

**CONSENT CALENDAR**

**January 25, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Children and Family Law to which  
was referred HB 1103,**

**AN ACT relative to certain assets in a divorce  
proceeding. Having considered the same, report the  
same with the recommendation that the bill OUGHT TO  
PASS.**

**Rep. Cassandra Levesque**

**FOR THE COMMITTEE**

## **COMMITTEE REPORT**

Committee:	<b>Children and Family Law</b>
Bill Number:	<b>HB 1103</b>
Title:	<b>relative to certain assets in a divorce proceeding.</b>
Date:	<b>January 25, 2022</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>OUGHT TO PASS</b>

### **STATEMENT OF INTENT**

This bill provides that the court shall not require a party to sell a marital asset if the party is able to compensate the other party and if the sale is not required for an equitable division of the marital property in divorce proceedings.

Vote 12-0.

Rep. Cassandra Levesque  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Children and Family Law

**HB 1103**, relative to certain assets in a divorce proceeding. **OUGHT TO PASS.**

Rep. Cassandra Levesque for Children and Family Law. This bill provides that the court shall not require a party to sell a marital asset if the party is able to compensate the other party and if the sale is not required for an equitable division of the marital property in divorce proceedings. **Vote 12-0.**

Original: House Clerk

Cc: Committee Bill File

**HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW**

**EXECUTIVE SESSION on HB 1103**

**BILL TITLE:** relative to certain assets in a divorce proceeding.

**DATE:** January 25, 2022

**LOB ROOM:** 206-208

**MOTIONS: OUGHT TO PASS**

Moved by Rep. Levesque

Seconded by Rep. Belanger

Vote: 12-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Peter Petrigno, Clerk



2022 SESSION

Children and Family Law

Bill #: HB 1103 Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 1/25/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Rice, Kimberly A. Chairman	✓		
DeSimone, Debra L. Vice Chairman	✓		
Yokela, Josh S.	✓		
Nelson, Jodi	✓		
Belanger, Cody M.	✓		
Cross, Kenna E.			✓
Litchfield, Melissa A.			✓
Smith, Denise M.	✓		
Long, Patrick T.	✓		
Alicea, Caroletta C. Clerk			✓
Grossman, Gaby M.	✓		
Levesque, Cassandra N.	✓		
Wazir, Safiya	✓		
Petrigno, Peter	✓		
Altschiller, Debra	✓		
<b>TOTAL VOTE:</b>	<u>12</u>	<u>0</u>	<u>3</u>

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 1103

**BILL TITLE:** relative to certain assets in a divorce proceeding.

**DATE:** January 25, 2022

**LOB ROOM:** 206-208                      **Time Public Hearing Called to Order:** 11:00 a.m.

**Time Adjourned:** 11:12 a.m.

**Committee Members:** Reps. Rice, DeSimone, Petrigno, Yokela, J. Nelson, Belanger, D. Smith, Long, Grossman, Levesque, Wazir and Altschiller

**Bill Sponsors:**

Rep. Spillane  
Sen. Reagan

Rep. DiLorenzo

Rep. Bershtein

**TESTIMONY**

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

Rep. James **Spillane** introduced his bill relative to certain assets in a divorce proceeding.

\*Rep. Ellen **Read** spoke in support, noting that judges should not force the sale of an asset if the arty is able to compensate the other with equal value.

Respectfully submitted,

Rep. Peter Petrigno, Clerk



# House Remote Testify

## Children and Family Law Committee Testify List for Bill HB1103 on 2022-01-25

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

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>
Petrusewicz, Carol	Rochester, NH clmcc2befree@yahoo.com	A Member of the Public	Myself	Support	No	No	1/23/2022 10:39 PM
Reagan, Senator John	Deerfield, NH kathryn.cummings@leg.state.nh.us	An Elected Official	Senate District 17	Support	No	No	1/25/2022 9:24 AM



1/25/22

**Testimony in SUPPORT of 2022 HB 1103**

Dear Honorable Committee Members of Child and Family Law Committee,

The original concept for this bill was brought to me by a resident of my county, who was ordered in a divorce proceeding to sell a vehicle that was sentimental to him. The judge ordered that the other party in the divorce was entitled to a certain amount from that sale. The man had the cash on hand to pay off that amount to his ex, and asked the judge if he could simply pay out the other party's interest in the item, without having to actually part with the sentimental vehicle. The judge denied the request.

Of course I think we can all agree that it is common sense that the division of assets be about fair monetary compensation of the parties...this is what our law refers to when it guides divorce judges to determine the "*equitable division of marital property*". In fact, the Family Division is described as a "court of equity". Depriving a person of something they are attached to by forcing them to sell it when the sale does not benefit the other party in any way does not at all contribute to that equitable division, whatsoever. I have included some of my research below.

In order to more fully understand this, I contacted the *UNH Law School* and asked if there was any legitimate reason a judge would order such a thing. None of the professors could offer an example of when such an order might be appropriate, nor an explanation as to why judges should be allowed to order such.

Further, the *Domestic Violence Advocacy Project* and *NH Legal Assistance* reviewed the bill and did not find cause to oppose it.

As such, I request that you please support HB1103. I am happy to answer any questions, either by email or by phone (352-978-7692).

**REFERENCES:**

NH RSA 458:16-a lists several factors the courts consider when making an equitable division of marital property:

<http://www.gencourt.state.nh.us/rsa/html/XLIII/458/458-16-a.htm> RSA 458:16-a Property Settlement

Below are several sources that explain that the court encourages spouses to divide property on their own, in a way they believe to be equitable. If they can't, the court will do it for them.

<https://nhlegalaid.org/self-help-guides/family/divorce-separation-annulment/basics-nh-divorce-law>

*Property Distribution means the way that all of the assets and debts (what you own and what you owe) are divided up in a divorce. This includes assets and debts that are in one person's name or in both names. New Hampshire law requires that all divorce decrees include an equitable division of property. "Equitable" means fair, and courts will start off with the idea that fair means even. If you want some division that is not 50/50, then you will need to explain to the judge why your request is fair.*

<https://www.brennanlenehan.com/blog/2017/august/divorce-in-new-hampshire-five-common-questions/>

*New Hampshire divorce cases are filed in the New Hampshire Family Division, which is a court of "equity". The court has broad discretion to make a divorce order to fit the individual facts and particular circumstances of each case. There is no hard line rule on the division of assets.*

<https://www.divorcenet.com/resources/divorce/marital-property-division/new-hampshire-divorce-dividing>

*If you think you could do a better job than a court in dividing your own property, then you will have many opportunities throughout your divorce to do just that. As long as you can work with your spouse, then you are free to agree between yourselves on how to split your property. If you decide, for example, to sell the house and divide the proceeds unequally, or to let your spouse take the snowmobile while you keep all of your retirement benefits, then you can submit a proposed property settlement to the court. Usually, the court will accept this type of agreement without further involvement. On the other hand, if you can't work together, or if there are certain items of property that you can't agree on, then the court will decide for you.*

**Ellen Read**

**New Hampshire State Representative, Rockingham 17 - Newmarket and Newfields**

**Founder, NH House Progressive Caucus**

**Clerk, Fish and Game and Marine Resources Committee**

**People, Planet, and Principles before profit!**

**call or text: 352-978-7692**

HB 1103 - AS INTRODUCED

2022 SESSION

22-2496

07/05

HOUSE BILL **1103**

AN ACT relative to certain assets in a divorce proceeding.

SPONSORS: Rep. Spillane, Rock. 2; Rep. DiLorenzo, Rock. 17; Rep. Bershtein, Rock. 2; Sen. Reagan, Dist 17

COMMITTEE: Children and Family Law

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ANALYSIS

This bill provides that, in a divorce proceeding, the court shall not require a party to sell a marital asset if the party is able to compensate the other party for his or her interest in it and the sale is not required for an equitable division of the marital property.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                   relative to certain assets in a divorce proceeding.

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

1           1 New Paragraph; Divorce; Property Settlement. Amend RSA 458:16-a by inserting after  
2 paragraph IV the following new paragraph:

3           V. The court shall not require a party to sell a piece of marital property if one party is able  
4 to fully and fairly compensate the other party for his or her interest in it and the sale is not required  
5 for an equitable division of property between the parties.

6           2 Effective Date. This act shall take effect January 1, 2023.