

REPEAL OF UNFUNDED CONSUMER HEARING

PANEL

2002 FIFTH SPECIAL SESSION

STATE OF UTAH

Sponsor: Matt Throckmorton

This act amends the Human Services Code. The act repeals the Child Welfare Consumer Hearing Panel which did not get funded for fiscal year 2002-03. This act has an immediate effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

62A-4a-102, as last amended by Chapters 176 and 281, Laws of Utah 2002

62A-4a-207, as last amended by Chapters 32 and 153, Laws of Utah 2001

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

Section 1. Section **62A-4a-102** is amended to read:

62A-4a-102. Board of Child and Family Services.

(1) (a) The Board of Child and Family Services, created in accordance with this section and with Sections 62A-1-105 and 62A-1-107, is responsible for establishing by rule, pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the policy of the division in accordance with the requirements of this chapter and Title 78, Chapter 3a, Juvenile Court Act of 1996, regarding abuse, neglect, and dependency proceedings, and domestic violence services. The board is responsible to see that the legislative purposes for the division are carried out.

(b) (i) The governor shall appoint, with the consent of the Senate, 11 members to the Board of Child and Family Services.

(ii) Except as required by Subsection (1)(b)(iii), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(iii) Notwithstanding the requirements of Subsection (1)(b)(ii), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Two members of the board shall be persons who are or have been consumers, two

members of the board shall be persons who are actively involved in children's issues specifically related to abuse and neglect, one member shall be a licensed foster parent, one member shall be a recognized expert in the social, developmental, and mental health needs of children, one member shall be a physician licensed to practice medicine in this state who is also a board certified pediatrician and who is an expert in child abuse and neglect, and one member shall be an adult relative of a child who is or has been in the foster care system.

(d) Six members of the board are necessary to constitute a quorum at any meeting.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(2) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

(3) The board shall:

(a) approve fee schedules for programs within the division;

(b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, establish, by rule, policies to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new policy or proposed revision of an existing policy; and

(c) provide a mechanism for systematic and regular review of existing policy and for consideration of policy changes proposed by the persons and agencies described in Subsection (3)(b).

~~[(4) (a) The board shall establish a three-member Consumer Hearing Panel to act independently of the board and the division, and to be the sole and final decision-making body to hear, resolve, and make recommendations regarding consumer complaints relating to the division. The board may appoint two alternates to serve on the Consumer Hearing Panel in the event that one or more of the members is unable to serve at any given time. This section does not restrict or limit access to the courts for any person, or override Title 62A, Chapter 2, Licensure of Programs and Facilities, or Title 67, Chapter 19, Utah State Personnel Management Act.]~~

~~[(b) The Consumer Hearing Panel may not include any employees of the division.]~~

~~[(c) Prior to July 1, 2000, the Consumer Hearing Panel shall establish procedures that:]~~

~~[(i) provide for reasonable notice of panel hearings to the appropriate consumers;]~~

~~[(ii) require both the division and the consumer to present their respective information, testimony, or evidence at the same hearing unless, after reasonable notice, the consumer fails or refuses to appear at the scheduled panel hearing; and]~~

~~[(iii) affirm the right of affected consumers to be provided with pertinent information regarding the substance of the division's position, testimony, or evidence either prior to or at the scheduled panel hearing.]~~

~~[(d) The Consumer Hearing Panel shall report its recommendations to the board, the division, and the Legislative Oversight Panel described in Section 62A-4a-207. The division shall comply with the recommendations of the Consumer Hearing Panel.]~~

~~[(e) The department shall provide staff to the Consumer Hearing Panel.]~~

~~[(f) (i) Members of the panel shall receive a per diem allowance for each day or portion of a day spent in performing the duties of the panel, and shall be reimbursed for all necessary travel expenses.]~~

~~[(ii) The per diem reimbursement described in Subsection (4)(f)(i) may not exceed 75 days for any one individual panel member in any fiscal year.]~~

~~[(5)] (4) The board may create state advisory committees to advise it concerning programs offered by the Division of Child and Family Services. The board shall provide each committee with a specific charge in writing.~~

~~[(6)] (5) The board shall establish policies for the determination of eligibility for services offered by the division in accordance with this chapter. The division may, by rule, establish eligibility standards for consumers.~~

~~[(7)] (6) The board shall adopt and maintain rules and policies regarding placement for adoption or foster care that are consistent with, and no more restrictive than, applicable statutory provisions.~~

Section 2. Section **62A-4a-207** is amended to read:

62A-4a-207. Legislative Oversight Panel -- Responsibilities.

(1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the following members:

(i) two members of the Senate, one from the majority party and one from the minority party, appointed by the president of the Senate; and

(ii) three members of the House of Representatives, two from the majority party and one from the minority party, appointed by the speaker of the House of Representatives.

(b) Members of the panel shall serve for two-year terms, or until their successors are appointed.

(c) A vacancy exists whenever a member ceases to be a member of the Legislature, or when a member resigns from the panel. Vacancies shall be filled by the appointing authority, and the replacement shall fill the unexpired term.

(2) The president of the Senate shall designate one of the senators appointed to the panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of Representatives shall designate one of the representatives appointed to the panel under Subsection (1) as the House chair of the panel.

(3) The panel shall follow the interim committee rules established by the Legislature.

(4) The panel shall:

(a) examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;

(b) upon request, receive testimony from the public, the juvenile court, and from all state agencies involved with the child welfare system including, but not limited to, the division, other offices and agencies within the department, the attorney general's office, the Office of the Guardian Ad Litem Director, and school districts;

~~[(c) receive reports from the Consumer Hearing Panel, described in Subsection 62A-4a-102(3), and consider and review the actions, reports, and recommendations of that panel;]~~

~~[(d)]~~ (c) before October 1, 2002, and before October 1 of each year thereafter receive reports from the division, the attorney general, and the judicial branch identifying the cases not in

compliance with the time limits established in Section 78-3a-308, regarding pretrial and adjudication hearings, Section 78-3a-311, regarding dispositional hearings and reunification services, and Section 78-3a-312, regarding permanency hearings and petitions for termination, and the reasons for the noncompliance;

~~[(e)]~~ (d) receive recommendations from, and make recommendations to the governor, the Legislature, the attorney general, the division, the Office of the Guardian Ad Litem Director, the juvenile court, and the public;

~~[(f)]~~ (e) (i) receive reports from the executive branch and the judicial branch on budgetary issues impacting the child welfare system; and

(ii) recommend, as it considers advisable, budgetary proposals to the Health and Human Services Joint Appropriations Subcommittee, the Executive Offices and Criminal Justice Appropriations Subcommittee, and the Executive Appropriations Committee, which recommendation should be made before December 1 of each year;

~~[(g)]~~ (f) study and recommend proposed changes to laws governing the child welfare system;

~~[(h)]~~ (g) study actions the state can take to preserve, unify, and strengthen the child's family ties whenever possible in the child's best interest, including recognizing the constitutional rights and claims of parents whenever those family ties are severed or infringed;

~~[(i)]~~ (h) study and determine what measures may be appropriate in addressing the immunity or liability of government employees involved in child protective service investigations and removals, and report its findings to the Human Services Interim Committee on or before November 1, 2001;

~~[(j)]~~ (i) perform such other duties related to the oversight of the child welfare system as the panel considers appropriate; and

~~[(k)]~~ (j) annually report its findings and recommendations to the president of the Senate, the speaker of the House of Representatives, the Health and Human Services Interim Committee, and the Judiciary Interim Committee.

(5) The panel has authority to review and discuss individual cases. When an individual case is discussed, the panel's meeting may be held in private.

(6) (a) The panel has authority to make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system. The panel does not have authority to make recommendations to the court, the division, or any other public or private entity regarding the disposition of any individual case.

(b) The panel may hold public hearings, as it considers advisable, in various locations within the state in order to afford all interested persons an opportunity to appear and present their views regarding the child welfare system in this state.

(7) (a) All records of the panel regarding individual cases shall be classified private, and may be disclosed only in accordance with federal law and the provisions of Title 63, Chapter 2, Government Records Access and Management Act.

(b) The panel shall have access to all of the division's records, including those regarding individual cases. In accordance with Title 63, Chapter 2, Government Records Access Management Act, all documents and information received by the panel shall maintain the same classification that was designated by the division.

(8) In order to accomplish its oversight functions, the panel has:

- (a) all powers granted to legislative interim committees in Section 36-12-11; and
- (b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena Powers.

(9) Members of the panel shall receive salary and expenses in accordance with Section 36-2-2.

(10) (a) The Office of Legislative Research and General Counsel shall provide staff support to the panel.

(b) The panel is authorized to employ additional professional assistance and other staff members as it considers necessary and appropriate.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto

override.