

**CHAPTER 53**  
**HB 629-FN - FINAL VERSION**

05/11/2017 1616s  
18May2017... 1877-EBA

2017 SESSION

17-0291  
05/09

HOUSE BILL                    ***629-FN***

AN ACT                    establishing a preference for the appointment of the child's grandparent as guardian of the minor in certain cases and making an appropriation to the department of health and human services.

SPONSORS:                Rep. M. MacKay, Hills. 30; Rep. LeBrun, Hills. 32; Rep. J. MacKay, Merr. 14; Rep. Cote, Hills. 31; Rep. Rosenwald, Hills. 30; Rep. Notter, Hills. 21; Rep. Walz, Merr. 23; Rep. M. McCarthy, Hills. 29; Rep. Baldasaro, Rock. 5; Rep. Seidel, Hills. 28; Sen. D'Allesandro, Dist 20; Sen. Lasky, Dist 13; Sen. Avard, Dist 12

COMMITTEE:               Children and Family Law

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AMENDED ANALYSIS

This bill:

I. Requires the department of health and human services 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.

V. Makes an additional appropriation to the department of health and human services to address budget shortfalls for the fiscal year ending June 30, 2017.

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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                                 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT                    establishing a preference for the appointment of the child's grandparent as guardian of the minor in certain cases and making an appropriation to the department of health and human services.

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

1            53:1 New Paragraph; Petition for Guardianship; Information Regarding Potential Benefit  
2 Eligibility. Amend RSA 463:5 by inserting after paragraph VI the following new paragraph:

3            VII. If the petition for guardianship was filed by the minor's grandparent, the court shall  
4 provide the grandparent with a brochure, prepared by the department of health and human  
5 services, describing potential benefits for which a child under guardianship may be eligible through  
6 the state of New Hampshire. The department of health and human services shall also post such  
7 information on the department's website.

8            53:2 Guardianship of Minors; Conduct of Hearing; Burden of Proof in Cases Where  
9 Guardianship is Sought by the Minor's Grandparent. Amend RSA 463:8, III(b) to read as follows:

10            (b) If a parent objects to the establishment of the guardianship of the person requested  
11 by a non-parent, the court shall set a date for the hearing specified in this section. ***Except as***  
12 ***otherwise provided in this subparagraph***, the burden of proof shall be on the petitioner to  
13 establish by clear and convincing evidence that the best interests of the minor require substitution  
14 or supplementation of parental care and supervision to provide for the essential physical and safety  
15 needs of the minor or to prevent specific, significant psychological harm to the minor. ***If***  
16 ***guardianship is sought by the minor's grandparent as the result of the parent's substance***  
17 ***abuse or dependence, the burden of proof shall be on the petitioner to establish by a***  
18 ***preponderance of the evidence that a guardianship of the person is in the best interests of***  
19 ***the minor.***

20            53:3 New Paragraph; Guardianship of Minors and Estates of Minors; Appointment of  
21 Grandparents. Amend RSA 463:10 by inserting after paragraph IV the following new paragraph:

22            V. If a parent's substance abuse or dependence is the basis for the guardianship petition,  
23 the court shall give a preference to any grandparent of the minor who seeks appointment as  
24 guardian of the person or the estate, or both, for the minor.

25            53:4 Termination of Guardianship; Burden of Proof. Amend RSA 463:15, V to read as follows:

26            V.(a) [The] ***Except as otherwise provided in subparagraph (b)***, guardianship of the  
27 person shall be terminated upon a showing, by a preponderance of the evidence, that substitution or  
28 supplementation of parental care and supervision is no longer necessary to provide for the essential

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1 physical and safety needs of the minor and termination of the guardianship will not adversely affect  
2 the minor's psychological well-being.

3           ***(b) In a proceeding to terminate a guardianship established by consent, the***  
4 ***burden of proof shall shift to the guardian to demonstrate by clear and convincing***  
5 ***evidence that substitution or supplementation of parental care and supervision is***  
6 ***necessary to provide for the essential physical and safety needs of the minor and that***  
7 ***termination of the guardianship will adversely affect the minor's psychological well-***  
8 ***being.***

9           ***(c) Subparagraph (b) shall not apply if guardianship of the person was***  
10 ***granted to a grandparent as the result of the parent's substance abuse or dependence. In***  
11 ***such cases, the burden of proof shall be on the parent to demonstrate by a preponderance***  
12 ***of the evidence that substitution or supplementation of parental care and supervision is***  
13 ***no longer necessary to provide for the essential physical and safety needs of the minor and***  
14 ***termination of the guardianship will not adversely affect the minor's psychological well-***  
15 ***being.***

16           53:5 Supplemental Appropriation; Department of Health and Human Services. The sum of  
17 \$33,200,000 for the fiscal year ending June 30, 2017 is hereby appropriated to the department of  
18 health and human services, along with any available matching federal funds, for the purposes of  
19 addressing estimated budget shortfalls for such fiscal year. This sum shall be in addition to any  
20 other funds appropriated to the department of health and human services. The governor is  
21 authorized to draw a warrant for said sum out of any money in treasury not otherwise  
22 appropriated.

23           53:6 Effective Date.

24           I. Section 5 of this act shall take effect upon its passage.

25           II. The remainder of this act shall take effect January 1, 2018.

Approved: May 19, 2017

Effective Date:

I. Section 5 effective May 19, 2017

II. Remainder effective January 1, 2018

