

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.114 Name of Bill: An act relating to the standard for substantiation of child abuse or neglect

Agency/Dept: Human Services Author of Bill Review: Det. Sgt. Scott Dunlap

Date of Bill Review: 02-10-15 Related Bills and Key Players: Rep. Linda J. Martin, Rep. Donna Sweaney and Rep. Mark Woodward

Status of Bill: (check one)

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies

Recommended Position:

☐ Support ☐ Oppose ☒ Remain Neutral ☐ Support with modifications identified in # 8 below

Analysis of Bill

1. Summary of bill and issue it addresses.

This bill changes the definition for a "substantiated report", Title 33 VSA 4912. This bill proposes to change the standard for substantiation of child abuse from a reasonable person to a preponderance of the evidence.

I spoke to Rep. Martin, she told me this is the third time this bill has been introduced. Rep. Martin told me the bill is only changing the wording in the definition. Rep. martin told me there is broad discretion at the agency level for substantiation and she wanted to raise it one notch. Rep. martin feels the way it is written now you can just think they did something wrong without an investigation, she feels there needs to be evidence.

2. Is there a need for this bill?

From the standpoint of the Vermont State Police, this Bill will not affect the Department.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

I don't foresee any fiscal or programmatic implications of this bill on the Vermont State Police. DCF substantiations rarely involve members of this Department. A member of the Vermont State Police may have to testify at a hearing regarding a substantiation, but usually it is the DCF Investigator.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

After speaking with Assistant Attorney General John Lurvey, if someone is going to contest a substantiation they are going to regardless of what changes to the requirement for a substantiation. Lurvey told me he does not see any fiscal or programmatic implications.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?

I don't foresee any fiscal and programmatic implications for others.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

I spoke to Asst. Attorney General John Lurvey who told me he supports the Bill. John told me the change would make it less subjective, it would be easier to maintain a substantiation. John told me if a person is substantiated the person has 30 days to appeal to the Commissioners Registry Review Unit, if it is upheld there they can appeal to the Human Services Board and then to the Supreme Court.

I spoke with the Bennington County State's Attorney Erica Marthage. Marthage told me even though the substantiation won't affect her office, she feels it would make the decision for substantiation less subjective. Marthage told me she supports the change in the Bill. Marthage told me there would be no fiscal implications for her office.

6.2 Who else is likely to oppose the proposal and why?

I spoke to DCF supervisor, Colleen Cummings in Bennington County. Cummings feels the change may not be a good idea because it does raise it one level for substantiation. Cummings told me if a person is substantiated, there are multiple levels to appeal. Cummings told me the appeal process is a separate entity from DCF. Cummings feels the current process works including the appeal process.

7. Rationale for recommendation:

I am neither supporting nor opposing this bill. This bill does not have any effect on the Vermont State Police.

8. Specific modifications that would be needed to recommend support of this bill: *None*

9. Gubernatorial appointments to board or commission? N/A

Secretary/Commissioner has reviewed this document

Date: