

LEGISLATIVE COMMITTEE MINUTES

# SB291

# Bill as Introduced

SB 291 - AS INTRODUCED

2022 SESSION

22-2866

07/05

SENATE BILL        **291**

AN ACT            establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.

SPONSORS:        Sen. Sherman, Dist 24; Sen. Watters, Dist 4; Sen. Rosenwald, Dist 13; Rep. Maggiore, Rock. 22; Rep. K. Murray, Rock. 24

COMMITTEE:      Judiciary

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ANALYSIS

This bill establishes a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.

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Explanation:     Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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                    establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.

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

1            1 Committee Established. There is established a committee to study the issue of unmarried  
2 cohabitants, domestic partnerships, and common law marriage.

3            2 Membership and Compensation.

4            I. The members of the committee shall be as follows:

5                    (a) One member of the senate, appointed by the president of the senate.

6                    (b) Three members of the house of representatives, appointed by the speaker of the  
7 house of representatives.

8            II. Members of the committee shall receive mileage at the legislative rate when attending to  
9 the duties of the committee.

10           3 Duties. The committee shall study issues associated with unmarried cohabitants, domestic  
11 partnerships, and common law marriage. The study shall include consideration of other states that  
12 recognize common law marriage, the fact that New Hampshire does not recognize the validity of  
13 common law marriages except to the limited extent provided by RSA 457:39, and whether as a  
14 matter of public policy broader recognition of common law marriage is warranted. The committee  
15 shall also study issues arising from accumulated assets during the course of a committed  
16 relationship as unmarried cohabitants, domestic partners, or through a common law marriage  
17 arrangement. The committee may solicit information and testimony from any individual or entity  
18 the committee deems relevant to its study.

19           4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from  
20 among the members. The first meeting of the committee shall be called by the first-named senate  
21 member. The first meeting of the committee shall be held within 45 days of the effective date of this  
22 section. Three members of the committee shall constitute a quorum.

23           5 Report. The committee shall report its findings and any recommendations for proposed  
24 legislation to the president of the senate, the speaker of the house of representatives, the senate  
25 clerk, the house clerk, the governor, and the state library on or before November 1, 2022.

26           6 Effective Date. This act shall take effect upon its passage.

# 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: December 20, 2021

### HEARINGS

	Tuesday	
(Day)	01/11/2022	(Date)
Judiciary	State House 100	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m. <b>SB 293-FN</b>	relative to penalties for violation of privacy.	
1:15 p.m. <b>SB 295-FN</b>	relative to penalties for violations of privacy.	
1:30 p.m. <b>SB 302-FN</b>	establishing the personal privacy protection act.	
1:45 p.m. <b>SB 291</b>	establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.	
2:00 p.m. <b>SB 377-FN</b>	relative to the diagnosis of post-traumatic stress disorder in state troopers.	

### EXECUTIVE SESSION MAY FOLLOW

**Sponsors:**

<b>SB 293-FN</b>	Sen. Carson	Sen. Watters	
Sen. Gray			
<b>SB 295-FN</b>	Sen. Cavanaugh	Sen. Giuda	
Sen. D'Allesandro			
<b>SB 302-FN</b>	Sen. Gannon	Sen. Daniels	Sen. Ward
Sen. Birdsell	Sen. Giuda	Rep. Lynn	Rep. DiLorenzo
Sen. French			
Rep. McLean			
<b>SB 291</b>	Sen. Watters	Sen. Rosenwald	Rep. Maggiore
Sen. Sherman			
Rep. K. Murray			
<b>SB 377-FN</b>	Sen. Bradley	Sen. Birdsell	Sen. Cavanaugh
Sen. Carson	Rep. MacKay		
Sen. Prentiss			

Jennifer Horgan 271-7875

Sharon M Carson  
Chairman

**Senate Judiciary Committee**  
*Jennifer Horgan 271-7875*

**SB 291**, establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.

**Hearing Date:** January 11, 2022

**Time Opened:** 2:16 p.m.

**Time Closed:** 2:33 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 a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.

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**Sponsors:**

Sen. Sherman  
Rep. Maggiore

Sen. Watters  
Rep. K. Murray

Sen. Rosenwald

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**Who supports the bill:** Senator Sherman; Senator Watters; Senator Rosenwald; Chelsi Christensen

**Who opposes the bill:** No one

**Summary of testimony presented in support:**

**Senator Sherman**

- This was first brought forward in 2020 and it was a victim of the COVID session.
- A constituent, Chelsi Christensen, brought this concern forward.
- It is commonplace for adults to cohabit without getting married, staying together for years, raising children, buying houses, etc essentially functioning as a married couple without the protections that a married couple has.
- Some states have created prenups without the 'nup'
- A study committee is the most appropriate avenue for this because of the complexity of these situations.
- Senator Whitley asked if the issue is with the dissolving of assets.
  - The concern is the splitting the assets but also making sure there is adequate protection for the participants in that relationship. There are provisions for how children are protected and supported but that is

essentially it. The question is if there should be protections and if so, what should those protections be.

- Senator Whitley asked about existing case law regarding this.
  - That is where this got complicated, which is why this is a study committee and not legislation. Did have Senate Research look into this and there are many different solutions to the issue.
- Senator Kahn asked about doing this as a commission instead of a committee to flush it out faster.
  - Did consider a commission but it seemed like a committee might move a little quicker. Would be open to the idea.

### **Chelsi Christensen**

- Shared her story of being with her significant other for 10 years; they cohabitated, bought a home together, raised children together, and more.
- Throughout the relationship she helped raise the children, while her significant other traveled for work.
- Supported her significant other while he was building his career and his retirement plan.
- During the process of leaving the relationship, realized she did not have a lot of protections.
- There was a huge disparity in their incomes, and the only thing she had access to is child support.
- Her significant other canceled her healthcare, she did not get alimony, or any of his retirement.
- Coder v Coder establishes that if one party pays full child support than other party cannot go and ask for more for extracurriculars.
- Spends a lot on her children's activities like ballet lessons and that takes up all the child support.
- She and her significant other have been apart for three years, and recently she was finally able to build a home. Had lived in one-bedroom apartments and in a camper.
- Divorce laws are set up so that if you both built a life together then you both benefit from that life, making sure the children to have a more equal lifestyle with both parents.
- Believes common law marriage was dissolved several years ago.
- Senator Carson asked if they had to go through a court process to set up visitation.
  - Has been through the family court and they were amicable in deciding how the children would be 50/50. If there had been a dispute is not sure what that would have looked like.
- Senator Carson asked about Coder v Coder.
  - Her understanding is that if one party pays full child support in NH then the other parent can't ask for more for extracurricular activities. Can ask but he does not have to give it.



- Senator Carson requested legal counsel to obtain a copy of Coder v. Coder for the Committee.
- Senator Kahn asked what the limitations were that she experienced in family court.
  - The healthcare was a big problem; had no control over that. In divorces believes a person can try to get continuance of healthcare. The system is lacking in the issue of splitting of assets including stocks and bonds, alimony, or anything that would have allowed her to have a more equal situation for her children.
- Senator Kahn asked if these were a part of her requests that were adjudicated by the family court.
  - Because they were not married, she does not have access to anything they built together.
- Senator Kahn asked if joint assets were distributed.
  - Was able to get her share of equity out of the home, but other than that, did not have access to anything else.

**Summary of testimony presented in opposition:**

None

jch

Date Hearing Report completed: January 13, 2022

# Speakers



# Senate Remote Testify

Judiciary Committee Testify List for Bill SB291 on 2022-01-11

Support: 2 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Watters, Senator David	An Elected Official	Myself	Support
Rosenwald, Cindy	An Elected Official	SD 13	Support

# Voting Sheets

**Senate Judiciary Committee**  
**EXECUTIVE SESSION RECORD**  
*2021-2022 Session*

Bill # SB291

Hearing date: 1/11

Executive Session date: 1/26

Motion of: OTP 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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input 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: 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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input 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: Whitley

Notes: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Wednesday, January 26, 2022

THE COMMITTEE ON Judiciary

to which was referred **SB 291**

AN ACT

establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Rebecca Whitley  
For the Committee

This bill establishes a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage. Today, many Granite Staters choose to cohabit without getting married, but they may stay together for years, raise children, and build lives together. Excluding statutes regarding any children born from the relationship, the law is silent on how the dissolution of these types of relationships should occur. Therefore, the Committee supports the creation of a study to examine whether legislation is necessary to address these scenarios in our statutes.

Jennifer Horgan 271-7875



FOR THE CONSENT CALENDAR

**JUDICIARY**

**SB 291**, establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.

Ought to Pass, Vote 5-0.

Senator Rebecca Whitley for the committee.

This bill establishes a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage. Today, many Granite Staters choose to cohabitate without getting married, but they may stay together for years, raise children, and build lives together. Excluding statutes regarding any children born from the relationship, the law is silent on how the dissolution of these types of relationships should occur. Therefore, the Committee supports the creation of a study to examine whether legislation is necessary to address these scenarios in our statutes.

# SB291

## Bill Details

**Title:** establishing a committee to study the issue of unmarried cohabitants, domestic partnerships, and common law marriage.

**Sponsors:** (Prime) Sherman (D), Walters (D), Rosenwald (D), Maggiore (D), Kate Murray (D)

LSR Number: **22-2866**

General Status: **HOUSE**

House:

**Committee:** Criminal Justice and Public Safety

**Due Out:** 4/28/2022

**Status:** INEXPEDIENT TO LEGISLATE

Senate:

**Committee:** Judiciary

**Floor Date:** 2/3/2022

**Status:** PASSED/ADOPTED

Body	Description
S	To Be Introduced 01/05/2022 and Referred to Judiciary; <u><a href="#">SJ 1</a></u>
S	Hearing: 01/11/2022. Room 100, SH. 01:45 pm; <u><a href="#">SC 50</a></u>
S	Committee Report: Ought to Pass, 02/03/2022; Vote 5-0; CC; <u><a href="#">SC 5</a></u>
S	Ought to Pass: MA, VV; OT3rdg; 02/03/2022; <u><a href="#">SJ 2</a></u>
H	Introduced 03/17/2022 and referred to Criminal Justice and Public Safety
H	Public Hearing: 04/06/2022 09:00 am LOB 202-204
H	Executive Session: 04/06/2022 09:00 am LOB 202-204
H	Majority Committee Report: Inexpedient to Legislate (Vote 12-8; RC) <u><a href="#">HC 15</a></u> P. 12
H	Minority Committee Report: Ought to Pass
H	Inexpedient to Legislate: MA DV 179-143 04/21/2022 <u><a href="#">HJ 10</a></u>

# Other Referrals

## Senate Inventory Checklist for Archives

Bill Number: SB291

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:

Jennifer Hanger  
Committee Aide

8/12/22  
Date

Senate Clerk's Office AK