

HOUSE BILL NO. HB0107

Neglect and abuse.

Sponsored by: Representative(s) Clem, Jennings, Olsen and
Salazar and Senator(s) Biteman, Bouchard,
Hutchings and Steinmetz

A BILL

for

1 AN ACT relating to child protection; amending definitions
2 relating to abuse and neglect; providing for the right to
3 seek a second medical opinion when medical neglect is
4 alleged; and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 14-3-202(a)(ii)(intro), (vii) and by
9 creating a new subsection (b) is amended to read:

10

11 **14-3-202. Definitions; right to seek second medical**
12 **opinion.**

13

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

15

1 (ii) "Abuse" means inflicting or causing
2 physical or mental injury, harm or imminent danger to the
3 physical or mental health or welfare of a child other than
4 by accidental means, including abandonment, unless the
5 abandonment is a relinquishment substantially in accordance
6 with W.S. 14-11-101 through 14-11-109, excessive or
7 unreasonable corporal punishment, malnutrition ~~or~~
8 ~~substantial risk thereof~~ by reason of intentional ~~or~~
9 ~~unintentional~~ neglect, and the commission or allowing the
10 commission of a sexual offense against a child as defined
11 by law:

12

13 (vii) "Neglect" means ~~a failure or refusal~~ an
14 act or omission by ~~those~~ a person responsible for the
15 child's welfare ~~to provide adequate care, maintenance,~~
16 ~~supervision, education or medical, surgical or any other~~
17 ~~care necessary for the child's well being.~~ that results in
18 harm or an unreasonable risk of harm to the child's health
19 or welfare, subject to the following:

20

21 (A) "Neglect" includes:

22

1 (I) A failure or refusal to provide
2 the child with supervision, food, clothing, shelter,
3 education as required by law, or medical care, except:

4
5 (1) If the failure of a parent,
6 guardian or custodian to provide services to meet the needs
7 of a child with a disability or chronic illness is the
8 result of the unavailability of reasonable services; or

9
10 (2) If the parent, guardian or
11 custodian is financially unable to do so.

12
13 (II) Permitting a child to enter or
14 remain in any structure or vehicle in which volatile, toxic
15 or flammable chemicals are found or equipment is possessed
16 by any person for the purposes of manufacturing a substance
17 as defined in W.S. 35-7-1016(d)(ii) or (f)(i);

18
19 (III) A determination by a licensed
20 medical professional that those responsible for the child's
21 welfare exposed a newborn infant prenatally to a drug or
22 substance listed in W.S. 35-7-1016(d)(ii) or (f)(i) and
23 that this exposure was not the result of a medical

1 treatment administered to the mother or the newborn infant
2 by a licensed medical professional. The determination by
3 the licensed medical professional shall be based on one (1)
4 or more of the following:

5
6 (1) Clinical indicators in the
7 prenatal period including maternal and fetal presentation;

8
9 (2) Clinical indicators in the
10 mother or infant;

11
12 (3) Results of a toxicology or
13 other laboratory test on the mother or infant obtained by
14 parental consent or a court order.

15
16 (IV) A determination by a licensed
17 medical professional that the custodial birth mother caused
18 an infant under one (1) year of age to present with
19 clinical findings consistent with fetal alcohol syndrome or
20 fetal alcohol effects;

21
22 (V) Exposing a child to sexual
23 contact, bestiality or explicit sexual materials

1 deliberately or with reckless disregard as to whether the
2 act or material is presently observable by the child. As
3 used in this subdivision, "sexual contact" means a person's
4 touching with the intention of sexual arousal,
5 gratification or abuse, of another person's intimate parts.

6
7 (B) "Neglect" does not include:

8
9 (I) Treatment given in good faith by
10 spiritual means alone, ~~or~~ through prayer; ~~by a duly~~
11 ~~accredited practitioner in accordance with the tenets and~~
12 ~~practices of a recognized church or religious denomination~~
13 ~~is not child neglect for that reason alone;~~

14
15 (II) The decision by a child's parent,
16 guardian or custodian based upon reason of religious
17 belief, to refuse specified medical treatment for the
18 child, unless emergency treatment is required when the
19 child faces an immediate threat of death or serious and
20 irreparable harm;

21
22 (III) A health care decision made for
23 the child by the child's parent, guardian or custodian,

1 unless the parent, guardian or custodian fails to obtain
2 emergency treatment when the child faces an immediate
3 threat of death or serious and irreparable harm or unless
4 the state or other party to a proceeding instituted for the
5 benefit of the child shows by clear and convincing evidence
6 that the health care decision is not reasonable and
7 informed and has or will result in serious prolonged harm
8 to the child;

9
10 (IV) A child's parent, guardian or
11 custodian exercising the right under subsection (b) of this
12 section to seek a second medical opinion from another
13 licensed physician;

14
15 (V) Those responsible for the child's
16 welfare permitting the child, whose basic needs are met and
17 who is of sufficient age and maturity to avoid harm or
18 unreasonable risk of harm, to engage in independent
19 activities.

20
21 (b) In cases of alleged medical neglect under
22 paragraph (a)(vii) of this section where the department
23 seeks protective custody, temporary custody or custody of

1 the child based on the report or testimony of a licensed
2 medical professional:

3

4 (i) The child's parent, guardian or custodian
5 shall have a reasonable amount of time, as determined by
6 the court, to obtain a second medical opinion from another
7 licensed physician of the parent's or guardian's choosing
8 who has expertise in the applicable field;

9

10 (ii) Unless there is an imminent risk of death
11 or a deteriorating condition of the child's health, the
12 child shall remain in the custody of the parent, guardian
13 or custodian while the parent, guardian or custodian
14 obtains a second medical opinion;

15

16 (iii) If a second medical opinion results in a
17 different diagnosis or treatment recommendation from the
18 opinion of the physician the department used, the court
19 shall give deference to the second medical opinion as long
20 as that opinion is reasonable and informed as determined by
21 the court;

22

1 (iv) Paragraphs (i) through (iii) of this
2 subsection do not apply to emergency treatment or care when
3 the child faces an immediate threat of death or serious and
4 irreparable harm and when there is insufficient time to
5 safely allow the parent, guardian or custodian to provide
6 alternative necessary care and treatment of the parent's,
7 guardian's or custodian's choosing.

8

9 **Section 2.** This act is effective July 1, 2020.

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(END)