

**AMENDMENTS TO CHILD WELFARE
LEGISLATIVE OVERSIGHT PANEL AND
OPEN AND PUBLIC MEETINGS**

2003 GENERAL SESSION

STATE OF UTAH

This act amends the Human Services Code and the Open and Public Meetings Act. The act modifies language in the Child Welfare Legislative Oversight Panel to conform terms with the Open and Public Meetings Act. The act makes other technical changes to the Child Welfare Legislative Oversight Panel. The act includes a reference to the Child Welfare Legislative Oversight Panel in the Open and Public Meetings Act.

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

AMENDS:

52-4-5, as last amended by Chapter 89, Laws of Utah 1994

52-4-7.5, as enacted by Chapter 89, Laws of Utah 1994

62A-4a-207, as last amended by Chapter 6, Laws of Utah 2002, Fifth Special Session

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

Section 1. Section **52-4-5** is amended to read:

52-4-5. Purposes of closed meetings -- Chance meetings and social meetings excluded -- Disruption of meetings.

(1) (a) A closed meeting may be held pursuant to Section 52-4-4 for any of the following purposes:

(i) discussion of the character, professional competence, or physical or mental health of an individual;

(ii) strategy sessions to discuss collective bargaining;

(iii) strategy sessions to discuss pending or reasonably imminent litigation; or

(iv) strategy sessions to discuss the purchase, exchange, or lease of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction on the best possible terms;

(v) strategy sessions to discuss the sale of real property when:

(A) public discussion of the transaction would disclose the appraisal or estimated value

of the property under consideration or prevent the public body from completing the transaction on the best possible terms;

(B) the public body had previously given public notice that the property would be offered for sale; and

(C) the terms of the sale are publicly disclosed before the public body approves the sale;

(vi) discussion regarding deployment of security personnel, devices, or systems; ~~and~~

(vii) investigative proceedings regarding allegations of criminal misconduct~~[-]; and~~

(viii) review and discussion of individual child welfare cases by the Child Welfare Legislative Oversight Panel under Section 62A-4a-207.

(b) A public body may not interview a person applying to fill an elected position in a closed meeting.

(c) Nothing in this section may be construed to require any public body to approve the purchase, sale, exchange, or lease of real property if that public body is not required to approve the purchase, sale, exchange, or lease of real property under other laws.

(2) This chapter shall not apply to any chance meeting or a social meeting. No chance meeting or social meeting shall be used to circumvent this chapter.

(3) This chapter shall not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct is seriously compromised.

Section 2. Section **52-4-7.5** is amended to read:

52-4-7.5. Record of closed meetings.

(1) If a public body closes a meeting to discuss the character, professional competence, or physical or mental health of an individual under Subsection 52-4-5(1)(a)(i) ~~[or]~~, to discuss the deployment of security personnel, devices, or systems under Subsection 52-4-5(1)(a)(vi), ~~or to review and discuss individual child welfare cases under Subsection 52-4-5(1)(a)(viii).~~ the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss:

(a) the character, professional competence, or physical or mental health of an individual; ~~[or]~~

(b) the deployment of security personnel, devices, or systems~~[-]; or~~

(c) individual child welfare cases.

(2) (a) If a public body closes a meeting under Subsection 52-4-5(1) for any purpose other than to discuss the character, professional competence, or physical or mental health of an individual ~~[or]~~, to discuss the deployment of security personnel, devices, or systems, or to review and discuss individual child welfare cases, the public body shall either tape record the closed portion of the meeting or keep detailed written minutes that disclose the content of the closed portion of the meeting.

(b) (i) Tape recordings and written minutes of closed meetings are protected records under Title 63, Chapter 2, Government Records Access and Management Act, and any person who violates the provisions of Section 63-2-801 is subject to the criminal penalties contained in that section.

(ii) Notwithstanding the provisions of Subsection 63-2-202(4)(c), tape recordings and written minutes of closed meetings, as protected records, may be disclosed pursuant to a court order only as provided in Section 52-4-10.

Section 3. 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.

94 (4) The panel shall:

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

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

101 (c) before October 1, 2002, and before October 1 of each year thereafter receive reports
102 from the division, the attorney general, and the judicial branch identifying the cases not in
103 compliance with the time limits established in Section 78-3a-308, regarding pretrial and
104 adjudication hearings, Section 78-3a-311, regarding dispositional hearings and reunification
105 services, and Section 78-3a-312, regarding permanency hearings and petitions for termination,
106 and the reasons for the noncompliance;

107 (d) receive recommendations from, and make recommendations to the governor, the
108 Legislature, the attorney general, the division, the Office of the Guardian Ad Litem Director,
109 the juvenile court, and the public;

110 (e) (i) receive reports from the executive branch and the judicial branch on budgetary
111 issues impacting the child welfare system; and

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

116 (f) study and recommend proposed changes to laws governing the child welfare
117 system;

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

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

125 [(f)] (h) perform such other duties related to the oversight of the child welfare system
126 as the panel considers appropriate; and

127 [(f)] (i) annually report its findings and recommendations to the president of the
128 Senate, the speaker of the House of Representatives, the Health and Human Services Interim
129 Committee, and the Judiciary Interim Committee.

130 (5) (a) The panel has authority to review and discuss individual cases.

131 (b) When an individual case is discussed, the panel's meeting may be [~~held in private~~]
132 closed pursuant to Title 52, Chapter 4, Open and Public Meetings.

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

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

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

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

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

149 (a) all powers granted to legislative interim committees in Section 36-12-11; and

150 (b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena
151 Powers.

152 (9) Members of the panel shall receive salary and expenses in accordance with Section
153 36-2-2.

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

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

Legislative Review Note
as of 12-2-02 3:29 PM

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

Office of Legislative Research and General Counsel