

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A)  
Chapter 461-A. Parental Rights and Responsibilities

N.H. Rev. Stat. T. XLIII, Ch. 461-A, Refs & Annos  
[Currentness](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. T. XLIII, Ch. 461-A, Refs & Annos, NH ST T. XLIII, Ch. 461-A, Refs & Annos

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:1

461-A:1 Definitions.

Effective: January 1, 2010

[Currentness](#)

In this chapter:

I. “Decision-making responsibility” means the responsibility to make decisions for the child. It may refer to decisions on all issues or on specified issues.

II. “Mediation” means a process in which a neutral third party facilitates settlement discussions between parties.

III. “Mediator” means a family mediator, certified pursuant to RSA 328-C, who has contracted with the court to participate in court-referred mediation under this chapter.

IV. “Parental rights and responsibilities” means all rights and responsibilities parents have concerning their child.

V. “Parenting plan” means a written plan describing each parent's rights and responsibilities.

VI. “Parenting schedule” means the schedule of when the child is in the care of each parent.

VII. “Residential responsibility” means a parent's responsibility to provide a home for the child.

[Notes of Decisions \(2\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:1, NH ST § 461-A:1

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:2

461-A:2 Statement of Purpose.

**Currentness**

I. Because children do best when both parents have a stable and meaningful involvement in their lives, it is the policy of this state, unless it is clearly shown that in a particular case it is detrimental to a child, to:

- (a) Support frequent and continuing contact between each child and both parents.
- (b) Encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or divorced.
- (c) Encourage parents to develop their own parenting plan with the assistance of legal and mediation professionals, unless there is evidence of domestic violence, child abuse, or neglect.
- (d) Grant parents and courts the widest discretion in developing a parenting plan.
- (e) Consider both the best interests of the child in light of the factors listed in [RSA 461-A:6](#) and the safety of the parties in developing a parenting plan.

II. This chapter shall be construed so as to promote the policy stated in this section.

**Notes of Decisions (4)**

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:2, NH ST § 461-A:2

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:3

461-A:3 Procedure and Jurisdiction.

Effective: December 1, 2010

[Currentness](#)

I. The procedure in cases concerning parental rights and responsibilities, including child support, shall be the same as the procedure for petitions for divorce and legal separation under RSA 458. Except as otherwise provided in this chapter, the court, upon proper application and notice to the adverse party, may revise and modify any order made by it, make such new orders as may be necessary, and may award costs as justice may require.

II. In cases where husband and wife or unwed parents are living apart, the court, upon petition of either party, may make such order as to parental rights and responsibilities and support of the children as justice may require. All applicable provisions of this chapter and of RSA 458-A, 458-B, 458-C, and 458-D shall apply to such proceedings.

III. The jurisdiction granted by this section shall be limited by the Uniform Child Custody Jurisdiction and Enforcement Act, if another state has jurisdiction as provided in that act. For the purposes of interpreting that act and any other provision of law which refers to a custodial parent, including but not limited to RSA 458-A, any parent with 50 percent or more of the residential responsibility shall be considered a custodial parent.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:3, NH ST § 461-A:3

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:4

461-A:4 Parenting Plans; Contents.

Effective: January 1, 2012

[Currentness](#)

I. In any proceeding to establish or modify a judgment providing for parenting time with a child, except for matters filed under RSA 173-B, the parents shall develop and file with the court a parenting plan to be included in the court's decree. If the parents are unable to develop a parenting plan, the court may develop it. In developing a parenting plan under this section, the court shall consider only the best interests of the child as provided under [RSA 461-A:6](#) and the safety of the parties.

II. A parenting plan may include provisions relative to:

- (a) Decision-making responsibility and residential responsibility.
- (b) Information sharing and access, including telephone and electronic access.
- (c) Legal residence of a child for school attendance.
- (d) Parenting schedule, including:
  - (1) Holiday, birthday, and vacation planning.
  - (2) Weekends, including holidays, and school in-service days preceding or following weekends.
- (e) Transportation and exchange of the child.
- (f) Relocation of parents.
- (g) Procedure for review and adjustment of the plan.
- (h) Methods for resolving disputes.

III. If the parties are insured and the parenting plan directs the parties to participate in counseling, the court shall give due consideration to selecting a counselor who accepts direct payment from the parties' health insurance carrier.

IV. If the parents have joint decision-making responsibility under [RSA 461-A:5](#), the parenting plan shall include the legal residence of each parent unless the court finds that there is a history of domestic abuse or stalking or that including such information would not be in the best interest of the child. If the parenting plan includes a parent's residence, the parent shall be responsible for promptly notifying the court and the other parent of any change in residence. The failure to provide such information may result in a finding of contempt of court.

#### [Notes of Decisions \(2\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:4, NH ST § 461-A:4

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:4-a

461-A:4-a Judicial Enforcement of Parenting Plan.

Effective: August 4, 2006

[Currentness](#)

Any motion for contempt or enforcement of an order regarding an approved parenting plan under this chapter, if filed by a parent, shall be reviewed by the court within 30 days.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:4-a, NH ST § 461-A:4-a

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:5

461-A:5 Decision-making Responsibility.

Currentness

Except as provided in paragraph III, in the making of any order relative to decision-making responsibility, there shall be a presumption, affecting the burden of proof, that joint decision-making responsibility is in the best interest of minor children:

I. Where the parents have agreed to an award of joint decision-making responsibility or so agree in open court at a hearing for the purpose of determining parental rights and responsibilities for the minor children of the marriage. If the court declines to enter an order awarding joint decision-making responsibility, the court shall state in its decision the reasons for the denial.

II. Upon the application of either parent for joint decision-making responsibility, in which case it may be awarded at the discretion of the court. For the purpose of assisting the court in making a determination whether an award of joint decision-making responsibility is appropriate under this section, the court may appoint a guardian ad litem to represent the interests of the children according to the provisions of [RSA 461-A:16](#). If the court declines to enter an order awarding joint decision-making responsibility, the court shall state in its decision the reasons for the denial.

III. Where the court finds that abuse as defined in [RSA 173-B:1](#), I has occurred, the court shall consider such abuse as harmful to children and as evidence in determining whether joint decision-making responsibility is appropriate. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the children or the abused spouse or both. If joint decision-making responsibility is granted despite evidence of abuse, the court shall provide written findings to support the order.

[Notes of Decisions \(2\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:5, NH ST § 461-A:5

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:6

461-A:6 Determination of Parental Rights and Responsibilities; Best Interest.

Effective: September 6, 2010

[Currentness](#)

I. In determining parental rights and responsibilities, the court shall be guided by the best interests of the child, and shall consider the following factors:

- (a) The relationship of the child with each parent and the ability of each parent to provide the child with nurture, love, affection, and guidance.
- (b) The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.
- (c) The child's developmental needs and the ability of each parent to meet them, both in the present and in the future.
- (d) The quality of the child's adjustment to the child's school and community and the potential effect of any change.
- (e) The ability and disposition of each parent to foster a positive relationship and frequent and continuing physical, written, and telephonic contact with the other parent, including whether contact is likely to result in harm to the child or to a parent.
- (f) The support of each parent for the child's contact with the other parent as shown by allowing and promoting such contact, including whether contact is likely to result in harm to the child or to a parent.
- (g) The support of each parent for the child's relationship with the other parent, including whether contact is likely to result in harm to the child or to a parent.
- (h) The relationship of the child with any other person who may significantly affect the child.
- (i) The ability of the parents to communicate, cooperate with each other, and make joint decisions concerning the children, including whether contact is likely to result in harm to the child or to a parent.
- (j) Any evidence of abuse, as defined in [RSA 173-B:1, I](#) or [RSA 169-C:3, II](#), and the impact of the abuse on the child and on the relationship between the child and the abusing parent.

(k) If a parent is incarcerated, the reason for and the length of the incarceration, and any unique issues that arise as a result of incarceration.

(l) Any other additional factors the court deems relevant.

II. If the court finds by clear and convincing evidence that a minor child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature minor child as to the determination of parental rights and responsibilities. Under these circumstances, the court shall also give due consideration to other factors which may have affected the minor child's preference, including whether the minor child's preference was based on undesirable or improper influences.

III. In determining parental rights and responsibilities under this section, including residential responsibility, the court shall not apply a preference for one parent over the other because of the sex of the child, the sex of a parent, or the financial resources of a parent.

IV. If the court finds that a parent has been convicted of sexual assault or there has been a finding by a court of competent jurisdiction of sexual abuse against such parent's minor child or minor stepchild, the court may prohibit contact between such parent and the victim of the abuse and any sibling or step-sibling of the victim. The court shall make orders that best protect the victim of the abuse and the siblings and step-siblings of such victim.

(a) If a parent makes a good faith allegation based on a reasonable belief supported by facts that the parent's child is a victim of physical abuse or neglect or sexual abuse perpetrated by the other parent and if the parent making the allegation acts lawfully and in good faith in accordance with such belief to protect the child or seek treatment for the child, the parent making the allegation shall not be deprived of parenting time, or contact with the child based on reasonable actions taken in accordance with that belief.

(b) In this paragraph, "sexual abuse" shall mean sexual abuse as defined in [RSA 169-C:3](#), XXVII-a, and "sexual assault" shall mean sexual assault as provided in [RSA 632-A:2](#), [RSA 632-A:3](#), and [RSA 632-A:4](#).

V. If the court determines that it is in the best interest of the children, it shall in its decree grant reasonable visitation privileges to a party who is a stepparent of the children or to the grandparents of the children pursuant to [RSA 461-A:13](#). Nothing in this paragraph shall be construed to prohibit or require an award of parental rights and responsibilities to a stepparent or grandparent if the court determines that such an award is in the best interest of the child.

VI. The court may appoint a guardian ad litem to represent the interests of the child according to [RSA 461-A:16](#).

VII. At the request of an aggrieved party, the court shall set forth the reasons for its decision in a written order.

[Notes of Decisions \(29\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:6, NH ST § 461-A:6

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:7

461-A:7 Mediation of Cases Involving Children.

Effective: July 1, 2011

[Currentness](#)

I. The general purpose of this section is to:

- (a) Manage conflict and decrease acrimony between parties in a dispute concerning parental rights and responsibilities for minor children.
- (b) Promote the best interest of children.
- (c) Improve the parties' satisfaction with the outcome of disputes concerning parental rights and responsibilities.
- (d) Increase the parties' participation in making decisions for themselves and their children.
- (e) Increase compliance with court orders.
- (f) Reduce the number and frequency of cases returning to court.
- (g) Improve court efficiency.

II. The mediator has no authority to make a decision or impose a settlement upon the parties. The mediator shall attempt to focus the attention of the parties upon their needs and interests rather than upon their positions. Any settlement is entirely voluntary. In the absence of settlement, the parties lose none of their rights to a resolution of their dispute through litigation.

III. In all cases involving disputed parental rights and responsibilities or grandparents' visitation rights, including requests for modification of prior orders, the court may order the parties to participate in mediation. If the parties are ordered to participate in mediation under this section, all issues relevant to their case, including but not limited to child support and issues relative to property settlement and alimony under RSA 458, shall also be mediated unless the court orders otherwise.

IV. Reasons the court may choose not to order mediation include, but are not limited to, the following:

- (a) A showing of undue hardship to a party.

(b) An agreement between the parties for alternate dispute resolution procedures.

(c) An allegation of abuse or neglect of the minor child.

(d) A finding of alcoholism or drug abuse, unless all parties agree to mediation.

(e) An allegation of serious psychological or emotional abuse.

(f) Lack of an available, suitable mediator within a reasonable time period.

V. The court shall not order mediation if there is a finding of domestic violence as defined in [RSA 173-B:1](#), unless all parties agree to mediation.

VI. Either party may move to have the mediator replaced for good cause.

VII. Mediation proceedings shall be held in private, and all communications, oral or written, made during the proceedings, which relate to the issues being mediated, whether made by the mediator, or a party, or any other person present, shall be privileged and confidential and shall not be disclosed and shall not be admissible in court, except as provided in [RSA 328-C:9](#).

VIII. Any mediated agreement reached by the parties on all or some of the disputed issues shall be reduced to writing, signed by each party, and filed with the court as soon as practicable.

IX. The parties shall participate at mediation in good faith. If the mediator determines that mediation is not helpful in resolving the dispute, the mediator shall report that fact to the court and return the matter to the court for adjudication of the underlying issues.

X. In the event both parties are indigent, the mediator shall be paid a set fee for his or her services. The amount of the fee shall be set annually by supreme court rule. The court may order each party to pay a proportional amount of said fee. The fee shall be paid from the mediation and arbitration fund established in [RSA 490-E:4](#) and repaid by the parties in accordance with [RSA 461-A:18](#), including fees for pre-suit marital mediation authorized pursuant to [RSA 490-E:2](#), V. The supreme court shall determine by rule a percentage amount of the entry fee paid to each clerk of court for each petition in domestic relations cases to be deposited into the mediation and arbitration fund to be used to pay for mediation where both parties are indigent. At no time shall the percentage amount exceed 25 percent of the entry fee for each petition.

XI. The supreme court shall establish rules and take such action as necessary to effectuate the purpose of this section.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:7, NH ST § 461-A:7

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:8

461-A:8 Temporary Orders.

**Currentness**

After the filing of a petition concerning a minor child under this chapter, the court may issue orders with such conditions and limitations as the court deems just. The orders may be issued ex parte. The orders may include the following:

- I. The temporary allocation of parental rights and responsibilities of any minor child as provided in [RSA 461-A:6](#).
- II. Payment of temporary support for the child, including the provision of health insurance.
- III. If paternity is a contested and relevant issue, orders for paternity testing in accordance with RSA 522.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:8, NH ST § 461-A:8

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:9

461-A:9 Ex Parte Orders.

Currentness

I. After the filing of a petition concerning a minor child under this chapter, the court may issue ex parte temporary orders. Ex parte orders may be granted without written or oral notice to the adverse party only if the court finds from specific facts shown by affidavit or by the verified petition, that immediate and irreparable injury or loss will result to the applicant or the child before the adverse party or attorney can be heard in opposition.

II. No ex parte order shall be granted without:

(a) An affidavit from the moving party verifying the notice given to the other party or verifying the attempt to notify the other party.

(b) A determination by the court that such notice or attempt at notice was timely so as to afford the other party an opportunity to be present.

III. If temporary orders are made ex parte, the party against whom the orders are issued may file a written request with the clerk of the court and request a hearing thereon. Such a hearing shall be held no later than 5 days after the request is received by the clerk.

IV. Ex parte orders may include the following terms:

(a) Directing any party to refrain from abusing or interfering in any way with the person or liberty of the other party.

(b) Enjoining any party from entering the premises wherein the other party resides upon a showing that physical or emotional harm would otherwise result.

(c) Enjoining any party from contacting the other party at, or entering, the other party's place of employment or school.

(d) Enjoining any party from harassing, intimidating, or threatening the other party, the other party's relatives regardless of their place of residence, or the other party's household members in any way.

(e) The temporary allocation of parental rights and responsibilities of any minor children as provided in [RSA 461-A:6](#).

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:9, NH ST § 461-A:9

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:10

461-A:10 Restraining Orders.

Currentness

I. After the filing of a petition concerning a minor child under this chapter, the court may issue restraining orders with such conditions and limitations as the court deems just. At the discretion of the court, such orders may be made on a temporary or permanent basis. Temporary orders may be issued ex parte as provided in [RSA 461-A:9](#). The orders may include the following:

- (a) Directing any party to refrain from abusing or interfering in any way with the person or liberty of the other party.
- (b) Enjoining any party from entering the premises wherein the other party resides upon a showing that physical or emotional harm would otherwise result.
- (c) Enjoining any party from contacting the other party at, or entering, the other party's place of employment or school.
- (d) Enjoining any party from harassing, intimidating or threatening the other party, other party's relatives regardless of their place of residence, or the other party's household members in any way.

II. When a party violates a restraining order issued under this section by committing assault, criminal trespass, criminal mischief, stalking, or another criminal act, that party shall be guilty of a misdemeanor, and peace officers shall arrest the party, detain the party pursuant to [RSA 594:19-a](#) and refer the party for prosecution. Such arrests may be made within 12 hours after a violation without a warrant upon probable cause whether or not the violation is committed in the presence of a peace officer.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:10, NH ST § 461-A:10

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:11

461-A:11 Modification of Parental Rights and Responsibilities.

Effective: August 13, 2011

[Currentness](#)

I. The court may issue an order modifying a permanent order concerning parental rights and responsibilities under any of the following circumstances:

(a) The parties agree to a modification.

(b) If the court finds repeated, intentional, and unwarranted interference by a parent with the residential responsibilities of the other parent, the court may order a change in the parental rights and responsibilities without the necessity of showing harm to the child, if the court determines that such change would be in accordance with the best interests of the child.

(c) If the court finds by clear and convincing evidence that the child's present environment is detrimental to the child's physical, mental, or emotional health, and the advantage to the child of modifying the order outweighs the harm likely to be caused by a change in environment.

(d) If the parties have substantially equal periods of residential responsibility for the child and either each asserts or the court finds that the original allocation of parental rights and responsibilities is not working, the court may order a change in allocation of parental rights and responsibilities based on a finding that the change is in the best interests of the child.

(e) If the court finds by clear and convincing evidence that a minor child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature minor child as to the parent with whom he or she wants to live. Under these circumstances, the court shall also give due consideration to other factors which may have affected the minor child's preference, including whether the minor child's preference was based on undesirable or improper influences.

(f) The modification makes either a minimal change or no change in the allocation of parenting time between the parents, and the court determines that such change would be in the best interests of the child.

II. Except as provided in RSA 461-A:11, I(b)-(f) for parenting schedules and [RSA 461-A:12](#) for a request to relocate the residence of a child, the court may issue an order modifying any section of a permanent parenting plan based on the best interest of the child. [RSA 461-A:5](#), III shall apply to any request to modify decision-making responsibility.

III. For the purposes of this section, the burden of proof shall be on the moving party.

[Notes of Decisions \(7\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:11, NH ST § 461-A:11

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:12

461-A:12 Relocation of a Residence of a Child.

Currentness

I. This section shall apply if the existing parenting plan, order on parental rights and responsibilities, or other enforceable agreement between the parties does not expressly govern the relocation issue. This section shall not apply if the relocation results in the residence being closer to the other parent or to any location within the child's current school district.

II. This section shall apply to the relocation of any residence in which the child resides at least 150 days a year.

III. Prior to relocating, the parent shall provide reasonable notice to the other parent. For purposes of this section, 60 days notice shall be presumed to be reasonable unless other factors are found to be present.

IV. At the request of either parent, the court shall hold a hearing on the relocation issue.

V. The parent seeking permission to relocate bears the initial burden of demonstrating, by a preponderance of the evidence, that:

- (a) The relocation is for a legitimate purpose; and
- (b) The proposed location is reasonable in light of that purpose.

VI. If the burden of proof established in paragraph V is met, the burden shifts to the other parent to prove, by a preponderance of the evidence, that the proposed relocation is not in the best interest of the child.

VII. If the court has issued a temporary order authorizing temporary relocation, the court shall not give undue weight to that temporary relocation as a factor in reaching its final decision.

VIII. The court, in reaching its final decision, shall not consider whether the parent seeking to relocate has declared that he or she will not relocate if relocation of the child is denied.

[Notes of Decisions \(9\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:12, NH ST § 461-A:12

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:13

461-A:13 Grandparents' Visitation Rights.

Currentness

I. Grandparents, whether adoptive or natural, may petition the court for reasonable rights of visitation with the minor child as provided in paragraph III. The provisions of this section shall not apply in cases where access by the grandparent or grandparents to the minor child has been restricted for any reason prior to or contemporaneous with the divorce, death, relinquishment or termination of parental rights, or other cause of the absence of a nuclear family.

II. The court shall consider the following criteria in making an order relative to a grandparent's visitation rights to the minor child:

- (a) Whether such visitation would be in the best interest of the child.
- (b) Whether such visitation would interfere with any parent-child relationship or with a parent's authority over the child.
- (c) The nature of the relationship between the grandparent and the minor child, including but not limited to, the frequency of contact, and whether the child has lived with the grandparent and length of time of such residence, and when there is no reasonable cause to believe that the child's physical and emotional health would be endangered by such visitation or lack of it.
- (d) The nature of the relationship between the grandparent and the parent of the minor child, including friction between the grandparent and the parent, and the effect such friction would have on the child.
- (e) The circumstances which resulted in the absence of a nuclear family, whether divorce, death, relinquishment or termination of parental rights, or other cause.
- (f) The recommendation regarding visitation made by any guardian ad litem appointed for the child pursuant to [RSA 461-A:16](#).
- (g) Any preference or wishes expressed by the child.
- (h) Any such other factors as the court may find appropriate or relevant to the petition for visitation.

III. The petition for visitation shall be entered in the court which has jurisdiction over the divorce, legal separation, or a proceeding brought under this chapter. In the case of death of a parent, stepparent adoption, or unwed parents, subject to

paragraph IV, the petition shall be entered in the court having jurisdiction to hear divorce cases from the town or city where the child resides.

IV. If the parent of the minor child is unwed, then any grandparent filing a petition under this section shall attach with the petition proof of legitimation by the parent pursuant to [RSA 460:29](#) or establishment of paternity pursuant to RSA 168-A.

V. Upon the motion of any original party, the court may modify or terminate any order made pursuant to this section to reflect changed circumstances of the parties involved.

VI. Nothing contained in this section shall be construed to affect the rights of a child or natural parent or guardian under RSA 463 or adoptive parent under [RSA 170-B:20](#).

#### [Notes of Decisions \(15\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:13, NH ST § 461-A:13

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:14

461-A:14 Support.

Effective: September 18, 2010

[Currentness](#)

I. After the filing of a petition for divorce, annulment, separation, paternity, support, or allocation of parental rights and responsibilities, including petitions filed by the department of health and human services pursuant to RSA 161-B, 161-C, and 546-B, the court shall make such further decree in relation to the support and education of the children as shall be most conducive to their benefit and may order a reasonable provision for their support and education for the period of time specified in paragraphs IV, V, and XVI.

II. In any proceeding concerning the support of children:

(a) The parties shall certify in the initial pleading filed with the court whether or not public assistance is or was paid for the benefit of the children pursuant to RSA 167 and whether or not medical assistance is being provided for the benefit of the children pursuant to RSA 167. If public assistance is or was being provided or if medical assistance is being provided, the initiating party shall provide the department of health and human services, office of child support enforcement services, with copies of any and all pleadings related to medical and child support.

(b) If, during the pendency of the action, the children become the beneficiaries of public or medical assistance, both parties shall notify the court of the public or medical assistance status of the children and shall provide the department of health and human services with copies of all pleadings related to medical and child support.

(c) When notified that public or medical assistance is being provided for the benefit of the children, the court shall provide the office of child support with a copy of any hearing notice pertaining to any medical or child support proceeding.

(d) The department shall be granted leave to reopen any case to modify, clarify, or vacate any order that was entered against its interest when an assignment of rights pursuant to RSA 161 or RSA 167 is or was in effect and the department was not given notice of the proceeding.

(e) In any case to establish, modify, or enforce an order of support where the obligor is unable to meet child support obligations for any reason, except as provided in RSA 461-A:14, XIII(a) and (b), the court may order the obligor to apply for and, if qualified, participate in food stamp and Medicaid programs, federal disability programs, and all applicable department of employment security programs to enable or enhance the obligor's ability to meet his or her support obligations. When making such orders, the court shall include the requirement that the obligor report to the court his or her compliance with the order.

III. All support orders shall provide for the assignment of the wages of the responsible parent pursuant to RSA 458-B, subject to the exceptions listed in [RSA 458-B:2](#).

IV. The amount of a child support obligation shall remain as stated in the order until the dependent child for whom support is ordered completes his or her high school education or reaches the age of 18 years, whichever is later, or marries, or becomes a member of the armed services, at which time the child support obligation, including all educational support obligations, terminates without further legal action. If the order involves a disabled child, the court shall specify the duration of the order, which may be beyond the time when the child reaches the age of 18.

IV-a. If the order establishes a support obligation for more than one child, and if the court can determine that within the next 3 years support will terminate for one of the children as provided in paragraph IV, the amount of the new child support obligation for the remaining children may be stated in the order and shall take effect on the date or event specified without further legal action. Termination of support for any one of the children under paragraph IV is a substantial change of circumstances for purposes of modification of the child support order under [RSA 458-C:7](#).

V. No child support order shall require a parent to contribute to an adult child's college expenses or other educational expenses beyond the completion of high school.

VI. All support payments ordered or administered by the court under this chapter shall be deemed judgments when due and payable. Such judgments shall be given full faith and credit by all jurisdictions of this state.

VII. Liens shall arise by operation of law against real and personal property for child support arrearages owed by an obligor who resides or owns property in the state and shall incorporate any unpaid child support which may accrue in the future. Full faith and credit shall be given to such liens arising in another state when the state agency, a party, or other entity authorized to enforce an order of support and seeking to perfect the lien complies with the procedural rules relating to recording or serving liens. Notwithstanding any law to the contrary, such rules may not require judicial notice prior to perfecting the lien. Notices of such liens, and any discharges or releases thereof, shall be filed in the office of the secretary of state with respect to personal property and in the registry of deeds for the county in which any real property is located. No fees shall be charged for such filings and recordings.

VIII. No modification of a support order shall alter any arrearages due prior to the date of filing the motion for modification.

IX. (a) Each child support order shall include the court's determination and findings relative to health insurance and the payment of uninsured medical expenses for the child.

(b) The court shall determine whether private health insurance is accessible and is available to either parent at a cost that is at or below the reasonable medical support obligation amount, as established and ordered pursuant to [RSA 458-C:3](#), V, or is available by combining the reasonable medical support obligations of both parents, and, if so available, the court shall order the parent, or parents, to provide such insurance for the child. The cost of providing private health insurance is the cost of adding the child to existing coverage, or the difference between individual and family coverage. Accessible health insurance means the primary care services are located within 50 miles or one hour from the child's primary residence.

(c) If the court determines that private health insurance is not accessible or available at a cost that is at or below the reasonable medical support obligation amount, the court shall establish a cash medical support obligation for either or both parents, equal to the reasonable medical support obligation amount, and order that either or both parents shall obtain such private health insurance if it subsequently becomes accessible and available at a cost that is at or below the reasonable medical support obligation amount. When ordered in lieu of private health insurance, an obligation for cash medical support shall be suspended and shall not accrue during such time as the obligated parent is providing private health insurance in accordance with this paragraph.

(d) In all cases where support is payable through the department, or where the department is providing medical assistance for the child under RSA 167, the court shall include the medical support obligation in any order issued on or after the effective date of this paragraph.

(e) A court may order either or both parents to pay a medical support obligation, either to provide health insurance coverage or as cash medical support, in excess of the reasonable medical support obligation amount, in such other circumstances, as the court deems appropriate.

X. If both parents have coverage which provides medical insurance benefits for the child, the insurance of the person who is obligated by court order to provide medical insurance shall be the primary coverage for the child. This paragraph shall not affect the obligation of the insurance carrier of the parent who is not obligated to provide medical insurance for the child to provide medical insurance benefits for any claim under a policy held by such parent.

XI. All support orders issued or modified in cases that are payable through the department shall contain a provision requiring the obligor to keep the department informed of the name and address of the obligor's employer and whether the obligor has access to health insurance, and, if so, the health insurance policy information as requested by the department.

XII. In any proceeding to enforce the payment of child support, the posting of bail shall be for the purpose of securing the appearance of the child support obligor and to guarantee the child support judgment owed by the child support obligor. If a child support obligor defaults for failure to appear or owes a child support arrearage, any bail money posted by the obligor, or any other surety, which is on deposit with the court shall be forfeited and paid to the obligee or the agency enforcing the order for child support in satisfaction of the child support judgment.

XIII. (a) An order of support, for which there is in effect an assignment to the department of health and human services pursuant to [RSA 161-C:22](#), shall be suspended and shall not accrue, and no public assistance debt shall be incurred, during such time as the responsible parent receives benefits pursuant to Title XVI of the Social Security Act under the supplemental security income program or public assistance pursuant to RSA 167 under any of the following programs:

(1) Aid to the permanently and totally disabled.

(2) Aid to the needy blind.

(3) Aid to families with dependent children.

(4) Old age assistance.

(b) The department shall not enforce any order of support against the responsible parent while that parent receives public assistance through any of the programs listed in subparagraph (a), whether or not an assignment of support rights to the department exists.

XIV. When the court makes a temporary or final order for support through the department of health and human services, the order shall require the parties to furnish their social security numbers to the department.

XV. The court shall have jurisdiction to make such orders or temporary orders of support to the children of divorced parents as justice shall require in cases where the decree of divorce was not granted in this jurisdiction, even though the divorce decree makes provision for support, subject to the provisions of RSA 546-B.

XVI. The court may establish a separate fund or trust for the support, maintenance, education and general welfare of any minor or incompetent child of the parties, including an incompetent child who is 18 years of age or older.

XVII. The court may require security to be given for the payment of child support.

XVIII. Any motion for contempt of a court order regarding nonpayment of child support, if filed by a parent, shall be reviewed by the court within 30 days.

#### [Notes of Decisions \(9\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:14, NH ST § 461-A:14

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:15

461-A:15 Attorneys' Fees in Contempt Cases.

**Currentness**

In any proceeding under this chapter in which a party alleges, and the court finds, that the other party has failed without just cause to obey a prior order, the court shall award reasonable costs and attorneys' fees to the prevailing party.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:15, NH ST § 461-A:15

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:16

461-A:16 Guardian ad Litem.

Effective: July 1, 2011

[Currentness](#)

I. In all proceedings for divorce, separation, annulment, paternity, or determination of parental rights and responsibilities, the court may appoint a guardian ad litem to represent the interests of the children of the parties, upon its own motion or motion of any party. The court may, in its order of appointment, after considering the nature of the issues raised in the case pending before it, specify the concerns to be addressed by the guardian ad litem, and otherwise limit the scope of the appointment. The guardian ad litem may be appointed to continue to serve after the final decree of divorce has been granted.

II. Persons accepting appointment as guardians ad litem agree to serve as officers of the court and have such standing in the proceedings as the court deems appropriate and may, upon approval of the court, utilize the service of others found necessary by the court to represent the child's best interest.

III. Guardians ad litem shall respect communications between themselves and the child and shall disclose such information only in accordance with applicable rules and, as required by the court, in rendering a report with the guardian ad litem's recommendations or in an ex parte proceeding to enable the court to make an informed decision. When the child's ability to make adequately considered decisions in connection with the representation is impaired, whether because of minority, mental disability, or some other reason, the guardian ad litem shall be the holder of the privilege and shall have the authority to waive the privilege, but only if the guardian ad litem reasonably believes that the child cannot adequately act in the child's own interest.

IV. The fees for services for the guardian ad litem and others utilized by the guardian and approved by the court shall be a charge against the parties in a proportional amount as the court may determine.

V. For good cause shown, the court may waive the requirements of paragraph I. Good cause shall not include the lack of ability to pay by either party.

VI. The supreme court shall provide the following relative to non-certified guardians ad litem appointed pursuant to this section:

(a) Standards and requirements for registration as a guardian ad litem.

(b) Standards for practice, including but not limited to ethical rules.

(c) Disciplinary procedures for violating ethical rules and requirements established under this paragraph.

(d) Penalties for violation of ethical rules and requirements, including, as the court may deem necessary, fines or disciplinary action, or both.

[Notes of Decisions \(3\)](#)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:16, NH ST § 461-A:16

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:17

461-A:17 Guardians Ad Litem and Mediators; Liability for Expenses.

Effective: July 1, 2011

[Currentness](#)

The judicial council shall have no responsibility for the payment of the costs of a mediator or guardian ad litem for any party under this chapter.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:17, NH ST § 461-A:17

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:18

461-A:18 Repayment.

Effective: July 1, 2011

[Currentness](#)

I. In any case where a mediator has been appointed pursuant to [RSA 461-A:7](#) or a guardian ad litem has been appointed pursuant to [RSA 461-A:16](#) and the responsible party's proportional share of the expense was ordered to be paid by the judicial council from the prior special fund established pursuant to [RSA 461-A:17](#) or is ordered to be paid by the judicial branch from the mediation and arbitration fund pursuant to [RSA 490-E:4](#), the party shall be ordered by the court to repay the state through the unit of cost containment, office of administrative services, the fees and expenses paid on the party's behalf as the court may order consistent with the party's ability to pay, such ability to be determined by the unit of cost containment.

II. The court's order of appointment of a mediator or a guardian ad litem under the provisions of paragraph I shall indicate the initial proportional share or shares of fees and expenses and shall contain an order that the party or parties communicate with the unit of cost containment so that it may determine the obligor's ability to reimburse the state and establish the terms and conditions of reimbursement. A copy of each order shall be sent to the unit of cost containment, office of the commissioner of administrative services, at the time it is made.

III. Any party subject to an order under this section may petition the court having jurisdiction over the case for relief of the obligation imposed by this section, which shall be granted only upon a finding that the party is unable to comply with the terms of the court's order or any modification of the order by the court or the terms of reimbursement established by the unit of cost containment. In any such appeal the burden of persuasion shall be upon the party to show why the determinations of the unit of cost containment should not be enforced.

IV. Any party subject to orders for repayment shall be required to notify the clerk of the court and the unit of cost containment of each change of mailing address and actual street address. Whenever notice to the party is required, notice to the last known mailing address on file shall be deemed notice to and binding on the party.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:18, NH ST § 461-A:18

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:19

461-A:19 Authorization for Emergency Treatment When Custodial Parent Incapacitated.

Currentness

I. In cases where the parent having the care of the child, has sole or shared decision-making responsibility and has become incapacitated and is unable to make necessary decisions concerning the emergency medical treatment of the child, such parent's spouse shall be authorized to make such decisions subject to the following conditions:

(a) The child is in the care of a medical facility whose policy requires that all decisions regarding treatment of the type necessary under the circumstances be made by a parent having sole or shared decision-making responsibility; and

(b) Either the incapacitated parent has sole decision-making responsibility; or, if there is shared decision making responsibility, the other parent cannot be located, and in the opinion of the treating physician, circumstances make it necessary to make a decision regarding treatment immediately.

II. The right to authorize treatment granted under this section shall under no circumstances last longer than 30 days, and otherwise shall terminate upon the recovery of the parent to normal capacity, or upon the establishment of contact with the other parent, whichever occurs first.

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:19, NH ST § 461-A:19

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

Revised Statutes Annotated of the State of New Hampshire  
Title XLIII. Domestic Relations (Ch. 457 to 461-A) (Refs & Annos)  
Chapter 461-A. Parental Rights and Responsibilities (Refs & Annos)

N.H. Rev. Stat. § 461-A:20

461-A:20 References to Child Custody and Custodial Parent.

Currentness

Any provision of law that refers to the “custody” of minor children shall mean the allocation of parental rights and responsibilities as provided in this chapter. Any provision of law which refers to a “custodial parent” shall mean a parent with 50 percent or more of the residential responsibility and any reference to a non-custodial parent shall mean a parent with less than 50 percent of the residential responsibility.

Notes of Decisions (1)

Copyright © 2013 by the State of New Hampshire Office of the Director of Legislative Services and Thomson Reuters/West 2013.

N.H. Rev. Stat. § 461-A:20, NH ST § 461-A:20

Updated with laws current through Chapter 103 of the 2013 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

---

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.