

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: AHS/DCF

Author of Bill Review: Leslie Wisdom

Date of Bill Review: February 20, 2015

Related Bills and Key Players: S.9, DCF proposed legislation (no bill # yet)

Status of Bill: (check one): ☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both

Recommended Position:

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

Analysis of Bill

1. Summary of bill and issue it addresses.

This bill proposes to remove language in chapter 49 relating to substantiations of child abuse and neglect that refers to what a reasonable person would believe in reviewing the information to an evidentiary standard of preponderance of the evidence, which means that there is just enough evidence to make something more likely true than not (sometimes also described as 51 percent).

The reasonable person standard in current law is not an evidentiary standard, but is rather a phrase used in law that refers to a hypothetical person who exercises average care, skill and judgment. In cases of child abuse investigations and substantiations, social workers exercise their care, skill and judgment in making decisions to substantiate abuse.

2. Is there a need for this bill?

No. This bill will make it harder for the Department to substantiate child abuse and neglect and place people on the Child Protection Registry.

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

Social workers would have to be trained in this legal evidentiary standard and what it means.

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?

If these changes are made to chapter 49 child abuse and neglect substantiations, similar changes may be proposed to DAIL's adult abuse substantiations in chapter 69 of title 33, which also refers to the reasonable person standard.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

The Human Services Board, which reviews appeals of DCF's child abuse and neglect substantiations, may support this change from a reasonable person standard to the evidentiary standard of preponderance of the evidence.

6. Other Stakeholders:

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

Defense attorneys and parents' advocates.

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

The Vermont Network Against Domestic and Sexual Violence and children's advocacy groups would likely oppose this proposed change.

7. Rationale for recommendation:

DCF has proposed legislative changes to Human Services Board proceedings that clarify the jurisdiction of the Board, allow for hearsay evidence from child victims and clarify other procedural requirements. DCF's proposed legislation is meant to improve the appeal process and ensure that DCF can substantiate and place people on the Child Protection Registry who have harmed children. The proposed H.114 will make it harder for the Department to substantiate people who may have harmed children by implementing a specific evidentiary standard.

8. Specific modifications that would be needed to recommend support of this bill:

Not applicable as the Department opposes the bill.

9. Gubernatorial appointments to board or commission?

Secretary/Commissioner has reviewed this document: _____ **Date:** _____