

LEGISLATIVE COMMITTEE MINUTES

HB1518

Bill as
Introduced

HB 1518-FN-LOCAL - AS AMENDED BY THE HOUSE

15Mar2022... 0892h

2022 SESSION

22-2466
07/04

HOUSE BILL

1518-FN-LOCAL

AN ACT relative to the requirements for appointed guardians.

SPONSORS: Rep. Belanger, Rock. 9

COMMITTEE: Children and Family Law

AMENDED ANALYSIS

This bill establishes the requirement for guardians appointed by the court to receive a home visit within 60 days of their appointment to verify the safety and adequacy of the home for the minor and the consequences for failing to do so.

.....

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the requirements for appointed guardians.

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

1 1 Guardianship of Minors and Estates of Minors; Periodic Court Review; Home Visit Required.
2 Amend RSA 463:17 to read as follows:

3 463:17 Periodic Court Review.

4 *I.* The status of all minors for whom guardianship or co-guardianship has been granted shall
5 be reviewed by the court at 6, 12, and 24 months and annually thereafter, except that the court may
6 waive (1) any or all reviews in cases in which a parent or the parents are co-guardians and (2) any or
7 all reviews in all other cases after the 24-month review upon good cause shown. The guardian shall
8 file a report with the court on or before each review date. The parent may file a statement or report
9 with the court on or before each review date. The court may also, as part of the review, conduct a
10 hearing on its own motion, or upon the request of a parent or guardian who seeks to substantially
11 change the existing orders upon a showing by the parent that he or she has a reasonable likelihood
12 of prevailing, if allowed a hearing. If termination of the guardianship is sought as part of the review
13 proceeding, the burdens and standards of proof set forth in RSA 463:15 shall apply. Failure of any
14 party to appear at any hearing held under this section without good cause, shall not cause the
15 hearing to be continued.

16 *II.(a) Every guardian appointed by the court under RSA 169-C or RSA 463 shall,*
17 *within 60 days of the guardianship appointment, receive a home safety visit by a childcare*
18 *agency (“agency”) approved and licensed by the department of health and human services.*
19 *The home safety visit may be waived if the parent or parents give consent of the*
20 *guardianship.*

21 *(b) The cost of the agency visit shall be paid for by the guardian. The agency*
22 *shall within 30 days, issue a report to the court and guardian, indicating the home is a*
23 *safe environment for the minor child or if unsafe, list the unsafe issue or issues to be*
24 *corrected. Proof of the corrected issue or issues shall be submitted by the guardian to the*
25 *court and agency within 30 days of the date of the agency report.*

26 *(c) In the event the guardian fails to remedy safety issues as referenced in*
27 *subparagraph b), the agency shall promptly notify the court and the guardian for*
28 *appropriate judicial action. Failure of any party to comply with this section without good*
29 *cause shall be grounds for judicial review.*

30 2 Effective Date. This act shall take effect January 1, 2023.

HB 1518-FN-LOCAL- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2022-0892h)

AN ACT relative to the requirements for appointed guardians.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

The Department of Health and Human Services indicates this bill would require a home visit within 60 days of the appointment of a guardian and the visit shall be done by a childcare agency approved and licensed by the Department. The agency shall issue a report to the court and the guardian. The Department assumes the Court would determine the information to be included in the report and what would be required to demonstrate the “safety and adequacy of the guardian’s home.” In addition, if safety and adequacy cannot be demonstrated, the Department assumes the individual who performed the home visit and wrote the report would also be required to appear at court in the matter. The bill does not provide for the expenses of travel and court time for the individual. The bill provides the cost of the agency visit shall be paid by the guardian. The Department assumes payment would be made to the Judicial Branch and indicates no mechanism is provided in the bill to reimburse the childcare agency. The Department determined federal funds for a portion of the costs would not be available because the service would be provided by the Judicial Branch in a private guardianship matter. The Department anticipates an indeterminable increase in state expenditures based on the assumed need for additional staff to implement the bill.

This bill does not contain an appropriation or authorization for the additional staff positions.

AGENCIES CONTACTED:

Department of Health and Human Services

**HB 1518-FN-LOCAL FISCAL NOTE
 AS AMENDED BY THE HOUSE (AMENDMENT #2022-0892h)**

AN ACT relative to the requirements for appointed guardians.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
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This bill does not contain an appropriation or authorization for the additional staff positions.

AGENCIES CONTACTED:

Department of Health and Human Services

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: March 30, 2022

HEARINGS

	Tuesday	04/05/2022
Judiciary	(Day)	(Date)
(Name of Committee)		State House 100
		1:00 p.m.
		(Time)
1:00 p.m.	HB 1518-FN-LOCAL relative to the requirements for appointed guardians.	
1:15 p.m.	HB 1431-FN-LOCAL establishing the parental bill of rights.	
1:30 p.m.	HB 1592-FN allowing parties in family court cases to create their own recordings of the proceedings.	
1:45 p.m.	HB 1612-FN relative to the confidentiality of reports made to the division for children, youth, and families.	
2:00 p.m.	HB 1614-FN requiring the recording and storing of digital video in all state-funded juvenile detention facilities.	
2:15 p.m.	HB 1425-FN relative to the taking of real property by eminent domain.	
2:30 p.m.	HB 1296-FN relative to the forfeiture of items used in connection with a drug offense.	

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 1518-FN-LOCAL

Rep. Belanger

HB 1431-FN-LOCAL

Rep. Terry

Rep. Hough

Rep. Silber

Rep. Greeson

Rep. Alliegro

Rep. Blasek

Rep. Potucek

Rep. Ankarberg

Sen. Giuda

Rep. Littlefield

Rep. Johnson

HB 1592-FN

Rep. Gay

Rep. Greeson

Rep. Weyler

Rep. Hough

Rep. Langley

Rep. Post

Rep. Stapleton

Rep. Kofalt

Rep. Bernardy

Rep. Rung

HB 1612-FN

Rep. Spillane

Rep. Read

Rep. Roy

Sen. Avard

Rep. Bershtein

Rep. A. Lekas

HB 1614-FN

Rep. Edwards

Rep. Rice

HB 1425-FN

Rep. Blasek

Rep. Gorski

Rep. Layon

Rep. Prout

Rep. Yokela

Rep. Lanzara

HB 1296-FN

Rep. Sylvia

Rep. True

Rep. Silber

Rep. Bailey

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 1518-FN-LOCAL, relative to the requirements for appointed guardians.

Hearing Date: April 5, 2022

Time Opened: 1:06 p.m.

Time Closed: 1:30 p.m.

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

Members of the Committee Absent : None

Bill Analysis: This bill establishes the requirement for guardians appointed by the court to receive a home visit within 60 days of their appointment to verify the safety and adequacy of the home for the minor and the consequences for failing to do so.

Sponsors:

Rep. Belanger

Who supports the bill: Representative Belanger

Who opposes the bill: Karen Rosenberg, Disability Rights Center-NH

Who is neutral on the bill: Keith Kuenning, Waypoint

Summary of testimony presented in support:

Representative Belanger

- The Children and Family Law Committee recognized that there is no home study done in the initial process of a guardianship, and this bill seeks to correct that.
- Understands there are significant hurdles with this bill, including the fiscal impact.
- It is difficult to assume that every person who has obtained a guardianship can afford to pay for this.
- In the bill as introduced included a \$125 placeholder, as he was not sure what the cost would be. It is still unclear, so the House removed that.
- There are also concerns about the effective date being January 1, 2023, and that it might be too soon to some stakeholders to be able to implement this.
- This bill is talking about protecting the safety of children and ensuring the home is a safe environment

- The bill includes an option that if a parent gives consent, the home study may be waived.
- The bill requires that within 30 days the agency shall issue a report to the Court and the guardian.
- If a home is determined to be unsafe, the report must list those issues and the family must be given 30 days to address those issues.
- An example of something being unsafe could be an uncovered pool that requires a gate.
- Senator Carson asked if currently there is no review when a child is placed into a guardianship.
 - Yes. This is specific to a private guardianship. DCYF has their own policies. This is separate. In his experience of adopting his nephew, no one in a three-year timespan prior to the home study adoption visited to ensure the home was safe.
- Senator Carson asked if under this a child could be placed in an unsafe environment for three months.
 - Is not okay with that, but it was a compromise. Thinks it should be done much sooner than that. How that logistically gets worked out per individual is difficult based on schedules though.
- Senator French asked what agency would run these.
 - An agency is defined as being approved and licensed by DHHS. So that could be Waypoint, Easter Seals, and others.
- Senator French asked who would appoint these agencies for these visits.
 - In his experience, an individual seeks that out. Thinks that should be addressed in the bill.
- Senator French asked if there is a difference in the legal rights of an adoptive parent and a legal guardian.
 - An adoptive parent has the child as their child from the adoption on. A guardian is not the child's 'parent', they are their 'guardian' until age of 18 or termination of guardianship by a court order. Guardians are legally, financially, and healthcare responsible for the child, but the guardian is not legally the 'parent'.
- Senator French asked if the adoptive parent would not be subject to these visits.
 - In his experience prior to being the adoptive parent, was the guardian. There was no home study done during the time he was a guardian.
- Senator Whitley asked if he is aware of any circumstances where a child was placed in the home of a guardian, and something was done to that child.
 - Not privy to that personal information. NH is very good at kicking the can down the road when it comes to child safety. Just because we are not aware of any specific situation that doesn't mean it shouldn't be addressed. Being in the system as a child himself, knows the system is not very good about protecting children sometimes.
- Senator Kahn asked how the House dealt with the financial question.

- In the initial bill there was no fiscal note. The bill did not go to Finance in the House.
- Senator Kahn asked if the option to waive a home visit with the parent's consent created some discussion or concern.
 - This would be an instance where a parent decides to leave their child with someone. The assumption is that parents are capable of making the best decision for their child. Parents may be going through a divorce, and agree it is best for the children to go and live with the grandparents.
- Senator Kahn raised concerns that just because the parent gives consent the State should automatically waive the home study.
 - It is important to have some form of waiver. With adoptions there is a waiver allowing for an adopting parent to waive a home study if the child has been living in their home for two consecutive years and that person is a relative. If it is not a relative that waiver does not apply. Would not be completely opposed to limiting the waiver in this bill to relatives, but if a fully capable parent determines the guardianship then there should be an option for a waiver.

Summary of testimony presented in opposition:

None

Neutral Information Presented:

Keith Kuenning (Waypoint)

- This is bringing up an important issue
- The Families First Act, which is coming to the State, is a federal act that has a couple goals, one of which is to prevent foster care and to support kinship caregivers.
- Supports the goal of the bill, but there seems to be some issues.
- There are about 800 adoptions and 1,600-1,700 guardianships in the State annually.
- The system would need time to ramp up to meet the requirements in this bill.
- Concerned about the people who take on guardianship who do not have the funds to pay for the home study.
- A home study can involve a significant effort; it has to be scheduled, the inspector has to go out to the home, there are criminal background checks and health checks.
- It costs Waypoint about \$1,100 for the initial home study and then they do three follow-up visits for \$750.
- Cannot imagine it would be possible to do a home study for much less than a thousand dollars.
- The liability that someplace like Waypoint takes on with a home study is also part of the cost consideration.
- The home study cannot be just someone walking in for an hour and deciding it is okay.

- There are instances of grandparents taking on their grandchildren, and they lost their job in order to care for the child or they lost their home because they live in a 50+ community or they lose their partner because that partner doesn't want to raise kids when they are 65-70 years old.
- Would love to see every child have some kind of home study, but the State would have to come up with some way to pay for this for those that cannot afford it.
- Although this would have a hefty fiscal note, thinks this is an investment to protect kids and it is the right thing to do.
- Thinks the goal of the bill is correct, but the implementation needs some work
- Senator French asked about the number of adoptions and guardianships in the State.
 - That was the number he received from a colleague on this. There are significantly more guardianships than adoptions in the State. The difference between a guardianship and an adoption is substantial. A guardianship can be ended at any time, but when you adopt a child and become a parent, to terminate a parent's rights is incredibly difficult to do. Between the opioid crisis and COVID there have been a lot of guardianships.
- Senator French asked how long guardianships usually last.
 - Does not know the average number. They can be short or incredibly long.
- Senator French asked how many existing guardianships there are in the State.
 - Can get that information to the Committee.
- Senator Whitley asked what is coming down from Families First.
 - There is some financial support for kinship coming down. Grandparents and relatives can be foster parents now, but they have to go through the whole system the same as anyone else. There are significant costs to these families to do this, and it can be very challenging especially to older individuals, as they may be on a fixed income. Trying to figure whether a child can get TANF, Medicaid, SNAP, etc and then to also have to pay for a home study can be prohibitive to a guardianship. Families First is aimed to get kids into the families and support them while they are there.

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB1518 on 2022-04-05

Support: 0 Oppose: 1

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Rosenberg, Karen	A Lobbyist	Disability Rights Center - NH	Oppose

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB1519

Hearing date: _____

Executive Session date: _____

Motion of: IS Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: consent Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Carson

Notes: understands intent, but these visits are
expensive. who is going to pay?
putting in obstacle
public side does a good job vetting
does not know about private
\$1000 is a lot of money
kinship is not noted

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, April 14, 2022

THE COMMITTEE ON Judiciary

to which was referred **HB 1518-FN-LOCAL**

AN ACT

relative to the requirements for appointed
guardians.

Having considered the same, the committee recommends that the Bill

BE REFERRED TO INTERIM STUDY

BY A VOTE OF: 5-0

Senator Sharon Carson
For the Committee

This bill would establish the requirement for guardians appointed by the Court to receive a home visit within 60 days of their appointment to verify the safety and adequacy of the home for the minor and the consequences for failing to do so. Although the Committee understands the intent behind the bill and deeply cares for the safety of all children in the State, there were significant concerns regarding the cost of these visits becoming prohibitive and de-incentivizing good people from stepping up to engage in the foster care process, and regarding the lack of consideration for kinship.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

JUDICIARY

HB 1518-FN-LOCAL, relative to the requirements for appointed guardians.

Interim Study, Vote 5-0.

Senator Sharon Carson for the committee.

This bill would establish the requirement for guardians appointed by the Court to receive a home visit within 60 days of their appointment to verify the safety and adequacy of the home for the minor and the consequences for failing to do so. Although the Committee understands the intent behind the bill and deeply cares for the safety of all children in the State, there were significant concerns regarding the cost of these visits becoming prohibitive and de-incentivizing good people from stepping up to engage in the foster care process, and regarding the lack of consideration for kinship.

HB1518-FN-L

Bill Details

Title: relative to the requirements for appointed guardians.

Sponsors: *(Prime)* Belanger (R)

LSR Number: 22-2466

General Status: SENATE

House:

Committee: Children and Family Law

Due Out: 3/10/2022

Status: PASSED/ADOPTED WITH AMENDMENT

Senate:

Committee: Judiciary

Floor Date: 4/21/2022

Status: INTERIM STUDY

Bill Docket

Body	Description
H	Introduced 01/05/2022 and referred to Children and Family Law
H	Public Hearing: 01/25/2022 10:00 am LOB 206-208
H	Executive Session: 03/01/2022 0900am LOB 206-208
H	Committee Report: Ought to Pass with Amendment # 2022-0892h <u>(Vote 8-7: RC)</u>
H	Amendment # 2022-0892h: AA VV 03/15/2022
H	Ought to Pass with Amendment 2022-0892h: MA VV 03/15/2022 <u>HJ 6</u>
S	Introduced 03/17/2022 and Referred to Judiciary; <u>SJ 6</u>
S	Hearing: 04/05/2022, Room 100, SH, 01:00 pm; <u>SC 14</u>
S	Committee Report: Referred to Interim Study, 04/21/2022; Vote 5-0; CC; <u>SC 16</u>
S	Refer to Interim Study, MA, VV; 04/21/2022; <u>SJ 9</u>

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB1518

Senate Committee: Judiciary

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

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

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

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 # ___

Executive Session Sheet

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:

James Hays
Committee Aide

8/12/22
Date

Senate Clerk's Office AK