

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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**HOUSE BILL 295
Committee Substitute Favorable 3/30/21**

Short Title: DSS Review of Procedures/OAH.

(Public)

Sponsors:

Referred to:

March 16, 2021

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE THE SOCIAL SERVICES COMMISSION OF THE DIVISION OF
2 SOCIAL SERVICES TO REVIEW POLICIES, GUIDELINES, AND OTHER
3 INTERPRETIVE STATEMENTS AND SUBMIT A REPORT TO THE OFFICE OF
4 ADMINISTRATIVE HEARINGS.
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6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** No later than May 31, 2022, the North Carolina Division of Social
8 Services (Division), by and through the Division's Social Services Commission (Commission),
9 shall prepare and submit for review to the Office of Administrative Hearings (OAH) a
10 comprehensive report of all its policies, guidelines, and other interpretive statements. This
11 includes all policies, guidelines, and other interpretive statements that the Division or any of its
12 subdivisions has sought to implement or enforce that may directly or substantially affect the
13 procedural or substantive rights or duties of persons not employed by the Division or any of its
14 subdivisions. The report shall include an explanation for any policies, guidelines, and other
15 interpretive statements not adopted as rules the Commission believes are not in violation of
16 G.S. 150B-18. The report shall not include any emergency, temporary, or permanent rules
17 adopted by the Division in accordance with Article 2A of Chapter 150B of the General Statutes.

18 **SECTION 2.** Upon submission of its report to the OAH, the Commission shall
19 jointly review the report with the OAH to identify any policies, guidelines, and other interpretive
20 statements that are in violation of G.S. 150B-18. If there is disagreement between the
21 Commission and the OAH regarding any policies, guidelines, or other interpretive statements
22 identified in the report as being in violation of G.S. 150B-18, then the OAH shall refer the policy,
23 guideline, or other interpretive statement in disagreement to the Rules Review Commission
24 (RRC). Upon referral from the OAH, the RRC shall review the policy, guideline, or other
25 interpretive statement in disagreement and make a determination as to whether it is in violation
26 of G.S. 150B-18. If the Commission disagrees with a determination by the RRC as to whether
27 any policy, guideline, or other interpretive statement is in violation of G.S. 150B-18, the
28 Commission may file an action for declaratory judgment in Wake County Superior Court
29 pursuant to Article 26 of Chapter 1 of the General Statutes.

30 **SECTION 3.** To ensure that administration of the Division shall continue without
31 interruption, any policies, guidelines, or other interpretive statements identified through joint
32 review by the Commission and the OAH, or determined by the RRC in Section 2 as being in
33 violation of G.S. 150B-18, shall be deemed interim rules so long as they do not conflict with any
34 provisions of the General Statutes. Any interim rule authorized by this section shall become void
35 July 1, 2023, if the Commission has failed to adopt that interim rule as a permanent rule by that
36 date in accordance with Article 2A of Chapter 150B of the General Statutes. A reviewing court



1 may extend the interim rule period pending the outcome of its review if the Commission has filed
2 an action for declaratory judgment under Section 2. Any policy, guideline, or other interpretive
3 statement issued by the Division after this act becomes effective shall become void one year after
4 it is issued; however, prior to that deadline, the Secretary of Health and Human Services may
5 reissue the policy, guideline, or other interpretive statement for an additional period of one year.
6 No policy, guideline, or other interpretative statement may be reissued more than once by the
7 Secretary of Health and Human Services under this section.

8 **SECTION 4.** This act is effective when it becomes law.