricting father's visitation unless he refrained from instructing children in his religion -- "harm to the child . . . should not be simply assumed or surmised; it must be demonstrated in detail").

Because there has been no showing that any harm from the disparaging speech is either grave or certain, our analysis regarding the permissibility of the nondisparagement order issued in this case ends here. We note, however, that there are measures short of prior restraint available to litigants and judges in circumstances in which disparaging speech is a concern. For example, our ruling does not impact nondisparagement agreements that parties enter into voluntarily. Depending upon the nature and severity of the speech, parents who are the target of disparaging speech may have the option of seeking a harassment prevention order pursuant to G. L. c. 258E, or filing an action seeking damages for intentional infliction of emotional distress or defamation. See *Roman v. Trustees of Tufts College*, 461 Mass. 707, 717-718 (2012), quoting *Sena v. Commonwealth*, 417 Mass. 250, 263-264 (1994) (setting forth elements of intentional infliction of emotional distress); *White v. Blue Cross & Blue Shield of Mass., Inc.*, 442 Mass. 64, 66 (2004) (setting forth elements of defamation). And certainly judges, who are guided by determining the best interests of the child, can make clear to the parties that their behavior, including any disparaging language, will be factored into any subsequent custody determinations. See *Ardizoni v. Raymond*, 40 Mass.App.Ct. 734, 738 (1996). Of course, the best solution would be for parties in divorce and child custody matters to rise above any acrimonious feelings they may have, and, with the well-being of their children paramount in their minds, simply refrain from making disparaging remarks about one another.

We recognize that the motion judge put careful thought into his orders in an effort to protect a child caught in the middle of a legal dispute who was unable to advocate for himself. However, because there was no showing of an exceptional circumstance that would justify the imposition of a prior restraint, the nondisparagement orders issued here are unconstitutional.

Conclusion.

Paragraphs 1 and 2 of the judge's further orders on future disparagement, dated October 24, 2018, are hereby vacated.

So ordered.

Notes:

[1] We acknowledge the amicus brief submitted by the American Civil Liberties Union of Massachusetts.

[2] The judge's orders included two additional sections that

were neither challenged by the parties nor addressed in the judge's reported questions. We therefore do not express an opinion about them.

[3] The questions reported by the judge are:

(1) "Are 'Non-Disparagement' orders [issued in the context of divorce litigation] an impermissible restraint on constitutionally protected free speech?"

(2) "Are 'Non-Disparagement' orders [issued in the context of divorce litigation] enforceable and not an impermissible restraint on free speech when there is a compelling public interest in protecting the best interests of minor children?"

[4] Article 16 of the Massachusetts Declaration of Rights, as amended by art. 77 of the Amendments, states in pertinent part: "The right of free speech shall not be abridged."

[5] Leading cases from the Supreme Court that have held prior restraints to be unconstitutional illustrate what constitutes truly exceptional circumstances. See, e.g., *New York Times Co. v. United States*, 403 U.S. 713, 714, 718 (1971) (Black, J., concurring) (prior restraint against publication of classified information allegedly involving national security concerns unconstitutional); *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 561-562, 569 (1976) (in circumstances, prior restraint against publication of information about defendant's criminal trial unconstitutional despite risk of "adverse impact on the attitudes of those who might be called as jurors"); *Kingsley Int'l Pictures Corp. v. Regents of the Univ. of the State of N.Y.*, 360 U.S. 684, 688 (1959) (prior restraint on display of films promoting "sexual immorality" unconstitutional censorship of ideas).

[6] In *Near v. Minnesota ex rel. Olson*, 283 U.S. 697, 716 (1931), the Supreme Court established three categories of speech that potentially could justify a prior restraint: obscene speech, incitements to violence, and publishing national secrets. With respect to these exceptions, two of the three --obscenity and incitement to violence -- are no longer considered protected speech under the First Amendment. See *Nebraska Press Ass'n*, 427 U.S. at 590, and cases cited (Brennan, J., concurring); *Times Film Corp. v. Chicago*, 365 U.S. 43, 48 (1961). Even so, in cases involving obscenity and incitement to violence, "adequate and timely procedures are mandated to protect against any restraint of speech that does come within the ambit of the First Amendment." *Nebraska Press Ass'n, supra* at 591, and cases cited (Brennan, J., concurring).

[7] We note that other State courts also have ruled on prior restraint claims in the context of divorce, child custody, and child welfare cases and, in doing so, have used various language to describe the applicable standard. The common theme is that the bar for a prior restraint is extremely high. See, e.g., *In re Marriage of Newell*, 192 P.3d 529, 535-537 (Colo. Ct. App. 2008); *In re Summerville*, 190111. App.3d 1072, 1077-1079 (1989); *Johanson v. Eighth Judicial Dist. Court*, 124 Nev. 245, 250-253 (2008); *Matter of Adams v. Tersillo*, 245 A.D.2d 446, 447 (N.Y. 1997); *Grigsby v. Coker*, 904 S.W.2d 619, 621 (Tex. 1995).

From Jay Markell, Esquire

Concise Position Paper on Pending Bills

HB 494 and HB 495

Protects important constitutional rights the parties have.

Applies to court orders both in and out of the restraining order context.

Does not apply to domestic violence cases, and does not interfere with civil restraining orders.

1) Improves the administration of justice, provides clear guidelines for courts to follow.
2) Fills a void in the first part of the statutes: RAA 458:16 1 and RSA 461-A: 10 I "with such conditions and limitations as the court deems just" are vague.
3) Courts need guidance as to enumerated and fundamental rights that exist under the federal and state constitutions.
4) Correct constitutional standard is strict scrutiny. This requires a compelling government interest; the proposed order must be narrowly tailored to achieve that compelling government interest, and there must be no less restrictive way to achieve that compelling government interest.
5) Burden is always on the government or court to justify the order or statute.
6) Statutes are public and put all parties on notice.
7) Strict Scrutiny Standard is easy to look up online and easier for self- represented parties to find than case law.
8) Specifically exempts Domestic Violence orders because they represent compelling government interests (protecting victims from abuse and the wide variety of other interests that are served) and while the orders infringe on constitutional rights, they are narrowly tailored to protect victims from abuse and there is no less restrictive way to accomplish the purpose.
9) Does not interfere with civil restraining orders, as parties are NOT free to engage in harassment, staking, or any other prohibited activity.

NEED FOR THE AMENDMENTS ARE REAL.

10) See the Bundza case.
11) See the Shak Case, from the Massachusetts Supreme Judicial Court discussing First Amendment, prior restraint, and strict scrutiny in the family law context.
12) Most violations are expected to be First Amendment violations.
13) First amendment free speech violations tale place and outside the restating order context.
14) Prior restraint, content-based restrictions appear to be common. From my practice alone, in 2019, and 2020 I had two such obvious examples. In a 2020 Content based restrictions with orders such as "The parties shall speak civilly to each other and not use sarcasm or talk about the past." This was outside of the restraining order context.

15) In another matter one party was prohibited from discussing a significant lawsuit he had against the other party. They were not married to each other. In that matter the court was aware of that one party had a potential lawsuit against the other. The only way for him to resolve it would be to file the lawsuit , not pursue the claim, seek to modify an unconstitutional order or appeal it to the New Hampshire Supreme Court or try to settle it and risk a contempt citation and jail. There was no Domestic Violence Order of protection in place.
16) Consider excessive fines: 8th Amendment and NH constitution part 33, both prohibit excessive fines, man convicted of assault on wife, jailed, then released. In DVP order, man earns $2,000 per month, court at first finds he has no ability to pay alimony , then reverses itself considers crime., orders him to pay alimony and child support, total , $2,000 leaving him with nothing. Pointed this issue out to the court, and the order changes
17) Contempt citations for violating court orders can include a stain on a parties' court record an award of attorney fees, as well as incarceration. Appealing an unconstitutional order is beyond the means of most people and not realistic, but implementing this standard greatly facilitates appeals if needed.
18) The contempt power is discretionary on the court and is largely unreviewable.
19) Not hard or confusing to understand.
20) Easy to understand, far less complicated than other family law statutes such as RSA 458-C, (child support guidelines) and RSA 458-19- and RSA 458-19-a (alimony statute) for a self-represented party to find, plenty of online references and articles explain it.

HB 142 Causes for Divorce

HB 142 updates the causes for divorce. New Hampshire's present statute is 20+ years old and does not reflect the changes in society, including the problems with drug abuse. As of now, one cannot plead drug abuse as a cause of marital breakdown despite the widely known abuse problems with opioids and other intoxicating substances.

HB 142 provides other choices as to how to proceed with other marital sexual misconduct. Parties can proceed with adultery or with other acts that adultery does not reach. A gratification element is not an element of adultery.

HB 161 Problem for Equal or Approximately Equal Parenting Time.

1. Applies a new formula for courts to use ,but equal or approximately equal parenting time is a growing trend and comport with public policy of parents having greater participation in their children's lives, and HB 161 is not the way to address the issue as it creates more problems than it solves. HB 228 retained in the Child and Family Law Committee better addresses equal or approximately equal parenting time using an offset method with court oversight to assure adequacy of support.

DISADVANTAGES

1) Estimated 60-70% of parties in court are self- represented and may not understand the formula, or how to calculate it. Credits and formula are not transparent.

2) Parenting costs are presently addressed in the present statute. The cost of maintaining two households is an adequacy of support issues and is already considered in the guidelines. See RSA 458-C:5 2 (h) and which adds at (h)1 and (h)(2) (A) ,(B) and (C) that shared parental responsibilities require that a court consider the payment of various expenses in addition to the shared residential responsibilities.

3) Domestic violence, abuse, and safety protocols already present in existing statutes.

4) Percentages paint the statute and Courts into a corner when other common factors come into play. Conflict with best interests of the child, support do not seem to be factored into either the 2018 UNH Survey and its Addendum , on which HB 161 is based, as there is no accounting for third parties getting visitation or parenting time.

5) KEY STATUTE RSA 461-A IS NOT ADDRESSED IN HB 161.

6) RSA 461- A (The Parenting Rights and Responsibility Act).
7) RSA 461-A is comprehensive. It lays out the framework for developing parenting plans, decision-making, residential responsibility, and provides for those who may have rights and privileges for visitation. It provides guidance for courts as to policy on child support, among other things.
8) Only for determining, an out of state court order does RSA 461-A look at percentages. It uses a threshold of 50% percent to determine residential responsibility to determine which parent was a custodial parent at the time the out of state order was issued. This does not relate to child support. (RSA 461-A: 3).
9) New Hampshire takes a far more expansive view of visitation than other states do. Using the best interest of the child standard, a court may award visitation to a stepparent, but the statute also provides that visitation may be afforded to any other person who may significantly affect the child and includes grandparent s. See RSA 461-A: 6 V and RSA 461-A: 13.
10) Note there are no statutory limits as to much or how long a time period third party visitation may last. It can be a few hours, overnights, weekends, overnights or whatever a court decides is in the best interest of the child.
11) Good statutes if reflective of changing societal trends should be forward looking and not paint courts or litigants into corners.
12) Note that persons from other states may have been adjudicated rights as de-facto parents. Vermont, for example, recognizes de facto parents. See Vermont Statute 15C V.S.A. § 501(a). These parties may petition for custody. They may also be liable to pay child support.
13) This means a person who has been deemed a de-facto parent in Vermont (as if other states that recognized de-facto parents could file his or her petition to register a foreign decree in New Hampshire. Under both the full faith and credit clause of the federal constitution, the matter is going to be heard. The Vermont threshold to achieve this status is high. So once granted a court in New Hampshire must seriously consider this issue.
14) Note RSA 461-A: 6 1(h) controls for the best interest of the child. Thus, any other person may qualify. This totally undermines the concept of a parenting time percentage driven formula controlling a child support calculation.

15) The same hold true for Grandparent visitation, as the standards are laid out in RSA 461: A-13. The New Hampshire Judicial Branch even provides a pre-printed petition for grandparent visitation for parties to use, as it is that common. See included form.
16) Child Support in New Hampshire in is driven by the best interest of the children, not percentages of parenting time, or who has the majority of parenting time.
17) RSA 461-A: 14 (Support, effective July 19, 2019) states that after the filing of a petition for divorce , paternity, support, or an allocation of parental rights and responsibilities **" the court shall make such further decree in relation to the support and education of the children as shall be most conducive to their benefit and may order a reasonable provision, for medical supports, liens for support"** It goes on to provide extensive detail as to how child support is to be governed. This has nothing to do with percentages.

18) Multiple marriages and blended families of all types , when coupled with RSA 461-A's liberal visitation policies (grandparent, step parent, anyone with a significant connection to a child) can render a 30% shared parenting metric problematic, at best. Grandparent visitation time is usually taken from the parenting time of the filial parent. Thus, a maternal grandparent's time is taken from the mother's time and the paternal grandparent's time is taken from the father's time. Even without the intervention of a step parent, or other third party a parenting time schedule could be easily cannibalized to the point courts would be conflicted as to the best interest of the child. Imagine what happens when there are two closely connected sets of grandparents, let alone any other persons with a significant connection to a child, and courts are tasked with promoting the best interest of the child over everything else.

19) Foments future child support driven litigation as parties will fight over percentages: Expect to see filings for percentage based contempt issues : A party did not get 30% this week, month, etc., he did it, she did it, and look for a deluge of modifications and demands for more/ less support. "I had to take care of the kids for more time/ less time" as well as demands for modifications seeking more or child support, and demands for repayments for those who feel they over paid.

20) Courts and parties can easily figure out on what shared or approximately equal parenting time is. There are 7 days in a week and 12 months in a year. No need for statute to replace common sense.

21) No need to micro-manage an already overtaxed court system

Respectfully submitted,

Jay Markell, Esquire

Senate Judiciary Committee, 05/03/2021

HB494, relative to temporary relief and permanent restraining orders issued in a divorce proceeding

Testimony of Pamela Keilig
Public Policy Specialist, NH Coalition Against Domestic and Sexual Violence

Good afternoon Madam Chair and Members of the Committee. My name is Pamela Keilig, and I am the Public Policy Specialist at the New Hampshire Coalition Against Domestic and Sexual Violence. The Coalition is an umbrella organization for 12 community-based crisis centers who each year provide free and confidential services to nearly 15,000 survivors of sexual and domestic violence. I am here in opposition of HB494, **which would make it harder for victims of domestic and sexual violence to get the kind of restraining orders often used to prevent further abuse.** Thank you for the opportunity to testify.

This bill amends RSA 458:16, New Hampshire's temporary relief and permanent restraining order statute as a means to limit an individual's access to an essential means of protection in divorce proceedings. Advocates who are in courthouses across New Hampshire every day tell us how difficult it is to obtain a protective order under RSA 173-b, which is the gold standard for protections for domestic violence victims. Alternatively, restraining orders within marital or custody proceedings are another option that individuals rely on in lieu of protection under 173-b. These types of restraining orders would be directly impacted should this legislation pass.

Victims should be able to access these types of restraining orders without having to go through additional barriers to demonstrate that the threat they experience is real. Restraining orders under the divorce statute are an option for many survivors who are ineligible for a domestic violence protective order, especially in recent years as the courts have made it increasingly difficult to obtain relief. This bill creates another set of barriers that say the courts need to justify the reason behind why a victim needs this layer of protection. Furthermore, passage of this bill will place unnecessary restrictions on a judge's ability to respond to cases as issues of safety emerge. **Judges should have the ability to make discretionary decisions as they are needed when it comes to ensuring that victims and their children are protected from abuse.**

Advocates throughout the state have shared the extreme circumstances that victims of domestic violence experience while navigating the divorce process with their abuser. They have seen many cases where these types of restraining orders were an essential means of protection and granted necessary relief to victims and their children. Often, abusers utilize

financial abuse as a means to maintain power and control over the victim. Restraining orders under RSA 458:16 help mitigate and limit further attempts to financially abuse a survivor, such as preventing an abuser from dropping their insurance, taking the victim's car out of their name, ensuring that the gas line or electricity is maintained, and so on. These types of relief are so critical and help ensure that survivors and their children are not at risk of becoming homeless and is essential for supporting victim safety long-term.

These restraining orders also ensure that judges and the courts have the discretion to act should the defendant continue means to further control and harm the victim. We have seen cases where defendants have continued to file unnecessary ex parte motions, with the intention of controlling a victim's time and burdening them with excessive court dates. This statute allows judges to intervene should a defendant be intentionally trying to abuse the court rules as a means to punish the victim and push back against a documented history of domestic violence to address the pattern of abuse by the offender. Judges absolutely need to have discretion in their courtrooms and the ability to respond to emerging abusive situations that may evolve from complex divorce cases. **The passage of HB494 will open the door wide open for abusers to use the courtroom as a means to further abuse the victim and establish power and control.**

Being granted a protective order under RSA 173-b is an extremely high bar and is very complicated. Many people need the assistance of an attorney to help them seek that relief. Even when there has been physical abuse, victims have to prove they are in immediate danger. This leaves many victims vulnerable and in situations where they have experienced bodily harm, such as a broken arm, and are still denied restraining orders under 173-b, also limiting their ability to protect their children. Victims must then seek another alternative path through restraining orders under RSA 458:16, in divorce cases. Although these restraining orders do not carry the same weight as a domestic violence protective order, it still puts into the agreement or court order that one person cannot contact the other person. Sometimes all a victim needs is the weight of the law to say "stop harassing me" in order to be protected from abuse or to prevent violence from escalating.

It is important to note that restraining orders are not automatically granted. According to the 2018-2019 biennial Domestic Violence Fatality Review Report, thousands of people sought protection from domestic violence in the courts, and over 7,000 protective order petitions were filed. However, more final protective orders were denied than granted in our state, with **only 38 percent of domestic violence protective orders granted** in that time period. Moreover, court data demonstrates that the number of final protective orders granted has seen a downward trend over the last 10 years. This demonstrates that these types of protective orders are extremely hard to obtain, and that victims need every option available to them when it comes to their safety.

Additionally, **victims rarely ever have legal representation to support them through this process.** In New Hampshire, **only 12% of victims are represented by an attorney** when petitioning for domestic violence protective orders. Petitioners do not take this process lightly. It is a very long, emotional and difficult process to file for a restraining order and have to relive their trauma over and over again throughout the entire process as they have to prove their experiences of violence and abuse in writing the petition, testifying in front of their abuser in

court, and so on. It is an incredibly traumatizing experience, and victims carefully weigh their options when applying for protective orders. **Accessing restraining orders is an essential means through which they can gain relief from an abusive partner and ensure safety for themselves and their children.**

In conclusion, survivors already experience so many barriers to obtaining a protection order in the first place, and we should absolutely not be making this process harder under divorce proceedings. We need to protect and preserve survivors' access to restraining orders. It might be the only thing they have to keep them safe in that moment. **We strongly urge the committee to vote ITL on HB494 and ensure that domestic violence victims have access to restraining orders that are so critical for preventing further abuse.**

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB494

Hearing date: _____

Executive Session date: _____

Motion of: ITL **Vote:** 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	☐	☐	☒	☐
Sen. Gannon, V-Chair	☒	☐	☒	☐
Sen. French	☐	☐	☒	☐
Sen. Kahn	☐	☐	☒	☐
Sen. Whitley	☐	☒	☒	☐

Motion of: consent **Vote:** 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	☐	☐	☒	☐
Sen. Gannon, V-Chair	☐	☒	☒	☐
Sen. French	☐	☐	☒	☐
Sen. Kahn	☐	☐	☒	☐
Sen. Whitley	☒	☐	☒	☐

Motion of: _____ **Vote:** _____

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	☐	☐	☐	☐
Sen. Gannon, V-Chair	☐	☐	☐	☐
Sen. French	☐	☐	☐	☐
Sen. Kahn	☐	☐	☐	☐
Sen. Whitley	☐	☐	☐	☐

Reported out by: French

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Tuesday, May 25, 2021

THE COMMITTEE ON Judiciary

to which was referred **HB 494**

AN ACT relative to temporary relief and permanent restraining orders issued in a divorce proceeding.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 5-0

Senator Harold French
For the Committee

This bill would provide that the court shall not issue an order in a divorce proceeding that infringes on a party's constitutional rights unless the court determines there is no less restrictive means to achieve a compelling government interest. Currently, if an enumerated constitutional right is violated in an order, then the constitution and the facts of the case already provide the legal basis for an appeal. Therefore, there is no need to move this bill forward.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

JUDICIARY

HB 494, relative to temporary relief and permanent restraining orders issued in a divorce proceeding.
Inexpedient to Legislate, Vote 5-0.
Senator Harold French for the committee.

This bill would provide that the court shall not issue an order in a divorce proceeding that infringes on a party's constitutional rights unless the court determines there is no less restrictive means to achieve a compelling government interest. Currently, if an enumerated constitutional right is violated in an order, then the constitution and the facts of the case already provide the legal basis for an appeal. Therefore, there is no need to move this bill forward.

General Court of New Hampshire - Bill Status System

Docket of HB494

Docket Abbreviations

Bill Title: relative to temporary relief and permanent restraining orders issued in a divorce proceeding.

Official Docket of **HB494.**:

Date	Body	Description
1/11/2021	H	**Introduced** (in recess of) 01/06/2021 and referred to Children and Family Law **HJ 2** P. 51
3/4/2021	H	Public Hearing: 03/04/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/94672611666 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/11/2021	H	Executive Session: 03/11/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/91927749754
3/17/2021	H	Committee Report: Ought to Pass (Vote 8-7; RC) **HC 18** P. 33
4/7/2021	H	**Ought to Pass**: MA DV 201-178 04/07/2021 **HJ 5** P. 133
4/13/2021	S	Introduced 04/08/2021 and Referred to Judiciary; **SJ 12**
4/28/2021	S	Remote **Hearing:** 05/03/2021, 02:00 pm; Links to join the hearing can be found in the Senate Calendar; **SC 22**
5/25/2021	S	Committee Report: Inexpedient to Legislate; Vote 5-0; CC; 05/27/2021; **SC 25A**
5/27/2021	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===; 05/27/2021; **SJ 17**

NH House	NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB494 **Senate Committee:** Jud

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

X Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

X Bill version as it came to the committee

X All Calendar Notices

X Hearing Sign-up sheet(s)

X Prepared testimony, presentations, & other submissions handed in at the public hearing

X Hearing Report

___ Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

X Executive Session Sheet

X Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Jennifer Hogan
Committee Aide

8/16/21
Date

Senate Clerk's Office AK