

Rep. Post, Hills. 4  
March 8, 2022  
Floor Amendment

## HB 1382 - AS INTRODUCED

2022 SESSION

22-2534  
07/05

### HOUSE BILL **1382**

AN ACT relative to the presumption of shared parenting in the determination of parental rights and responsibilities.

SPONSORS: Rep. Kofalt, Hills. 4; Rep. Abrami, Rock. 19; Rep. Post, Hills. 4; Rep. Yakubovich, Merr. 24; Rep. Yokela, Rock. 33; Rep. Homola, Hills. 27; Rep. Love, Rock. 6; Rep. Spillane, Rock. 2; Rep. Bernardy, Rock. 16; Sen. Avard, Dist 12; Sen. Ward, Dist 8; Sen. Daniels, Dist 11

COMMITTEE: Children and Family Law

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### ANALYSIS

This bill:

~~I. Clarifies that the fact that a child is home schooled is not dispositive in allocating parental rights and responsibilities.~~

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II. Establishes a rebuttable presumption that equal parenting time is in the best interest of the child and requires the court to provide the basis for finding that the presumption does not apply in a particular case.

III. Provides that both parents shall have access to the child's records unless the parenting plan or court order provides otherwise.

~~IV. Provides that the court shall give substantial weight to the input of a mature minor who is at least 14 years of age.~~

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.  
22-2534  
07/05

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to the presumption of shared parenting in the determination of parental rights and responsibilities.

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

1 1 New Paragraph Parental Rights and Responsibilities; ***Definition; Shared Parenting***  
2 ***Specified. Amend RSA 461-A:1 by inserting after paragraph VII the following new***  
3 ***paragraph:***

4 ***VIII. "Shared Parenting" (joint-custody) means equal or approximately***  
5 ***equal time spent between the child[ren] and each parent and the parents have an***  
6 ***equal role in decision making responsibilities.***

7 ~~Determination of Parental Rights and Responsibilities; Best Interest; Home School~~  
8 ~~Decision Not Dispositive. Amend RSA 461-A:6, I(d) to read as follows:~~

9 ~~(d) The quality of the child's adjustment to the child's school and community and the~~  
10 ~~potential effect of any change. ***The fact that a parent sends his or her child to a***~~  
11 ~~***home school shall not be the sole factor that a court considers in determining***~~  
12 ~~***parental rights and responsibilities for such child.***~~

13 2 New Paragraph; Parental Rights and Responsibilities; ~~Determination of Parental~~

14 ~~Rights and Responsibilities; Best Interest; Presumption of Shared Parenting~~  
15 ~~Established.~~ **Definition; Shared Parenting Specified.** Amend RSA 461-A:6 by  
16 inserting after paragraph I-a the following new paragraph:  
17 I-b. The court shall determine residential responsibility and parenting time in  
18 accordance with the best interests of the child[ren].  
19 (a) There shall be a presumption that an award of *shared parenting (joint-custody)*  
20 equal, **or approximately equal** ~~182.5 days of parenting~~ time ~~with to~~ each parent is in  
21 the best interest of the child[ren].  
22 (b) The presumption ~~that equal, 182.5 days~~ of *shared parenting (joint-custody)*~~time~~  
23 ~~per calendar year is in the best interest of the child~~ may be rebutted:  
24 (1) If the court finds ~~by~~ clear and convincing evidence of **abuse or neglect and** that  
25 ~~equal, 182.5 days per calendar year of parenting time~~~~shared parenting~~  
26 ~~(joint-custody)~~ is not in the best interest of the child[ren];  
27 (2) If the parties have reached an alternative agreement on all issues related to  
28 parental rights and responsibilities for the child[ren];  
29 (3) If one of the parties does not request sole, primary, or joint responsibility for the  
30 child[ren];  
31 (4) If evidence of abuse under subparagraph I(j) or criminal assault or abuse under  
32 paragraph IV is established; or  
33 (5) If one of the parties is charged with interference with custody under RSA 633:4.  
34 (c) An objection by one parent to a proposed parenting arrangement, or an allegation  
35 that co-parenting is impossible, shall not be the sole basis for refusing the entry of an  
36 order that the court determines is in the best interest of the minor child **that is shared**  
37 **parenting (joint-custody)**~~for equal, 182.5 days of parenting time~~ with each parent.  
38 (d) After a hearing on the merits, if the court determines that the presumption in  
39 subparagraph I-b(b) is rebutted, the court shall enter a written order that includes the  
40 following, unless waived by both parties:

41 (1) Facts, findings, and conclusions of law concerning the basis for the court's  
42 determination; and

43 (2) A parenting time schedule that:

44 (A) Maximizes the amount of time that each parent has with the child~~[ren]~~; and

45 (B) Is consistent with the best interests of the child~~[ren]~~.

46 (e)(1) Unless the court order or parenting plan specifically provides otherwise, both  
47 parents shall have access to records and information pertaining to a minor child  
48 including, but not limited to medical, dental, and school records.

49 (2) Except as otherwise precluded by state or federal law, if any individual,  
50 professional, public or private institution or organization denies access or fails to  
51 provide or disclose any and all records and information, including, but not limited to,  
52 past and present dental, medical and school records pertaining to a minor child, to  
53 either parent upon the written request of such parent, the court shall, upon its finding  
54 that the individual, professional, public or private institution or organization denied  
55 such request without good cause, order that party to comply immediately with such  
56 request and to pay to the prevailing party all costs incurred, including, but not limited  
57 to, attorney's fees, court costs and lost wages of the parent they have denied record  
58 access, all fee associated with obtaining the requested information.

59 3 Parental Rights and Responsibilities; Determination of Parental Rights and  
60 Responsibilities; Best Interest; Child Input Specified. Amend RSA 461-A:6, II to read  
61 as follows:

62 II. If the court finds by clear and convincing evidence that a minor child is of  
63 sufficient maturity to make a sound judgment ~~and at least fourteen years old~~, the  
64 court may give substantial weight to the ~~[preference]~~ *input* of the mature minor child  
65 as to the determination of parental rights and responsibilities. Under these

66 circumstances, the court shall also give due consideration to other factors which may  
67 have affected the minor child's [~~preference~~] *input*, including whether the minor child's  
68 [~~preference~~] *input* was based on undesirable or improper influences.

69 4 Effective Date. ~~This act shall take effect January 1, 2023.~~ *no later than 60 days*  
70 *after passage.*