



# House of Representatives

General Assembly

**File No. 412**

February Session, 2008

Substitute House Bill No. 5910

*House of Representatives, April 3, 2008*

The Committee on Human Services reported through REP. VILLANO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING LEGISLATIVE OVERSIGHT OF THE DEPARTMENT OF SOCIAL SERVICES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective July 1, 2008*) For the fiscal year ending June 30,  
2 2009, and each fiscal year thereafter, for any new or expanded  
3 initiative included in the appropriation to the Department of Social  
4 Services in the budget document, the Commissioner of Social Services  
5 shall issue quarterly progress reports on the status of the  
6 implementation of such initiatives to the joint standing committees of  
7 the General Assembly having cognizance of matters relating to  
8 appropriations and the budgets of state agencies and human services,  
9 and to the Office of Fiscal Analysis, in accordance with section 11-4a of  
10 the general statutes.

11 Sec. 2. Section 17b-10 of the general statutes is repealed and the  
12 following is substituted in lieu thereof (*Effective July 1, 2008*):

13 (a) The Department of Social Services shall prepare and routinely

14 update state medical services and public assistance manuals. The  
15 pages of such manuals shall be consecutively numbered and indexed,  
16 containing all departmental policy regulations and substantive  
17 procedure, written in clear and concise language. Said manuals shall  
18 be published by the department and distributed so that they are  
19 available to (1) all regional and subregional offices of the Department  
20 of Social Services; (2) each town hall in the state; (3) all legal assistance  
21 programs in the state; and (4) any interested member of the public who  
22 requests a copy. All policy manuals of the department, as they exist on  
23 May 23, 1984, including the supporting bulletins but not including  
24 statements concerning only the internal management of the  
25 department and not affecting private rights or procedures available to  
26 the public, shall be construed to have been adopted as regulations in  
27 accordance with the provisions of chapter 54. [After] For the period  
28 commencing May 23, 1984, and ending December 31, 2008, any policy  
29 issued by the department, except a policy necessary to conform to a  
30 requirement of a federal or joint federal and state program  
31 administered by the department, including, but not limited to, the state  
32 supplement program to the Supplemental Security Income Program,  
33 shall be adopted as a regulation in accordance with the provisions of  
34 chapter 54. On and after January 1, 2009, any policy issued by the  
35 department shall be adopted as a regulation in accordance with the  
36 provisions of chapter 54. The provisions of subsections (b), (c) and (d)  
37 of this section shall not apply to any policy issued after December 31,  
38 2008.

39 (b) The department shall adopt as a regulation in accordance with  
40 the provisions of chapter 54, any new policy necessary to conform to a  
41 requirement of an approved federal waiver application initiated in  
42 accordance with section 17b-8 of the 2008 supplement to the general  
43 statutes and any new policy necessary to conform to a requirement of a  
44 federal or joint state and federal program administered by the  
45 department, including, but not limited to, the state supplement  
46 program to the Supplemental Security Income Program, but the  
47 department may, for the period commencing May 23, 1984, and ending  
48 December 31, 2008, operate under such policy while it is in the process

49 of adopting the policy as a regulation, provided the Department of  
50 Social Services prints notice of intent to adopt the regulation in the  
51 Connecticut Law Journal within twenty days after adopting the policy.  
52 Such policy shall be valid until the time final regulations are effective.

53 (c) On and after July 1, 2004, the department shall submit proposed  
54 regulations that are required by subsection (b) of this section to the  
55 standing legislative regulation review committee, as provided in  
56 subsection (b) of section 4-170, not later than one hundred eighty days  
57 after publication of the notice of its intent to adopt regulations. The  
58 department shall include with the proposed regulation a statement  
59 identifying (1) the date on which the proposed regulation became  
60 effective as a policy as provided in subsection (b) of this section, and  
61 (2) any provisions of the proposed regulation that are no longer in  
62 effect on the date of the submittal of the proposed regulation, together  
63 with a list of all policies that the department has operated under, as  
64 provided in subsection (b) of this section, that superseded any  
65 provision of the proposed regulation.

66 (d) In lieu of submitting proposed regulations by the date specified  
67 in subsection (c) of this section, the department may submit to the  
68 legislative regulation review committee a notice not later than thirty-  
69 five days before such date that the department will not be able to  
70 submit the proposed regulations on or before such date and shall  
71 include in such notice (1) the reasons why the department will not  
72 submit the proposed regulations by such date, and (2) the date by  
73 which the department will submit the proposed regulations. The  
74 legislative regulation review committee may require the department to  
75 appear before the committee at a time prescribed by the committee to  
76 further explain such reasons and to respond to any questions by the  
77 committee about the policy. The legislative regulation review  
78 committee may request the joint standing committee of the General  
79 Assembly having cognizance of matters relating to human services to  
80 review the department's policy, the department's reasons for not  
81 submitting the proposed regulations by the date specified in  
82 subsection (c) of this section and the date by which the department will

83 submit the proposed regulations. Said joint standing committee may  
84 review the policy, such reasons and such date, may schedule a hearing  
85 thereon and may make a recommendation to the legislative regulation  
86 review committee.

87 (e) If amendments to an existing regulation are necessary solely to  
88 conform the regulation to amendments to the general statutes, and if  
89 the amendments to the regulation do not entail any discretion by the  
90 department, the department may elect to comply with the  
91 requirements of subsection (a) of section 4-168 of the 2008 supplement  
92 to the general statutes or may proceed without prior notice or hearing.  
93 Any such amendments to a regulation shall be submitted in the form  
94 and manner prescribed in subsection (b) of section 4-170, to the  
95 Attorney General, as provided in section 4-169, and to the committee,  
96 as provided in section 4-170, for approval and upon approval shall be  
97 filed in the office of the Secretary of the State.

98 (f) On and after January 1, 2009, concurrent with the submission of a  
99 proposed regulation to the standing legislative regulation review  
100 committee, in accordance with subsection (b) of section 4-170, (1) the  
101 department shall submit such proposed regulation to the joint  
102 standing committee of the General Assembly having cognizance of  
103 matters relating to human services. The joint standing committee of the  
104 General Assembly having cognizance of matters relating to human  
105 services shall review such proposed regulation and make a  
106 recommendation to the legislative regulation review committee on  
107 whether such regulation should be approved; (2) the department shall  
108 submit any proposed regulation affecting the Medicaid program and  
109 the HUSKY Plan to the advisory council on Medicaid managed care,  
110 established pursuant to section 17b-28, as amended by this act. Said  
111 council shall review the proposed regulation and make a  
112 recommendation to the legislative regulation review committee on  
113 whether such regulation should be approved; and (3) the Departments  
114 of Social Services and Children and Families shall submit any  
115 proposed regulation affecting the Behavioral Health Partnership to the  
116 Behavioral Health Partnership Oversight Council, established

117 pursuant to section 17a-22j. Said council shall review the proposed  
118 regulation and make a recommendation to the legislative regulation  
119 review committee on whether such regulation should be approved.

120 Sec. 3. Subsection (b) of section 17b-28 of the 2008 supplement to the  
121 general statutes is repealed and the following is substituted in lieu  
122 thereof (*Effective July 1, 2008*):

123 (b) The council shall make recommendations concerning (1)  
124 guaranteed access to enrollees and effective outreach and client  
125 education; (2) available services comparable to those already in the  
126 Medicaid state plan, including those guaranteed under the federal  
127 Early and Periodic Screening, Diagnostic and Treatment Services  
128 Program under 42 USC 1396d; (3) the sufficiency of provider networks;  
129 (4) the sufficiency of capitated rates provider payments, financing and  
130 staff resources to guarantee timely access to services; (5) participation  
131 in managed care by existing community Medicaid providers; (6) the  
132 linguistic and cultural competency of providers and other program  
133 facilitators; (7) quality assurance; (8) timely, accessible and effective  
134 client grievance procedures; (9) coordination of the Medicaid managed  
135 care plan with state and federal health care reforms; (10) eligibility  
136 levels for inclusion in the program; (11) cost-sharing provisions; (12) a  
137 benefit package; (13) coordination with coverage under the HUSKY  
138 Plan, Part B; (14) the need for program quality studies within the areas  
139 identified in this section and the department's application for available  
140 grant funds for such studies; (15) the managed care portion of the  
141 state-administered general assistance program; (16) any proposed  
142 regulations of the Department of Social Services concerning the  
143 Medicaid program and the HUSKY Plan in accordance with subsection  
144 (f) of section 17b-10, as amended by this act; and [(16)] (17) other issues  
145 pertaining to the development of a Medicaid Research and  
146 Demonstration Waiver under Section 1115 of the Social Security Act.

147 Sec. 4. Subsection (f) of section 17a-22j of the general statutes is  
148 repealed and the following is substituted in lieu thereof (*Effective July*  
149 *1, 2008*):

150 (f) The council shall make specific recommendations on matters  
151 related to the planning and implementation of the Behavioral Health  
152 Partnership which shall include, but not be limited to: (1) Review of  
153 any contract entered into by the Departments of Children and Families  
154 and Social Services with an administrative services organization, to  
155 assure that the administrative services organization's decisions are  
156 based solely on clinical management criteria developed by the clinical  
157 management committee established in section 17a-22k; (2) review of  
158 behavioral health services pursuant to Title XIX and Title XXI of the  
159 Social Security Act to assure that federal revenue is being maximized;  
160 (3) review of any proposed regulations concerning the Behavioral  
161 Health Partnership submitted by the Departments of Children and  
162 Families and Social Services in accordance with subsection (f) of  
163 section 17b-10, as amended by this act; and [(3)] (4) review of periodic  
164 reports on the program activities, finances and outcomes, including  
165 reports from the director of the Behavioral Health Partnership on  
166 achievement of service delivery system goals, pursuant to section 17a-  
167 22i. The council may conduct or cause to be conducted an external,  
168 independent evaluation of the Behavioral Health Partnership.

169 Sec. 5. Subsection (a) of section 17b-297 of the 2008 supplement to  
170 the general statutes is repealed and the following is substituted in lieu  
171 thereof (*Effective July 1, 2008*):

172 (a) The commissioner, in consultation with the Children's Health  
173 Council, the [Medicaid Managed Care Council] advisory council on  
174 Medicaid managed care, established pursuant to section 17b-28 of the  
175 2008 supplement to the general statutes, as amended by this act, and  
176 the 2-1-1 Infoline program, shall develop mechanisms to increase  
177 outreach and maximize enrollment of eligible children and adults in  
178 the HUSKY Plan, Part A or Part B, including, but not limited to,  
179 development of mail-in applications and appropriate outreach  
180 materials through the Department of Revenue Services, the Labor  
181 Department, the Department of Social Services, the Department of  
182 Public Health, the Department of Children and Families and the Office  
183 of Protection and Advocacy for Persons with Disabilities. Such

184 mechanisms shall seek to maximize federal funds where appropriate  
185 for such outreach activities.

186 Sec. 6. Section 17b-306a of the 2008 supplement to the general  
187 statutes is repealed and the following is substituted in lieu thereof  
188 (*Effective July 1, 2008*):

189 (a) The Commissioner of Social Services, in collaboration with the  
190 Commissioners of Public Health and Children and Families, shall  
191 establish a child health quality improvement program for the purpose  
192 of promoting the implementation of evidence-based strategies by  
193 providers participating in the HUSKY Plan, Part A and Part B to  
194 improve the delivery of and access to children's health services. Such  
195 strategies shall focus on physical, dental and mental health services  
196 and shall include, but need not be limited to: (1) Methods for early  
197 identification of children with special health care needs; (2) integration  
198 of care coordination and care planning into children's health services;  
199 (3) implementation of standardized data collection to measure  
200 performance improvement; and (4) implementation of family-centered  
201 services in patient care, including, but not limited to, the development  
202 of parent-provider partnerships. The Commissioner of Social Services  
203 shall seek the participation of public and private entities that are  
204 dedicated to improving the delivery of health services, including  
205 medical, dental and mental health providers, academic professionals  
206 with experience in health services research and performance  
207 measurement and improvement, and any other entity deemed  
208 appropriate by the Commissioner of Social Services, to promote such  
209 strategies. The commissioner shall ensure that such strategies reflect  
210 new developments and best practices in the field of children's health  
211 services. As used in this section, "evidence-based strategies" means  
212 policies, procedures and tools that are informed by research and  
213 supported by empirical evidence, including, but not limited to,  
214 research developed by organizations such as the American Academy  
215 of Pediatrics, the American Academy of Family Physicians, the  
216 National Association of Pediatric Nurse Practitioners and the Institute  
217 of Medicine.

218 (b) Not later than July 1, 2008, and annually thereafter, the  
 219 Commissioner of Social Services shall report, in accordance with  
 220 section 11-4a, to the joint standing committees of the General  
 221 Assembly having cognizance of matters relating to human services,  
 222 public health and appropriations, and to the [Medicaid Managed Care  
 223 Council] advisory council on Medicaid managed care, established  
 224 pursuant to section 17b-28 of the 2008 supplement to the general  
 225 statutes, as amended by this act, on (1) the implementation of any  
 226 strategies developed pursuant to subsection (a) of this section, and (2)  
 227 the efficacy of such strategies in improving the delivery of and access  
 228 to health services for children enrolled in the HUSKY Plan.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	New section
Sec. 2	<i>July 1, 2008</i>	17b-10
Sec. 3	<i>July 1, 2008</i>	17b-28(b)
Sec. 4	<i>July 1, 2008</i>	17a-22j(f)
Sec. 5	<i>July 1, 2008</i>	17b-297(a)
Sec. 6	<i>July 1, 2008</i>	17b-306a

**HS**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect
Social Services, Dept.	GF - See Below

**Municipal Impact:** None

**Explanation**

Section 1 of this bill requires the Department of Social Services (DSS) to issue quarterly progress reports to the General Assembly for any new or expanded initiatives included in its annual budget. This requirement will result in a minimal increased administrative cost to the agency.

Section 2 repeals DSS’s authority to implement and operate policy while in the process of adopting regulations concerning that policy. This change may impede the agency’s ability to carry out state or federally required programmatic changes if the department cannot adopt regulations within assumed programmatic timeframes. Should any of these required changes have an associated cost or savings, that fiscal impact may be delayed. Further, the department may lose federal financial participation if a federally required programmatic change is delayed.

Sections 2 through 4 require DSS (and the Department of Children and Families for Behavioral Health Partnership changes) to submit proposed regulations to additional legislative bodies beyond the regulations review committee. These bodies may review the proposals and make recommendations to the regulations review committee. This change is not expected to have a direct fiscal impact on the departments.

Sections 5 and 6 make statutory reference changes that have no fiscal impact.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 5910*****AN ACT CONCERNING LEGISLATIVE OVERSIGHT OF THE DEPARTMENT OF SOCIAL SERVICES.*****SUMMARY:**

This bill expands legislative oversight of the Department of Social Services' (DSS) regulation adoption process. It (1) prohibits DSS from operating programs while in the process of adopting them in regulation, beginning January 1, 2009, and (2) requires DSS to provide copies of all regulations to the Human Services Committee at the same time it submits them to the Regulations Review Committee. It also requires DSS to submit copies of the regulations to certain oversight bodies for their review when submitting them to Regulations Review.

The bill requires DSS, beginning in FY 09, to issue to the Appropriations and Human Services committees and the Office of Fiscal Analysis quarterly progress reports on its implementation of any new or expanded initiatives included in its budget.

The bill also makes technical changes.

EFFECTIVE DATE: July 1, 2008

**POLICY VERSUS REGULATIONS*****DSS Prohibited From Operating While in Process of Adopting Regulations***

The bill provides that beginning January 1, 2009, any policy that DSS issues must be adopted as regulation. DSS must already adopt policy as regulation, but under current law, when the policy is needed to conform to a requirement of an approved federal waiver or program (e.g., Food Stamps) or a joint federal-state program (e.g., Medicaid and

State Supplement), DSS can operate these while in the process of adopting them as regulation, provided it publishes notice of intent to adopt in the *Connecticut Law Journal* and submits regulations to the Regulations Review Committee within six months, unless they notify the committee as to why they cannot meet that deadline. The bill prohibits DSS from doing this for any policy issued after December 31, 2008.

### ***Input from Oversight Bodies***

The bill requires DSS to submit proposed regulations to the Human Services Committee at the same time it submits them to the Regulations Review Committee. Human Services must review the regulation and recommend to Regulations Review whether they should be approved.

When the regulations pertain to Medicaid or the HUSKY program, DSS must also submit the regulation to the Medicaid Managed Care Advisory Council, which must review and make its own, separate recommendations.

When the regulations concern the Behavioral Health Partnership (BHP), the bill requires DSS and the Department of Children and Families to also submit them to the BHP Oversight Council, which must advise Regulations Review of its approval.

## **BACKGROUND**

### ***Related Bill***

HB 5447, reported out of Public Health and Human Services, changes who appoints the BHP council.

SB 34, reported out of Human Services and Appropriations, (1) adds a non-voting, BHP council and (2) allows the BHP to serve additional families.

## **COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 15    Nay 3    (03/18/2008)