

HOUSE BILL NO. HB0088

Child protection amendments.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to juveniles; amending provisions relating
2 to child protection, the Juvenile Court Act and children in
3 need of supervision; amending provisions relating to
4 multidisciplinary team and child protection teams as
5 specified; providing access to juvenile records as
6 specified; creating an interagency children's collaborative
7 to review cases in which children are taken into state
8 custody; amending requirements for the operation of the
9 central registry for child protection cases; establishing
10 criminal offenses for failure to report child abuse or
11 exploitation, or for interfering with reporting; amending
12 duties of the department of family services; amending
13 definitions; amending standards of proof as specified;
14 requiring notice as specified; specifying duties; granting
15 rulemaking authority; conforming provisions; repealing
16 provisions; and providing for effective dates.

17

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

2

3 **Section 1.** W.S. 14-3-215 is created to read:

4

5 **14-3-215. Interagency children's collaborative.**

6

7 (a) There is created an interagency children's
8 collaborative. The collaborative shall be composed of:

9

10 (i) The director of the department of family
11 services, or his designee;

12

13 (ii) The director of the department of health,
14 or his designee;

15

16 (iii) The superintendent of public instruction,
17 or his designee;

18

19 (iv) The director of the department of workforce
20 services, or his designee; and

21

22 (v) The governor's appointee who shall represent
23 families receiving services from the state agencies

1 represented in paragraphs (i) through (iv) of this
2 subsection.

3

4 (b) The department of family services shall adopt
5 rules by July 1, 2004, to establish guidelines for review
6 of case files of children in state custody as a result of
7 any action commenced under this title. The rules shall be
8 adopted by the department of family services with the
9 advice of the departments of education, health and
10 workforce services. In addition to providing for the
11 review of cases and the progress made towards returning
12 children in state custody to their homes, communities or
13 other permanent placements, the guidelines shall provide
14 specific processes for:

15

16 (i) Local multidisciplinary teams to present
17 case files to the collaborative for review;

18

19 (ii) The review of cases in which more than one
20 (1) state agency provides services to the child and his
21 family. Guidelines developed pursuant to this paragraph
22 shall include methods for identifying and overcoming
23 barriers to the appropriate and timely provision of
24 services and permanency; and

1

2 (iii) The review of statewide availability and
3 utilization of resources for children in state custody.

4

5 **Section 2.** W.S. 14-3-201, 14-3-202(a)(intro), (x),
6 (xi) and by creating new paragraphs (xv) through (xvii),
7 14-3-203 by creating a new subsection (c), 14-3-204(a)(ii),
8 (iii), (iv), by creating a new paragraph (v) and by
9 renumbering (v) through (vii) as (vi) through (viii) and by
10 creating a new paragraph (ix), 14-3-205 by creating a new
11 subsection (c), 14-3-206(a) and (c)(intro), 14-3-208(a)
12 through (d), 14-3-212(a), (b) by creating new paragraphs
13 (iii) through (v), by renumbering (iii) and (iv) as (vi)
14 and (vii), (c)(iii), by creating new paragraphs (iv)
15 through (vi), by creating a new subsection (d) and by
16 renumbering (d) as (e), 14-3-213(a), (b)(intro), (ii),
17 (iii), by creating a new paragraph (iv), (c), (d)(ii),
18 (iii) and (e), 14-3-214(b)(intro), by creating a new
19 paragraph (viii) and (f), 14-3-402(a)(x), (xii)(A),
20 (B)(intro), (xvi)(intro), by creating new paragraphs
21 (xviii) through (xx) and renumbering (xviii) as (xxi),
22 14-3-405(a)(intro), 14-3-406(a)(intro) and (b),
23 14-3-407(a), (c) and by creating a new subsection (d),
24 14-3-408(a), 14-3-427(a)(intro), (ii) through (v), (b),

1 (c)(ii), (iv), (v), by creating new paragraphs (vi) through
2 (viii), (d) by creating new paragraphs (iii) through (v),
3 by amending and renumbering (iii) as (vi), (e), (j) and by
4 creating new subsections (k) through (o),
5 14-6-227(a)(intro), (ii) through (v), (b), (c)(ii), (iv),
6 (v), by creating new paragraphs (vi) through (viii), (d) by
7 creating new paragraphs (iii) through (v), by amending and
8 renumbering (iii) as (vi), (e), (f), (j) and by creating
9 new subsections (k) through (o) and 14-6-427(a)(intro),
10 (ii) through (v), (b), (c)(ii), (iv), (v), by creating new
11 paragraphs (vi) through (viii), (d) by creating new
12 paragraphs (iii) through (v), by amending and renumbering
13 (iii) as (vi), (e), (j) and by creating new subsections (k)
14 through (o) are amended to read:

15

16 **14-3-201. Purpose.**

17

18 The purpose of W.S. 14-3-201 through ~~14-3-215~~14-3-216 is
19 to delineate the responsibilities of the state agency,
20 other governmental agencies or officials, professionals and
21 citizens to intervene on behalf of a child suspected of
22 being abused or neglected, to protect the best interest of
23 the child, ~~or a disabled adult,~~ to further offer protective
24 services when necessary in order to prevent any harm to the

1 child or any other children living in the home, ~~or to a~~
2 ~~disabled adult,~~ to protect children ~~or disabled adults~~ from
3 abuse or neglect which jeopardize their health or welfare,
4 to stabilize the home environment, ~~and~~ to preserve family
5 life whenever possible and to provide permanency for the
6 child in appropriate circumstances. The child's health,
7 safety and welfare shall be of paramount concern in
8 implementing and enforcing this article.

9

10 **14-3-202. Definitions.**

11

12 (a) As used in W.S. 14-3-201 through ~~14-3-215~~
13 14-3-216:

14

15 (x) "~~Unfounded~~ Unsubstantiated report" means any
16 report made pursuant to W.S. 14-3-201 through 14-3-215
17 that, upon investigation, is not supported by ~~credible~~ a
18 preponderance of the evidence;

19

20 (xi) "Substantiated report" means any report of
21 child abuse or neglect made pursuant to W.S. 14-3-201
22 through 14-3-215 that, upon investigation, is ~~determined~~
23 ~~upon investigation that credible~~ supported by a

1 preponderance of the evidence; ~~of the alleged abuse or~~
2 ~~neglect exists;~~

3
4 (xv) "Collaborative" means the interagency
5 children's collaborative created by W.S. 14-3-215;

6
7 (xvi) "Department" means the state department of
8 family services and its local offices;

9
10 (xvii) "Transportation" means the provision of a
11 means to convey the child from one place to another by the
12 custodian or someone acting on his behalf in the
13 performance of required duties, but does not require the
14 state to provide incidental travel or to purchase a motor
15 vehicle for the child's own use to travel.

16
17 **14-3-203. Duties of state agency; on-call services.**

18
19 (c) The state agency shall ensure that all child
20 protective service workers are trained:

21
22 (i) In the values and principles of family
23 centered child welfare practice, including balancing the
24 best interests of children with the rights of parents;

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(ii) In the duty of the workers to inform the individual subject to a child abuse or neglect allegation, at the earliest opportunity during the initial contact, of the specific complaints or allegations made against the individual;

(iii) Concerning constitutional and statutory rights of children and families from and after the initial time of contact and the worker's legal duty not to violate the constitutional and statutory rights of children and families from and after the initial time of contact;

(iv) To know the state's legal definitions of physical abuse, sexual abuse, neglect, dependency and endangerment;

(v) To know the provisions of federal and state laws governing child welfare practice, including but not limited to the Adoption and Safe Families Act, Indian Child Welfare Act, Multi-Ethnic Placement Act and the Child Abuse Prevention and Treatment Act, as amended.

14-3-204. Duties of local child protective agency.

1

2 (a) The local child protective agency shall:

3

4 (ii) Receive, assess, investigate or arrange for
5 investigation and coordinate investigation or assessment of
6 all reports of known or suspected child abuse or neglect;

7

8 (iii) Within twenty-four (24) hours after
9 notification of a suspected case of child abuse or neglect,
10 initiate an investigation or assessment and verification of
11 every report. The representative of the child protective
12 agency shall, at the initial time of contact with the
13 individual subject to a child abuse and neglect
14 investigation or assessment, advise the individual of the
15 specific complaints or allegations made against the
16 individual. A thorough investigation or assessment and
17 report of child abuse or neglect shall be made in the
18 manner and time prescribed by the state agency pursuant to
19 rules and regulations adopted in accordance with the
20 Wyoming Administrative Procedure Act. If the child
21 protective agency is denied reasonable access to a child by
22 a parent or other persons and the agency deems that the
23 best interest of the child so requires, it shall seek an
24 appropriate court order by ex parte proceedings or other

1 appropriate proceedings to see the child. ~~+~~ The agency shall
2 assign a report:

3
4 (A) For investigation when allegations
5 contained in the report indicate:

6
7 (I) That criminal charges could be
8 filed, the child appears to be in imminent danger and it is
9 likely the child will need to be removed from the home; or

10
11 (II) A child fatality, major injury or
12 sexual abuse has occurred;

13
14 (B) For assessment when the report does not
15 meet the criteria of subparagraph (A) of this paragraph.

16
17 (iv) If the investigation or assessment
18 discloses that abuse or neglect is present, initiate
19 services with the family of the abused or neglected child
20 to assist in resolving problems that lead to or caused the
21 child abuse or neglect;

22
23 (v) If the agency is able through investigation
24 to substantiate a case of abuse or neglect, it shall notify

1 the person suspected of causing the abuse or neglect of his
2 right to request a hearing pursuant to the Wyoming
3 Administrative Procedure Act, unless a court has also found
4 that the substantiated abuse or neglect occurred;
5

6 ~~(v)~~ (vi) Make reasonable efforts to contact the
7 noncustodial parent of the child and inform the parent of
8 substantiated abuse or neglect in high risk or moderate
9 risk cases as determined pursuant to rules and regulations
10 of the state agency and inform the parent of any proposed
11 action to be taken;

12
13 ~~(vi)~~ (vii) Cooperate, coordinate and assist with
14 the prosecution and law enforcement agencies; ~~and~~

15
16 ~~(vii)~~ (viii) When the best interest of the child
17 requires court action, contact the county and prosecuting
18 attorney to initiate legal proceedings and assist the
19 county and prosecuting attorney during the proceedings. If
20 the county attorney elects not to bring court action the
21 local child protective agency may petition the court for
22 appointment of a guardian ad litem who shall act in the
23 best interest of the child and who may petition the court
24 to direct the county attorney to show cause why an action

1 should not be commenced under W.S. 14-3-401 through
2 14-3-439; and

3

4 (ix) Refer a child under the age of six (6)
5 years to the department of health, division of
6 developmental disabilities preschool program for
7 educational and developmental screening and assessment.

8

9 **14-3-205. Child abuse or neglect; persons required to**
10 **report.**

11

12 (c) Any person or agency who knows that a child has
13 been abused or neglected, and knowingly fails to report in
14 accordance with this article 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. Any employer, public or private, who
18 seeks to discharge, suspend, discipline or penalize an
19 employee for making a report of neglect or abuse under W.S.
20 14-3-201 through 14-3-216 is guilty of a misdemeanor
21 punishable by imprisonment for not more than six (6)
22 months, a fine of not more than seven hundred fifty dollars
23 (\$750.00), or both.

24

1 **14-3-206. Child abuse or neglect; written report;**
2 **statewide reporting center; documentation; costs and**
3 **admissibility thereof.**

4
5 (a) Reports of child abuse or neglect or of suspected
6 child abuse or neglect made to the local child protective
7 agency or local law enforcement agency shall be:

8
9 (i) Conveyed immediately by the agency receiving
10 the report to the appropriate local child protective agency
11 or local law enforcement agency. The agencies shall
12 continue cooperating and coordinating with each other
13 during the investigation; and

14
15 (ii) Followed by a written report by the
16 receiving agency confirming or not confirming the facts
17 reported. ~~A written report may be dispensed with for good~~
18 ~~cause shown.~~ The report shall provide to law enforcement or
19 the local child protective agency the following, to the
20 extent available:

21
22 (A) The name, age and address of the child;
23

1 (B) The name and address of any person
2 responsible for the child's care;

3

4 (C) The nature and extent of the child's
5 condition;

6

7 (D) The basis of the reporter's knowledge;

8

9 (E) The names and conditions of any other
10 children relevant to the report;

11

12 (F) Any evidence of previous injuries to
13 the child;

14

15 (G) Photographs, videos and x-rays with the
16 identification of the person who created the evidence and
17 the date the evidence was created; and

18

19 (H) Any other relevant information.

20

21 (c) Any person investigating, examining or treating
22 suspected child abuse or neglect may document evidence of
23 child abuse or neglect to the extent allowed by law by
24 having photographs taken or causing x-rays to be made of

1 the areas of trauma visible on a child who is the subject
2 of the report or who is subject to a report. The reasonable
3 cost of the photographs or x-rays shall be reimbursed by
4 the appropriate local child protective agency. All
5 photographs, x-rays or copies thereof shall be sent to the
6 local child protective agency, admissible as evidence in
7 any civil proceeding relating to child abuse or neglect,
8 and shall state:

9

10 **14-3-208. Temporary protective custody; order; time**
11 **limitation; remedial health care.**

12

13 (a) When a ~~physician treating a child or a medical~~
14 ~~staff member of a hospital in which a child is being~~
15 ~~treated has reasonable cause to believe there exists an~~
16 ~~imminent danger to the child's life or safety unless the~~
17 ~~child~~ is taken into temporary protective custody ~~and there~~
18 ~~is not time to apply for a court order, the child may be~~
19 ~~taken into temporary protective custody without a warrant~~
20 ~~or court order and without the consent of the parents,~~
21 ~~guardians or others exercising temporary or permanent~~
22 ~~control over the child. Any person taking a child into~~
23 ~~temporary protective custody~~ pursuant to W.S. 14-3-405(a)
24 through (c), the person, agency or court taking custody

1 shall ~~as soon as possible~~ immediately notify the
2 ~~appropriate local child protective agency.~~ Upon
3 ~~notification, the local child protective agency shall~~
4 ~~initiate an investigation of the notification and make~~
5 ~~every reasonable effort to inform the parent or other~~
6 ~~person responsible for the child's welfare that the child~~
7 ~~has been taken into temporary protective custody~~ department
8 of family services office and place or transfer temporary
9 protective custody to the local department of family
10 services office as soon as practicable. The local
11 department of family services office shall:

12

13 (i) Accept physical custody of the child;

14

15 (ii) Arrange for care and supervision of the
16 child in the most appropriate and least restrictive setting
17 necessary to meet the child's needs, including foster homes
18 or other child care facilities certified by the department
19 or approved by the court. When it is in the best interest
20 of the child, the department may place the child with the
21 child's noncustodial birth parent or with the child's
22 extended family, including adult siblings, grandparents,
23 great-grandparents, aunts or uncles. Prior to approving
24 placement with the child's noncustodial birth parent or

1 extended family, the department shall determine whether
2 anyone living in the home has been convicted of a crime
3 involving serious harm to children or has a substantiated
4 case listed on the central registry established pursuant to
5 W.S. 14-3-213. The department may leave the child in the
6 care of a physician or hospital when necessary to ensure
7 the child receives proper care. A neglected child shall not
8 be placed in a jail or detention facility other than for a
9 delinquent act;

10
11 (iii) Initiate an investigation of the
12 allegations and make every reasonable effort to inform the
13 parent or other person responsible for the child's welfare
14 that the child has been taken into temporary protective
15 custody; and

16
17 (iv) Assess the child's mental and physical
18 needs, provide for the child's ordinary and emergency
19 medical care and seek emergency court authorization for any
20 extraordinary medical care that is needed prior to the
21 shelter care hearing.

22
23 ~~(b) Any district court judge, district court~~
24 ~~commissioner or justice of the peace may issue a~~ The

1 department shall promptly notify the court and the district
2 attorney of any child taken into temporary protective
3 custody ~~order upon finding that a child's life or safety is~~
4 ~~in danger. That order may be requested by the state agency,~~
5 ~~the local child protective agency, a local law enforcement~~
6 ~~officer, an administrator of a hospital in which a child~~
7 ~~reasonably believed to have been abused or neglected is~~
8 ~~being treated or any physician who reasonably believes a~~
9 ~~child has been abused or neglected, whether or not~~
10 ~~additional medical treatment is required, and that the~~
11 ~~child, by continuing in his place of residence or in the~~
12 ~~care and custody of the person responsible for his welfare,~~
13 ~~would be in imminent danger of his life or health. The~~
14 ~~local child protective agency shall be notified of the~~
15 order and placed in its care pursuant to W.S. 14-3-405
16 without a court order and shall deliver the child to the
17 court upon request.

18

19 (c) Temporary protective custody shall not exceed
20 ~~seventy-two (72)~~ forty-eight (48) hours, excluding weekends
21 and legal holidays.

22

23 (d) When ~~necessary for the best interest or welfare~~
24 ~~of a child, a~~ the court ~~may order medical or nonmedical~~

1 ~~remedial health care notwithstanding the absence of a prior~~
2 ~~finding of child abuse or neglect.~~ orders the child into
3 the legal custody of the department pursuant to W.S.
4 14-3-409(d) or 14-3-429, the department shall:

5
6 (i) Accept legal custody of the child;

7
8 (ii) Continue or arrange for, care,
9 transportation and supervision of the child as provided in
10 paragraph (a)(ii) of this section;

11
12 (iii) Assess the child's mental and physical
13 health needs and provide for the child's ordinary and
14 emergency medical care;

15
16 (iv) Arrange for the provision of the education
17 of the child, including participation in individualized
18 education or developmental services;

19
20 (v) Participate in multidisciplinary team
21 meetings to develop treatment recommendations for the
22 child;

23

1 (vi) Perform any other duties ordered by the
2 court relating to the care or custody of the child.

3
4 **14-3-212. Child protection teams; creation;**
5 **composition; duties; records confidential.**

6
7 (a) The state agency and the local child protective
8 agency shall encourage and assist in the creation of ~~multi-~~
9 ~~disciplinary~~ child protection teams within the communities
10 in the state. The purposes of the child protection teams
11 shall be to identify or develop community resources to
12 serve abused and neglected children within the community,
13 to advocate for improved services or procedures for such
14 children and to provide information and assistance to the
15 state agency, local child protection agency and
16 multidisciplinary teams, if a multidisciplinary team has
17 been appointed. The department may promulgate reasonable
18 rules and regulations in accordance with the Wyoming
19 Administrative Procedure Act to govern the roles and
20 procedures of child protection teams.

21
22 (b) The local child protection team shall be composed
23 of:

24

1 (iii) A representative from the local field
2 office of the department of family services;

3

4 (iv) A representative from the county
5 government;

6

7 (v) A representative from each city and town in
8 the county;

9

10 ~~(iii)~~ (vi) Representatives from other relevant
11 professions; and

12

13 ~~(iv)~~ (vii) Temporary members selected for the
14 needs of a particular case as determined by the team.

15

16 (c) The local child protection team may:

17

18 ~~(iii) Provide an adequate treatment plan~~
19 Coordinate the provision of appropriate services for ~~the~~
20 abused and neglected ~~child~~ children and ~~his family.~~ their
21 families;

22

1 (iv) Identify or develop community resources to
2 serve abused and neglected children and advocate for
3 improved services and procedures for such children;

4
5 (v) Identify training needs, sponsor training
6 and raise community awareness of child protection issues;
7 and

8
9 (vi) Assist and make recommendations of
10 appropriate services in individual cases brought to it by
11 the state agency or the local child protection agency.

12
13 (d) The local child protection team shall not act as
14 a multidisciplinary team, but members of the child
15 protection team may serve on a multidisciplinary team if
16 appointed pursuant to W.S. 14-3-427.

17
18 ~~(d)~~(e) All records and proceedings of the child
19 protection teams are subject to W.S. 14-3-214.

20
21 **14-3-213. Central registry of child protection cases;**
22 **establishment; operation; amendment, expungement or removal**
23 **of records; classification and expungement of reports;**
24 **statement of person accused.**

1

2 (a) The state agency shall establish and maintain
3 ~~within the statewide~~ a record of all child protection
4 ~~center reports and~~ a central registry of child protection
5 cases in accordance with W.S. 42-2-111.

6

7 (b) ~~Through the recording of reports, the central~~
8 ~~registry~~ The state agency's recordkeeping system shall be
9 operated to enable the ~~center~~ state agency to:

10

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

13

14 (iii) Regularly evaluate the effectiveness of
15 existing laws and programs through the development and
16 analysis of statistical and other information; ~~and~~ and

17

18 (iv) Maintain a central registry of "under
19 investigation" reports and "substantiated" cases of child
20 abuse or neglect for provision of information to qualifying
21 applicants pursuant to W.S. 14-3-214(f).

22

23 (c) ~~With the approval of the local child protective~~
24 ~~agency,~~ Upon good cause shown and upon notice to the

1 subject of the report, the state agency may list, amend,
2 expunge or remove any record from the central registry in
3 accordance with rules and regulations adopted by the state
4 agency.

5
6 (d) All reports of child abuse or neglect contained
7 within the central registry shall be classified in one (1)
8 of the following categories:

9
10 (ii) "~~Founded~~ Substantiated"; or

11
12 (iii) "~~Closed~~ Unsubstantiated."

13
14 (e) Within six (6) months ~~any report~~ all reports
15 classified as "under investigation" shall be reclassified
16 as "~~founded~~ substantiated" or "~~closed~~ unsubstantiated",
17 ~~depending upon the results of~~ unless the state agency is
18 notified of an open criminal investigation or criminal
19 prosecution. ~~Unfounded~~ Unsubstantiated reports shall be
20 expunged from the central registry.

21
22 **14-3-214. Confidentiality of records; penalties;**
23 **access to information; attendance of school officials at**

1 **interviews; access to central registry records pertaining**
2 **to child protection cases.**

3

4 (b) Applications for access to records concerning
5 child abuse or neglect contained in the state agency or
6 local child protective agency shall be made in the manner
7 and form prescribed by the state agency. Upon appropriate
8 application, the state agency shall give access to any of
9 the following persons or agencies for purposes directly
10 related with the administration of W.S. 14-3-201 through
11 ~~14-3-215~~ 14-3-216:

12

13 (viii) An education or mental health
14 professional serving the child, if the state agency
15 determines the information is necessary to provide
16 appropriate educational or therapeutic interventions.

17

18 (f) Upon appropriate application, the state agency
19 shall provide to any chapter of a nationally recognized
20 youth organization, child caring facility certified under
21 W.S. 14-4-101 et seq., public or private school or state
22 institution for employee or volunteer screening purposes a
23 summary of central registry records maintained under
24 ~~department of family services~~ state agency rules since

1 December 31, 1986, ~~concerning child abuse involving a named~~
2 ~~individual or confirm that no records exist~~ for purposes of
3 screening employees or volunteers. The state agency shall
4 provide the results of the records check to the applicant
5 by certified mail. The written results shall confirm that
6 there is an allegation "under investigation", a
7 "substantiated" finding of abuse or neglect on the central
8 registry naming the individual or confirm that no record
9 exists. When the individual is identified on the registry
10 as a "substantiated" perpetrator of abuse or neglect, the
11 report to the applicant shall contain information with
12 respect to the date of the finding, specific type of abuse
13 or neglect, a copy of the perpetrator's voluntary statement
14 and whether an appeal is pending. The applicant shall
15 submit a fee of ten dollars (\$10.00) and proof satisfactory
16 to the state agency that the prospective or current
17 employee or volunteer whose records are being checked
18 consents to the release of the information to the
19 applicant. ~~Central registry screening shall be limited to~~
20 ~~substantiated reports of child abuse and neglect in which~~
21 ~~opportunities for due process have been exhausted under the~~
22 ~~Wyoming Administrative Procedure Act including an appeal~~
23 ~~through the district court level.~~ The applicant shall use
24 the information received only for purposes of screening

1 prospective employees and volunteers who may, through their
2 employment or volunteer services, have unsupervised access
3 to minors. Applicants, their employees or other agents
4 shall not otherwise divulge or make public any information
5 received under this section. ~~The state agency shall notify~~
6 ~~any applicant receiving a report under this section that a~~
7 ~~prospective employee is under investigation, of the final~~
8 ~~disposition of that investigation or whether an appeal is~~
9 ~~pending.~~—The state agency shall notify any applicant
10 receiving information under this subsection of any
11 subsequent reclassification of the information pursuant to
12 W.S. 14-3-213(e). The state agency shall screen all
13 prospective agency employees in conformity with the
14 procedure provided under this subsection.

15

16 **14-3-402. Definitions.**

17

18 (a) As used in this act:

19

20 (x) "Legal custody" means a legal status created
21 by court order which vests in a custodian the right to have
22 physical custody of a minor, the right and duty to protect,
23 train and discipline a minor, the duty to provide him with
24 food, shelter, clothing, transportation, ordinary medical

1 care, education and in an emergency, the right and duty to
2 authorize surgery or other extraordinary medical care. The
3 rights and duties of legal custody are subject to the
4 rights and duties of the guardian of the person of the
5 minor, and to residual parental rights and duties;

6
7 (xii) "Neglected child" means a child:

8
9 (A) ~~Whose custodian~~ Who has ~~failed or~~
10 ~~refused to provide adequate care, maintenance, supervision,~~
11 ~~education or medical, surgical or any other care necessary~~
12 ~~for the child's well being~~ been subjected to neglect as
13 defined in W.S. 14-3-202(a)(vii);

14
15 (B) Who has ~~been abused by the inflicting~~
16 ~~or causing of physical or mental injury, harm or imminent~~
17 ~~danger to the physical or mental health or welfare of the~~
18 ~~child, other than by accidental means, including~~
19 ~~abandonment, excessive or unreasonable corporal punishment,~~
20 ~~malnutrition or substantial risk thereof by reason of~~
21 ~~intentional or unintentional neglect, and the commission or~~
22 ~~allowing the commission of a sexual offense against a child~~
23 ~~as defined by law~~ been subjected to abuse as defined in
24 W.S. 14-3-202(a)(ii):

1

2 (xvi) "Residual parental rights and duties"
3 means those rights and duties remaining with the parents
4 after legal custody, guardianship of the person or both
5 have been vested in another person, agency or institution.
6 Residual parental rights and duties include but are not
7 limited to:

8

9 (xviii) "Ordinary medical care" means medical,
10 dental and vision examinations, routine medical, dental and
11 vision treatment and emergency surgical procedures, but
12 does not include nonemergency surgical procedures;

13

14 (xix) "Temporary protective custody" means a
15 legal status created prior to a shelter care hearing when a
16 court, law enforcement officer, physician, physician's
17 assistant or nurse practitioner takes a child into
18 protective custody pursuant to W.S. 14-3-405. Temporary
19 protective custody vests in a custodian the duty to protect
20 the child and arrange for the provision of food, shelter,
21 clothing, transportation, ordinary medical care and
22 education. Temporary protective custody shall be
23 transferred from the law enforcement officer, physician,
24 physician's assistant or nurse practitioner to the local

1 child protection agency as soon as practicable to
2 facilitate such care. Temporary protective custody divests
3 the parent or custodian of his right to the custody and
4 control of the child;

5

6 (xx) "Transportation" means as defined in W.S.
7 14-3-202(a) (xvii);

8

9 ~~(xviii)~~ (xxi) "This act" means W.S. 14-3-401
10 through 14-3-440.

11

12 **14-3-405. Taking of child into custody; when**
13 **permitted.**

14

15 (a) A child may be taken into custody by a law
16 enforcement officer without a warrant or court order and
17 without the consent of the parents, guardians or others
18 exercising temporary or permanent control over the child
19 when:

20

21 (b) A child may be taken into temporary protective
22 custody by a physician, physician's assistant or nurse
23 practitioner without a warrant or court order and without
24 the consent of the parents, guardians or others exercising

1 temporary or permanent control over the child when the
2 physician, physician's assistant or nurse practitioner
3 treating the child, or a hospital in which the child is
4 being treated, finds that there is reasonable cause to
5 believe an imminent danger to the child's life, health or
6 safety exists unless the child is taken into protective
7 custody, whether or not additional medical treatment is
8 required, and there is not time to apply for a court order.

9
10 (c) A district attorney may file an emergency
11 petition, or the state agency, a local law enforcement
12 officer, an administrator of a hospital in which a child
13 reasonably believed to have been abused or neglected is
14 being treated, or any physician, physician's assistant or
15 nurse practitioner who treated the child may request the
16 court for a protective order. After considering the
17 emergency petition or request, the judge or commissioner,
18 upon finding that there is reasonable cause to believe that
19 a child has been abused or neglected and that the child, by
20 continuing in his place of residence or in the care and
21 custody of the person responsible for his health, safety
22 and welfare, would be in imminent danger of his life,
23 health or safety, may:

24

1 (i) Issue an ex parte order or search warrant.
2 The order shall place the child in the temporary protective
3 custody of the local child protection agency;

4
5 (ii) Issue an emergency order or search warrant
6 upon application and hearing, authorizing ordinary or
7 emergency care of the child or authorizing a forensic
8 examination to collect evidence.

9
10 (d) Temporary protective custody shall not exceed
11 forty-eight (48) hours, excluding weekends and legal
12 holidays.

13
14 (e) When necessary for the best interest or welfare
15 of the child in temporary protective custody, a court may
16 order medical or other necessary health care, including
17 mental health and substance abuse care, notwithstanding the
18 absence of a prior finding of child abuse or neglect.

19
20 **14-3-406. Child in custody; no shelter care placement**
21 **without court order; exceptions; notice to parent or**
22 **guardian; release.**

23

1 (a) A child taken into temporary protective custody
2 shall not be placed in shelter care without a court order
3 unless shelter care is required to:

4
5 (b) Any person taking a child into temporary
6 protective custody under this act shall as soon as possible
7 notify the child's parent, guardian or custodian. Unless
8 the child's shelter care is authorized by court order or
9 required for one (1) of the reasons in subsection (a) of
10 this section, the child shall be released to the care of
11 his parent, guardian, custodian or other responsible adult
12 upon that person's written promise to present the child
13 before the court upon request.

14
15 **14-3-407. Shelter care; delivery of child pending**
16 **hearing; placing children; notice if no court order.**

17
18 (a) If shelter care of a child appears necessary to
19 the person taking custody of the child, the child shall be
20 delivered as soon as possible to the court or to the
21 ~~shelter care facility designated by the court~~ department of
22 family services pending a hearing.

23

1 (c) The ~~person in charge of any shelter care facility~~
2 department of family services shall promptly notify the
3 court and the district attorney of any child being cared
4 for ~~at the facility~~ by the department without a court order
5 and shall deliver the child to the court upon request.

6
7 (d) The department of family services shall care for
8 the child under this section pursuant to temporary
9 protective custody provisions as specified in W.S.
10 14-3-208.

11
12 **14-3-408. Notice of shelter care to be given district**
13 **attorney; written statement required; duty of district**
14 **attorney.**

15
16 (a) When a child is taken into temporary protective
17 custody without a court order and is placed in shelter care
18 pursuant to W.S. 14-3-405(a) or (b), the person or agency
19 taking temporary protective custody of the child shall
20 notify the district attorney without delay. Also the person
21 shall as soon as possible file a brief written statement
22 with the district attorney setting forth the facts which
23 led to taking the child into custody and the reason why the
24 child was not released.

1

2

14-3-427. Predisposition studies and reports.

3

4

(a) After a petition is filed alleging a child is neglected, the court shall order the department of family

5

6

services to make a predisposition study and report. The

7

court shall establish a deadline for completion of the

8

report. While preparing the study the department shall

9

consult with the child's school and school district to

10

determine the child's educational needs. The study and

11

report shall also cover:

12

13

(ii) The performance of the child in school,

14

including whether the child receives special education

15

services and how his goals and objectives might be impacted

16

by the court's disposition, provided the school receives

17

authorization to share the information;

18

19

(iii) The presence of child abuse and neglect or

20

domestic violence histories, past acts of violence,

21

learning disabilities, cognitive disabilities or physical

22

impairments and ~~past acts of violence~~ the necessary

23

services to accommodate the disabilities and impairments;

24

1 (iv) The presence of any mental health or
2 substance abuse ~~history~~risk factors, including current
3 participation in ~~mental health~~ counseling, therapy or
4 treatment; and

5
6 (v) Other matters relevant to treatment of the
7 child, including any pertinent family information, or
8 proper disposition of the case, including any information
9 required by W.S. 21-13-315(d).

10
11 (b) Within ten (10) days after a petition is filed
12 alleging a child is neglected, the court shall appoint a
13 multidisciplinary team. The multidisciplinary team shall
14 operate in accordance with the protocol established under
15 W.S. 14-3-215. Upon motion by a party, the court may add or
16 dismiss a member of the multidisciplinary team.

17
18 (c) The multidisciplinary team shall include the
19 following:

20
21 (ii) A representative of the school district who
22 has direct knowledge of the child and, if the child
23 receives special education, is a member of the child's
24 individualized education plan team;

1

2

(iv) The child's psychiatrist, psychologist or
3 mental health professional;~~and~~

4

5

(v) The district attorney or his designee;~~;~~

6

7

(vi) The child's attorney or guardian ad litem,
8 if one is appointed by the court;

9

10

(vii) The volunteer lay advocate, if one is
11 appointed by the court; and

12

13

(viii) The foster parent.

14

15

(d) In addition to the persons listed in subsection
16 (c) of this section, the court may appoint one (1) or more
17 of the following persons to the multidisciplinary team:

18

19

(iii) The child;

20

21

(iv) A relative;

22

23

(v) If the predispositional study indicates a
24 parent or child has special needs, an appropriate

1 representative of the department of health's substance
2 abuse, mental health or developmental disabilities division
3 who has knowledge of the services available in the state's
4 system of care that are pertinent to those identified
5 needs;

6
7 ~~(iii)~~ (vi) Other professionals or persons who
8 have particular knowledge relating to the child or his
9 family, or expertise in children's services and the child's
10 or parent's specific disability or special needs, including
11 linguistic and cultural needs.

12
13 (e) The multidisciplinary team shall, in accordance
14 with rules and regulations promulgated by the department of
15 family services, review the child's personal and family
16 history, school records, mental health records and
17 department of family services records and any other
18 pertinent information, for the purpose of making case
19 planning recommendations. To the extent appropriate, the
20 team shall involve the child in the development of the
21 recommendations.

22
23 (j) Any member of a multidisciplinary team who cannot
24 ~~personally~~ attend team meetings in person or by telephone

1 may submit written reports and recommendations to the other
2 team members and to the court. Individuals who are not
3 members of the multidisciplinary team but have knowledge
4 pertinent to the team's decisions may be asked to provide
5 information to the multidisciplinary team. Such individuals
6 shall be bound by the confidentiality provisions of
7 subsection (g) of this section.

8
9 (k) The department shall develop a case plan for a
10 child when there is a recommendation to place the child
11 outside the home.

12
13 (m) If the child is placed outside the home, the
14 multidisciplinary team shall meet quarterly to review the
15 child's and the family's progress toward meeting the goals
16 or expectations in the case plan and the multidisciplinary
17 team shall provide a written report with recommendations to
18 the court prior to each review hearing.

19
20 (n) No later than five (5) business days prior to the
21 dispositional hearing, the multidisciplinary team shall
22 file with the court the multidisciplinary team report which
23 shall include the multidisciplinary team's recommendations

1 and the department case plan in a standard format
2 established by the department.

3
4 (o) Five (5) business days prior to each review
5 hearing, the multidisciplinary team shall file with the
6 court a report updating the multidisciplinary team report,
7 the multidisciplinary team's recommendations and the
8 department case plan.

9
10 **14-6-227. Predisposition studies and reports.**

11
12 (a) After a petition is filed alleging the child is
13 delinquent, the court shall order the department to make a
14 predisposition study and report. The court shall establish
15 a deadline for completion of the report. While preparing
16 the study the department shall consult with the child's
17 school and school district to determine the child's
18 educational needs. The study and report shall also cover:

19
20 (ii) The performance of the child in school,
21 including whether the child receives special education
22 services and how his goals and objectives might be impacted
23 by the court's disposition, provided the school receives
24 authorization to share the information;

1

2 (iii) The presence of child abuse and neglect or
3 domestic violence histories, past acts of violence,
4 learning disabilities, cognitive disabilities or physical
5 impairments and ~~past acts of violence~~ the necessary
6 services to accommodate the disabilities and impairments;

7

8 (iv) The presence of any mental health or
9 substance abuse ~~history~~ risk factors, including current
10 participation in ~~mental health~~ counseling, therapy or
11 treatment; and

12

13 (v) Other matters relevant to the child's
14 present status as a delinquent, including any pertinent
15 family information, treatment of the child or proper
16 disposition of the case, including any information required
17 by W.S. 21-13-315(d).

18

19

20 (b) Within ten (10) days after a petition is filed
21 alleging a child is delinquent, the court shall appoint a
22 multidisciplinary team. The multidisciplinary team shall
23 operate in accordance with the protocol established under

1 W.S. 14-3-215. Upon motion by a party, the court may add or
2 dismiss a member of the multidisciplinary team.

3

4 (c) The multidisciplinary team shall include the
5 following:

6

7 (ii) A representative of the school district who
8 has direct knowledge of the child and, if the child
9 receives special education, is a member of the child's
10 individualized education plan team;

11

12 (iv) The child's psychiatrist, psychologist or
13 mental health professional; ~~and~~

14

15 (v) The district attorney or his designee; ~~and~~

16

17 (vi) The child's attorney or guardian ad litem,
18 if one is appointed by the court;

19

20 (vii) The volunteer lay advocate, if one is
21 appointed by the court; and

22

23 (viii) The foster parent.

24

1 (d) In addition to the persons listed in subsection
2 (c) of this section, the court may appoint one (1) or more
3 of the following persons to the multidisciplinary team:

4
5 (iii) The child;

6
7 (iv) A relative;

8
9 (v) If the predispositional study indicates a
10 parent or child has special needs, an appropriate
11 representative of the department of health's substance
12 abuse, mental health or developmental disabilities division
13 who has knowledge of the services available in the state's
14 system of care that are pertinent to those identified
15 needs;

16
17 ~~(iii)~~ (vi) Other professionals or persons who
18 have particular knowledge relating to the child or his
19 family, or expertise in children's services and the child's
20 or parent's specific disability or special needs, including
21 linguistic and cultural needs.

22
23 (e) The multidisciplinary team shall, as quickly as
24 reasonably possible and in accordance with rules and

1 regulations promulgated by the department of family
2 services, review the child's personal and family history,
3 school, mental health and department of family services
4 records and any other pertinent information, for the
5 purpose of making sanction recommendations. The team shall
6 involve the child in the development of recommendations to
7 the extent appropriate.

8

9 (f) The multidisciplinary team shall formulate
10 written recommendations consistent with the purposes of
11 this act.

12

13 (j) Any member of a multidisciplinary team who cannot
14 ~~personally~~ attend team meetings in person or by telephone
15 may submit written reports and recommendations to the other
16 team members and to the court. Individuals who are not
17 members of the multidisciplinary team but have knowledge
18 pertinent to the team's decisions may be asked to provide
19 information to the multidisciplinary team. Such individuals
20 shall be bound by the confidentiality provisions of
21 subsection (g) of this section.

22

1 (k) The department shall develop a case plan for a
2 juvenile when there is a recommendation to place the child
3 outside the home.

4
5 (m) If the child is placed outside the home, the
6 multidisciplinary team shall meet quarterly to review the
7 child's and the family's progress toward meeting the goals
8 or expectations in the case plan and the multidisciplinary
9 team shall provide a written report with recommendations to
10 the court prior to each review hearing.

11
12 (n) No later than five (5) business days prior to the
13 dispositional hearing, the multidisciplinary team shall
14 file with the court the multidisciplinary team report which
15 shall include the multidisciplinary team's recommendations
16 and the department case plan in a standard format
17 established by the department.

18
19 (o) Five (5) business days prior to each review
20 hearing, the multidisciplinary team shall file with the
21 court a report updating the multidisciplinary team report,
22 the multidisciplinary team's recommendations and the
23 department case plan.

24

1 **14-6-427. Predisposition studies and reports.**

2

3 (a) After a petition is filed alleging the child is
4 in need of supervision, the court shall order the
5 department of family services to make a predisposition
6 study and report. The court shall establish a deadline for
7 completion of the report. While preparing the study the
8 department shall consult with the child's school and school
9 district to determine the child's educational needs. The
10 study and report shall also cover:

11

12 (ii) The performance of the child in school,
13 including whether the child receives special education
14 services and how his goals and objectives might be impacted
15 by the court's disposition, provided the school receives
16 authorization to share the information;

17

18 (iii) The presence of child abuse and neglect or
19 domestic violence histories, past acts of violence,
20 learning disabilities, cognitive disabilities or physical
21 impairments and ~~past acts of violence~~ the necessary
22 services to accommodate the disabilities and impairments;

23

1 (iv) The presence of any mental health or
2 substance abuse ~~history~~risk factors, including current
3 participation in ~~mental health~~ counseling, therapy or
4 treatment; and

5
6 (v) Other matters relevant to treatment of the
7 child, including any pertinent family information, or
8 proper disposition of the case, including any information
9 required by W.S. 21-13-315(d).

10
11 (b) Within ten (10) days after a petition is filed
12 alleging a child is in need of supervision, the court shall
13 appoint a multidisciplinary team. The multidisciplinary
14 team shall operate in accordance with the protocol
15 established under W.S. 14-3-215. Upon motion by a party,
16 the court may add or dismiss a member of the
17 multidisciplinary team.

18
19 (c) The multidisciplinary team shall include the
20 following:

21
22 (ii) A representative of the school district who
23 has direct knowledge of the child and, if the child

1 receives special education, is a member of the child's
2 individualized education plan team;

3

4 (iv) The child's psychiatrist, psychologist or
5 mental health professional;~~and~~

6

7 (v) The district attorney or his designee;~~and~~ and

8

9 (vi) The child's attorney or guardian ad litem,
10 if one is appointed by the court;

11

12 (vii) The volunteer lay advocate, if one is
13 appointed by the court; and

14

15 (viii) The foster parent.

16

17 (d) In addition to the persons listed in subsection
18 (c) of this section, the court may appoint one (1) or more
19 of the following persons to the multidisciplinary team:

20

21 (iii) The child;

22

23 (iv) A relative;

24

1 (v) If the predispositional study indicates a
2 parent or child has special needs, an appropriate
3 representative of the department of health's substance
4 abuse, mental health or developmental disabilities division
5 who has knowledge of the services available in the state's
6 system of care that are pertinent to those identified
7 needs;

8
9 ~~(iii)~~ (vi) Other professionals or persons who
10 have particular knowledge relating to the child or his
11 family, or expertise in children's services and the child's
12 or parent's specific disability or special needs, including
13 linguistic and cultural needs.

14
15 (e) The multidisciplinary team shall, as quickly as
16 reasonably possible and in accordance with rules and
17 regulations promulgated by the department of family
18 services, review the child's personal and family history,
19 school, mental health and department of family services
20 records and any other pertinent information, for the
21 purpose of making case planning recommendations. The team
22 shall involve the child in the development of
23 recommendations to the extent appropriate.

24

1 (j) Any member of a multidisciplinary team who cannot
2 ~~personally~~ attend team meetings in person or by telephone
3 may submit written reports and recommendations to the other
4 team members and to the court. Individuals who are not
5 members of the multidisciplinary team but have knowledge
6 pertinent to the team's decisions may be asked to provide
7 information to the multidisciplinary team. Such individuals
8 shall be bound by the confidentiality provisions of
9 subsection (g) of this section.

10
11 (k) The department shall develop a case plan for a
12 juvenile when there is a recommendation to place the child
13 outside the home.

14
15 (m) If the child is placed outside the home, the
16 multidisciplinary team shall meet quarterly to review the
17 child's and the family's progress toward meeting the goals
18 or expectations in the case plan and the multidisciplinary
19 team shall provide a written report with recommendations to
20 the court prior to each review hearing.

21
22 (n) No later than five (5) business days prior to the
23 dispositional hearing, the multidisciplinary team shall
24 file with the court the multidisciplinary team report which

1 shall include the multidisciplinary team's recommendations
2 and the department case plan in a standard format
3 established by the department.

4
5 (o) Five (5) business days prior to each review
6 hearing, the multidisciplinary team shall file with the
7 court a report updating the multidisciplinary team report,
8 the multidisciplinary team's recommendations and the
9 department case plan.

10
11 **Section 3.** W.S. 14-3-215 is amended and renumbered as
12 14-3-216 to read:

13
14 ~~14-3-215~~ 14-3-216. **Other laws not superseded.**

15
16 No laws of this state are superseded by the provisions of
17 W.S. 14-3-201 through ~~14-3-215~~ 14-3-216.

18
19 **Section 4.** W.S. 14-3-203(a)(iv), 14-3-212(c)(ii),
20 14-3-402(a)(xii)(B)(I) through (IV), 14-3-407(b),
21 14-3-427(d)(i) and (ii), 14-6-227(d)(i) and (ii) and
22 14-6-427(d)(i) and (ii) are repealed.

23
24 **Section 5.**

1

2 (a) Except as provided in subsection (b) of this
3 section, this act is effective July 1, 2004.

4

5 (b) W.S. 14-3-215(b), as created by this act, is
6 effective immediately upon completion of all acts necessary
7 for a bill to become law as provided by Article 4, Section
8 8 of the Wyoming Constitution.

9

10

(END)