

erations which apply in sentence hearings. *State v. Morehouse*, 120 N.H. at 742-43, 424 A.2d at 800-01.

We have ascribed the usual and common meaning to the statutory terms "cruelty" and "depravity," *id.* at 744, 424 A.2d at 801, and conclude that the statute provides adequate guidance to a sentencing judge. See *Proffitt v. Florida*, 428 U.S. 242, 255-56, *reh'g denied*, 429 U.S. 875 (1976). We decline to hamstring judicial discretion in sentencing by enumerating with particularity what is considered cruel and depraved conduct.

■ We note that we have previously upheld the trial court's finding of exceptional cruelty or depravity as applied to the evidence before it in the plaintiff's original direct appeal. *State v. LaVallee*, 119 N.H. at 213, 400 A.2d at 484. We have held that both RSA 651:6 itself and prior case law gave adequate notice of the possible application of an extended term of imprisonment. *State v. Morehouse*, 120 N.H. at 743, 424 A.2d at 801. The fact that the legislature has since amended RSA 651:6 to require that notice of the possible application of this provision be given to a defendant prior to commencement of trial, RSA 651:6, II (Supp. 1981), does not indicate that the notice LaVallee received was inadequate.

■ For the foregoing reasons, we find that the application of RSA 651:6 neither penalized the plaintiff for having proceeded to trial nor was so coercive and discretionary that it violated his rights to due process and equal protection of the laws.

Affirmed.

KING, C.J., and SOUTER, J., did not sit; the others concurred.

Hillsborough
No. 82-120

PATRICIA (SULLIVAN) PERREAULT

v.

RICHARD SULLIVAN

October 5, 1983

minor children. On March 24, 1980, the defendant filed a petition requesting that the plaintiff be ordered to pay child support. In her answer to the defendant's petition, the plaintiff asked for a change in custody. A hearing was held before the master, whose subsequent recommendation, that the plaintiff's request for a change of custody be denied, was accepted on January 6, 1982, by the Superior Court (*Bean, J.*). The only issue on appeal is whether the trial court's decision was unreasonable or contrary to the evidence, or constituted an abuse of discretion.

■ In a case involving the modification of a custody decree, the best interests of the children are always the paramount and controlling concern. *Forde v. Sommers*, 117 N.H. 356, 360, 373 A.2d 358, 360 (1977). However, recognizing the correlation between the stability of family relationships and the healthy psychological development of children, the court has placed a heavy burden on the party desiring a change in a decree awarding sole custody. *Perreault v. Cook*, *supra* at 443, 322 A.2d at 612. The moving party must establish that "the circumstances affecting the welfare of the child have been so greatly altered that there is a strong possibility the child will be harmed if he continues to live under the present arrangement." *Id.* We find that the trial court, in its application of this standard to the evidence before it, did not abuse its discretion.

■ Child custody decisions are primarily the province of the trial court, and we will not disturb the trial court's determination unless it is clearly unreasonable, *Morel v. Marable*, 120 N.H. 192, 194, 412 A.2d 747, 748 (1980), or not supported by the evidence, *Houde v. Beckmeyer*, 116 N.H. 719, 721-22, 366 A.2d 504, 506 (1976). Although there was disputed evidence as to the defendant's alleged drinking and propensity for violence, and the effect of such conduct on the children, we cannot say that the trial court's determination was clearly unreasonable or unsupported by the evidence.

■ Additionally, the trial court properly considered the preferences of the children and the recommendation of the guardian ad litem. While both of these should be considered in the application of the *Perreault* standard, neither controls the outcome. *See Del Pozzo, v. Del Pozzo*, 113 N.H. 436, 309 A.2d 151 (1973).

Affirmed.

SOUTER, J., did not sit; the others concurred.