

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

AN ACT relating to adult protective services; modifying definitions relating to the abuse and exploitation of vulnerable adults; adding definitions; conforming existing statutes; providing for additional positions in the department of family services; providing an appropriation; and providing for an effective date.

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

Section 1. W.S. 6-2-507(a) and (b), 35-20-102(a)(ii)(B), (C), by creating a new subparagraph (D), (iv)(D), (E), by creating a new subparagraph (F), (ix), (xi), (xii), (xviii), (xix), by creating a new paragraph (xx) and by renumbering (xx) as (xxi), 35-20-103(a) and (c) through (f), 35-20-104(a) by creating new paragraphs (iv) through (vi), 35-20-105(c)(intro), 35-20-107(a) and (c), 35-20-110, 35-20-111, 35-20-112(a), (b)(i), (c)(iv) and (d)(intro) and 35-20-115(b)(i), (d) and (e) are amended to read:

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

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

(b) Reckless abuse, neglect, ~~or~~abandonment, intimidation or exploitation of a vulnerable adult is a misdemeanor, punishable by not more than one (1) year in jail, a fine of one thousand dollars (\$1,000.00), or both,

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

and registration of the offender's name on the central registry.

35-20-102. Definitions.

(a) As used in this act:

(ii) "Abuse" means the intentional or reckless infliction, by the vulnerable adult's caregiver, family member or other individual of:

(B) Unreasonable confinement which threatens the welfare and well being of a vulnerable adult;
~~or~~

(C) ~~Intimidation or~~ Cruel punishment with resulting physical or emotional harm or pain to a vulnerable adult;
~~or~~ or

(D) Photographing vulnerable adults in violation of W.S. 6-4-304(b).

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

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

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

(F) Acceptance of a legal obligation or responsibility to the vulnerable adult through a power of attorney, advanced health care directive or other legal designation.

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

(ix) "Exploitation" means the reckless or intentional act taken by any person, or any use of the power of attorney, conservatorship or guardianship of a vulnerable adult, to:

(A) Obtain control through deception, harassment, intimidation or undue influence over the vulnerable adult's money, assets or property with the intention of permanently or temporarily depriving the vulnerable adult of the ownership, use, benefit or possession of his money, assets or property; or

(B) In the absence of legal authority:

(I) Employ the services of a third party for the profit or advantage of the person or another person to the detriment of a vulnerable adult;

(II) Force, compel, coerce or entice a vulnerable adult to perform services for the profit or advantage of another against the will of the vulnerable adult.

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

(A) Treatment is given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination; ~~or~~

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

(B) The withholding of health care is in accordance with a declaration executed pursuant to W.S. 35-22-401 through 35-22-416; or

(C) Care is provided by a hospice licensed in accordance with and pursuant to W.S. 35-2-901 through 35-2-910.

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

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

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

(xx) "Intimidation" means the communication by word or act to a vulnerable adult that he, his family, friends or pets will be deprived of food, shelter, clothing, supervision, prescribed medication, physical or mental health care and other medical care necessary to

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

maintain a vulnerable adult's health, financial support or will suffer physical violence;

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

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

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

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

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

(e) Any report or notification to the department that a vulnerable adult is, or is suspected of being, abused, neglected, exploited, intimidated or abandoned, or is committing self neglect, shall be investigated, a

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

determination shall be made whether protective services are necessary and, whether an individual instruction exists under W.S. 35-22-401 through 35-22-416. If determined necessary, protective services shall be furnished by the department within three (3) days from the time the report or notice is received by the department. The investigation may include a visit to the facility in which the vulnerable adult resides and an interview with the vulnerable adult.

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

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

(a) The department shall:

(iv) Provide appropriate training to all investigative agency personnel;

(v) Assign designated workers for adult protective services within the department to carry out the activities of this chapter;

(vi) Develop, facilitate and participate in local multidisciplinary community-based adult protection teams that discuss adult protection issues.

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

(c) Costs incurred to furnish protective services, including but not limited to fees for the services of a

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

guardian ad litem, guardian or conservator, shall be paid by the department unless:

35-20-107. Emergency services.

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

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

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

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

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

35-20-111. Duty to report.

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

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

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

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

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

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

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

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

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

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

35-20-115. Central registry of adult protection cases; establishment; operation; amendment, expungement or

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

removal of records; classification and expungement of reports; statement of person accused.

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

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

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

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

Section 2. There is authorized four (4) additional full-time positions to the department of family services. For the purposes of this act there is appropriated from the

ORIGINAL HOUSE
BILL NO. 0300

ENROLLED ACT NO. 120, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

general fund four hundred eighty thousand dollars
(\$480,000.00) to the department of family services for the
fiscal period beginning July 1, 2007 and ending June 30,
2008.

Section 3. This act is effective July 1, 2007.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk