

ENROLLED ACT NO. 40, SENATE

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
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AN ACT relating to adult protective services; creating the crime of abuse, neglect, abandonment or exploitation of a vulnerable adult; amending elements constituting abuse of vulnerable adults as specified; providing definitions; separating provisions for child protection, adult protection and central registries; modifying fees; modifying responsibilities of the department of family services; conforming provisions; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 6-2-507 and 35-20-110 through 35-20-116 are created to read:

**6-2-507. Abuse, neglect, abandonment or exploitation of a vulnerable adult; penalties.**

(a) Except under circumstances constituting a violation of W.S. 6-2-502, a caregiver is guilty of abuse, neglect, abandonment or exploitation of a vulnerable adult if the caregiver intentionally or recklessly abuses, neglects, abandons or exploits a vulnerable adult.

(b) Reckless abuse, neglect or abandonment of a vulnerable adult is a misdemeanor, punishable by not more than one (1) year in jail, a fine of one thousand dollars (\$1,000.00), or both, and registration of the offender's name on the central registry.

(c) Intentional abuse, neglect or abandonment of a vulnerable adult is a felony punishable by not more than ten (10) years in prison, a fine of not more than ten thousand dollars (\$10,000.00), or both, and registration of the offender's name on the central registry.

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(d) Exploitation of a vulnerable adult is a felony punishable by not more than ten (10) years in prison, a fine of not more than ten thousand dollars (\$10,000.00), or both, and registration of the offender's name on the central registry.

(e) As used in this section:

(i) "Abandonment" means as defined in W.S. 35-20-102(a)(i);

(ii) "Abuse" means as defined in W.S. 35-20-102(a)(ii);

(iii) "Caregiver" means as defined in W.S. 35-20-102(a)(iv);

(iv) "Central registry" means the registry established under W.S. 35-20-115;

(v) "Exploitation" means as defined in W.S. 35-20-102(a)(ix);

(vi) "Neglect" means as defined in W.S. 35-20-102(a)(xi);

(vii) "Vulnerable adult" means as defined in W.S. 35-20-102(a)(xviii).

**35-20-110. When access to vulnerable adult denied; injunction.**

If access to the vulnerable adult is denied to law enforcement or the department seeking to investigate a report of abuse, neglect, exploitation, abandonment or self

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neglect of a vulnerable adult, the investigator may seek an injunction to prevent interference with the investigation. The court may issue the injunction if it finds that the person whose duty it is to investigate the report is acting within the scope of his duty and has been unreasonably denied access to the vulnerable adult.

**35-20-111. Duty to report.**

(a) The duty to report imposed by W.S. 35-20-103 applies without exception to a person or agency who knows, or has sufficient knowledge which a prudent and cautious man in similar circumstances would have to believe, that a vulnerable adult has been or is being abused, neglected, exploited or abandoned, or is committing self neglect.

(b) Any person or agency who knows or has sufficient knowledge which a prudent and cautious man in similar circumstances would have to believe that a vulnerable adult is being or has been abused, neglected, exploited or abandoned, or is committing self neglect, and knowingly fails to report in accordance with this act is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both.

**35-20-112. Confidentiality of records; penalties; access to information.**

(a) All records concerning reports and investigations of vulnerable adult abuse, neglect, exploitation, abandonment or self neglect are confidential except as provided by W.S. 35-20-116. Any person who intentionally violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than six (6)

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months, a fine of not more than seven hundred fifty dollars (\$750.00), or both.

(b) The following records are confidential and not subject to disclosure under W.S. 16-4-201 through 16-4-205:

(i) A report of abuse, neglect, exploitation, abandonment or self neglect under this act;

(ii) The identity of the person making the report; and

(iii) Except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this act or in providing services as a result of an investigation.

(c) Upon application made in the manner and form prescribed by the department, the department may give access to records otherwise confidential under this section to any of the following persons or agencies for purposes directly related with the administration of this act:

(i) A local adult protective agency;

(ii) A law enforcement agency, guardian ad litem, conservator, guardian, adult protection team or attorney representing the vulnerable adult who is the subject of the report;

(iii) A physician or surgeon who is treating a vulnerable adult; and

(iv) Court personnel who are investigating reported incidents of adult abuse, neglect, exploitation or abandonment.

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(d) Motions for access to records concerning vulnerable adult abuse, neglect, exploitation, abandonment or self neglect held by the state agency or local protective agency shall be made with the district court in the county where the vulnerable adult resides. A court may order disclosure of confidential records only if:

(i) A motion is filed with the court requesting:

(A) Release of the records; and

(B) A hearing on the request for release of the records; or

(C) All interested parties stipulate to the release.

(ii) The motion for hearing is served on the department or investigating state agency and each interested party; and

(iii) The court determines after the hearing and an in-camera review of the records that disclosure is necessary for the determination of all issues, in which case disclosure shall be limited to an in-camera inspection, or specifically limited disclosure, unless the court finds public disclosure is necessary.

(e) The department or investigating state agency may establish procedures to exchange with another state agency or governmental entity records that are necessary for the department, state agency or entity to properly execute its respective duties and responsibilities to provide services to vulnerable adults under this act or other law. An exchange of records under this subsection does not affect

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whether the records are subject to disclosure under W.S. 16-4-201 through 16-4-205.

(f) A physician or person in charge of an institution, school, facility or agency making a report under W.S. 35-20-111 shall receive, upon written application to the state agency, a written summary of the records concerning the subject of the report.

(g) Any person, agency or institution given access to records concerning the subject of the report under W.S. 35-20-111 shall not divulge or make public any records except as required for court proceedings.

(h) Confidential records may be disclosed only for a purpose consistent with this act and as provided by department or investigating state agency rules and regulations and applicable federal law.

**35-20-113. False report; penalty.**

A person commits a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both, if he reports information pursuant to this act and knows or has reason to know the information is false or lacks factual foundation.

**35-20-114. Immunity.**

(a) A person or agency filing a report under this act or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of the person's petition, report, testimony or participation, unless the person knowingly or negligently reports information that is false or lacks factual

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foundation. The immunity provided under this subsection applies only to those persons whose professional communications are generally confidential or subject to the Wyoming Public Records Act, W.S. 16-4-201 et seq. including:

- (i) Attorneys;
- (ii) Members of the clergy;
- (iii) Medical practitioners;
- (iv) Social workers;
- (v) Mental health professionals;
- (vi) Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker, or other professional adult care, residential or institutional staff;
- (vii) State, county or municipal criminal justice employees or law enforcement officers; and
- (viii) Bank, savings and loan or credit union officers, trustees or employees.

(b) A person or agency, including an authorized department volunteer, medical personnel or law enforcement officer who, at the request of the department, participates in an investigation required by this act or in an action that results from that investigation is immune from civil or criminal liability for any act or omission relating to that participation if the person acted in good faith and, if applicable, within the course or scope of the person's assigned responsibilities or duties.

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**35-20-115. Central registry of adult protection cases; establishment; operation; amendment, expungement or removal of records; classification and expungement of reports; statement of person accused.**

(a) The department shall establish and maintain a central registry of substantiated adult protection cases under this act.

(b) Through the recording of substantiated reports, the central registry shall be operated to assist the department to:

(i) Immediately identify and locate prior reports of cases of abuse, neglect, exploitation or abandonment of a vulnerable adult to assist in the diagnosis of suspicious circumstances and the assessment of the needs of the vulnerable adult and his caregiver;

(ii) Continuously monitor the current status of all pending adult protection cases; and

(iii) Evaluate the effectiveness of existing laws and programs through the development and analysis of statistical and other information.

(c) Upon written application of the department or any substantiated person and with the approval of the local law enforcement agency in adult protection cases, upon good cause shown and upon notice to the department, the subject of the report and all interested parties, the department may amend, expunge or remove any record from the central registry.



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(d) Any person named as a perpetrator of abuse, neglect, exploitation or abandonment of any vulnerable adult in any substantiated report maintained in the central registry shall have the right to have included in the report a statement concerning the incident giving rise to the report. Any person seeking to include a statement pursuant to this subsection shall provide the department with the statement. The department shall provide notice to any person identified as a perpetrator of this right to submit a statement in any substantiated report maintained in the central registry.

(e) Any person convicted of, or having plead guilty or no contest to, a crime which includes the abuse, neglect, exploitation or abandonment of any vulnerable adult shall have that conviction reported to the department by the court and the report shall be maintained in the central registry.

**35-20-116. Access to central registry records pertaining to adult protection cases; child and vulnerable adult abuse and registry account.**

(a) Upon appropriate application and for employee or volunteer screening purposes, the department shall provide to any individual, nursing home, adult care facility, educational facility, service provider of adult workshop programs or home health care provider, residential program or any service provider of programs in an institution or community-based program, or to any state institution, a record summary concerning abuse, neglect, exploitation or abandonment of a vulnerable adult involving a named individual or shall confirm that no record exists. The applicant shall submit a fee of not to exceed ten dollars (\$10.00) as established by the department and proof satisfactory to the department that the prospective or

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current employee or volunteer whose records are being checked consents to the release of the information to the applicant. Central registry screening shall be limited to substantiated reports of abuse, neglect, exploitation or abandonment of a vulnerable adult in which opportunities for due process have been exhausted under the Wyoming Administrative Procedure Act, including an appeal through the district court level. The applicant shall use the information received only for purposes of screening prospective employees and volunteers who may, through their employment or volunteer services, have unsupervised access to vulnerable adults. Applicants, their employees or other agents shall not otherwise divulge or make public any information received under this section. The department shall notify any applicant receiving a report under this section that a prospective employee is under investigation, of the final disposition of that investigation or whether an appeal is pending. The department shall notify any applicant receiving information under this subsection of any subsequent reclassification of the information pursuant to W.S. 35-20-115(c). The department shall screen all prospective employees in conformity with the procedure provided under this subsection.

(b) There is created a program administration account within the earmarked revenue fund to be known as the child and vulnerable adult abuse registry account. All fees collected under subsection (a) of this section shall be credited to this account.

**Section 2.** W.S. 14-3-202(a)(ii)(intro), (vii) and (ix) through (xi), 14-3-213(a), (b)(i) and (ii), (c) and (f), 14-3-214(f) and (g), 35-20-102(a)(i), (ii), (iv)(intro), (v), (vii), (viii), (ix), (xi)(intro), (xii), by creating new paragraphs (xiv) through (xix) and by amending and renumbering (xiv) as (xx), 35-20-103(a)

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through (f), 35-20-104(a)(intro), (i) and (ii), 35-20-105, 35-20-106(a), (b) and (c)(i) and (ii), 35-20-107 and 35-20-108 are amended to read:

**14-3-202. Definitions.**

(a) As used in W.S. 14-3-201 through 14-3-215:

(ii) "Abuse" ~~with respect to a disabled adult means as defined under W.S. 35-20-102(a)(ii).~~ "Abuse" with respect to a child means inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, excessive or unreasonable corporal punishment, malnutrition or substantial risk thereof by reason of intentional or unintentional neglect, and the commission or allowing the commission of a sexual offense against a child as defined by law:

(vii) "Neglect" ~~with respect to a disabled adult means as defined under W.S. 35-20-102(a)(xi).~~ "Neglect" with respect to a child means a failure or refusal by those responsible for the child's welfare to provide adequate care, maintenance, supervision, education or medical, surgical or any other care necessary for the child's well being. Treatment given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination is not child neglect for that reason alone;

(ix) "Subject of the report" means any child reported under W.S. 14-3-201 through 14-3-215 or the child's parent, guardian or other person responsible for the child's welfare; ~~or any disabled adult reported under~~

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~~W.S. 35-20-101 through 35-20-109 or the disabled adult's caretaker;~~

(x) "Unfounded report" means any report made pursuant to W.S. 14-3-201 through 14-3-215 ~~or 35-20-101 through 35-20-109~~ that is not supported by credible evidence;

(xi) "Substantiated report" means any report of child abuse or neglect pursuant to W.S. 14-3-201 through 14-3-215, ~~or any report of abuse, neglect, exploitation or abandonment of a disabled adult under W.S. 35-20-101 through 35-20-109,~~ that is determined upon investigation that credible evidence of the alleged abuse, or neglect, ~~exploitation or abandonment~~ exists;

**14-3-213. Central registry of child protection cases; establishment; operation; amendment, expungement or removal of records; classification and expungement of reports; statement of person accused.**

(a) The state agency shall establish and maintain within the statewide child protection center a central registry of child protection cases in accordance with W.S. 42-2-111. ~~and of disabled adult protection cases under W.S. 35-20-101 through 35-20-109.~~

(b) Through the recording of reports, the central registry shall be operated to enable the center to:

(i) Immediately identify and locate prior reports of cases of child abuse or neglect ~~and of abuse, neglect, exploitation or abandonment of a disabled adult~~ to assist in the diagnosis of suspicious circumstances and the assessment of the needs of the child and his family; ~~or of~~

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~~the disabled adult and his caretaker as defined under W.S. 35-20-102(a)(iv);~~

(ii) Continuously monitor the current status of all pending child protection cases; ~~and disabled adult protection cases;~~ and

(c) With the approval of the local child protective agency, ~~in the case of child protection cases, or the local police department or the sheriff's department in the case of disabled adult protection cases,~~ upon good cause shown and upon notice to the subject of the report, the state agency may amend, expunge or remove any record from the central registry.

(f) Any person named as a perpetrator of child abuse or neglect ~~or of abuse, neglect, exploitation or abandonment of any disabled adult~~ in any report maintained in the central registry which is classified as a substantiated report as defined in W.S. 14-3-202(a)(xi) shall have the right to have included in the report his statement concerning the incident giving rise to the report. Any person seeking to include a statement pursuant to this subsection shall provide the state agency with the statement. ~~From and after July 1, 1994 for cases involving a child, and from and after July 1, 1995 for cases involving a disabled adult,~~ The state agency shall provide notice to any person identified as a perpetrator of his right to submit his statement in any report maintained in the central registry.

**14-3-214. Confidentiality of records; penalties; access to information; attendance of school officials at interviews; access to central registry records pertaining to child protection cases.**

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(f) Upon appropriate application, the state agency shall provide to any chapter of a nationally recognized youth organization, child caring facility certified under W.S. 14-4-101 et seq., public or private school or state institution for employee or volunteer screening purposes a summary of records maintained under department of family services rules since December 31, 1986, concerning child abuse involving a named individual or confirm that no records exist. ~~Upon appropriate application and for employee or volunteer screening purposes, the state agency shall provide to any individual, nursing home, adult care facility, service provider of adult workshop programs or home health care provider, residential programs or any service provider of programs in an institution or community-based program, or to any state institution, a record summary concerning abuse, neglect, exploitation or abandonment of a disabled adult involving a named individual or shall confirm that no record exists.~~ The applicant shall submit a fee of ~~five dollars (\$5.00)~~ ten dollars (\$10.00) and proof satisfactory to the state agency that the prospective or current employee or volunteer whose records are being checked consents to the release of the information to the applicant. Central registry screening shall be limited to substantiated reports of child abuse and neglect ~~or substantiated reports of abuse, neglect, exploitation or abandonment of a disabled adult,~~ in which ~~all~~ opportunities for due process have been exhausted under the Wyoming Administrative Procedure Act including ~~any~~ an appeal ~~to~~ through the district court level. The applicant shall use the information received only for purposes of screening prospective employees and volunteers who may, through their employment or volunteer services, have unsupervised access to minors. ~~or disabled adults.~~ Applicants, their employees or other agents shall not otherwise divulge or make public any information received under this section. The state agency shall notify any

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applicant receiving a report under this section that a prospective employee is under investigation, of the final disposition of that investigation or ~~any whether an~~ appeal is pending. The state agency shall notify any applicant receiving information under this subsection of any subsequent reclassification of the information pursuant to W.S. 14-3-213(e). The state agency shall screen all prospective agency employees in conformity with the procedure provided under this subsection.

(g) There is created a program administration account within the earmarked revenue fund to be known as the "child and ~~disabled-vulnerable~~ adult abuse registry account". All fees collected under subsection (f) of this section shall be credited to this account.

### **35-20-102. Definitions.**

(a) As used in this act:

(i) "Abandonment" means leaving a ~~disabled~~ vulnerable adult without financial support or the means or ability to obtain food, clothing, shelter or health care;

(ii) "Abuse" means the ~~willful-intentional or reckless~~ infliction, ~~whether by another person or self-inflicted, of physical pain,~~ by the vulnerable adult's caregiver, family member or other individual of:

(A) Injury;

(B) Unreasonable confinement or deprivation, which ~~conduct~~ threatens the welfare and well being of a ~~disabled-vulnerable~~ adult; or

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(C) Intimidation or cruel punishment with resulting physical or emotional harm or pain to a vulnerable adult.

(iv) "~~Caretaker~~ Caregiver" means any person or agency responsible for the ~~day to day~~ care of a ~~disabled~~ vulnerable adult because of:

(B) Voluntary assumption of responsibility for ~~day to day~~ care;

(D) Rendering services ~~on~~ in an adult workshop or adult residential ~~programs~~ program; or

(E) Rendering services in an institution or in a community-based ~~programs~~ program.

(v) "Court" means the district court in the district where the vulnerable adult resides or is found;

(vii) "~~Division~~ Department" means the state department of family services or its designee;

(viii) "Emergency services" means those services, including physical care and custody in a nonrestrictive environment, necessary to maintain the ~~disabled~~ vulnerable adult's vital functions and without which services the ~~disabled~~ vulnerable adult would suffer irreparable harm or death;

(ix) "Exploitation" means ~~taking advantage of a disabled adult or of his physical or financial resources for personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation or false pretenses~~ the reckless or intentional act taken by any person, or any use of the



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power of attorney, conservatorship or guardianship of a vulnerable adult, to obtain control through deception, harassment, intimidation or undue influence over the vulnerable adult's money, assets or property with the intention of permanently or temporarily depriving the vulnerable adult of the ownership, use, benefit or possession of his money, assets or property;

(xi) "Neglect" means the deprivation, ~~including self-deprivation,~~ of, or failure to provide, the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a ~~disabled~~ vulnerable adult's life or health, or which may result in a life-threatening situation. The withholding of health care from a ~~disabled~~ vulnerable adult is not neglect if:

(xii) "Protective services" means those emergency services provided by the ~~division~~ department to assist ~~disabled~~ vulnerable adults ~~in order~~ to prevent or terminate abuse, neglect, exploitation or abandonment until the ~~disabled~~ vulnerable adult no longer needs those services. These services may include social casework, case management, home care, day care, social services, health care, psychiatric or health evaluations and other emergency services consistent with this act;

(xiv) "Capacity to consent" means the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including, provisions for health or mental health care, food, shelter, clothing, safety or financial affairs. This determination may be based on assessment or investigative findings, observation or medical or mental health evaluations;

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(xv) "Injury" means any harm, including disfigurement, impairment of any bodily organ, skin bruising, laceration, bleeding, burn, fracture or dislocation of any bone, subdural hematoma, malnutrition, dehydration or pressure sores;

(xvi) "Mental disability" means a condition causing mental dysfunction resulting in an inability to manage resources, carry out the activities of daily living or protect oneself from neglect, abuse, exploitation or hazardous situations without assistance from others. Whether or not a mental dysfunction of such degree exists is subject to an evaluation by a licensed psychologist, psychiatrist or other qualified licensed mental health professional or licensed physician, if disputed;

(xvii) "Self neglect" means when a vulnerable adult is unable, due to physical or mental disability, or refuses to perform essential self-care tasks, including providing essential food, clothing, shelter or medical care, obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety, or managing financial affairs;

(xviii) "Vulnerable adult" means any person eighteen (18) years of age or older who is unable to manage and take care of himself or his property without assistance as a result of advanced age or physical or mental disability;

(xix) "Substantiated report" means any report of abuse or neglect pursuant to this act that is determined upon investigation that credible evidence of the alleged abuse or neglect exists;

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~~(xiv)~~ (xx) "This act" means W.S. 35-20-101 through ~~35-20-109~~ 35-20-116.

**35-20-103. Reports of abuse, neglect or exploitation of vulnerable adult; reports maintained in central registry.**

(a) Any person or agency who knows or has reasonable cause to believe that a ~~disabled-vulnerable~~ adult is being or has been abused, neglected, exploited or abandoned or is committing self neglect shall report the ~~facts-information~~ immediately to ~~the sheriff's department, the local police department~~ a law enforcement agency or the ~~division department~~. Anyone who in good faith makes a report pursuant to this section is immune from civil liability for making the report.

~~(b) If access to the disabled adult is denied to the sheriff's department, police department or the division seeking to investigate a report of abuse, neglect, exploitation or abandonment of a disabled adult, the investigator may seek an injunction to prevent interference with the investigation. The court may issue the injunction if it finds that the person whose duty it is to investigate the report is acting in the scope of his duty and has been unreasonably denied access to the disabled adult. The report may be made orally or in writing. The report shall provide to law enforcement or the department the following, to the extent available:~~

(i) The name, age and address of the vulnerable adult;

(ii) The name and address of any person responsible for the vulnerable adult's care;

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(iii) The nature and extent of the vulnerable adult's condition;

(iv) The basis of the reporter's knowledge;

(v) The names and conditions of the other residents, if the vulnerable adult resides in a facility with other vulnerable adults;

(vi) An evaluation of the persons responsible for the care of the residents, if the vulnerable adult resides in a facility with other vulnerable adults;

(vii) The adequacy of the facility environment;

(viii) Any evidence of previous injuries;

(ix) Any collaborative information; and

(x) Any other relevant information.

(c) After receipt of a report that a ~~disabled~~ vulnerable adult is suspected of being or has been abused, neglected, exploited or abandoned or is committing self neglect, the department shall notify law enforcement ~~agency~~ and may request assistance from ~~the administrator and from~~ appropriate health or mental health agencies.

(d) If a law enforcement officer determines that a ~~disabled-vulnerable~~ adult is abused, neglected, exploited or abandoned, or is committing self neglect, he shall notify the ~~division~~ department concerning the potential need of the ~~disabled-vulnerable~~ adult for protective services.

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(e) Any report or notification to the ~~division~~ department that a ~~disabled-vulnerable~~ adult is, or is suspected of being, abused, neglected, exploited or abandoned, or is committing self neglect, shall be investigated, a determination shall be made whether protective services are necessary and, whether a valid declaration exists under W.S. 35-22-101 through 35-22-109. If determined necessary, protective services shall be furnished by the ~~division~~ department within ~~forty-five (45)~~ three (3) days from the time the report or notice is received by the ~~division~~ department. The investigation may include a visit to the facility in which the vulnerable adult resides and an interview with the vulnerable adult.

(f) Each substantiated report of abuse, neglect, exploitation or abandonment of a ~~disabled-vulnerable~~ adult pursuant to this act shall be entered and maintained within the central registry of ~~child and disabled-vulnerable~~ adult protection cases under W.S. ~~14-3-213~~ 35-20-115.

**35-20-104. Department to coordinate services; rules and regulations.**

(a) The ~~division~~ department shall:

(i) Coordinate a protective services program consistent with this act, with the goal of ensuring that every ~~disabled-vulnerable~~ adult in need of ~~protection~~ protective services will have ~~easy~~ access to protective services;

(ii) Adopt rules, regulations and standards for services provided by the ~~division~~ department necessary to effect the provisions and purposes of this act;

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**35-20-105. Protective services; no services without consent; responsibility for costs.**

(a) The ~~division~~department may furnish protective services in response to a request for assistance from the ~~disabled-vulnerable~~ adult, his ~~caretaker or his caregiver, conservator, guardian, guardian ad litem~~ or agent, or a family member.

(b) Except under conditions provided for in W.S. 35-20-106 no ~~disabled-vulnerable~~ adult shall be required to accept protective services without his consent or, if he lacks the capacity to consent, the consent of his ~~caretaker caregiver, conservator, guardian, guardian ad litem~~ or agent, or a family member.

(c) Costs incurred to furnish protective services shall be paid by the ~~division~~department unless:

(i) The ~~disabled-vulnerable~~ adult is eligible for protective services from another governmental agency or any other source; or

(ii) A court appoints a guardian ad litem, guardian or conservator and orders that the costs be paid from the ~~disabled-vulnerable~~ adult's estate.

**35-20-106. Petition by department when caregiver refuses to allow services; injunction.**

(a) When a ~~disabled-vulnerable~~ adult needs protective services and the ~~caretaker-caregiver~~ refuses to allow the provision of those services, the ~~division~~department, through the attorney general or the district attorney, may petition the court for an order enjoining the ~~caretaker~~

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caregiver from interfering with the provision of protective services.

(b) The petition shall allege facts sufficient to show that the ~~disabled~~vulnerable adult needs protective services, that he consents or lacks the capacity to consent to receive the services and that the ~~caretaker~~caregiver refuses to allow the protective services.

(c) If the court finds the allegations of the petition to be true by a preponderance of the evidence, it may:

(i) Enjoin the ~~caretaker~~caregiver from interfering with the provision of protective services; and

(ii) Order the ~~division~~department to provide the protective services.

**35-20-107. Emergency services.**

(a) If an emergency exists and the ~~division~~department has reasonable cause to believe that a ~~disabled~~vulnerable adult is suffering from abuse, neglect, self neglect, exploitation or abandonment and lacks the capacity to consent to the provision of protective services, the ~~division~~department, through the attorney general or the district attorney, may petition the court for an order for emergency protective services.

(b) The court shall give notice to the ~~disabled~~vulnerable adult who is the subject of the petition at least twenty-four (24) hours prior to the hearing. The court may dispense with notice if it finds that immediate or reasonably foreseeable physical harm to the ~~disabled~~vulnerable adult will result from the twenty-four (24) hour

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delay and that reasonable attempts have been made to give notice.

(c) The allegations of the petition shall be proved by a preponderance of the evidence. If the court finds that the ~~disabled-vulnerable~~ adult has been or is being abused, neglected, exploited or abandoned, or is committing self neglect, that an emergency exists and that the ~~disabled-vulnerable~~ adult lacks the capacity to consent to the provision of services, the court may order the ~~division department~~ to provide protective services on an emergency basis. The court shall order only those services necessary to remove the conditions creating the emergency and shall specifically designate the authorized services. The order for emergency protective services shall remain in effect for a period not to exceed seventy-two (72) hours. The order may be extended for an additional seventy-two (72) hour period if the court finds that the extension is necessary to remove the emergency. The ~~disabled-vulnerable~~ adult, or his agent, his court appointed representative or the ~~division department, through the attorney general or the district attorney~~, may petition the court to set aside or modify the order at any time.

(d) The ~~disabled-vulnerable~~ adult may be placed by the court in a hospital or other suitable facility which is appropriate under the circumstances. The person or agency in whose care the ~~disabled-vulnerable~~ adult is placed shall immediately notify the person responsible for the care and custody of the ~~detained person-vulnerable adult~~, if known, of the ~~time and place of detention placement~~.

**35-20-108. Records confidential; exception.**

Except as provided under W.S. ~~14-2-213 and 14-2-214~~ 35-20-116, records of the ~~division department~~ or other



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agency or the court pertaining to a ~~disabled~~vulnerable adult ~~to receive~~receiving protective services under this act are not open to public inspection. Information contained in those records shall not be disclosed to the public in any manner that will identify any individual. The records may be made available for inspection only upon application to the court pursuant to W.S. 35-20-112 for good cause shown.

**Section 3.** W.S. 14-3-202(a)(xii) through (xiv), 35-20-102(a)(vi), (x), (xiii) and 35-20-109 are repealed.

**Section 4.** This act is effective July 1, 2002.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk