

CHAPTER 62  
SB 69 – FINAL VERSION

03/07/13 0318s

2013 SESSION

13-0953  
05/04

SENATE BILL **69**

AN ACT relative to superior court jurisdiction over domestic violence petitions.

SPONSORS: Sen. Boutin, Dist 16; Sen. Soucy, Dist 18; Sen. Cataldo, Dist 6; Sen. Lasky, Dist 13; Sen. Odell, Dist 8; Sen. Carson, Dist 14; Rep. Butler, Carr 7; Rep. Kappler, Rock 3; Rep. Wall, Straf 6

COMMITTEE: Judiciary

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ANALYSIS

This bill removes superior court jurisdiction over domestic violence petitions. Jurisdiction over domestic violence petitions would remain in the district division and the family division of the circuit court.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                   relative to superior court jurisdiction over domestic violence petitions.

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

1           62:1 Protection from Domestic Violence; Commencement of Proceedings. Amend RSA 173-B:2, I  
2 to read as follows:

3           I. ~~[A]~~ **The** district **division and the judicial branch family division of the circuit** courts  
4 shall have concurrent jurisdiction ~~[with the superior court]~~ over all proceedings under this chapter.

5           62:2 Protection from Domestic Violence; Commencement of Proceedings. Amend RSA 173-B:3,  
6 IV to read as follows:

7           IV. The clerks of the ~~[district and superior]~~ **circuit** courts shall supply forms for petitions  
8 and for relief under this chapter designed to facilitate pro se proceedings. All such petitions shall  
9 contain the following words: I swear that the foregoing information is true and correct to the best of  
10 my knowledge. I understand that making a false statement on this petition will subject me to  
11 criminal penalties.

12           62:3 Protection from Domestic Violence; Commencement of Proceedings. Amend RSA 173-B:3,  
13 VI to read as follows:

14           VI. The findings of facts shall be final, but questions of law may be transferred from the  
15 ~~[district]~~ **circuit** court to the supreme court ~~[in the same manner as from the superior court]~~.

16           62:4 Protection from Domestic Violence; Temporary Relief. Amend the introductory paragraph  
17 of RSA 173-B:4, I to read as follows:

18           I. Upon a showing of an immediate and present danger of abuse, the court may enter  
19 temporary orders to protect the plaintiff with or without actual notice to defendant. The court may  
20 issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be  
21 made by a ~~[district or superior]~~ **circuit** court judge to a law enforcement officer, shall be valid in any  
22 jurisdiction in the state, and shall be effective until the close of the next regular court business day.  
23 Such orders shall be returnable to the ~~[district]~~ **circuit** court where the plaintiff resides or to which  
24 the plaintiff has fled, unless otherwise ordered by the issuing ~~[justice]~~ **judge**. If non-telephonic  
25 temporary orders are made ex parte, the party against whom such relief is issued may file a written  
26 request with the clerk of the court and request a hearing on such orders. Such hearing shall be held  
27 no less than 3 business days and no more than 5 business days after the request is received by the  
28 clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, VII. Such  
29 temporary relief may direct the defendant to relinquish to a peace officer any and all firearms and

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1 ammunition in the control, ownership, or possession of the defendant, or any other person on behalf  
2 of the defendant for the duration of the protective order. Other temporary relief may include:

3 62:5 Protection from Domestic Violence; Relief. Amend RSA 173-B:5, IV to read as follows:

4 IV. No order made under this section shall supersede or affect any court order pertaining to the  
5 possession of a residence; household furniture; custody of children pursuant to RSA 169-B, 169-C, or 169-  
6 D; support or custody made under RSA 458; or custody of children of unwed parents as determined by a  
7 ~~[superior court, probate court, or family division]~~ **circuit** court, or title to real or personal property.

8 62:6 Protection from Domestic Violence; Notice to the Victim. Amend RSA 173-B:11, I to read as  
9 follows:

10 I. Notwithstanding the peace officer's obligations in RSA 173-B:9 and RSA 173-B:10, all  
11 peace officers shall give victims of abuse immediate and adequate notice of their right to go to the  
12 ~~[district or superior]~~ **circuit** court of their county to file a petition asking for protective orders  
13 against the abusive person and to seek a private criminal complaint.

14 62:7 Protection from Domestic Violence; Orders Enforceable. Amend RSA 173-B:13, IV to read  
15 as follows:

16 IV. A person entitled to protection under a foreign protective order, as defined in paragraph  
17 II, may file such order in any ~~[district or superior]~~ **circuit** court by filing with the court a certified  
18 copy of the order. Such person shall swear under oath in an affidavit to the best of such person's  
19 knowledge that the order is presently in effect as written. Such filing shall be without fee or cost.  
20 The clerk of the ~~[district or superior]~~ **circuit** court shall forward such order to the administrative  
21 office of the courts which shall enter such order in the state database. Such filing shall not be a  
22 precondition to arrest or enforcement of a foreign order.

23 62:8 Protection from Domestic Violence; Orders of Support. Amend RSA 173-B:14, II to read as  
24 follows:

25 II. Any ~~[superior]~~ **circuit** court order for financial support shall include enforcement of any  
26 duly filed ~~[district]~~ **circuit** court order from the date of filing forward, and shall include enforcement  
27 of any arrears which have been:

28 (a) Reduced to judgment by the ~~[district]~~ **circuit** court;

29 (b) Documented by the department pursuant to an order to make payable through the  
30 department; or

31 (c) Documented by the obligee in a notarized statement, provided that the obligor shall  
32 have 30 days to object and request a hearing on the issue of arrears.

33 62:9 Judicial Branch Family Division; Jurisdiction. Amend RSA 490-D:2, VI to read as follows:

34 VI. Actions under RSA 173-B, relating to protection of persons from domestic violence except  
35 for concurrent jurisdiction with the ~~[superior and]~~ district ~~[courts]~~ **division** to enter temporary  
36 protective orders under RSA 173-B:4.

37 62:10 Repeal. The following are repealed:

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- 1           I. RSA 173-B:2, IV, relative to jurisdiction of the family court over domestic violence cases.
- 2           II. RSA 173-B:3, V, relative to transfer of a domestic violence petition from the district court
- 3 to the superior court.
- 4           62:11 Effective Date. This act shall take effect January 1, 2014.
- 5 Approved: June 6, 2013
- 6 Effective Date: January 1, 2014