

State of Wyoming Child Death Review Legislation

Wyoming Statute § 14-3-201 through 14-3-215 (1997) and Regulation 35282 (2001)

Link: <http://legisweb.state.wy.us/statutes/titles/title14/chapter03.htm>

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.

(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 14-3-215 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;
- (xii) Repealed by Laws 2002, Ch. 86, § 3.
- (xiii) Repealed By Laws 2002, Ch. 86, § 3.
- (xiv) Repealed By Laws 2002, Ch. 86, § 3.
- (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;
 - (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; and
 - (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.

14-3-207. Abuse or neglect as suspected cause of death; coroner's investigation.

Any person who knows or has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report to the appropriate coroner. The coroner shall investigate the report and submit his findings in writing to the law enforcement agency, the appropriate district attorney and the local child protective agency.

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;
 - (vi) Perform any other duties ordered by the court relating to the care or custody of the child.

14-3-209. Immunity from liability.

Any person, official, institution or agency participating in good faith in any act required or permitted by W.S. 14-3-201 through 14-3-215 is immune from any civil or criminal liability that might otherwise result by reason of the action. For the purpose of any civil or criminal proceeding, the good faith of any person, official or institution participating in any act permitted or required by W.S. 14-3-201 through 14-3-215 shall be presumed.

14-3-210. Admissibility of evidence constituting privileged communications.

(a) Evidence regarding a child in any judicial proceeding resulting from a report made pursuant to W.S. 14-3-201 through 14-3-215 shall not be excluded on the ground it constitutes a privileged communication:

- (i) Between husband and wife;
- (ii) Claimed under any provision of law other than W.S. 1-12-101(a)(i) and (ii); or
- (iii) Claimed pursuant to W.S. 1-12-116.

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.

(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.

(b) The local child protection team shall be composed of:

- (i) A member of the district attorney's office;
- (ii) A designated representative from the school district or districts within the area served by the team;
- (iii) A representative from the local field office of the department of family services;
- (iv) A representative from the county government;
- (v) A representative from each city and town in the county;
- (vi) Representatives from other relevant professions; and
- (vii) Temporary members selected for the needs of a particular case as determined by the team.

(c) The local child protection team may:

- (i) Assist and coordinate with the state agency, the local child protective agency and all available agencies and organizations dealing with children;
- (ii) Repealed By Laws 2005, ch. 236, § 4.
- (iii) Coordinate the provision of appropriate services for abused and neglected children and their families;
- (iv) Identify or develop community resources to serve abused and neglected children and advocate for improved services and procedures for such children;
- (v) Identify training needs, sponsor training and raise community awareness of child protection issues; and
- (vi) Assist and make recommendations of appropriate services in individual cases brought to it by the state agency or the local child protection agency.

(d) The local child protection team shall not act as a multidisciplinary team, but members of the child protection team may serve on a multidisciplinary team if appointed pursuant to W.S. 14-3-427.

(e) All records and proceedings of the child protection teams are subject to W.S. 14-3-214.

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".

(iii) Repealed By Laws 2005, ch. 23, § 2.

(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; and

(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.