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## Human Services Committee Hearing

February 23, 2010

Testimony of Shirley Bergert

Regarding SB 32 Section 42

### Recommendation: Delete section 42 in its entirety.

Section 42 of SB 32 authorizes the Department of Social Services (DSS) to operate under proposed regulations implementing program changes included in SB 32. This has been proven to be bad policy, subject to abuse.

The state Administrative Procedure Act (APA) governs orderly adoption of regulations. Conn. Gen. Stat. §4-166, *et seq.* The APA:

- ensures the availability of comment by interested parties,
- review by the Attorney General's office to ensure legal sufficiency of proposals,
- review by the legislature's Regulations Review Committee to ensure compliance with legislative intent, and
- final regulations that the public can rely upon.

There is provision in the APA for emergency regulations, so there is no need to precipitously by-pass its time-tested procedures that ensure legality.

Allowing an agency to by-pass the APA process creates a disincentive for the agency to finalize regulations. As long as the regulations are proposed:

- the agency can operate under them without having to take into account public comments, without ensuring the regulations comply with the law, and without ensuring compliance with legislative intent, basically without the oversight protections of the APA.
- they are not codified, readily available to the public, and the proposals cannot be relied upon with any certainty because the agency can modify them at any point with no scrutiny or oversight.

By-passing the APA has only been authorized regarding programs dealing with our most vulnerable impoverished neighbors, those we should be most concerned about protecting. DSS literally has left regulations in proposed status for years. This is bad policy and it has been abused where authorized.

