

CHILD AND FAMILY SERVICES -

STANDARD OF REVIEW

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Parley G. Hellewell

LONG TITLE

General Description:

This bill amends the Administrative Procedures Act.

Highlighted Provisions:

This bill:

- ▶ requires review hearings of administrative findings relating to child welfare issues in the juvenile court to be de novo with no deference to the findings by the administrative law judge; and
- ▶ requires clear and convincing evidence as the standard of review.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63-46b-24, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63-46b-24** is enacted to read:

63-46b-24. Judicial review -- Child welfare proceedings.

(1) The juvenile court shall review by trial de novo and without deference all final



- 28 agency actions resulting from informal adjudicative proceedings relating to:
29 (a) the removal or placement of a child into state custody;
30 (b) the support of a child as determined administratively under Section 78-3a-906; and
31 (c) substantiated findings of abuse or neglect made by the Division of Child and
32 Family Services, after an evidentiary hearing.
33 (2) Judicial review of the administrative findings in Subsection (1) shall be conducted
34 with the purpose of determining whether there is clear and convincing evidence that the child
35 has been abused or neglected.
-
-

Legislative Review Note
as of 1-9-04 10:46 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

It is estimated that the Department of Human Services Office of Recovery Services will require an ongoing General Funds appropriation of \$72,100 beginning FY 2005. The Office of Recovery Services will receive Federal Funds contingent on state funding. The Department of Human Services Child & Family Services will require an ongoing General Funds appropriation of \$56,400 beginning FY 2005. Child & Family Services will also receive Federal Funds contingent on state funding. The Attorney General will require a General Funds appropriation of \$348,000 in FY 2005; and ongoing General Funds of \$339,000 beginning FY 2006. The Administrative Office of the Courts will require an ongoing General Funds appropriation of \$223,300 beginning FY 2005.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
General Fund	\$699,800	\$690,800	\$0	\$0
Federal Funds	\$152,400	\$152,400	\$152,400	\$152,400
TOTAL	\$852,200	\$843,200	\$152,400	\$152,400

Individual and Business Impact

There may be legal defense costs incurred for and in behalf of families as a result of this bill.

Office of the Legislative Fiscal Analyst