

1 S.209

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Human services; child welfare services; Human Services Board
6 hearing

7 Statement of purpose of bill as introduced: This bill proposes to repeal the
8 child hearsay rule as it is applied to Human Services Board proceedings so that
9 a child is not required to testify before the Board and the child's hearsay
10 statements are admissible in the proceeding.

11 An act relating to the admissibility of a child's hearsay statements in a
12 proceeding before the Human Services Board

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 33 V.S.A. § 4916b is amended to read:

15 § 4916b. HUMAN SERVICES BOARD HEARING

16 (a) Within 30 days ~~of~~ after the date on which the administrative reviewer
17 mailed notice of placement of a report on the Registry, the person who is the
18 subject of the substantiation may apply in writing to the Human Services
19 Board for relief. The Board shall hold a fair hearing pursuant to 3 V.S.A.

1 § 3091. When the Department receives notice of the appeal, it shall make note
2 in the Registry record that the substantiation has been appealed to the Board.

3 (b)(1) The Board shall hold a hearing within 60 days ~~of~~ after the receipt of
4 the request for a hearing and shall issue a decision within 30 days ~~of~~ after the
5 hearing.

6 (2) Priority shall be given to appeals in which there are immediate
7 employment consequences for the person appealing the decision.

8 (3) ~~Rule 804a of the Vermont Rules of Evidence (V.R.E.) shall apply to~~
9 ~~hearings held under this subsection only as follows:~~

10 (A) ~~V.R.E. 804a(a)(1) and (4) shall apply.~~

11 (B) ~~V.R.E. 804a(a)(2) shall apply, except that any deposition or~~
12 ~~testimony given under oath at another proceeding shall be admissible evidence~~
13 ~~in a hearing held under this subsection.~~

14 (C) ~~V.R.E. 804a(a)(3) shall apply to hearings under this subsection~~
15 ~~unless the hearing officer determines, based on a preponderance of the~~
16 ~~evidence, that requiring the child to testify will present a substantial risk of~~
17 ~~trauma to the child.~~

18 (D) ~~V.R.E. 804a(b) shall not apply~~ An individual under 18 years of
19 age who is alleged to have been abused or neglected shall not be required to
20 testify or give evidence at any hearing held under this subchapter. Evidence
21 shall be admissible if it is of a type commonly relied upon by reasonably

1 prudent persons in the conduct of their affairs. Rule 804a of the Vermont
2 Rules of Evidence shall not apply to any hearing held under this subchapter.

3 (4) Convictions and adjudications ~~which~~ that arose out of the same
4 incident of abuse or neglect for which the person was substantiated, whether by
5 verdict, by judgment, or by a plea of any type, including a plea resulting in a
6 deferred sentence, shall be competent evidence in a hearing held under this
7 subchapter.

8 (c) A hearing may be stayed upon request of the petitioner if there is a
9 related case pending in the Criminal or Family Division of the Superior Court
10 ~~which~~ that arose out of the same incident of abuse or neglect for which the
11 person was substantiated.

12 (d) If no review by the Board is requested, the Department's decision in the
13 case shall be final, and the person shall have no further right for review under
14 this section. The Board may grant a waiver and permit such a review upon
15 good cause shown.

16 Sec. 2. EFFECTIVE DATE

17 This act shall take effect on July 1, 2018.