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# APPENDIX A

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## Selected statutes

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**TITLE 14 – CHILDREN**  
**CHAPTER 3 – PROTECTION**  
**ARTICLE 2 - CHILD PROTECTIVE SERVICES**

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

The purpose of W.S. 14-3-201 through 14-3-216 is to delineate the responsibilities of the state agency, other governmental agencies or officials, professionals and citizens to intervene on behalf of a child suspected of being abused or neglected, to protect the best interest of the child, to further offer protective services when necessary in order to prevent any harm to the child or any other children living in the home, to protect children from abuse or neglect which jeopardize their health or welfare, to stabilize the home environment, to preserve family life whenever possible and to provide permanency for the child in appropriate circumstances. The child's health, safety and welfare shall be of paramount concern in implementing and enforcing this article.

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

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

(i) "A person responsible for a child's welfare" includes the child's parent, noncustodial parent, guardian, custodian, stepparent, foster parent or other person, institution or agency having the physical custody or control of the child;

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

(A) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in his ability to function within a normal range of performance and behavior with due regard to his culture;

(B) "Physical injury" means any harm to a child including but not limited to disfigurement, impairment of any bodily organ, skin bruising if greater in magnitude than minor bruising associated with reasonable corporal punishment, bleeding, burns, fracture of any bone, subdural hematoma or substantial malnutrition;

(C) "Substantial risk" means a strong possibility as contrasted with a remote or insignificant possibility;

(D) "Imminent danger" includes threatened harm and means a statement, overt act, condition or status which represents an immediate and substantial risk of sexual abuse or physical or mental injury.

"Imminent danger" includes violation of W.S. 31-5-233(m).

(iii) "Child" means any person under the age of eighteen (18);

(iv) "Child protective agency" means the field or regional offices of the department of family services;

(v) "Court proceedings" means child protective proceedings which have as their purpose the protection of a child through an adjudication of whether the child is abused or neglected, and the making of an appropriate order of disposition;

- (vi) "Institutional child abuse and neglect" means situations of child abuse or neglect where a foster home or other public or private residential home, institution or agency is responsible for the child's welfare;
- (vii) "Neglect" means a failure or refusal by those responsible for the child's welfare to provide adequate care, maintenance, supervision, education or medical, surgical or any other care necessary for the child's well being. Treatment 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 is not child neglect for that reason alone;
- (viii) "State agency" means the state department of family services;
- (ix) "Subject of the report" means any child reported under W.S. 14-3-201 through 14-3-216 or the child's parent, guardian or other person responsible for the child's welfare;
- (x) "Unsubstantiated report" means any report made pursuant to W.S. 14-3-201 through 14-3-216 that, upon investigation, is not supported by a preponderance of the evidence;
- (xi) "Substantiated report" means any report of child abuse or neglect made pursuant to W.S. 14-3-201 through 14-3-216 that, upon investigation, is supported by a preponderance of the evidence;
- (xv) "Collaborative" means the interagency children's collaborative created by W.S. 14-3-215;
- (xvi) "Department" means the state department of family services and its local offices;
- (xvii) "Transportation" means the provision of a means to convey the child from one place to another by the custodian or someone acting on his behalf in the performance of required duties, but does not require the state to provide incidental travel or to purchase a motor vehicle for the child's own use to travel.

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

- (a) The state agency shall:
  - (i) Administer W.S. 14-3-201 through 14-3-215;
  - (ii) Be responsible for strengthening and improving state and community efforts toward the prevention, identification and treatment of child abuse and neglect in the state; and
  - (iii) Refer any person or family seeking assistance in meeting child care responsibilities, whether or not the problem presented by the person or family is child abuse or neglect, to appropriate community resources, agencies, services or facilities.
  - (iv) Repealed By Laws 2005, ch. 236, § 4.
- (b) The state agency may contract for assistance in providing on-call services. The assistance may include screening protection calls, making appropriate referrals to law enforcement and the agency, and maintaining a record of calls and referrals. Contractors shall have training in child protection services.
- (c) The state agency shall ensure that all child protective service workers are trained:
  - (i) In the principles of family centered practice that focus on providing services to the entire family to achieve the goals of safety and permanency for children, including balancing the best interests of children with the rights of parents;
  - (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.**

(a) The local child protective agency shall:

- (i) Prepare a plan for child protective services under guidelines prepared by the state agency, and provide services under the plan to prevent further child abuse or neglect. The plan shall be reviewed annually by both agencies;
- (ii) Receive, assess, investigate or arrange for investigation and coordinate investigation or assessment of all reports of known or suspected child abuse or neglect;
- (iii) Within twenty-four (24) hours after notification of a suspected case of child abuse or neglect, initiate an investigation or assessment and verification of every report. The representative of the child protective agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation or assessment, advise the individual of the specific complaints or allegations made against the individual. A thorough investigation or assessment and report of child abuse or neglect shall be made in the manner and time prescribed by the state agency pursuant to rules and regulations adopted in accordance with the Wyoming Administrative Procedure Act. If the child protective agency is denied reasonable access to a child by a parent or other persons and the agency deems that the best interest of the child so requires, it shall seek an appropriate court order by ex parte proceedings or other appropriate proceedings to see the child. The child protective agency shall assign a report:
  - (A) For investigation when allegations contained in the report indicate:
    - (I) That criminal charges could be filed, the child appears to be in imminent danger and it is likely the child will need to be removed from the home; or
    - (II) A child fatality, major injury or sexual abuse has occurred.
  - (B) For assessment when the report does not meet the criteria of subparagraph (A) of this paragraph.
- (iv) If the investigation or assessment discloses that abuse or neglect is present, initiate services with the family of the abused or neglected child to assist in resolving problems that lead to or caused the child abuse or neglect;
- (v) If the child protective agency is able through investigation to substantiate a case of abuse or neglect, it shall notify the person suspected of causing the abuse or neglect of his right to request a hearing pursuant to the Wyoming Administrative Procedure Act;
- (vi) Make reasonable efforts to contact the noncustodial parent of the child and inform the parent of substantiated abuse or neglect in high risk or moderate risk cases as determined pursuant to rules and regulations of the state agency and inform the parent of any proposed action to be taken;
- (vii) Cooperate, coordinate and assist with the prosecution and law enforcement agencies;
- (viii) When the best interest of the child requires court action, contact the county and prosecuting attorney to initiate legal proceedings and assist the county and prosecuting attorney during the proceedings. If the county attorney elects not to bring court action the local child protective agency may petition the court for appointment of a guardian ad litem who shall act in the best interest of the child and who may petition the court to direct the county attorney to show cause why an action should not be commenced under W.S. 14-3-401 through 14-3-439; and
- (ix) Refer a child receiving department services who is under the age of six (6) years to the department of health, division of developmental disabilities preschool program for educational and developmental screening and assessment.

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

- (a) Any person who knows or has reasonable cause to believe or suspect that a child has been abused or neglected or who observes any child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, shall immediately report it to the child protective agency or local law enforcement agency or cause a report to be made.
- (b) If a person reporting child abuse or neglect is a member of the staff of a medical or other public or private institution, school, facility or agency, he shall notify the person in charge or his designated agent as soon as possible, who

is thereupon also responsible to make the report or cause the report to be made. Nothing in this subsection is intended to relieve individuals of their obligation to report on their own behalf unless a report has already been made or will be made.

(c) Any employer, public or private, who discharges, suspends, disciplines or penalizes an employee solely for making a report of neglect or abuse under W.S. 14-3-201 through 14-3-216 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.

(d) Any person who knowingly and intentionally makes a false report of child abuse or neglect, or who encourages or coerces another person to make a false report of child abuse or neglect, 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.

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

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

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

(ii) Followed by a written report by the receiving agency confirming or not confirming the facts reported. The report shall provide to law enforcement or the local child protective agency the following, to the extent available:

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

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

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

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

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

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

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

(H) Any other relevant information.

(b) The state agency may establish and maintain a statewide reporting center to receive reports of child abuse or neglect on a twenty-four (24) hour, seven (7) day week, toll free telephone number. Upon establishment of the service, all reports of child abuse or neglect may be made to the center which shall transfer the reports to the appropriate local child protective agency.

(c) Any person investigating, examining or treating suspected child abuse or neglect may document evidence of child abuse or neglect to the extent allowed by law by having photographs taken or causing x-rays to be made of the areas of trauma visible on a child who is the subject of the report or who is subject to a report. The reasonable cost of the photographs or x-rays shall be reimbursed by the appropriate local child protective agency. All photographs, x-rays or copies thereof shall be sent to the local child protective agency, admissible as evidence in any civil proceeding relating to child abuse or neglect, and shall state:

(i) The name of the subject;

(ii) The name, address and telephone number of the person taking the photographs or x-rays; and

(iii) The date and place they were taken.

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

(a) When a child is taken into temporary protective custody pursuant to W.S. 14-3-405(a) and (b), the person taking custody shall immediately notify the local department of family services office and place or transfer temporary protective custody to the local department of family services office as soon as practicable. The local department of family services office shall:

- (i) Accept physical custody of the child;
  - (ii) Make reasonable efforts to inform the parent, noncustodial parent or other person responsible for the child's welfare that the child has been taken into temporary protective custody, unless otherwise ordered by a court of competent jurisdiction;
  - (iii) Arrange for care and supervision of the child in the most appropriate and least restrictive setting necessary to meet the child's needs, including foster homes or other child care facilities certified by the department or approved by the court. When it is in the best interest of the child, the department shall place the child with the child's noncustodial birth parent or with the child's extended family, including adult siblings, grandparents, great-grandparents, aunts or uncles. Prior to approving placement with the child's noncustodial birth parent or extended family, the department shall determine whether anyone living in the home has been convicted of a crime involving serious harm to children or has a substantiated case listed on the central registry established pursuant to W.S. 14-3-213. The department may leave the child in the care of a physician or hospital when necessary to ensure the child receives proper care. A neglected child shall not be placed in a jail or detention facility other than for a delinquent act;
  - (iv) Initiate an investigation of the allegations; and
  - (v) Assess the child's mental and physical needs, provide for the child's ordinary and emergency medical care and seek emergency court authorization for any extraordinary medical care that is needed prior to the shelter care hearing.
- (b) The law enforcement or medical provider shall promptly notify the court and the district attorney of any child taken into temporary protective custody and placed in its care pursuant to W.S. 14-3-405 without a court order.
- (c) Temporary protective custody shall not exceed forty-eight (48) hours, excluding weekends and legal holidays.
- (d) When the court orders the child into the legal custody of the department pursuant to W.S. 14-3-409(d) or 14-3-429, the department shall:
- (i) Accept legal custody of the child;
  - (ii) Continue or arrange for, care, transportation and supervision of the child as provided in paragraph (a)(iii) of this section;
  - (iii) Assess the child's mental and physical health needs and provide for the child's ordinary and emergency medical care;
  - (iv) Arrange for the provision of the education of the child, including participation in individualized education or developmental services;
  - (v) Participate in multidisciplinary team meetings to develop treatment recommendations for the child; Perform any other duties ordered by the court relating to the care or custody of the child.
  - (vi) Perform any other duties ordered by the court relating to the care or custody of the child.

**14-3-211. Appointment of counsel for child and other parties.**

- (a) The court shall appoint counsel to represent any child in a court proceeding in which the child is alleged to be abused or neglected. Any attorney representing a child under this section shall also serve as the child's guardian ad litem unless a guardian ad litem has been appointed by the court. The attorney or guardian ad litem shall be charged with representation of the child's best interest.
- (b) The court may appoint counsel for any party when necessary in the interest of justice.

**14-3-212. Child protection teams; creation; composition; duties; records confidential. (excerpted)**

- (a) The state agency and the local child protective agency shall encourage and assist in the creation of child protection teams within the communities in the state. The purposes of the child protection teams shall be to identify or develop community resources to serve abused and neglected children within the community, to advocate for improved

services or procedures for such children and to provide information and assistance to the state agency, local child protection agency and multidisciplinary teams, if a multidisciplinary team has been appointed. The department may promulgate reasonable rules and regulations in accordance with the Wyoming Administrative Procedure Act to define the roles and procedures of child protection teams.

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

- (a) The state agency shall establish and maintain a record of all child protection reports and a central registry of "under investigation" or "substantiated" child protection reports in accordance with W.S. 42-2-111.
- (b) Through the recording of reports, the state agency's recordkeeping system shall be operated to enable the state agency to:
- (i) Immediately identify and locate prior reports of cases of child abuse or neglect to assist in the diagnosis of suspicious circumstances and the assessment of the needs of the child and his family;
  - (ii) Continuously monitor the current status of all pending child protection cases;
  - (iii) Regularly evaluate the effectiveness of existing laws and programs through the development and analysis of statistical and other information; and
  - (iv) Maintain a central registry of "under investigation" reports and "substantiated" reports of child abuse or neglect for provision of information to qualifying applicants pursuant to W.S. 14-3-214(f).
- (c) Upon good cause shown and upon notice to the subject of an "under investigation" or "substantiated" report, the state agency may list, amend, expunge or remove any record from the central registry in accordance with rules and regulations adopted by the state agency.
- (d) All reports of child abuse or neglect contained within the central registry shall be classified in one (1) of the following categories:
- (i) "Under investigation"; or
  - (ii) "Substantiated".
- (e) Within six (6) months all reports classified as "under investigation" shall be reclassified as "substantiated" or expunged from the central registry, unless the state agency is notified of an open criminal investigation or criminal prosecution. Unsubstantiated reports shall not be contained within the central registry.
- (f) Any person named as a perpetrator of child abuse or neglect in any report maintained in the central registry which is classified as a substantiated report as defined in W.S. 14-3-202(a)(xi) shall have the right to have included in the report his statement concerning the incident giving rise to the report. Any person seeking to include a statement pursuant to this subsection shall provide the state agency with the statement. The state agency shall provide notice to any person identified as a perpetrator of his right to submit his statement in any report maintained in the central registry.

**14-3-214. Confidentiality of records; penalties; access to information; attendance of school officials at interviews; access to central registry records pertaining to child protection cases.**

- (a) All records concerning reports and investigations of child abuse or neglect are confidential except as provided by W.S. 14-3-201 through 14-3-215. Any person who willfully violates this subsection is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned in the county jail not more than six (6) months, or both.
- (b) Applications for access to records concerning child abuse or neglect contained in the state agency or local child protective agency shall be made in the manner and form prescribed by the state agency. Upon appropriate application, the state agency shall give access to any of the following persons or agencies for purposes directly related with the administration of W.S. 14-3-201 through 14-3-216:
- (i) A local child protective agency;
  - (ii) A law enforcement agency, guardian ad litem, child protection team or the attorney representing the subject of the report;

- (iii) A physician or surgeon who is treating an abused or neglected child, the child's family or a child he reasonably suspects may have been abused or neglected;
  - (iv) A person legally authorized to place a child in protective temporary custody when information in the report or record is required to determine whether to place the child in temporary protective custody;
  - (v) A person responsible for the welfare of the child;
  - (vi) A court or grand jury upon a showing that access to the records is necessary for the determination of an issue, in which case access shall be limited to in camera inspection unless the court finds public disclosure is necessary;
  - (vii) Court personnel who are investigating reported incidents of child abuse or neglect;
  - (viii) An education or mental health professional serving the child, if the state agency determines the information is necessary to provide appropriate educational or therapeutic interventions.
- (c) A physician or person in charge of an institution, school, facility or agency making the report shall receive, upon written application to the state agency, a summary of the records concerning the subject of the report.
- (d) Any person, agency or institution given access to information concerning the subject of the report shall not divulge or make public any information except as required for court proceedings.
- (e) Nothing in W.S. 14-3-201 through 14-3-215 prohibits the attendance of any one (1) of the following at an interview conducted on school property by law enforcement or child protective agency personnel of a child suspected to be abused or neglected provided the person is not a subject of the allegation:
- (i) The principal of the child's school or his designee; or
  - (ii) A child's teacher or, counselor, or specialist employed by the school or school district and assigned the duties of monitoring, reviewing or assisting in the child's welfare in cases of suspected child abuse or neglect.
- (f) Upon appropriate application, the state agency shall provide to any chapter of a nationally recognized youth organization, child caring facility certified under W.S. 14-4-101 et seq., public or private school or state institution for employee or volunteer screening purposes a summary of central registry records maintained under state agency rules since December 31, 1986, for purposes of screening employees or volunteers. The state agency shall provide the results of the records check to the applicant by certified mail if the records check confirms the existence of a report "under investigation" or a "substantiated" finding of abuse or neglect. Otherwise, the state agency shall provide the results of the records check to the applicant by United States mail. The written results shall confirm that there is a report "under investigation", a "substantiated" finding of abuse or neglect on the central registry naming the individual or confirm that no record exists. When the individual is identified on the registry as a "substantiated" perpetrator of abuse or neglect, the report to the applicant shall contain information with respect to the date of the finding, specific type of abuse or neglect, a copy of the perpetrator's voluntary statement and whether an appeal is pending. The applicant shall submit a fee of ten dollars (\$10.00) and proof satisfactory to the state agency that the prospective or current employee or volunteer whose records are being checked consents to the release of the information to the applicant. The applicant shall use the information received only for purposes of screening prospective employees and volunteers who may, through their employment or volunteer services, have unsupervised access to minors. Applicants, their employees or other agents shall not otherwise divulge or make public any information received under this section. The state agency shall notify any applicant receiving information under this subsection of any subsequent reclassification of the information pursuant to W.S. 14-3-213(e). The state agency shall screen all prospective agency employees in conformity with the procedure provided under this subsection.
- (g) There is created a program administration account to be known as the "child and vulnerable adult abuse registry account". All fees collected under subsection (f) of this section shall be credited to this account.

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

- (a) There is created an interagency children's collaborative. The collaborative shall be composed of:
- (i) The director of the department of family services, or his designee;
  - (ii) The director of the department of health, or his designee;
  - (iii) The superintendent of public instruction, or his designee;

- (iv) The director of the department of workforce services, or his designee; and
  - (v) The governor's appointee who shall represent families receiving services from the state agencies represented in paragraphs (i) through (iv) of this subsection.
- (b) The department of family services shall adopt rules by July 1, 2005, to establish guidelines for review of case files of children in state custody as a result of any action commenced under this title. The rules shall be adopted by the department of family services with the advice of the departments of education, health and workforce services. In addition to providing for the review of cases and the progress made towards returning children in state custody to their homes, communities or other permanent placements, the guidelines shall provide specific processes for:
- (i) Local multidisciplinary teams to voluntarily present case files to the collaborative for review;
  - (ii) The review of cases in which more than one (1) state agency provides services to the child and his family; and
  - (iii) The review of statewide availability and utilization of resources for children in state custody.

**14-3-216. Other laws not superseded.**

No laws of this state are superseded by the provisions of W.S. 14-3-201 through 14-3-216.

## ARTICLE 4 - CHILD PROTECTION ACT

**14-3-401. Short title.**

This act shall be known and may be cited as the "Child Protection Act."

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

(a) As used in this act:

- (i) "Adjudication" means a finding by the court or the jury, incorporated in a decree, as to the truth of the facts alleged in the petition;
- (ii) "Adult" means an individual who has attained the age of majority;
- (iii) "Child" means an individual who is under the age of majority;
- (iv) "Clerk" means the clerk of a district court acting as the clerk of a juvenile court;
- (v) "Commissioner" means a district court commissioner;
- (vi) "Court" means the juvenile court established by W.S. 5-8-101;
- (vii) "Custodian" means a person, institution or agency responsible for the child's welfare and having legal custody of a child by court order or having actual physical custody and control of a child and acting in loco parentis;
- (viii) "Deprivation of custody" means transfer of legal custody by the court from a parent or previous legal custodian to another person, agency, organization or institution;
- (ix) "Judge" means the judge of the juvenile court;
- (x) "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, transportation, 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;
- (xi) "Minor" means an individual who is under the age of majority;
- (xii) "Neglected child" means a child:
  - (A) Who has been subjected to neglect as defined in W.S. 14-3-202(a)(vii);
  - (B) Who has been subjected to abuse as defined in W.S. 14-3-202(a)(ii).
- (I) - (IV) Repealed By Laws 2005, ch. 236, § 4.
- (xiii) "Parent" means either a natural or adoptive parent of the child, a person adjudged the parent of the child in judicial proceedings or a man presumed to be the father under W.S. 14-2-504;
- (xiv) "Parties" include the child, his parents, guardian or custodian, the state of Wyoming and any other person made a party by an order to appear, or named by the juvenile court;



(xv) "Protective supervision" means a legal status created by court order following an adjudication of neglect, whereby the child is permitted to remain in his home subject to supervision by the department of family services, a county or state probation officer or other qualified agency or individual the court may designate;

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

- (A) The duty to support and provide necessities of life;
- (B) The right to consent to adoption;
- (C) The right to reasonable visitation unless restricted or prohibited by court order;
- (D) The right to determine the minor's religious affiliation; and
- (E) The right to petition on behalf of the minor.

(xvii) "Shelter care" means the temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement or commitment;

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

(xix) "Temporary protective custody" means a legal status created prior to a shelter care hearing when a court, law enforcement officer, physician, physician's assistant or nurse practitioner takes a child into protective custody pursuant to W.S. 14-3-405. Temporary protective custody vests in a custodian the duty to protect the child and arrange for the provision of food, shelter, clothing, transportation, ordinary medical care and education. Temporary protective custody shall be transferred from the law enforcement officer, physician, physician's assistant or nurse practitioner to the local child protection agency as soon as practicable to facilitate such care. Temporary protective custody divests the parent or custodian of his right to the custody and control of the child;

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

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

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

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

- (i) There are reasonable grounds to believe a child is abandoned, lost, suffering from illness or injury or seriously endangered by his surroundings and immediate custody appears to be necessary for his protection; or
- (ii) The child's conduct or behavior seriously endangers himself and immediate custody appears necessary.

(b) A child may be taken into temporary protective custody by a physician, physician's assistant or nurse practitioner without a warrant or court order and without the consent of the parents, guardians or others exercising temporary or permanent control over the child when the physician, physician's assistant or nurse practitioner treating the child, or a hospital in which the child is being treated, finds that there is reasonable cause to believe an imminent danger to the child's life, health or safety exists unless the child is taken into protective custody, whether or not additional medical treatment is required, and there is not time to apply for a court order.

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

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

- (ii) Issue an emergency order or search warrant upon application and hearing, authorizing ordinary or emergency care of the child or authorizing a forensic examination to collect evidence.
- (d) Temporary protective custody shall not exceed forty-eight (48) hours, excluding weekends and legal holidays.
- (e) When necessary for the best interest or welfare of the child in temporary protective custody, a court may order medical or other necessary health care, including mental health and substance abuse care, notwithstanding the absence of a prior finding of child abuse or neglect.

**14-3-411. Complaints alleging neglect; investigation and determination by district attorney.**

Complaints alleging a child is neglected shall be referred to the office of the district attorney. The district attorney shall determine whether the best interest of the child requires that judicial action be taken. The department of family services and the county sheriff shall provide the district attorney with any assistance he may require in making an investigation. The district attorney shall prepare and file a petition with the court if he believes action is necessary to protect the interest of the child.

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

- (a) Proceedings in juvenile court are commenced by filing a petition with the clerk of the court. The petition and all subsequent pleadings, motions, orders and decrees shall be entitled "State of Wyoming, In the Interest of . . . , minor." A petition shall be signed by the district attorney on information and belief of the alleged facts. All petitions must be verified.
- (b) The petition shall set forth all jurisdictional facts, including but not limited to:
  - (i) The child's name, date of birth and address;
  - (ii) The names and addresses of the child's parents, guardian or custodian and the child's spouse, if any;
  - (iii) Whether the child is being held in shelter care and if so, the name and address of the facility and the time shelter care commenced;
  - (iv) A statement setting forth with particularity the facts which bring the child within the provisions of this act; and
  - (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.
- (c) The petition shall state if any of the facts enumerated in subsection (b) of this section are unknown.

**14-3-425. Burden of proof required; verdict of jury; effect thereof.**

- (a) Allegations of conduct showing a child to be neglected must be proved by a preponderance of the evidence.
- (b) If trial by jury is demanded, the jury shall decide issues of fact raised by the petition and return its verdict as to the truth of the allegations contained in the petition. A finding by the jury that the allegations are true is a determination that judicial intervention is necessary for the best interest and welfare of the child.

**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. 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.
- (b) The consent decree shall be in writing and copies given to all parties. The decree shall include the case plan for the family.
- (c) A consent decree, if the child remains within the home, shall be in force for the period agreed upon by the parties 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 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.

(g) Parties discharged by the court under a consent decree without reinstatement of the original petition 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. (Excerpted)**

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

(i) The court shall review the predisposition report, 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;

(ii) If the court does not place the child in accordance with the recommendations of the predisposition report or multidisciplinary team, the court shall enter on the record specific findings of fact relied upon to support its decision to deviate from the recommended 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;

(iv) When a child is adjudged to be neglected the court shall ensure that reasonable efforts were made by the department of family services to prevent or eliminate the need for removal of the child from the child's home or to make it possible for the child to return to the child's home. Before placing a child outside of the home, the court shall find by clear and convincing evidence that to return the child to the child's home would not be in the best interest of the child despite efforts that have been made;

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

(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;

(ii) Place the child under protective supervision;

(iii) Transfer temporary legal custody to a relative or other suitable adult the court finds qualified to receive and care for the child, with or without 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.

**14-3-440. Reasonable efforts for family reunification; exceptions.**

(a) Except as provided in W.S. 14-2-309(b) or (c), reasonable efforts shall be made to preserve and reunify the family:

(i) Prior to placement of the child outside the home, to prevent or eliminate the need for removing the child from the child's home; and

(ii) To make it possible for the child to safely return to the child's home.

(b) In determining what reasonable efforts shall be made with respect to a child and in making those reasonable efforts, the child's health and safety shall be the paramount concern.

- (c) Reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with the reasonable efforts described in subsection (a) of this section.
- (d) If continuation of reasonable efforts described in subsection (a) of this section is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made for placement of the child in a timely manner in accordance with the permanency plan, and to complete the steps necessary to finalize the permanent placement of the child.
- (e) Reasonable efforts determinations shall include whether or not services to the family have been accessible, available and appropriate.
- (f) The court shall make the reasonable efforts determinations required under this section at every court hearing. The reasonable efforts determinations shall be documented in the court's orders.
- (g) Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.
- (h) Repealed by Laws 2005, ch. 201, § 2.