

S.209 – Hearsay Exception for Children in Human Service Board Hearings

Department for Children & Families

Senate Health & Welfare

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Background

After a report of child maltreatment is made to DCF, the case flows through the following steps*:

- Investigation
- Substantiation
- Placement on the Child Protection Registry

Substantiation and then placement on the Child Protection Registry is a process that happens outside of any court proceedings. This is exclusive to AHS.

* This is not a comprehensive overview.

Background

Child Protection Registry:

A confidential registry that is available to employers doing a background check on job applicants whose responsibilities would require that they work with children or vulnerable adults.

The job applicant must sign a release before their would-be employer can pursue a registry check.

Background

Due process rights for individuals who have been substantiated for abuse or neglect of a child:

FIRST:

- A person has the right to appeal the substantiation before their name is placed on the Child Protection Registry
- They appeal this determination to the Commissioner's Registry Review Unit (CRRU).
- CRRU utilizes contractors to review each case that is appealed.

Background – Due Process

SECOND:

If the appellant is not satisfied with the result of their first appeal, then they can appeal the decision to the Human Services Board (HSB)

- *The HSB is a citizen's panel consisting of seven members created by the legislature pursuant to 3 V.S.A., §3090. Its duties are to act as a fair hearing board for appeals brought by individuals who are aggrieved by decisions or policies of departments and programs within the Agency of Human Services.*

- The HSB employs two administrative hearing officer who act similarly to a judge in that they weigh the evidence presented by the appellant and the state and they make a determination.

Background – Due Process

A person placed on the registry also has the option to request that their case be considered for expungement from the Child Protection Registry –

- This is only available after 3 or 7 years depending on the level of seriousness of the substantiation (there is a tiered system). *
- The person will need to demonstrate that they are no longer a danger to children.

* Please note: we are in the process of adding two additional tiers; one lower-level (can request expungement after one year) and one higher-level (can request expungement after 15 years).

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This bill focuses on the Due Process step where individuals appeal a decision to the HSB and there is a hearing to consider the case.

Problem to be solved: reliable hearsay to be accepted in lieu of a child testifying against their alleged abuser (who in most instances is a caretaker or parent).

48: this is the number of cases that DCF has withdrawn in the last three years. This was done so that the child would have been compelled to testify which would have caused them further trauma.

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What S.209 would achieve:

Children would not be required to testify to prove a case before the HSB and reliable hearsay would be accepted as a matter of course.