

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 727
3 entitled “An act relating to the admissibility of a child’s hearsay statements in a
4 proceeding before the Human Services Board” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

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

8 § 4916b. HUMAN SERVICES BOARD HEARING

9 (a) Within 30 days ~~of~~ after the date on which the administrative reviewer
10 mailed notice of placement of a report on the Registry, the person who is the
11 subject of the substantiation may apply in writing to the Human Services
12 Board for relief. The Board shall hold a fair hearing pursuant to 3 V.S.A.
13 § 3091. When the Department receives notice of the appeal, it shall make note
14 in the Registry record that the substantiation has been appealed to the Board.

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

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

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

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

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

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

9 ~~(D) V.R.E. 804a(b) shall not apply~~ A child under 18 years of age who
10 is alleged to have been abused or neglected shall not be required to testify or
11 give evidence at any hearing held under this subchapter. Article VIII of the
12 Vermont Rules of Evidence (Hearsay) shall not apply to any hearing held
13 pursuant to this subchapter with respect to statements made by a child under 18
14 years of age who is alleged to have been abused or neglected. Evidence shall
15 be admissible if the time, content, and circumstances of the statements provide
16 substantial indicia of trustworthiness.

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

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

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

9 Sec. 2. EFFECTIVE DATE

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

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18 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE