

Senate Judiciary Committee

Jennifer Horgan 271-3092

SB 167, relative to the burden of proof in termination of parental rights cases.

Hearing Date: January 31, 2017

Time Opened: 10:14 a.m.

Time Closed: 10:18 a.m.

Members of the Committee Present: Senators Carson, Lasky, French, Gannon and Hennessey

Members of the Committee Absent : None

Bill Analysis : This bill provides that the burden of proof in termination of parental rights cases shall be proof beyond a reasonable doubt, rather than clear and convincing evidence, that grounds for termination exist.

The bill is a request of the supreme court.

Sponsors :

Sen. Lasky

Sen. Birdsell

Sen. Fuller Clark

Sen. Gannon

Sen. Hennessey

Sen. Kahn

Sen. McGilvray

Sen. Soucy

Sen. Watters

Rep. Wall

Who supports the bill: Senator Lasky; Senator Soucy; Senator Gannon; Senator Fuller Clark; Senator Birdsell; Senator Watters; Senator Kahn; Representative Somssich; Representative Wall; Representative Horrigan; Representative Altschiller; Keith Kuenning (Child and Family Services); Byry Kennedy (DHHS/DCYF); Linda Douglas; Mary Ann Dempsey (Judicial Branch); John MacIntosh (NH Bar Association); Giles Bissonnette (ACLU)

Who opposes the bill: No one

Summary of testimony presented in support:

Senator Lasky

- This was a request from Senate Legal Council, but he is in court today.
- An amendment may be coming forward.
- The bill changes the standard from 'clear and convincing' to 'proof beyond a reasonable doubt'

Mary Ann Dempsey (NH Judicial Branch)

- This is truly a housekeeping bill requested by the Judicial Branch.
- Is not aware of an amendment coming forward.
- In 1978, the NH Supreme Court held that under both state and federal law before the termination of parental rights, because it is a liberty, the issue had to be 'proven beyond a reasonable doubt'
- That is the standard that has been applied universally for 30 years.

- This change is to reflect the constitutional requirements.
- This was brought to our attention by a circuit court judge, who had people look at the statute online without reading the annotations and therefore would not be aware that there is a higher burden.

Summary of testimony presented in opposition :
N/A

Future Action: Pending

JCH
Date Hearing Report completed: February 2, 2017