

Senate Judiciary Committee

Jennifer Horgan 271-3092

HB 629-FN, establishing a preference for the appointment of the child's grandparent as guardian of the minor in certain cases.

Hearing Date: March 21, 2017

Time Opened: 9:45 a.m.

Time Closed: 10:04 a.m.

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

Members of the Committee Absent : Senator Lasky

Bill Analysis : This bill:

I. Requires the department of health and human service to make certain benefit eligibility information available on the department's website and to grandparents seeking guardianship of their grandchild.

II. Provides that in cases in which a parent objects to a grandparent's petition for guardianship brought as a result of the parent's substance abuse or dependence, the burden of proof shall be on the petitioner to demonstrate by a preponderance of evidence that guardianship is in the best interest of the minor.

III. Establishes a preference for the appointment of the minor's grandparent as guardian in cases in which guardianship is sought as the result of the parent's substance abuse or dependence.

IV. Provides that if a grandparent was granted guardianship as the result of the parent's substance abuse or dependence, the burden of proof in a proceeding to terminate guardianship shall be by a preponderance of the evidence and shall not shift to the guardian.

Sponsors :

Rep. M. MacKay
Rep. Cote
Rep. Walz
Rep. Seidel
Sen. Avard

Rep. LeBrun
Rep. Rosenwald
Rep. M. McCarthy
Sen. D'Allesandro

Rep. J. MacKay
Rep. Notter
Rep. Baldasaro
Sen. Lasky

Who supports the bill: Representative M. MacKay; Senator Avard; Senator Lasky; Senator Carson; Senator Hennessey; Representative Walz; Representative Cote; Representative LeBrun; Representative Baldasaro; Byry Kennedy (DCYF-Department of Health and Human Services); Mary Lou Beaver (Every Child Matters); Keith Kuenning (Child and Family Services); Christina D'Allesandro (Moms Rising); John Williams (Department of Health and Human Services)

Who opposes the bill: No one

Who is neutral on the bill: Representative Weber

Summary of testimony presented in support :

Representative M. MacKay (provided written testimony)

- Bringing this forward on behalf of NH's grandparents.
- These families are victims of the addiction crisis.
- Family should always be given preference, if they can come to an agreement with the parent.
- Sometimes DCYF is not required.
- These grandparents just want a voice in this and they need a voice.
- Spoke with Judge King and Judge Kelly, and they are both in favor.
- The Governor's Commission on Disability, the Police Chiefs' Association, the Grandparents' Association, and DHHS are all in support.
- DCYF says their work would not be in conflict with this.
- This is in the best interest of the child.
- Laws currently protect grandparents around divorce and visitation.
- Senator French asked who makes the decision between competing grandparents.
 - That would be up to the judge, as it would be a contested guardianship.
- Senator Gannon asked why not use 'most appropriate immediate family member'
 - When asked to bring this forward, grandparents were the ones who asked for it. If a sibling stepped up, this bill would not prohibit that.

Representative Baldasaro

- This is a no-brainer.
- Shared a story of a family who struggled with this and his own experience.
- Families should be kept together and not put in foster care.
- Senator French asked if this should be changed to say 'immediate family'.
 - Would like to see grandparents stay in there and then add 'siblings'.

Mary Lou Beaver (Every Child Matters-NH) (provided written testimony)

- The most recent census numbers show that there are more than 10,000 grandparents who are the primary care givers for their grandchildren in NH.
- Receives calls from grandparents all the time for assistance programs for their grandchildren.
- There are common threads to these calls regarding an unawareness of services and not having a voice in court proceedings.
- Grandparents are on the front lines of the addiction battle.
- Grandparents currently have no right to speak or advocate on behalf of their grandchildren in court.
- Shared a story of a set of grandparents who are raising the children from both of their daughters that highlighted the legal issues and how daunting the process can be.

Summary of testimony presented in opposition :

None

Neutral Information Presented:

Representative Weber

- Outlined the construction of the bill.
- One, it makes available information regarding the resources available to grandparents through DCYF.

- Two, paragraph 3 establishes the grandparent preference in cases where the guardianship is based on a substance abuse by a parent.
- Three, it deals with situations where a guardianship is established by the consent of the parent. Currently, that parent can come back and simply ask for the children back. This makes it clear that in consent agreements, the guardian has the burden of proof to prove the child should not go back to the parent, except when there are issues of substance abuse. In substance abuse situations, the burden of proof shifts to the parent.

Future Action: Pending

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Date Hearing Report completed: March 22, 2017