

HB 1436-FN - AS INTRODUCED

2022 SESSION

22-2329

04/08

HOUSE BILL                    ***1436-FN***

AN ACT                    relative to appeals of family court decisions.

SPONSORS:            Rep. Gay, Rock. 8; Rep. Stapleton, Sull. 5; Rep. Wuelper, Straf. 3; Rep. Bernardy, Rock. 16; Rep. Langley, Hills. 8; Rep. Kofalt, Hills. 4; Rep. Rung, Hills. 21; Rep. Weyler, Rock. 13; Rep. Greeson, Graf. 16; Rep. Post, Hills. 4

COMMITTEE:          Children and Family Law

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ANALYSIS

This bill establishes the right to a de novo appeal to the superior court for family court decisions.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

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

AN ACT                      relative to appeals of family court decisions.

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

- 1            1 New Section; Judicial branch Family Division; Appeals to Supreme Court. Amend RSA 490-D
- 2 by inserting after section 3 the following new section:
- 3            490-D:3-a Appeals. A party aggrieved by the decision of a family court shall have the right to a
- 4 de novo appeal to the superior court in the county in which the aggrieved party resides. The
- 5 superior court shall hear all such appeals from the family court.
- 6            2 Effective Date. This act shall take effect January 1, 2023.

**HB 1436-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to appeals of family court decisions.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☐ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill establishes the right to a de novo appeal to the Superior Court for Family Court decisions.

Regarding the number of new or reopened Family Division cases, the Judicial Branch indicates there were 24,304 in 2019 and 19,223 in 2020, with 195 cases appealed in 2019 and 184 cases appealed in 2020 to the Supreme Court. The Branch assumes there would substantially more cases appealed to Superior Court for de novo hearings and trials than are currently filed in the Supreme Court. Supreme Court appeals are generally based on a review of law and not facts. Since the fact finding and all other decisions of the Family Division judge would be subject to new review by a Superior Court judge, it is highly likely that a substantial number of contested cases would be appealed to the Superior Court. The Branch is unable to determine, however, how many such appeals would be filed. The Judicial Branch assumes the fiscal impact of this bill would be substantial and will require the appointment of new Superior Court judges and staff. In 2020, 21 Superior Court judges handled 14,779 total cases (criminal and civil). If half of the Family Division cases are appealed to Superior Court, the Superior Court caseload would increase by approximately two-thirds. In order to manage the new cases in Superior Court, additional judges and staff will be needed to handle the new caseload. In addition, training of Superior Court judges in family law issues would be required as these issues are generally only heard in Circuit Court. Because it is not known how many appeals would be filed in the Superior Court, however, the fiscal impact is indeterminable.

**AGENCIES CONTACTED:**

## Judicial Branch