

HOUSE BILL REPORT

HB 1804

As Reported By House Committee On:
State Government

Title: An act relating to temporary remedies from agency action.

Brief Description: Clarifying procedures for temporary remedies from agency action.

Sponsors: Representatives Campbell, Mastin and Flemming.

Brief History:

Reported by House Committee on:
State Government, March 2, 1993, DP.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass. Signed by 9 members: Representatives Anderson, Chair; Veloria, Vice Chair; Reams, Ranking Minority Member; Vance, Assistant Ranking Minority Member; Campbell; Conway; Dyer; King; and Pruitt.

Staff: Bonnie Austin (786-7135).

Background: Under the Administrative Procedures Act (APA), stays or other temporary judicial remedies from agency actions based on "public health, safety, and welfare grounds" may not be granted unless a stringent test is met. This test includes proof that the applicant is likely to prevail, that without relief the applicant will suffer irreparable injury, that the grant of relief will not substantially harm other parties, and that the threat to public health, safety, or welfare is not sufficiently serious to justify the agency action.

If an agency finds that public health, safety, or welfare imperatively requires emergency action, it may order summary suspension of a license pending a proceeding for revocation or other action. Additionally, the APA authorizes agencies to use emergency adjudicative proceedings in situations involving immediate danger to the public health, safety, or welfare.

Summary of Bill: Emergency license suspension and emergency adjudicative proceedings are specifically added to the list of agency actions based on public health, safety, and

welfare that will not be stayed by the court unless a stringent test is met. Stays or other temporary remedies from agency actions relating to emergency summary license suspension and emergency adjudicative proceedings may not be granted by the court unless the court finds that: (1) the applicant is likely to prevail; (2) without relief the applicant will suffer irreparable injury; (3) the grant of relief will not substantially harm other parties; and (4) the threat to public health, safety, or welfare is not sufficiently serious to justify the agency action. Decisions of the court of appeals are specifically included in this provision.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Some sexual offenders have had their licenses suspended by the chiropractic and other disciplinary boards. The court of appeals routinely stays these suspensions. In one case, a sexual offender is still practicing four years after the disciplinary action was taken. The superior courts and the court of appeals are applying different standards. This clarifies that the APA stay standards are to be applied by the court of appeals.

Testimony Against: None.

Witnesses: Representative Tom Campbell (pro); and Joyce A. Roper, Department of Health (pro).