

**CHAPTER 85**  
**SB 167 - FINAL VERSION**

04/27/2017 1569EBA

2017 SESSION

17-0951  
05/04

SENATE BILL            ***167***

AN ACT                    relative to the burden of proof in termination of parental rights cases.

SPONSORS:            Sen. Lasky, Dist 13; Sen. Birdsell, Dist 19; Sen. Fuller Clark, Dist 21; Sen. Gannon, Dist 23; Sen. Hennessey, Dist 5; Sen. Kahn, Dist 10; Sen. McGilvray, Dist 16; Sen. Soucy, Dist 18; Sen. Watters, Dist 4; Rep. Wall, Straf. 6

COMMITTEE:          Judiciary

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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.

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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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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                    relative to the burden of proof in termination of parental rights cases.

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

1            85:1 Termination of Parental Rights; Hearing; Burden of Proof. Amend RSA 170-C:10 to read  
2 as follows:

3            170-C:10 Hearing. Cases under this chapter shall be heard by the court sitting without a jury.  
4 The hearing may be conducted in an informal manner and may be adjourned from time to time.  
5 The general public and any member of the news media shall be excluded, and only such persons  
6 admitted whose presence is requested by any person entitled to notice under RSA 170-C:7 or as the  
7 judge shall find to have a direct interest in the case or in the work of the court; provided that  
8 persons so admitted shall not disclose any information secured at the hearing which would identify  
9 an individual child or parent who is involved in the hearing. The court may require the presence of  
10 witnesses deemed necessary to the disposition of the petition. When termination of the parent-child  
11 relationship is sought, the parent shall be notified at the same time notice is given pursuant to  
12 RSA 170-C:7 of his ***or her*** right to counsel, and if counsel is requested and the parent is financially  
13 unable to employ counsel, counsel shall be provided by the court and shall be paid for by the judicial  
14 council in accordance with RSA 170-C:13, III. The court's finding with respect to grounds for  
15 termination shall be based upon [~~clear and convincing evidence~~] ***proof beyond a reasonable***  
16 ***doubt***, provided that relevant and material information of any nature, including that contained in  
17 reports, studies or examinations, may be admitted and relied upon to the extent of its probative  
18 value. When information contained in a report, study or examination is admitted in evidence, the  
19 person making such a report, study or examination shall be subject to both direct and cross-  
20 examination if he or she is residing or working within the state, or if he or she is otherwise  
21 reasonably available.

85:2 Effective Date. This act shall take effect upon its passage.

Approved: June 02, 2017  
Effective Date: June 02, 2017