

SENATE FILE NO. SF0017

Adult protective services.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to adult protective services; creating the
2 crime of abuse, neglect, abandonment or exploitation of a
3 vulnerable adult; amending elements constituting abuse of
4 vulnerable adults as specified; providing definitions;
5 separating provisions for child protection, adult
6 protection and central registries; clarifying
7 responsibilities of the department of family services;
8 conforming provisions; and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 6-2-507 and 35-20-110 through
13 35-20-116 are created to read:

14

15 **6-2-507. Abuse, neglect, abandonment or exploitation**
16 **of a vulnerable adult; penalties.**

17

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

6

7 (b) Reckless abuse, neglect or abandonment of a
8 vulnerable adult is a misdemeanor, punishable by not more
9 than one (1) year in jail, a fine of one thousand dollars
10 (\$1,000.00), or both, and registration of the offender's
11 name on the central registry.

12

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

18

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

24

1 (e) As used in this section:

2

3 (i) "Abandonment" means as defined in W.S.
4 35-20-102(a)(i);

5

6 (ii) "Abuse" means as defined in W.S.
7 35-20-102(a)(ii);

8

9 (iii) "Caregiver" means as defined in W.S.
10 35-20-102(a)(iv);

11

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

14

15 (v) "Exploitation" means as defined in W.S.
16 35-20-102(a)(ix);

17

18 (vi) "Neglect" means as defined in W.S.
19 35-20-102(a)(xi);

20

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

23

1 **35-20-110. When access to vulnerable adult denied;**
2 **injunction.**

3

4 If access to the vulnerable adult is denied to law
5 enforcement or the department seeking to investigate a
6 report of abuse, neglect, exploitation, abandonment or self
7 neglect of a vulnerable adult, the investigator may seek an
8 injunction to prevent interference with the investigation.
9 The court may issue the injunction if it finds that the
10 person whose duty it is to investigate the report is acting
11 within the scope of his duty and has been unreasonably
12 denied access to the vulnerable adult.

13

14 **35-20-111. Duty to report.**

15

16 (a) The duty to report imposed by W.S. 35-20-103
17 applies without exception to a person or agency who knows,
18 or has reasonable cause to believe or suspect, that a
19 vulnerable adult has been or is being abused, neglected,
20 exploited or abandoned, or is committing self neglect.

21

22 (b) Any person or agency who knows or has reasonable
23 cause to believe or suspect that a vulnerable adult is
24 being or has been abused, neglected, exploited or

1 abandoned, or is committing self neglect, and knowingly
2 fails to report in accordance with this act is guilty of a
3 misdemeanor punishable by imprisonment for not more than
4 one (1) year, a fine of not more than one thousand dollars
5 (\$1,000.00), or both.

6

7 **35-20-112. Confidentiality of records; penalties;**
8 **access to information.**

9

10 (a) All records concerning reports and investigations
11 of vulnerable adult abuse, neglect, exploitation,
12 abandonment or self neglect are confidential except as
13 provided by W.S. 35-20-116. Any person who intentionally
14 violates this subsection is guilty of a misdemeanor
15 punishable by imprisonment for not more than six (6)
16 months, a fine of not more than seven hundred fifty dollars
17 (\$750.00), or both.

18

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

21

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

24

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

3

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

8

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

14

15 (i) A local adult protective agency;

16

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

21

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

24

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

4

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

11

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

13

14 (A) Release of the records; and

15

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

18

19 (C) All interested parties stipulate to the
20 release.

21

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

1

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

8

9 (e) The department or investigating state agency may
10 establish procedures to exchange with another state agency
11 or governmental entity records that are necessary for the
12 department, state agency or entity to properly execute its
13 respective duties and responsibilities to provide services
14 to vulnerable adults under this act or other law. An
15 exchange of records under this subsection does not affect
16 whether the records are subject to disclosure under W.S.
17 16-4-201 through 16-4-205.

18

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

24

1 (g) Any person, agency or institution given access to
2 records concerning the subject of the report under W.S.
3 35-20-111 shall not divulge or make public any records
4 except as required for court proceedings.

5

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

10

11 **35-20-113. False report; penalty.**

12

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

18

19 **35-20-114. Immunity.**

20

21 (a) A person or agency filing a report under this act
22 or testifying or otherwise participating in any judicial
23 proceeding arising from a petition, report, or
24 investigation is immune from civil or criminal liability on

1 account of the person's petition, report, testimony or
2 participation, unless the person knowingly reports
3 information that is false or lacks factual foundation. The
4 immunity provided under this subsection applies only to
5 those persons whose professional communications are
6 generally confidential or subject to the Wyoming Public
7 Records Act, W.S. 16-4-201 et seq. including:

8

9 (i) Attorneys;

10

11 (ii) Members of the clergy;

12

13 (iii) Medical practitioners;

14

15 (iv) Social workers;

16

17 (v) Mental health professionals;

18

19 (vi) Nursing home staff; assisted living
20 facility staff; adult day care center staff; adult family-
21 care home staff; social worker, or other professional adult
22 care, residential or institutional staff;

23

1 (vii) State, county or municipal criminal
2 justice employees or law enforcement officers; and

3

4 (viii) Bank, savings and loan or credit union
5 officers, trustees or employees.

6

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

16

17 **35-20-115. Central registry of adult protection**
18 **cases; establishment; operation; amendment, expungement or**
19 **removal of records; classification and expungement of**
20 **reports; statement of person accused.**

21

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

1

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

5

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

11

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

14

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

18

19 (c) Upon written application of the department or any
20 substantiated person and with the approval of the local law
21 enforcement agency in adult protection cases, upon good
22 cause shown and upon notice to the department, the subject
23 of the report and all interested parties, the department

1 may amend, expunge or remove any record from the central
2 registry.

3

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

15

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

22

23 **35-20-116. Access to central registry records**
24 **pertaining to adult protection cases.**

1

2 (a) Upon appropriate application and for employee or
3 volunteer screening purposes, the department shall provide
4 to any individual, nursing home, adult care facility,
5 educational facility, service provider of adult workshop
6 programs or home health care provider, residential program
7 or any service provider of programs in an institution or
8 community-based program, or to any state institution, a
9 record summary concerning abuse, neglect, exploitation or
10 abandonment of a vulnerable adult involving a named
11 individual or shall confirm that no record exists. The
12 applicant shall submit a fee established by the department
13 and proof satisfactory to the department that the
14 prospective or current employee or volunteer whose records
15 are being checked consents to the release of the
16 information to the applicant. Central registry screening
17 shall be limited to substantiated reports of abuse,
18 neglect, exploitation or abandonment of a vulnerable adult
19 in which opportunities for due process have been exhausted
20 under the Wyoming Administrative Procedure Act, including
21 an appeal through the district court level. The applicant
22 shall use the information received only for purposes of
23 screening prospective employees and volunteers who may,
24 through their employment or volunteer services, have

1 unsupervised access to vulnerable adults. Applicants, their
2 employees or other agents shall not otherwise divulge or
3 make public any information received under this section.
4 The department shall notify any applicant receiving a
5 report under this section that a prospective employee is
6 under investigation, of the final disposition of that
7 investigation or whether an appeal is pending. The
8 department shall notify any applicant receiving information
9 under this subsection of any subsequent reclassification of
10 the information pursuant to W.S. 35-20-115(c). The
11 department shall screen all prospective employees in
12 conformity with the procedure provided under this
13 subsection.

14

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

20

21 **Section 2.** W.S. 14-3-202(a)(ii)(intro), (vii) and
22 (ix) through (xi), 14-3-213(a), (b)(i) and (ii), (c) and
23 (f), 14-3-214(f) and (g), 35-20-102(a)(i), (ii),
24 (iv)(intro), (v), (vii), (viii), (ix), (xi)(intro), (xii),

1 by creating new paragraphs (xiv) through (xviii) and by
2 amending and renumbering (xiv) as (xix), 35-20-103(a)
3 through (f), 35-20-104(a)(intro), (i) and (ii), 35-20-105,
4 35-20-106(a), (b) and (c)(i) and (ii), 35-20-107 and
5 35-20-108 are amended to read:

6

7 **14-3-202. Definitions.**

8

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

10

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

22

23 (vii) "Neglect" ~~with respect to a disabled adult~~
24 ~~means as defined under W.S. 35-20-102(a)(xi).~~ "Neglect"

1 ~~with respect to a child~~ means a failure or refusal by those
2 responsible for the child's welfare to provide adequate
3 care, maintenance, supervision, education or medical,
4 surgical or any other care necessary for the child's well
5 being. Treatment given in good faith by spiritual means
6 alone, through prayer, by a duly accredited practitioner in
7 accordance with the tenets and practices of a recognized
8 church or religious denomination is not child neglect for
9 that reason alone;

10
11 (ix) "Subject of the report" means any child
12 reported under W.S. 14-3-201 through 14-3-215 or the
13 child's parent, guardian or other person responsible for
14 the child's welfare; ~~or any disabled adult reported under~~
15 ~~W.S. 35-20-101 through 35-20-109 or the disabled adult's~~
16 ~~caretaker;~~

17
18 (x) "Unfounded report" means any report made
19 pursuant to W.S. 14-3-201 through 14-3-215 ~~or 35-20-101~~
20 ~~through 35-20-109~~ that is not supported by credible
21 evidence;

22
23 (xi) "Substantiated report" means any report of
24 child abuse or neglect pursuant to W.S. 14-3-201 through

1 14-3-215, ~~or any report of abuse, neglect, exploitation or~~
2 ~~abandonment of a disabled adult under W.S. 35-20-101~~
3 ~~through 35-20-109,~~ that is determined upon investigation
4 that credible evidence of the alleged abuse, or neglect,
5 ~~exploitation or abandonment~~ exists;

6
7 **14-3-213. Central registry of child protection cases;**
8 **establishment; operation; amendment, expungement or removal**
9 **of records; classification and expungement of reports;**
10 **statement of person accused.**

11
12 (a) The state agency shall establish and maintain
13 within the statewide child protection center a central
14 registry of child protection cases in accordance with W.S.
15 42-2-111, ~~and of disabled adult protection cases under W.S.~~
16 ~~35-20-101 through 35-20-109.~~

17
18 (b) Through the recording of reports, the central
19 registry shall be operated to enable the center to:

20
21 (i) Immediately identify and locate prior
22 reports of cases of child abuse or neglect ~~and of abuse,~~
23 ~~neglect, exploitation or abandonment of a disabled adult~~ to
24 assist in the diagnosis of suspicious circumstances and the

1 assessment of the needs of the child and his family; ~~or of~~
2 ~~the disabled adult and his caretaker as defined under W.S.~~
3 ~~35-20-102(a)(iv);~~

4
5 (ii) Continuously monitor the current status of
6 all pending child protection cases; ~~and disabled adult~~
7 ~~protection cases;~~ and

8
9 (c) With the approval of the local child protective
10 agency, ~~in the case of child protection cases, or the local~~
11 ~~police department or the sheriff's department in the case~~
12 ~~of disabled adult protection cases,~~ upon good cause shown
13 and upon notice to the subject of the report, the state
14 agency may amend, expunge or remove any record from the
15 central registry.

16
17 (f) Any person named as a perpetrator of child abuse
18 or neglect ~~or of abuse, neglect, exploitation or~~
19 ~~abandonment of any disabled adult~~ in any report maintained
20 in the central registry which is classified as a
21 substantiated report as defined in W.S. 14-3-202(a)(xi)
22 shall have the right to have included in the report his
23 statement concerning the incident giving rise to the
24 report. Any person seeking to include a statement pursuant

1 to this subsection shall provide the state agency with the
2 statement. ~~From and after July 1, 1994 for cases involving~~
3 ~~a child, and from and after July 1, 1995 for cases~~
4 ~~involving a disabled adult,~~ The state agency shall provide
5 notice to any person identified as a perpetrator of his
6 right to submit his statement in any report maintained in
7 the central registry.

8

9 **14-3-214. Confidentiality of records; penalties;**
10 **access to information; attendance of school officials at**
11 **interviews; access to central registry records pertaining**
12 **to child protection cases.**

13

14 (f) Upon appropriate application, the state agency
15 shall provide to any chapter of a nationally recognized
16 youth organization, child caring facility certified under
17 W.S. 14-4-101 et seq., public or private school or state
18 institution for employee or volunteer screening purposes a
19 summary of records maintained under department of family
20 services rules since December 31, 1986, concerning child
21 abuse involving a named individual or confirm that no
22 records exist. ~~Upon appropriate application and for~~
23 ~~employee or volunteer screening purposes, the state agency~~
24 ~~shall provide to any individual, nursing home, adult care~~

1 ~~facility, service provider of adult workshop programs or~~
2 ~~home health care provider, residential programs or any~~
3 ~~service provider of programs in an institution or~~
4 ~~community-based program, or to any state institution, a~~
5 ~~record summary concerning abuse, neglect, exploitation or~~
6 ~~abandonment of a disabled adult involving a named~~
7 ~~individual or shall confirm that no record exists.~~ The
8 applicant shall submit a fee ~~of five dollars (\$5.00)~~
9 established by the department and proof satisfactory to the
10 state agency that the prospective or current employee or
11 volunteer whose records are being checked consents to the
12 release of the information to the applicant. Central
13 registry screening shall be limited to substantiated
14 reports of child abuse and neglect ~~or substantiated reports~~
15 ~~of abuse, neglect, exploitation or abandonment of a~~
16 ~~disabled adult,~~ in which ~~all~~ opportunities for due process
17 have been exhausted under the Wyoming Administrative
18 Procedure Act including ~~any~~ an appeal ~~to~~ through the
19 district court level. The applicant shall use the
20 information received only for purposes of screening
21 prospective employees and volunteers who may, through their
22 employment or volunteer services, have unsupervised access
23 to minors. ~~or disabled adults.~~ Applicants, their employees
24 or other agents shall not otherwise divulge or make public

1 any information received under this section. The state
2 agency shall notify any applicant receiving a report under
3 this section that a prospective employee is under
4 investigation, of the final disposition of that
5 investigation or ~~any~~whether an appeal is pending. The
6 state agency shall notify any applicant receiving
7 information under this subsection of any subsequent
8 reclassification of the information pursuant to W.S.
9 14-3-213(e). The state agency shall screen all prospective
10 agency employees in conformity with the procedure provided
11 under this subsection.

12

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

18

19 **35-20-102. Definitions.**

20

21 (a) As used in this act:

22

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

4
5 (ii) "Abuse" means the ~~willful~~ intentional or
6 reckless infliction, ~~whether by another person or~~
7 ~~self-inflicted, of physical pain, by the vulnerable adult's~~
8 caregiver, family member or other individual of:

9
10 (A) Injury;

11
12 (B) Unreasonable confinement ~~or~~
13 ~~deprivation,~~ which ~~conduct~~ threatens the welfare and well
14 being of a ~~disabled~~ vulnerable adult; or

15
16 (C) Intimidation or cruel punishment with
17 resulting physical or emotional harm or pain to a
18 vulnerable adult.

19
20 (iv) "~~Caretaker~~ Caregiver" means any person or
21 agency responsible for the ~~day to day~~ care of a ~~disabled~~
22 vulnerable adult because of:

23

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

3

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

6

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

9

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

12

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

15

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

22

23 (ix) "Exploitation" means ~~taking advantage of a~~
24 ~~disabled adult or of his physical or financial resources~~

1 ~~for personal or pecuniary profit by the use of undue~~
2 ~~influence, harassment, duress, deception, false~~
3 ~~representation or false pretenses~~ the reckless or
4 intentional act taken by any person, or any use of the
5 power of attorney, conservatorship or guardianship of a
6 vulnerable adult, to obtain control through deception,
7 harassment, intimidation or undue influence over the
8 vulnerable adult's money, assets or property with the
9 intention of permanently or temporarily depriving the
10 vulnerable adult of the ownership, use, benefit or
11 possession of his money, assets or property;

12

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

21

22 (xii) "Protective services" means those
23 emergency services provided by the ~~division~~ department to
24 assist ~~disabled~~ vulnerable adults ~~in order~~ to prevent or

1 terminate abuse, neglect, exploitation or abandonment until
2 the ~~disabled~~ vulnerable adult no longer needs those
3 services. These services may include social casework, case
4 management, home care, day care, social services, health
5 care, psychiatric or health evaluations and other emergency
6 services consistent with this act;

7
8 (xiv) "Capacity to consent" means the ability to
9 understand and appreciate the nature and consequences of
10 making decisions concerning one's person, including,
11 provisions for health or mental health care, food, shelter,
12 clothing, safety or financial affairs. This determination
13 may be based on assessment or investigative findings,
14 observation or medical or mental health evaluations;

15
16 (xv) "Injury" means any harm, including
17 disfigurement, impairment of any bodily organ, skin
18 bruising, laceration, bleeding, burn, fracture or
19 dislocation of any bone, subdural hematoma, malnutrition,
20 dehydration or pressure sores;

21
22 (xvi) "Mental disability" means a condition
23 causing mental dysfunction resulting in an inability to
24 manage resources, carry out the activities of daily living

1 or protect oneself from neglect, abuse, exploitation or
2 hazardous situations without assistance from others.
3 Whether or not a mental dysfunction of such degree exists
4 is subject to an evaluation by a licensed psychologist,
5 psychiatrist or physician, if disputed;

6
7 (xvii) "Self neglect" means a vulnerable adult
8 who is unable, due to physical or mental disability, or who
9 refuses to perform essential self-care tasks, including
10 providing essential food, clothing, shelter or medical
11 care, obtaining goods and services necessary to maintain
12 physical health, mental health, emotional well-being and
13 general safety, or managing financial affairs;

14
15 (xviii) "Vulnerable adult" means any person
16 eighteen (18) years of age or older who is unable to manage
17 and take care of himself or his property without assistance
18 as a result of advanced age or physical or mental
19 disability;

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

23

1 **35-20-103. Reports of abuse, neglect or exploitation**
2 **of vulnerable adult; reports maintained in central**
3 **registry.**

4
5 (a) Any person or agency who knows or has reasonable
6 cause to believe that a ~~disabled~~ vulnerable adult is being
7 or has been abused, neglected, exploited or abandoned or is
8 committing self neglect shall report the ~~facts~~ information
9 immediately to ~~the sheriff's department, the local police~~
10 ~~department~~ a law enforcement agency or the ~~division~~
11 ~~department~~. Anyone who in good faith makes a report
12 pursuant to this section is immune from civil liability for
13 making the report.

14
15 (b) ~~If access to the disabled adult is denied to the~~
16 ~~sheriff's department, police department or the division~~
17 ~~seeking to investigate a report of abuse, neglect,~~
18 ~~exploitation or abandonment of a disabled adult, the~~
19 ~~investigator may seek an injunction to prevent interference~~
20 ~~with the investigation. The court may issue the injunction~~
21 ~~if it finds that the person whose duty it is to investigate~~
22 ~~the report is acting in the scope of his duty and has been~~
23 ~~unreasonably denied access to the disabled adult. The~~
24 report may be made orally or in writing. The report shall

1 provide to law enforcement or the department the following,
2 to the extent available:

3
4 (i) The name, age and address of the vulnerable
5 adult;

6
7 (ii) The name and address of any person
8 responsible for the vulnerable adult's care;

9
10 (iii) The nature and extent of the vulnerable
11 adult's condition;

12
13 (iv) The basis of the reporter's knowledge;

14
15 (v) The names and conditions of the other
16 residents, if the vulnerable adult resides in a facility
17 with other vulnerable adults;

18
19 (vi) An evaluation of the persons responsible
20 for the care of the residents, if the vulnerable adult
21 resides in a facility with other vulnerable adults;

22
23 (vii) The adequacy of the facility environment;
24

1 (viii) Any evidence of previous injuries;

2

3 (ix) Photographs, videos and x-rays with the
4 identification of the photographer and date taken; and

5

6 (x) Any other relevant information.

7

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

14

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

21

22 (e) Any report or notification to the ~~division~~
23 department that a ~~disabled~~vulnerable adult is, or is
24 suspected of being, abused, neglected, exploited or

1 abandoned, or is committing self neglect, shall be
2 investigated, a determination shall be made whether
3 protective services are necessary and, if determined
4 necessary, protective services shall be furnished by the
5 ~~division~~department within forty-five (45) days from the
6 time the report or notice is received by the ~~division~~
7 department. The investigation may include a visit to the
8 facility in which the vulnerable adult resides and an
9 interview with the vulnerable adult.

10
11 (f) Each substantiated report of abuse, neglect,
12 exploitation or abandonment of a ~~disabled~~vulnerable adult
13 pursuant to this act shall be entered and maintained within
14 the central registry of ~~child and disabled~~vulnerable adult
15 protection cases under W.S. ~~14-3-213~~35-20-115.

16
17 **35-20-104. Department to coordinate services; rules**
18 **and regulations.**

19
20 (a) The ~~division~~department shall:

21
22 (i) Coordinate a protective services program
23 consistent with this act, with the goal of ensuring that
24 every ~~disabled~~vulnerable adult in need of ~~protection~~

1 protective services will have easy access to protective
2 services;

3

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

7

8 **35-20-105. Protective services; no services without**
9 **consent; responsibility for costs.**

10

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

16

17 (b) Except under conditions provided for in W.S.
18 35-20-106 no ~~disabled~~vulnerable adult shall be required to
19 accept protective services without his consent or, if he
20 lacks the capacity to consent, the consent of his ~~caretaker~~
21 caregiver, conservator, guardian, guardian ad litem or
22 agent, or a family member.

23

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

3

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

7

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

11

12 **35-20-106. Petition by department when caregiver**
13 **refuses to allow services; injunction.**

14

15 (a) When a ~~disabled~~vulnerable adult needs protective
16 services and the ~~caretaker~~caregiver refuses to allow the
17 provision of those services, the ~~division~~department,
18 through the attorney general or the district attorney, may
19 petition the court for an order enjoining the ~~caretaker~~
20 caregiver from interfering with the provision of protective
21 services.

22

23 (b) The petition shall allege facts sufficient to
24 show that the ~~disabled~~vulnerable adult needs protective

1 services, that he consents or lacks the capacity to consent
2 to receive the services and that the ~~caretaker~~ caregiver
3 refuses to allow the protective services.

4

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

8

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

11

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

14

15 **35-20-107. Emergency services.**

16

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

1

2 (b) The court shall give notice to the ~~disabled~~
3 vulnerable adult who is the subject of the petition at
4 least twenty-four (24) hours prior to the hearing. The
5 court may dispense with notice if it finds that immediate
6 or reasonably foreseeable physical harm to the ~~disabled~~
7 vulnerable adult will result from the twenty-four (24) hour
8 delay and that reasonable attempts have been made to give
9 notice.

10

11 (c) The allegations of the petition shall be proved
12 by a preponderance of the evidence. If the court finds
13 that the ~~disabled-vulnerable~~ adult has been or is being
14 abused, neglected, exploited or abandoned, or is committing
15 self neglect, that an emergency exists and that the
16 ~~disabled-vulnerable~~ adult lacks the capacity to consent to
17 the provision of services, the court may order the ~~division~~
18 department to provide protective services on an emergency
19 basis. The court shall order only those services necessary
20 to remove the conditions creating the emergency and shall
21 specifically designate the authorized services. The order
22 for emergency protective services shall remain in effect
23 for a period not to exceed seventy-two (72) hours. The
24 order may be extended for an additional seventy-two (72)

1 hour period if the court finds that the extension is
2 necessary to remove the emergency. The ~~disabled~~ vulnerable
3 adult, ~~or his agent~~, his court appointed representative or
4 the ~~division~~ department, through the attorney general or
5 the district attorney, may petition the court to set aside
6 or modify the order at any time.

7
8 (d) The ~~disabled~~ vulnerable adult may be placed by
9 the court in a hospital or other suitable facility which is
10 appropriate under the circumstances. The person or agency
11 in whose care the ~~disabled~~ vulnerable adult is placed shall
12 immediately notify the person responsible for the care and
13 custody of the ~~detained person~~ vulnerable adult, if known,
14 of the ~~time and place of detention~~ placement.

15

16 **35-20-108. Records confidential; exception.**

17

18 Except as provided under W.S. ~~14-2-213 and 14-2-214~~
19 35-20-116, records of the ~~division~~ department or other
20 agency or the court pertaining to a ~~disabled~~ vulnerable
21 adult ~~to receive~~ receiving protective services under this
22 act are not open to public inspection. Information
23 contained in those records shall not be disclosed to the
24 public in any manner that will identify any individual. The

1 records may be made available for inspection only upon
2 application to the court pursuant to W.S. 35-20-112 for
3 good cause shown.

4

5 **Section 3.** W.S. 14-3-202(a)(xii) through (xiv),
6 35-20-102(a)(vi), (x), (xiii) and 35-20-109 are repealed.

7

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

9

10

(END)