



HOUSE BILL 612: DSS Review of Procedures/Criminal History/OAH.

2019-2020 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: June 10, 2020
Introduced by: Reps. Stevens, Riddell, White	Prepared by: Susan Sitze
Analysis of: Second Edition	Staff Attorney

OVERVIEW: *House Bill 612 would require the Department of Health and Human Services, Division of Social Services to identify any publications, policies, and procedures that might be considered rules under Chapter 150B of the General Statutes. Any publications, policies, and procedures identified as rules would have to be adopted through the rule-making process, or they would become void on July 1, 2022. Licensing Boards and state licensing agencies would not be permitted to require certain criminal background information as a precondition of granting a license. Finally, the bill would allow administrative law judges to rule on contested case petitions filed by individuals seeking stays of enforcement against administrative policies that should have been adopted through the rule-making process.*

BILL ANALYSIS:

Sections 1-3 of the bill would require the Division of Social Services (DSS) to prepare a report of all its publications, policies, and procedures and to submit that report to the Office of Administrative Hearings (OAH). The report must identify any publication, policy, or procedure that meets the definition of a rule under G.S. 150B-2(8a) and provide an explanation for why any publication, policy, or procedure not identified is not a rule under G.S. 150B-2(8a). DSS would also be required to coordinate with OAH to identify publications, policies, and procedures which are subject to the rule-making provisions of Chapter 150B. Any publications, policies, and procedures so identified would be deemed interim rules, but would become null and void if not adopted as permanent rules by July 1, 2022. Any policy, guideline, or other interpretative statement issued by DSS after this bill becomes effective would become void one year after it's issued; the Secretary may reissue it for an additional period of one year prior to the expiration of the deadline.

Sections 4 and 5 of the bill would clarify that occupational licensing boards and state licensing agencies cannot require applicants to submit criminal history records as a condition of receiving a license.

Sections 6 and 7 of the bill would allow individuals to file a contested case petition with OAH when they have been injured by a policy or guideline of an administrative agency that should have been adopted through the rule-making process. Administrative law judges would have the authority to determine a policy or guideline should have been adopted through the rule-making process and to stay the enforcement of that policy or guideline.

Section 7A of the bill would only apply to the Division of Health Benefits and would clarify that Sections 6 and 7 would not apply to Medicaid and NC Health Choice.

EFFECTIVE DATE: This act would be effective when it becomes law.
***Amy Darden and Jason Moran-Bates, Staff Attorneys, substantially contributed to this summary.*

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578