

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. \_\_\_\_\_

Child protection shelter care and initial hearings.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to children; amending provisions of the  
2 Child Protection Act relating to shelter care hearings and  
3 initial hearings; adding definitions; eliminating the  
4 opportunity to admit or deny allegations at a shelter care  
5 hearing unless an initial hearing is held in conjunction  
6 with a shelter care hearing; clarifying time to demand a  
7 jury trial; and providing for an effective date.

8

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

10

11 **Section 1.** W.S. 14-3-402(a) by creating new  
12 paragraphs (xxi), (xxii), and (xxiii), and by renumbering  
13 (xxi) as (xxiv), 14-3-409(a), (c) and (d), 14-3-410(b),

1 14-3-422(a), 14-3-423(b), 14-3-426(a) and by creating a new  
2 subsection (g), are amended to read:

3

4 **14-3-402. Definitions.**

5

6 a) As used in this act:

7

8 (xxi) "Initial hearing" means a hearing held in  
9 accordance with W.S. 14-3-426.

10

11 (xxii) "Shelter care hearing" means a hearing  
12 held in accordance with W.S. 14-3-409.

13

14 (xxiii) "Transfer hearing" means a hearing held  
15 in accordance with W.S. 14-6-237.

16

17 **14-3-409. Taking of child into custody;**  
18 **~~informal~~shelter care hearing where no court order;**  
19 **conditional release; evidence; rehearing.**

20

21 a) When a child is taken into temporary protective  
22 custody without a court order or under an ex parte  
23 emergency order, a petition as provided in W.S. 14-3-412

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

10  
11  
12 (c) ~~The parents, guardian or custodian shall be given~~  
13 ~~an opportunity to admit or deny the allegations in the~~  
14 ~~petition. If the allegations are admitted, the court shall~~  
15 ~~make the appropriate adjudication and may proceed~~  
16 ~~immediately to a disposition of the case, provided the~~  
17 ~~court has the predisposition report and multidisciplinary~~  
18 ~~team recommendations, in accordance with the provisions of~~  
19 ~~W.S. 14-3-429, except that a commissioner acting in the~~  
20 ~~absence or incapacity of the judge may take testimony to~~  
21 ~~establish a factual basis and accept an admission and~~  
22 ~~perform all other requirements of the initial hearing but~~  
23 ~~shall not proceed to disposition. If denied, An initial~~

1 hearing may be held in conjunction with a shelter care  
2 hearing, provided the requirements of W.S. 14-3-413,  
3 14-3-414, and 14-3-426 have been met. The court shall set a  
4 time not to exceed sixty (60) days for an adjudicatory  
5 hearing, unless the court finds good cause to delay or  
6 postpone the hearing. In no case shall the court hold the  
7 adjudicatory hearing more than ninety (90) days after the  
8 date the petition is filed

9  
10 (d) ~~Regardless of whether the allegations in the~~  
11 ~~petition are admitted or denied,~~ The court shall determine  
12 whether or not the child's full-time shelter care is  
13 required to protect the child's welfare pending further  
14 proceedings. If the court determines that returning the  
15 child to the home is contrary to the welfare of the child,  
16 the court shall enter the finding on the record and order  
17 the child placed in the legal custody of the department of  
18 family services. If the court finds that full-time shelter  
19 care is not required, the court shall order the child  
20 released and may impose one (1) or more of the following  
21 conditions:

22

1           **14-3-410. Hearing conducted by commissioner;**  
2 **authority and duty; review by court.**

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

1 The commissioner shall not make final orders of  
2 adjudication or disposition.

3

4 **14-3-422. Advising of right to counsel required;**  
5 **appointment of counsel; verification of financial**  
6 **condition.**

7

8 (a) At their first appearance before the court and at  
9 their initial hearing the child's parents, guardian or  
10 custodian shall be advised by the court of their right to  
11 be represented by counsel at every stage of the proceedings  
12 including appeal, and to employ counsel of their own  
13 choice.

14

15 **14-3-423. Rights of parties generally; demand for and**  
16 **conduct of jury trial.**

17

18 (b) A party against whom a petition has been filed or  
19 the district attorney may demand a trial by jury at an  
20 adjudicatory hearing. The jury shall be composed of jurors  
21 selected, qualified and compensated as provided by law for  
22 the trial of civil matters in the district court. The jury  
23 may be drawn from the jury panel of the district court or a

1 special jury panel may be drawn from "jury box number three  
2 (3)" containing the names of persons residing within five  
3 (5) miles of the city or town where the trial is to be  
4 held, whichever the court directs. Demand for a jury trial  
5 must be made to the court not later than ten (10) days  
6 after the party making the demand is advised of his right  
7 to a jury trial at the initial hearing. No deposit for jury  
8 fees is required. Failure of a party to demand a jury is a  
9 waiver of this right.

10  
11 **14-3-426. Initial appearance hearing; adjudicatory**  
12 **hearing; entry of decree and disposition; evidentiary**  
13 **matters; continuance of disposition hearing.**

14  
15 (a) There shall be an initial hearing. The ~~At their~~  
16 initial hearing, ~~which~~ may be held in conjunction with the  
17 shelter care hearing provided the requirements of 14-3-413,  
18 14-3-414, and 14-3-426 have been met. The initial hearing  
19 may also be held after a shelter care hearing or a transfer  
20 hearing. At the initial hearing, the child and his parents,  
21 guardian or custodian shall be advised by the court of  
22 their rights under law and as provided in this act. They  
23 shall also be advised of the specific allegations in the

1 petition and given an opportunity to admit or deny them.  
2 They shall also be advised of the possible liability for  
3 costs of treatment or services pursuant to this act. It is  
4 not necessary at the initial ~~appearance~~hearing for the  
5 district attorney to establish probable cause to believe  
6 the allegations in the petition are true. ~~When a shelter  
7 care hearing is held in accordance with W.S. 14-3-409, a  
8 separate initial hearing is not required if the child and  
9 his parents, guardian or custodian were present at the  
10 shelter care hearing and advised by the court as provided  
11 in this subsection.~~

12 (g) In the absence or incapacity of the judge, the  
13 initial hearing may be conducted by a district court  
14 commissioner.

15

16 **Section 2.**

17

18 This act is effective July 1, 2011.

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(END)