

ENROLLED ACT NO. 45, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2004 BUDGET SESSION

AN ACT relating to juveniles; amending provisions relating to child protective services, the Juvenile Court Act and the Children in Need of Supervision Act; authorizing an intensive supervision program for juveniles as specified; amending timelines for temporary protective custody, detention and adjudicatory hearings as specified; clarifying procedures for consent decrees; granting rulemaking authority; conforming provisions; repealing provisions; and providing for an effective date.

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

Section 1. W.S. 14-6-309 through 14-6-314 are created to read:

14-6-309. Authority to establish an intensive supervision program; rulemaking authority.

(a) The department is authorized to adopt reasonable rules and regulations to establish an intensive supervision program for juvenile probationers.

(b) An intensive supervision program established under this article may require:

(i) Electronic monitoring, regimented daily schedules or itineraries, house arrest, telephone contact, drug testing, curfew checks or other supervision methods which facilitate contact with supervisory personnel;

(ii) Community service work, family, educational or vocational counseling, treatment for substance abuse, mental health treatment and monitoring of restitution orders and fines previously imposed on the participant; and

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(iii) Imposition of supervision fees to be paid by participants.

(c) Subject to legislative appropriation the department may, by negotiation without competitive bid or by competitive bidding, contract with any governmental or nongovernmental entity to provide services required to carry out the provisions of this article.

(d) The department shall have general supervisory authority over all juvenile probationers participating in an intensive supervision program under this article.

14-6-310. Program participation not a matter of right.

(a) Participation in an intensive supervision program authorized by this article is a matter of discretion and not of right.

(b) No juvenile probationer shall be allowed to participate in an intensive supervision program authorized by this article unless the probationer signs an intensive supervised probation agreement to abide by the terms of all the rules and regulations of the department relating to the operation of the program and agrees to submit to administrative sanctions which may be imposed under W.S. 14-6-314.

14-6-311. Program participation as a condition of release from placement.

(a) The department may, as a condition of release from court-ordered placement and if authorized by the court, require a juvenile probationer to participate in an

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intensive supervision program established under this article, provided:

(i) Space and funding are available for the probationer's participation in the program;

(ii) The department determines the probationer has a reasonable likelihood of successfully participating in the program.

14-6-312. Placement of probationer in program by juvenile court.

(a) A juvenile court may, as a condition of probation, order that a juvenile who has been adjudicated delinquent participate in an intensive supervision program established under this article, provided:

(i) Space is available in the program;

(ii) The juvenile probationer agrees to participate in the program;

(iii) The department determines the probationer has a reasonable likelihood of successfully participating in the program; and

(iv) The legislature has specifically appropriated funds or other grants and aid payments authorized for this program are available to pay for the probationer's participation in the program.

(b) The department shall be responsible for including in the predispositional study to the juvenile court any recommendations for the utilization of an intensive supervision program created under this article.

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14-6-313. Program participation as an alternative to probation revocation.

(a) The department may, as an alternative to recommending revocation of probation, offer any juvenile probationer who is not already participating in an intensive supervision program the opportunity to participate in a program authorized under this article, provided:

(i) Space and funding are available for the probationer's participation in the program;

(ii) The department determines the probationer has a reasonable likelihood of successfully participating in the program;

(iii) The probationer agrees to participate in the program; and

(iv) The department shall notify the juvenile court and the prosecuting attorney of the probationer's agreement to participate in an intensive supervision program and provide a copy of the signed agreement to the juvenile court and the prosecuting attorney.

14-6-314. Administrative sanctions for program violations.

(a) The department is authorized to establish by rule and regulation a system of administrative sanctions as an alternative to probation revocation for juvenile probationers who violate the rules and restrictions of an intensive supervision program established under this article.

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(b) Authorized sanctions may include:

- (i) Loss or restriction of privileges; and
- (ii) Community service.

Section 2. W.S. 14-3-409(a), (b)(iii), (v), by creating a new paragraph (vi), (c), (d)(intro) and (i), 14-3-410(b), 14-3-412(b) by creating a new paragraph (v), 14-3-414(e), 14-3-418(a), (b)(intro) and by creating a new paragraph (iii), 14-3-426(b), 14-3-428, 14-3-429(a)(i), (iii), (b)(i), (iv) and (c)(ii) and by creating a new paragraph (iii), 14-3-431(b) and by creating a new subsection (g), 14-6-201(a)(xii), (xiv), (c)(i), (ii)(intro), (A), (C) and (iii) through (vi), 14-6-203(f)(i) and (ii) and (g)(vi), 14-6-209(a), (b)(iv), (c), (d)(intro) and (i), 14-6-210(b), 14-6-214(e), 14-6-218(a) and (b)(intro), 14-6-226(b) and (c), 14-6-228, 14-6-229(a)(i), (iii), (e)(ii)(B), (iii) and by creating a new paragraph (iv) and by creating a new subsection (r), 14-6-233(a), 14-6-236(a), 14-6-239(d), 14-6-301(a)(intro) and by creating a new paragraph (viii), 14-6-302(a)(intro) and (i), 14-6-305(c)(ii), 14-6-409(a), (b)(iii), (iv), (c), (d)(intro) and (i), 14-6-410(b), 14-6-412(b) by creating a new paragraph (v), 14-6-414(e), 14-6-426(b) and (c), 14-6-428 and 14-6-429(a)(i), (iii), (c)(i)(B) and (ii) and by creating a new paragraph (iii) are amended to read:

14-3-409. Taking of child into custody; informal hearing where no court order; conditional release; evidence; rehearing.

(a) When a child is ~~placed in shelter care~~ taken into temporary protective custody without a court order or under an ex parte emergency order, a petition as provided in W.S.

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14-3-412 shall be promptly filed and presented to the court. An informal shelter care hearing shall be held as soon as reasonably possible not later than ~~seventy-two (72)~~ forty-eight (48) hours, excluding weekends and legal holidays, after the child is taken into temporary protective custody to determine if further shelter care is required pending further court action. Written notice stating the time, place and purpose of the hearing shall be given to the child and to his parents, guardian or custodian.

(b) At the commencement of the hearing the judge shall advise the child and his parents, guardian or custodian of:

(iii) The right to confront and cross-examine witnesses or to present witnesses and evidence in their own behalf and the right to issuance of process by the court to compel the appearance of witnesses and the production of evidence;

(v) The right to appeal as provided in W.S. 14-3-432; ~~and~~

(vi) The state's obligation, pursuant to W.S. 14-3-431(d), to file a petition to terminate parental rights when a child has been placed in foster care under the responsibility of the state for fifteen (15) months of the most recent twenty-two (22) months unless the court finds that one (1) of the exceptions listed in W.S. 14-3-431(d) applies.

(c) The parents, guardian or custodian shall be given an opportunity to admit or deny the allegations in the petition. If the allegations are admitted, the court shall make the appropriate adjudication and may proceed

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immediately to a disposition of the case, provided the court has the predisposition report and multidisciplinary team recommendations, in accordance with the provisions of W.S. 14-3-429, except that a commissioner acting in the absence or incapacity of the judge may take testimony to establish a factual basis and accept an admission and perform all other requirements of the initial hearing but shall not proceed to disposition. If denied, the court shall set a time not to exceed sixty (60) days for an adjudicatory hearing, unless the court finds good cause to delay or postpone the hearing. In no case shall the court hold the adjudicatory hearing more than ninety (90) days after the date the petition is filed.

(d) Regardless of whether the allegations in the petition are admitted or denied, the court shall determine whether or not the child's full-time shelter care is required to protect the child's welfare pending further proceedings. If the court determines that returning the child to the home is contrary to the welfare of the child, the court shall enter the finding on the record and order the child placed in the legal custody of the department of family services. If the court finds that full-time shelter care is not required, the court shall order the child released and may impose one (1) or more of the following conditions:

(i) Place the child in the custody and supervision of his parents, guardian or custodian, under the supervision of the department of family services or under the protective supervision of any individual or organization approved by the court that agrees to supervise the child; or

14-3-410. Hearing conducted by commissioner; authority and duty; review by court.

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(b) The commissioner may make any order concerning the child's release or continued shelter care as authorized to the judge under W.S. 14-3-409. If the child is not released after the hearing, the commissioner shall promptly file with the court a complete written resume of the evidence adduced at the hearing and his reasons for not releasing the child. The commissioner shall conduct the hearing pursuant to W.S. 14-3-409, except that if the parent who had been advised of his rights wishes to admit the allegations, the court may take testimony to establish a factual basis and accept the admission and perform all other requirements of the initial hearing but shall not enter the adjudication or proceed to disposition. The hearing shall be conducted in the presence of counsel and guardian ad litem, if so appointed. The commissioner may also appoint counsel, appoint a guardian ad litem, order a predisposition report, appoint a multidisciplinary team, issue subpoenas or search warrants, order physical or medical examinations and authorize emergency medical, surgical or dental treatment all as provided in W.S. 14-3-417 through 14-3-420 this act. The commissioner shall not make final orders of adjudication or disposition.

14-3-412. Commencement of proceedings; contents of petition.

(b) The petition shall set forth all jurisdictional facts, including but not limited to:

(v) Whether the child is an Indian child as defined in the federal Indian Child Welfare Act and, if so, a statement setting forth with particularity the notice provided to the appropriate tribal court.

14-3-414. Service of process; order of custody.

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(e) When personal service of order to appear is made within the state, service ~~must~~shall be completed not less than two (2) days before the hearing and when made outside the state, service ~~must~~shall be completed not less than five (5) days before the hearing. However, notwithstanding any provision within this act, the court may order that a child be taken into custody as provided in W.S. 14-3-413 or that a child be held in shelter care pending further proceedings as provided in W.S. 14-3-409, even though service of order to appear on the parents, guardian or custodian of the child is not complete at the time of making the order.

14-3-418. Search warrant; when authorized; affidavit required; contents of affidavit and warrant; service and return.

(a) The court or a commissioner may issue a search warrant within the court's jurisdiction if it appears by application supported by affidavit of one (1) or more adults that a child is being neglected, unlawfully detained or physically abused and his health or welfare requires that he be taken immediately into custody, or it appears by application supported by affidavit of one (1) or more adults that evidence of child abuse exists.

(b) The affidavit ~~must~~shall be in writing, signed and affirmed by the affiant. The affidavit ~~must~~shall set forth:

(iii) The affiant's belief that evidence of child abuse or neglect exists and could be obtained through forensic means, and a statement of the facts upon which the belief is based.

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14-3-426. Initial appearance; adjudicatory hearing; entry of decree and disposition; evidentiary matters; continuance of disposition hearing.

(b) If the allegations of the petition are denied, the court may, with consent of the parties, proceed immediately to hear evidence on the petition or it may set a later time not to exceed sixty (60) days for an adjudicatory hearing, unless the court finds good cause to delay or postpone the hearing. In no case shall the court hold the adjudicatory hearing more than ninety (90) days after the date the petition is filed. Only competent, relevant and material evidence shall be admissible at an adjudicatory hearing to determine the truth of the allegations in the petition. If after an adjudicatory hearing the court finds that the allegations in the petition are not established as required by this act, it shall dismiss the petition and order the child released from any shelter care.

14-3-428. Abeyance of proceedings by consent decree; term of decree; reinstatement of proceedings; effect of discharge or completing term.

(a) At any time after the filing of a petition alleging a child to be neglected and before adjudication, the court may issue a consent decree ordering further proceedings held in abeyance. ~~and place a neglected child in accordance with W.S. 14-3-429.~~ The placement of the child is subject to the terms, conditions and stipulations agreed to by the parties affected in accordance with W.S. 14-3-429. The consent decree shall not be entered without the consent of the district attorney, the child's guardian ad litem and the parents. Modifications to an existing consent decree may be allowed.

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(b) The consent decree shall be in writing and copies given to all parties. The decree shall include the case plan for the family.

~~(b)~~(c) A consent decree, if the child remains within the home, shall be in force for the period agreed upon by the parties ~~but not longer than one (1) year~~ unless sooner terminated by the court.

(d) If the child is placed outside the home, a consent decree shall be in force for the period agreed upon by the parties but not longer than six (6) months unless sooner terminated by the court. For good cause the court may grant one (1) extension of the consent decree for no longer than six (6) months.

(e) If a consent decree is in effect and the child is in placement, the court shall hold review hearings as provided by W.S. 14-3-431.

(f) If prior to discharge by the court or expiration of the consent decree, the parents or guardian of a child alleged to be neglected fail to fulfill the terms and conditions of the decree or a new petition is filed alleging the child to be neglected, the original petition and proceeding may be reinstated upon order of the court after hearing, and the ~~matter~~court may proceed as though the consent decree had never been entered. If, as part of the consent decree, the parents or guardian made an admission to any of the allegations contained in the original petition, that admission shall be entered only if the court orders that the original petition and proceeding be reinstated and the admissions, if any, be entered. If the admission is entered, the court may proceed to disposition pursuant to W.S. 14-3-426.

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~~(c)(g) If the parties to the consent decree complete the period of supervision~~ Parties discharged by the court under a consent decree without reinstatement of the original petition ~~they and proceeding~~ shall not thereafter be proceeded against in any court for the same misconduct alleged in the original petition except concurrent criminal allegations or charges against a person accused to have abused or neglected a child shall not be affected by a consent decree.

14-3-429. Decree where child adjudged neglected; dispositions; terms and conditions; legal custody.

(a) In determining the disposition to be made under this act in regard to any child:

(i) The court shall ~~place on the record~~ review the predisposition report, ~~and~~ the recommendations, if any, of the multidisciplinary team, the case plan and other reports or evaluations ordered by the court and indicate on the record what materials were considered in reaching the disposition;

(iii) When a child is adjudged by the court to be neglected the court shall enter its decree to that effect and make a disposition as provided in this section that places the child in the least restrictive environment consistent with what is best suited to the public interest of preserving families, and the physical, mental and moral welfare of the child; ~~and in accord with the actual facilities presently available when the decree is entered;~~

(b) If the child is found to be neglected the court may:

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(i) Permit the child to remain in the legal custody of his parents, guardian or custodian without protective supervision, subject to terms and conditions prescribed by the court;

(iv) Transfer temporary legal custody to the department of family services or a state or local public agency responsible for the care and placement of neglected children, provided the child shall not be committed to the Wyoming boys' school, the Wyoming girls' school or the Wyoming state hospital.

(c) In cases where a child is ordered removed from the child's home:

(ii) The court ~~on its own motion, or on the motion of the person, agency or institution vested with custody or to whom compensation is due,~~ shall order the parents or other legally obligated person to pay a reasonable sum for the support and treatment of the child as required by W.S. 14-3-435, or shall state on the record the reasons why an order for support was not entered;-

(iii) In cases where the child is placed in custody of the department, support shall be established by the department through a separate civil action.

14-3-431. Duration of orders of disposition; termination of orders; petition for termination of parental rights.

(b) Unless sooner terminated by court order, all orders issued under this act shall terminate with respect to a child adjudicated neglected, when he reaches eighteen (18) years of age ~~or has graduated from high school~~ unless the court has ordered care or services to continue beyond

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that time. The court shall conduct a review hearing at least six (6) months before the child reaches eighteen (18) years of age to determine whether care or transitional services should continue and for what period of time prior to the individual reaching the age of twenty-one (21) years.

(g) At each of the review hearings, the court shall enter findings on the record pursuant to subsection (c) of this section.

14-6-201. Definitions; short title; statement of purpose and interpretation.

(a) As used in this act:

(xii) "Detention" means the temporary care of a child in physically restricting facilities pending court disposition or the execution of a court order ~~for placement or commitment to place or commit a child to a juvenile detention facility;~~

(xiv) "Legal custody" means ~~a legal status created by court order which vests in a custodian the right to have physical custody of a minor, the right and duty to protect, train and discipline a minor, the duty to provide him with food, shelter, clothing, ordinary medical care, education and in an emergency, the right and duty to authorize surgery or other extraordinary medical care. The rights and duties of legal custody are subject to the rights and duties of the guardian of the person of the minor, and to residual parental rights and duties as~~ defined in W.S. 14-3-402(a)(x);

(c) This act shall be construed to effectuate the following public purposes:

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(i) To provide for the best interests of the child and the protection of the public and public safety;

(ii) Consistent with the best interests of the child and the protection of the public and public safety:

(A) To promote the concept of punishment for criminal acts while recognizing and distinguishing the behavior of children who have been victimized or have disabilities, such as serious mental illness that requires treatment or children with a cognitive impairment that requires services;

(C) To provide treatment, training and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct, reduces recidivism and helps children to become functioning and contributing adults.

(iii) To provide for the care, the protection and the wholesome moral, mental and physical development of children ~~coming~~ within ~~its provisions~~ the community whenever possible using the least restrictive and most appropriate interventions;

(iv) To ~~protect the welfare of~~ be flexible and innovative and encourage coordination at the community ~~and level~~ to ~~control~~ reduce the commission of unlawful acts by children;

(v) To achieve the foregoing purposes in a family environment whenever possible, separating the child from the child's parents only when necessary for the child's welfare or in the interest of public safety and when a child is removed from the child's family, to give

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ensure that individual needs will control placement and provide the child the care that should be provided by parents; and

(vi) To provide a simple judicial procedure through which the provisions of this act are executed and enforced and in which the parties are assured a fair and timely hearing and their constitutional and other legal rights recognized and enforced.

14-6-203. Jurisdiction; confidentiality of records.

(f) The following cases, excluding status offenses, may be originally commenced either in the juvenile court or in the district court or inferior court having jurisdiction:

(i) Violations of municipal ordinances, except that if a juvenile is sentenced in a municipal court to a sentence exceeding ten (10) days of jail or detention, the municipal court shall provide to the district attorney in the juvenile's county of residency and the department of education a copy of the judgment and sentence;

(ii) All misdemeanors except:

(A) Those cases within the exclusive jurisdiction of the juvenile court; and

(B) If a juvenile is sentenced in a municipal or circuit court to a sentence exceeding ten (10) days of jail or detention, the municipal or circuit court shall provide to the district attorney in the juvenile's county of residency and the department of education a copy of the judgment and sentence.

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(g) Except as provided by subsection (j) of this section, all information, reports or records made, received or kept by any municipal, county or state officer or employee evidencing any legal or administrative process or disposition resulting from a minor's misconduct are confidential and subject to the provisions of this act. The existence of the information, reports or records or contents thereof shall not be disclosed by any person unless:

(vi) The disclosure is authorized by W.S. 7-19-504 ~~or 14-6-240(g).~~

14-6-209. Taking of child into custody; informal hearing where no court order; conditional release; evidence; rehearing.

(a) When a child is placed in detention or shelter care without a court order, a petition as provided in W.S. 14-6-212 shall be promptly filed and presented to the court. An informal detention or shelter care hearing shall be held as soon as reasonably possible not later than ~~seventy-two (72)~~ forty-eight (48) hours, excluding weekends and legal holidays, after the child is taken into custody to determine if further detention or shelter care is required pending further court action. Written notice stating the time, place and purpose of the hearing shall be given to the child and to his parents, guardian or custodian.

(b) At the commencement of the hearing the judge shall advise the child and his parents, guardian or custodian of:

(iv) The right to confront and cross-examine witnesses or to present witnesses and evidence in their own

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behalf and the right to issuance of process by the court to compel the appearance of witnesses and the production of evidence;

(c) The child shall be given an opportunity to admit or deny the allegations in the petition. If the allegations are admitted, the court shall make the appropriate adjudication and may proceed immediately to a disposition of the case, provided the court has the predisposition report and multidisciplinary team recommendations, in accordance with the provisions of W.S. 14-6-229, except that a commissioner acting in the absence or incapacity of the judge may take testimony to establish a factual basis and accept an admission and perform all other requirements of the initial hearing but shall not proceed to disposition. If denied, the court shall set a time not to exceed sixty (60) days for an adjudicatory hearing or a transfer hearing, unless the court finds good cause to delay or postpone the hearing. In no case shall the court hold the adjudicatory hearing more than ninety (90) days after the date the petition is filed.

(d) Regardless of whether the allegations in the petition are admitted or denied, the court shall determine whether or not the child's full-time detention or shelter care is required pending further proceedings. If the court finds that returning the child to the home is contrary to the welfare of the child, the court shall enter the finding on the record and order the child placed in the legal custody of the department. If the court finds that full-time detention or shelter care is not required, the court shall order the child released and may impose one (1) or more of the following conditions:

(i) Place the child in the custody and supervision of his parents, guardian or custodian, under

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the protective supervision of the department or a county or state probation officer or under the supervision of any individual or organization approved by the court that agrees to supervise the child;

14-6-210. Hearing conducted by commissioner; authority and duty; review by court.

(b) The commissioner may make any order concerning the child's release, continued detention or shelter care as authorized to the judge under W.S. 14-6-209. If the child is not released after the hearing, the commissioner shall promptly file with the court a complete written resume of the evidence adduced at the hearing and his reasons for not releasing the child. The commissioner shall conduct the hearing pursuant to W.S. 14-6-209 except that, if a child who has been advised of his rights wishes to admit the allegations, the commissioner may take testimony to establish a factual basis and accept the admission and perform all other requirements of the initial hearing but shall not proceed to disposition. The hearing shall be conducted in the presence of counsel and guardian ad litem, if so appointed. The commissioner may also appoint counsel, appoint a guardian ad litem, order a predisposition report, appoint a multidisciplinary team, issue subpoenas or search warrants, order physical or medical examinations and authorize emergency medical, surgical or dental treatment all as provided in ~~W.S. 14-6-217 through 14-6-220~~ this act. The commissioner shall not make final orders of adjudication or disposition.

14-6-214. Service of process; order of custody or detention.

(e) When personal service of order to appear is made within the state, service ~~must~~ shall be completed not less

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than two (2) days before the hearing and when made outside the state, service ~~must~~shall be completed not less than five (5) days before the hearing. However, notwithstanding any provision within this act, the court may order that a child be taken into custody as provided in W.S. 14-6-213 or that a child be held in detention or shelter care pending further proceedings as provided in W.S. 14-6-209, even though service of order to appear on the parents, guardian or custodian of the child is not complete at the time of making the order.

14-6-218. Search warrant; when authorized; affidavit required; contents of affidavit and warrant; service and return.

(a) The court or a commissioner may issue a search warrant within the court's jurisdiction if it appears by application supported by affidavit of one (1) or more adults that there is probable cause to believe a child has committed a delinquent act and the child is in hiding to avoid service of process or being taken into custody, or it appears by application supported by affidavit of one (1) or more adults that there is probable cause to believe a child has committed a delinquent act.

(b) The affidavit ~~must~~shall be in writing, signed and affirmed by the affiant. The affidavit ~~must~~shall set forth:

14-6-226. Initial appearance; adjudicatory or transfer hearing; entry of decree and disposition; evidentiary matters; continuance of disposition hearing.

(b) If the allegations of the petition are denied, the court may, with consent of the parties, proceed immediately to hear evidence on the petition or it may set

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a later time not to exceed sixty (60) days for an adjudicatory or a transfer hearing, unless the court finds good cause to delay or postpone the hearing. In no case shall the court hold the adjudicatory hearing more than ninety (90) days after the date the petition is filed. Only competent, relevant and material evidence shall be admissible at an adjudicatory hearing to determine the truth of the allegations in the petition. If after an adjudicatory hearing the court finds that the allegations in the petition are not established as required by this act, it shall dismiss the petition and order the child released from any detention or shelter care.

(c) If after an adjudicatory hearing or a valid admission or confession the court or jury finds that a child committed the acts alleging him delinquent, it shall enter a decree to that effect stating the jurisdictional facts upon which the decree is based. It may then proceed immediately or at a postponed hearing within sixty (60) days to make proper disposition of the child, unless the court finds good cause to delay or postpone the hearing.

14-6-228. Abeyance of proceedings by consent decree; term of decree; reinstatement of proceedings; effect of discharge or completing term.

(a) At any time after the filing of a petition alleging a child delinquent and before adjudication, the court may issue a consent decree ordering further proceedings held in abeyance and place a delinquent child under the supervision of a probation officer. The placement of the child is subject to the terms, conditions and stipulations agreed to by the parties affected. The consent decree shall not be entered without the consent of the district attorney, the child's attorney, where applicable, and the child and the notification of the

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parents. Modifications to an existing consent decree may be allowed.

(b) The consent decree shall be in writing and copies given to each of the parties. The decree shall include the case plan for the child.

~~(b)~~ (c) A consent decree shall be in force for the period agreed upon by the parties but not longer than one (1) year unless the child is sooner discharged by the court.

(d) If prior to discharge by the court or expiration of the consent decree, a child alleged to be delinquent fails to fulfill the terms and conditions of the decree or a new petition is filed alleging the child delinquent because of misconduct occurring during the term of the consent decree, the original petition and proceedings may be reinstated at the district attorney's discretion and the child held accountable upon order of the court after hearing and the matter may proceed as though the consent decree had never been entered. If, as part of the consent decree, the child made an admission to any of the allegations contained in the original petition, that admission shall be entered only if the court orders that the original petition and proceeding be reinstated and the admissions, if any, be entered. If the admission is entered, the court may proceed to disposition pursuant to W.S. 14-6-226.

(e) If a consent decree is in effect and the child is in placement, the court shall hold a six (6) month and twelve (12) month review under W.S. 14-6-229.

~~(e)~~ (f) A child discharged by the court under a consent decree without reinstatement of the original

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petition and proceeding shall not thereafter be proceeded against in any court for the same offense or misconduct alleged in the original petition.

14-6-229. Decree where child adjudged delinquent; dispositions; terms and conditions; legal custody.

(a) In determining the disposition to be made under this act in regard to any child:

(i) The court shall ~~place on the record~~ review the predisposition report, ~~and~~ the recommendations, if any, of the multidisciplinary team, the case plan and other reports or evaluations ordered by the court and indicate on the record what materials were considered in reaching the disposition;

(iii) When a child is adjudged by the court to be delinquent, the court shall enter its decree to that effect and make a disposition consistent with the purposes of this act; ~~and in accord with the actual facilities presently available when the decree is entered;~~

(e) In cases where a child is ordered removed from the child's home:

(ii) If a child is committed or transferred to an agency or institution under this section:

(B) Not less than once every ~~twelve (12)~~ six (6) months, the court of jurisdiction shall conduct a formal review to assess and determine the appropriateness of the current placement, the reasonable efforts made to reunify the family, the safety of the child and the permanency plan for the child. ~~Placements at the Wyoming boys' school, the Wyoming girls' school and the Wyoming~~

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~~state hospital are exempt from the review required by this subparagraph.~~

(iii) ~~The court on its own motion, or on the motion of the person, agency or institution vested with custody or to whom compensation is due,~~ shall order the parents or other legally obligated person to pay a reasonable sum for the support and treatment of the child as required by W.S. 14-6-236, or shall state on the record the reasons why an order for support was not entered;~~;~~

(iv) In cases where the child is placed in custody of the department, support shall be established by the department through a separate civil action.

(r) An agency of state government vested with temporary legal custody of a child under this section shall have the right to transport the child as necessary.

14-6-233. Appeal; right generally; transcript provided; cost thereof.

(a) Any party including the state may appeal any final order, judgment or decree of the juvenile court to the supreme court within the time and in the manner provided by the Wyoming Rules of ~~Civil~~Appellate Procedure.

14-6-236. Ordering payment for support and treatment of child; how paid; enforcement.

(a) When legal custody of a child, other than temporary guardianship, is vested by court order in an individual, agency, institution or organization other than the child's parents, the court shall in the same ~~or any subsequent~~ proceeding inquire into the financial condition of the child's parents or any other person who may be

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legally obligated to support the child. After due notice and hearing the court shall order the parents or any other legally obligated person to pay a reasonable sum for the support and treatment of the child during the time that a dispositional order is in force. The requirements of W.S. 20-2-101 through 20-2-406 apply to this section. The amount of support shall be determined in accordance with the presumptive child support established by W.S. 20-2-304. In any case where the court has deviated from the presumptive child support, the reasons therefor shall be specifically set forth in the order. The amount ordered to be paid shall be paid to the clerk of the ~~juvenile~~-district court for transmission to the person, institution or agency having legal custody of the child or to whom compensation is due. The clerk of court is authorized to receive periodic payments payable in the name or for the benefit of the child, including but not limited to social security, veteran's administration benefits or insurance annuities, and apply the payments as the court directs. An order for support under this subsection shall include a statement of the addresses and social security numbers if known, of each obligor, the names and addresses of each obligor's employer and the names and birthdates of each child to whom the order relates. The court shall order each obligor to notify the clerk of court in writing within fifteen (15) days of any change in address or employment. If any person who is legally obligated to support the child does not have full time employment, the court may require that person to seek full time employment and may require community service work in lieu of payment until full time employment is obtained.

14-6-239. Records and reports confidential; inspection.

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(d) Nothing in subsection (a) of this section shall limit the disclosure of records authorized by W.S. 7-19-504 .or 14-6-240(g).

14-6-301. Definitions.

(a) As used in W.S. 14-6-301 through ~~14-6-308~~ 14-6-314:

(viii) "Intensive supervision program" means a program established under W.S. 14-6-309 which allows participants to live or work in the community under close supervision methods.

14-6-302. General powers.

(a) The department of family services shall adopt reasonable rules and regulations necessary to carry out the provisions of W.S. 14-6-301 through ~~14-6-308~~ 14-6-314 including policy relating to:

(i) The conduct of predisposition reports, social summaries, multidisciplinary team reviews, case plan development, hearings and interviews;

14-6-305. Home leave; violation hearing procedures.

(c) With respect to any hearing pursuant to this section, the youth on home leave:

(ii) Shall be permitted to consult with his attorney or the guardian ad litem and any other persons whose assistance the youth reasonably desires, prior to the hearing;

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14-6-409. Taking of child into custody; informal hearing where no court order; conditional release; evidence; rehearing.

(a) When a child is placed in detention or shelter care without a court order, a petition as provided in W.S. 14-6-412 shall be promptly filed and presented to the court. An informal detention or shelter care hearing shall be held as soon as reasonably possible not later than ~~seventy-two (72)~~ forty-eight (48) hours, excluding weekends and legal holidays, after the child is taken into custody to determine if further detention or shelter care is required pending further court action. Written notice stating the time, place and purpose of the hearing shall be given to the child and to his parents, guardian or custodian.

(b) At the commencement of the hearing the judge shall advise the child and his parents, guardian or custodian of:

(iii) The right to confront and cross-examine witnesses or to present witnesses or evidence in their own behalf and the right to issuance of process by the court to compel the appearance of witnesses and the production of evidence;

(iv) The right to a jury trial as provided in W.S. 14-6-423; and

(c) The child shall be given an opportunity to admit or deny the allegations in the petition. If the allegations are admitted, the court shall make the appropriate adjudication and may proceed immediately to a disposition of the case, provided the court has the predisposition report and multidisciplinary recommendations, in accordance

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with the provisions of W.S. 14-6-429, except that a commissioner acting in the absence or incapacity of the judge may take testimony to establish a factual basis and accept an admission and perform all other requirements of the initial hearing but shall not proceed to disposition. If denied, the court shall set a time not to exceed ~~forty-five (45)~~ sixty (60) days for an adjudicatory hearing, unless the court finds good cause to delay or postpone the hearing. In no case shall the court hold the adjudicatory hearing more than ninety (90) days after the date the petition is filed.

(d) Regardless of whether the allegations in the petition are admitted or denied, the court shall determine whether or not the child's full-time detention or shelter care is required pending further proceedings. If the court finds that returning the child to the home is contrary to the welfare of the child, the court shall enter the finding on the record and order the child placed in the legal custody of the department of family services. If the court finds that full-time detention or shelter care is not required, the court shall order the child released and may impose one (1) or more of the following conditions:

(i) Place the child in the custody and supervision of his parents, guardian or custodian, under the protective supervision of the department of family services or under the supervision of any individual or organization approved by the court that agrees to supervise the child;

14-6-410. Hearing conducted by commissioner; authority and duty; review by court.

(b) The commissioner may make any order concerning the child's release, continued detention or shelter care as

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authorized to the judge under W.S. 14-6-409. If the child is not released after the hearing, the commissioner shall promptly file with the court a complete written resume of the evidence adduced at the hearing and his reasons for not releasing the child. The commissioner shall conduct the hearing pursuant to W.S. 14-6-409 except that, if a child who has been advised of his rights wishes to admit the allegations, the commissioner may take testimony to establish a factual basis and accept the admission and perform all other requirements of the initial hearing but shall not proceed to disposition. The hearing shall be conducted in the presence of counsel and guardian ad litem, if so appointed. The commissioner may also appoint counsel, appoint a guardian ad litem, order a predisposition report, appoint a multidisciplinary team, issue subpoenas or search warrants, order physical or medical examinations and authorize emergency medical, surgical or dental treatment all as provided in W.S. 14-6-417 through 14-6-420 this act. The commissioner shall not make final orders of adjudication or disposition.

14-6-412. Commencement of proceedings; contents of petition.

(b) The petition shall set forth all jurisdictional facts, including but not limited to:

(v) Whether the child is an Indian child as defined in the federal Indian Child Welfare Act and, if so, a statement setting forth with particularity the notice provided to the appropriate tribal court.

14-6-414. Service of process; order of custody.

(e) When personal service of order to appear is made within the state, service ~~must~~ shall be completed not less

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than two (2) days before the hearing and when made outside the state, service ~~must~~shall be completed not less than five (5) days before the hearing. However, notwithstanding any provision within this act, the court may order that a child be taken into custody as provided in W.S. 14-6-413 or that a child be held in detention or shelter care pending further proceedings as provided in W.S. 14-6-409, even though service of order to appear on the parents, guardian or custodian of the child is not complete at the time of making the order.

14-6-426. Initial appearance; adjudicatory hearing; entry of decree and disposition; evidentiary matters; continuance of disposition hearing.

(b) If the allegations of the petition are denied, the court may, with consent of the parties, proceed immediately to hear evidence on the petition or it may set a later time not to exceed sixty (60) days for an adjudicatory hearing, unless the court finds good cause to delay or postpone the hearing. In no case shall the court hold the adjudicatory hearing more than ninety (90) days after the date the petition is filed. Only competent, relevant and material evidence shall be admissible at an adjudicatory hearing to determine the truth of the allegations in the petition. If after an adjudicatory hearing the court finds that the allegations in the petition are not established as required by this act, it shall dismiss the petition and order the child released from any detention or shelter care.

(c) If after an adjudicatory hearing or a valid admission or confession the court or jury finds that a child is in need of supervision, it shall enter a decree to that effect stating the jurisdictional facts upon which the decree is based. It may then proceed immediately or at a

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postponed hearing within sixty (60) days to make proper disposition of the child, unless the court finds good cause to delay or postpone the hearing.

14-6-428. Abeyance of proceedings by consent decree; term of decree; reinstatement of proceedings; effect of discharge or completing term.

(a) At any time after the filing of a petition alleging a child to be in need of supervision and before adjudication, the court may issue a consent decree ordering further proceedings held in abeyance and place a child in need of supervision under the supervision of the department of family services or any other qualified person the court may designate. The placement of the child is subject to the terms, conditions and stipulations agreed to by the parties affected. The consent decree shall not be entered without the consent of the district attorney, the child's legal representative, where applicable, and the child and the notification of the parents. Modifications to an existing consent decree may be allowed.

(b) The consent decree agreement shall be in writing and copies given to each of the parties. It shall include the case plan for the child or his family.

~~(b)~~ (c) A consent decree shall be in force for the period agreed upon by the parties but not longer than one (1) year unless sooner terminated by the court. If prior to discharge by the court or expiration of the consent decree, a child alleged to be in need of supervision fails to fulfill the terms and conditions of the decree or a new petition is filed alleging the child to be in need of supervision because of misconduct occurring during the term of the consent decree, the original petition and proceedings may be reinstated ~~at the district attorney's~~

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~~discretion upon order of the court after hearing~~ and the ~~child held accountable~~ matter may proceed as though the consent decree had never been entered. If, as part of the consent decree, the child made an admission to any of the allegations contained in the original petition, that admission shall be entered only if the court orders that the original petition and proceeding be reinstated and the admissions, if any, be entered. If the admission is entered, the court may proceed to disposition pursuant to W.S. 14-6-426.

(d) If a consent decree is in effect and the child is in placement, the court shall hold a six (6) month review and twelve (12) month review as provided under W.S. 14-6-429.

~~(c)~~ (e) If the child completes the period of supervision A child discharged by the court under a consent decree without reinstatement of the original petition ~~he~~ and proceeding shall not thereafter be proceeded against in any court for the same misconduct alleged in the original petition.

14-6-429. Decree where child adjudged in need of supervision; dispositions; terms and conditions; legal custody.

(a) In determining the disposition to be made under this act in regard to any child:

(i) The court shall ~~place on the record~~ review the predisposition report, ~~and~~ the recommendations, if any, of the multidisciplinary team, the case plan and other reports or evaluations ordered by the court and indicate on the record what materials were considered in reaching the disposition;

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(iii) When a child is adjudged by the court to be in need of supervision the court shall enter its decree to that effect and make a disposition as provided in this section that places the child in the least restrictive environment consistent with what is best suited to the public interest of preserving families, the physical, mental and moral welfare of the child; ~~and in accord with the actual facilities presently available when the decree is entered;~~

(c) In cases where a child is ordered removed from the child's home:

(i) If a child is committed or transferred to an agency or institution under this section:

(B) Not less than once every ~~twelve (12)~~ six (6) months, the court of jurisdiction shall conduct a formal review to assess and determine the appropriateness of the current placement, the reasonable efforts made to reunify the family, the safety of the child and the permanency plan for the child. ~~Placements at the Wyoming state hospital are exempt from the review required by this subparagraph.~~

(ii) The court ~~on its own motion, or on the motion of the person, agency or institution vested with custody or to whom compensation is due,~~ shall order the parents or other legally obligated person to pay a reasonable sum for the support and treatment of the child as required by W.S. 14-6-435, or shall state on the record the reasons why an order for support was not entered; ~~;~~

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(iii) In cases where the child is placed in custody of the department, support shall be established by the department through a separate civil action.

Section 3. W.S. 14-6-224(d), 14-6-240(g) and 14-6-424(d) are repealed.

Section 4. This act is effective July 1, 2004.

(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