



*Written Testimony before the Judiciary Committee
Roderick L. Bremby, Commissioner
March 21, 2018*

The Department of Social Services appreciates the opportunity to provide written testimony regarding **H.B. 5552 AAC COURT REVIEW OF AN AGENCY DECISION UNDER THE UNIFORM ADMINISTRATIVE PROCEDURES ACT**

The Department of Social Services has concerns about section one of this bill. The amendments section one makes to section 4-183 of the General Statutes would provide the Superior Court with discretion as to whether to affirm the outcome of a Department of Social Services administrative hearing decision or remand it for further proceedings, even if the court is unable to conclude, based on the record on appeal, that the substantial rights of the appellant were prejudiced by an agency finding, inference, conclusion or decision. Previously, a reviewing court was required to affirm the agency decision absent such a finding.

In addition, the bill substitutes the long-standing “clearly erroneous,” “arbitrary and capricious,” and “abuse of discretion” standards of review used by the Superior Court in administrative appeals with the less exacting “preponderance of the evidence” standard used as a burden of proof in ordinary civil litigation. The heightened standards of review currently codified in the General Statutes are taken from the Model State Administrative Procedures Act (“Model Act”). The Model Act’s use of these standards was intended to reflect a now well-settled public policy that decisions made by experts within specialized administrative agencies should be afforded deference by courts reviewing those decisions on appeal. Changing these standards of review would constitute a drastic change in public policy and administrative law in Connecticut.

Viewed in combination, the changes made by this bill are likely to result in an increase in the filing of administrative appeals that will result in more judicial decisions adverse to Connecticut agencies, and therefore a cost to the State. The changes will also result in an increased burden on the resources of Connecticut state agencies, which will have to process more cases on remand, and on the resources of the Office of the Attorney General, which will need to defend these administrative appeals. For these reasons, the Department cannot support this bill.