

DRAFT WY JUVENILE CODE

12.2.10 version

(FOR DISCUSSION)

**14-6-201: Preamble and Purpose:**

- a) This chapter shall be known as the Wyoming Juvenile Justice Act. The purpose of this act is to provide for accountability and rehabilitation of children who come under the jurisdiction of the juvenile court for unlawful behavior. The act promotes the protection of the public through the treatment of children who violate the law commensurate with their age, developmental stage and individual needs.
- b) This act shall be construed to effectuate the following public purposes:
  - i) Consistent with the best interests of the child and public safety:
    - A) To promote accountability for unlawful acts while recognizing the behavior of children who have been victimized or have disabilities, such as serious mental illness that requires treatment, or children with a cognitive impairment that require special services;
    - B) To remove the taint of criminality from children committing unlawful acts; and
    - C) To provide treatment, training and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct, reduces recidivism and helps children to become functioning and contributing adults.
  - ii) To provide for the care, the protection and the wholesome moral, mental and physical development of children within the community whenever possible using the least restrictive and most appropriate interventions;
  - iii) To be flexible and innovative and encourage coordination at the community level to reduce the commission of unlawful acts by children;
  - iv) To achieve the foregoing purposes in a family environment whenever possible, removing the child to an out-of-home placement only when it is judicially determined to be necessary for the child's welfare or in the interest of public safety and when a child is removed from the child's family, to ensure that individual needs will control placement and provide the child the care that should be provided by parents;
  - v) To preserve and strengthen the family of the child whenever

possible, including improvement of the home environment of the child;

- vi) To promote a continuum of services for children and their families that emphasizes prevention of further criminal activity by the use of graduated responses including early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior.
- vii) To provide integrated service delivery and coordination with other child-serving agencies, as appropriate;
- viii) To provide humane, safe and therapeutic confinement when juveniles are detained for public safety, and
- ix) To provide a simple judicial procedure through which the provisions of this act are executed and enforced and in which the parties are assured a fair and timely hearing and their constitutional and other legal rights recognized and enforced.

c) **Definitions:** 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 18 years of age or older;
- iii) “Child” means an individual who is under the age of 18 or a person who is less than 21 years of age and is subject to jurisdiction of the juvenile court for an unlawful act that was committed before the person reached 18 years of age;
- iv) Repealed by Laws 1997, ch. 199, § 3.
- v) “Child’s Attorney” means a licensed attorney who provides legal services for a child or minor and who owes the same duties of undivided loyalty, confidentiality, and competent representation to the child or minor as is due an adult client. The attorney shall represent the stated interests of the child.
- vi) “Clerk” means the clerk of a district court acting as the clerk of a juvenile court;
- vii) “Commissioner” means a district court commissioner qualified and trained in adolescent development and juvenile law;
- viii) “Court” means the juvenile court established by W.S. 5-8-101;
- ix) “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;

- x) “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;
- xi) “Detention” means the temporary care of a child in physically restricting facilities pending court disposition or the execution of a court order to place or commit a child to a juvenile detention facility;
- xii) “Diversion” means handling minor and first time offenses outside of juvenile court in lieu of prosecution;
- xiii) “Graduated responses” means a system that includes the use of incentives to promote positive behavior changes as well as sanctions for probation violations that fit the seriousness of the offending behavior and take into account the risk of the youthful offender;
- xiv) “Guardian ad litem” means an individual charged with acting in the best interest of the child and, even if the guardian ad litem appointed is an attorney, a guardian ad litem is not a substitute for the child’s counsel charged with representing the child’s stated interest.
- xv) “Hardware secure juvenile detention facility” means a facility used for the detention of minors that is characterized by locks on the doors and other restrictive hardware designed to restrict the movement of the minors and protect public safety;
- xvi) “Judge” means the judge of the juvenile court qualified and trained in adolescent behavior and juvenile law;
- xvii) “Juvenile offense” means an act punishable as a criminal offense by the laws of this state or any political subdivision thereof. This term shall not apply to status offenses;
- xviii) “Juvenile offender” means a child who has committed a juvenile offense;
- xix) “Legal custody” means as defined in W.S. 14-3-402(a)(x);
- xx) “Minor” means an individual who is under the age of 18 or a person who is less than 21 years of age and is subject to the jurisdiction of the juvenile court for an unlawful act that was committed before the person reached 18 years of age;
- xxi) “Minor traffic offenses” for purposes of this chapter include all traffic violations that do not provide incarceration as a possible penalty for the offense;
- xxii) Repealed by Laws 1997, ch. 199, § 3.

- xxiii) “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;
- xxiv) “Parties” include the child, his parents, guardian or custodian, the state of Wyoming and any other person or representative of an agency or entity responsible for providing services to a child made a party by an order to appear, or named by the juvenile court, including but not limited to school personnel and others legally mandated by federal or state law to provide services to the child;
- xxv) “Probation” means a legal status created by court order following an adjudication of delinquency where a child is subject to supervision by a city or county probation officer, the department or other qualified private organization the court may designate.
- xxvi) Repealed by Laws 1997, ch. 199, § 3.
- xxvii) “Residual parental rights and duties” means those rights and duties remaining with the parents after 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;
- xxviii) “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 as defined in W.S. 14-6-201(a)(xxii);
- xxix) “Staff secure detention facility” means a facility used for the detention of minors that is characterized by a trained staff to supervise the movement and activities of detained minors at the facility, without the additional use of hardware secure equipment;
- xxx) “Status offense” means an offense which, if committed by an adult, would not constitute an act punishable as a criminal offense by the laws of this state or as a violation of a municipal ordinance;
- xxxi) “Status offender” is an individual who has been charged with or adjudicated for conduct that would not, pursuant to the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. An adjudicated status offender who violates the terms of his or her probation or aftercare remains a status

- offender unless the child is contemporaneously adjudicated for having committed a juvenile offense that is not a status offense;
- xxxii) “Juvenile detention facility” means any facility that may legally and physically restrict and house a child, other than the Wyoming boys' school, the Wyoming girls' school, the Wyoming state hospital or other private or public psychiatric facility within the state of Wyoming;
- xxxiii) “Department” means the Wyoming department of family services;
- xxxiv) “This act” means W.S. 14-6-201 through 14-6-252.

**§ 14-6-203. Jurisdiction; confidentiality of records.**

- a) The juvenile court shall have exclusive original jurisdiction in all cases, except minor traffic offenses, in which a child is alleged to have committed a juvenile offense or to have violated a municipal ordinance.
- b) All cases over which the juvenile court has exclusive original jurisdiction shall be commenced in juvenile court, but may thereafter be transferred to another court having jurisdiction pursuant to W.S. 14-6-237.
- c) Coincident with proceedings concerning a minor alleged to have committed a juvenile offense, the juvenile court has jurisdiction to:
- i) Enter a finding that the minor has committed a juvenile offense;
  - ii) Enter a finding that a juvenile has violated the terms of a diversion agreement or probation order;
  - iii) Determine questions concerning the right to legal custody of the minor;
  - iv) Order any party to the proceedings to perform any acts, duties and responsibilities the court deems necessary to address the underlying causes of the minor’s law violations or that are legally mandated by state or federal law; or
  - v) Order any party to the proceedings to refrain from any act or conduct the court deems detrimental to the best interest and welfare of the minor or essential to the enforcement of any lawful order of disposition of the minor made by the court or necessary to address the underlying causes of the minor’s law violations.

- vi) Order the minor removed from the home consistent with the provisions of this act, provided that all less restrictive and more appropriate available alternatives and interventions have been attempted and failed.
- d) All information, reports or records made, received or kept by any municipal, county or state officer or employee evidencing any legal or administrative process or disposition resulting from a minor's misconduct are confidential and subject to the provisions of this act. The existence of the information, reports or records or contents thereof shall not be disclosed by any person unless:
  - i) Disclosure results from an action brought or authorized by the district attorney in a court of public record;
  - ii) The person the records concern is under eighteen (18) years of age and, in conjunction with one (1) of his parents, his attorney, or with the ratification of the court, authorizes the disclosure;
  - iii) The person the records concern is eighteen (18) years of age or older and authorizes the disclosure;
  - iv) The disclosure results from the information being shared with or between designated employees of any court, any law enforcement agency, any prosecutor's office, any employee of the victim services division within the office of the attorney general, any probation office or any employee of the department of family services or the minor's past or present school district who has been designated to share the information by the department of family services or by the school district;
  - v) The disclosure is authorized by W.S. 7-19-504.
- e) Once a child has been adjudicated a juvenile offender, jurisdiction of the juvenile court shall terminate when the child reaches 21 years of age unless, prior thereto, the judge of the juvenile court terminates its jurisdiction over the case involving the child. The court may not, however, exercise jurisdiction over a child to order an out-of-home placement for any conduct that is not a crime if committed by an adult.

**§ 14-6-204. Venue; change of venue or judge.**

- a) Proceedings under this act may be commenced in the county where the child is living or is present when the proceedings are commenced or in the county where the alleged delinquent act occurred.

- b) If a child resides in a county of the state and the delinquency is commenced in a juvenile court of another county, the juvenile court in the county in which the proceeding was commenced, on its own motion or a motion of a party and after consultation with the receiving juvenile court, may transfer the proceeding to the county of the residence of the child for such further action or proceedings as the juvenile court receiving the transfer may deem proper. A transfer may also be made if the residence of the child changes pending the proceeding. The proceeding shall be so transferred if the child has been adjudicated delinquent or in need of supervision pursuant to W.S. 14-6-401 and other proceedings involving the child are pending in the juvenile court of the county of his or her residence. Certified copies of all legal and social records pertaining to the case shall accompany the transfer.
- c) Whenever possible, all pending delinquency cases involving a minor should be heard by a single judge.

**§ 14-6-205. Taking of child into custody; when permitted, rights of the child.**

- a) A child may be taken into custody by a law enforcement officer without a warrant or court order when:
  - i) The circumstances would permit an arrest without a warrant under W.S. 7-2-102;
  - ii) There is probable cause to believe the child has violated the terms of an order of the juvenile court issued pursuant to this act; and
    - A) The juvenile will likely fail to appear for further proceedings;
    - B) The juvenile is a substantial threat to community safety; or
    - C) The juvenile is a material witness.
- b) Any person taking a child into custody shall immediately notify the child's parent, guardian or custodian.
- c) When a child is taken into custody, the person taking the child into custody shall inform the child of all of the following, in language or form understandable to the child:
  - i) The reason that the child is being taken into custody.
  - ii) That the child has the right to communicate with his or her parent, legal guardian, or legal custodian whether or not that person is present. If necessary, reasonable means will be provided for the child to do so.

- iii) The child has the right to communicate with an attorney. If the child does not have an attorney, one will be appointed for him or her. If the child has an attorney who is not present, reasonable means shall be provided for the child to communicate with the attorney.

**§ 14-6-206. Child in custody; no detention without court order; risk assessment; rights of the child; notice to parent or guardian; release.**

- a) A child taken into custody for an alleged juvenile offense shall not be placed in a hardware or staff secure juvenile detention facility unless a detention risk assessment instrument is completed and a determination is made that the child;
  - i) poses a substantial risk of harm to others; or
  - ii) has demonstrated that he may leave the jurisdiction of the court.
- b) If the risk assessment finds that the minor meets the criteria of subsection (a), the minor may be transferred to a medical facility if the minor is believed to be suffering from a serious physical or mental illness that requires prompt diagnosis or treatment.
- c) A minor under the age of twelve (12) years shall not be held in a hardware secure juvenile detention facility. If the minor under the age of twelve (12) years poses a substantial risk of harm to him or herself or others, a peace officer may detain and transport the minor for an emergency mental health evaluation.
- d) If a minor is taken into custody and is not released to the minor's parent, guardian or custodian, the person taking the minor into custody shall notify the child's parent, guardian or custodian immediately. Unless the child's detention or shelter care is authorized by a court order issued pursuant to this act or required for one (1) of the reasons in subsection (a) of this section, the child shall be released to the care of his parent, guardian, custodian or other responsible adult upon that person's written promise to present the child before the court upon request.
- e) Law enforcement shall use a uniform detention risk assessment instrument to determine if a child needs to be held in a hardware or staff secure juvenile detention facility.

**§ 14-6-207. Detention or shelter care; scope of detention; statement of**

**reasons requirement; delivery of child pending hearing; placing children; restrictions on secure detention.**

- a) Even though eligibility criteria may indicate that a particular juvenile may be detained in a hardware or staff secure detention facility, detention is not favored or mandatory. In every situation in which secure detention is to be considered, forms of control or interventions short of secure detention which could substantially reduce the risk of flight or danger to the juvenile or the community shall be given preference.
- b) Pre-adjudication detention may never be imposed as a means of punishment or to apply sanctions.
- c) Secure detention shall not be used when an alleged juvenile offender cannot be released solely because there is no parent, guardian or custodian able to assume responsibility or adequately supervise the juvenile.
- d) If secure detention or shelter care of a child is imposed without a court order the person in charge of the detention or shelter care facility shall promptly notify the court and the district attorney and shall deliver the child to the court upon request.

**§ 14-6-208. Notice of detention to be given district attorney; written statement required; duty of district attorney.**

- a) When a child is taken into custody without a court order and is placed in detention or shelter care, the person taking custody of the child shall notify the district attorney without delay. Also the person shall as soon as possible file a brief written statement with the district attorney setting forth the facts which led to taking the child into custody and the reason why the child was not released.
- b) Upon receiving notice that a child is being held in detention or shelter care, the district attorney shall immediately review the need for detention or shelter care and may order the child released unless detention or shelter care is ordered by the court or is appropriate based upon the results of the detention risk assessment conducted pursuant to W.S. 14-6-206.

**§ 14-6-209. Taking of child into custody; detention hearing where no court order; conditional release; evidence; rehearing.**

- a) When a child is placed in detention or shelter care without a court order, a detention or shelter care hearing shall be held as soon as reasonably possible not later than forty-eight (48) hours after the child is placed in detention or shelter care, excluding weekends and legal holidays, to determine if further detention or shelter care is required pending further court action. Preference shall be given to non-secure alternatives that could reduce the risk of flight and protect the community pending disposition. Written notice stating the time, place and purpose of the hearing shall be given to the child and to his parents, guardian or custodian.
- b) The child shall be provided access to consult with counsel prior to the detention or shelter care hearing, but in no event later than twenty-four (24) hours, excluding weekends and legal holidays, after the child is taken into custody.
- c) A petition as provided in W.S. 16-6-212 must be promptly filed and presented to the court no later than 72 hours after the detention or shelter hearing if the child is held in detention or shelter care after the hearing.
- d) At the commencement of a detention, shelter care, or initial hearing the judge shall advise the child and his parents, guardian or custodian of:
  - i) The contents of the petition and the nature of the charges or allegations contained therein if a petition has been filed;
  - ii) The right to counsel as provided in W.S. 14-6-222;
  - iii) The child's right to remain silent with respect to any allegations of a juvenile offense;
  - iv) The right to confront and cross-examine witnesses or to present witnesses and evidence in their own behalf and the right to issuance of process by the court to compel the appearance of witnesses and the production of evidence;
  - v) The right to a jury trial as provided in W.S. 14-6-223;
  - vi) The right to appeal as provided in W.S. 14-6-233; and
  - vii) All other rights afforded a criminal defendant.
- e) The child shall be given an opportunity to admit or deny the allegations in a petition provided they have first been afforded the opportunity to consult with their parent or legal guardian and counsel. No child shall be permitted to waive their right to counsel or plead

guilty to allegations in a petition without having been provided the advice of counsel.

- f) If the allegations in a petition are admitted by a minor after receiving the advice of counsel, the court shall make the appropriate adjudication and may proceed immediately to a disposition of the case, provided the minor agrees after receiving the advice of counsel and the court has the predisposition report and multidisciplinary team recommendations, in accordance with the provisions of W.S. 14-6-229. A commissioner acting in the absence or incapacity of the judge may take testimony to establish a factual basis and accept an admission if the child has received advice of counsel and perform all other requirements of the initial hearing, but shall not proceed to disposition.
- g) If the allegations in the petition are denied, the court shall set a time not to exceed thirty (30) days if the child is not in custody, or ten (10) days if the child is in detention or shelter care, for an adjudicatory hearing or a transfer hearing, unless the court finds good cause to delay or postpone the hearing.
- h) Regardless of whether the allegations in the petition are admitted or denied, the court shall determine whether or not the child's full-time detention or shelter care is required pending further proceedings. If the court finds that continued detention or shelter care is appropriate based upon the results of the detention risk assessment conducted pursuant to W.S. 14-6-206 the court shall enter the finding on the record and order the child placed in the legal custody of the department. The court shall explain the terms of the court order to the child, his parents or legal guardian and any other person the court deems necessary. If the court finds that full-time detention or shelter care is not required, the court shall order the child released and may impose one (1) or more of the following conditions:
  - i) Place the child in the custody and supervision of his parents, guardian or custodian, under the protective supervision of the department or a county or state probation officer or under the supervision of any individual or organization approved by the court that agrees to supervise the child.
  - ii) Place restrictions on the child's travel, associates, activities or place of abode during the period of his release, including a requirement that the child return to the physical

custody of his parents, guardian or custodian at specified hours; or

- iii) Impose any other terms and conditions of release deemed reasonably necessary to assure the appearance of the child at subsequent proceedings, including the imposition of a bail bond pursuant to W.S. 7-10-101. The juvenile's parent or guardian may sign for the bail bond. A court authorizing such a release shall issue an order containing a statement of conditions imposed upon the juvenile and shall set the date of his or her next court appearance. The court shall advise the juvenile of any conditions specified in the order and may at any time amend such an order in order to impose additional or different conditions of release upon the juvenile or to return the juvenile to custody for failing to conform to the conditions imposed. In addition to requiring the juvenile to appear at the next court date, the court may condition the bond on the juvenile's compliance with conditions of release. The juvenile's parent or guardian may notify the court that the juvenile has failed to conform to the conditions of release or the provisions in the bond. If the parent notifies the court of the juvenile's failure to comply with the bond, the court shall notify the surety. As provided in the terms of the bond, the surety shall provide notice to the court of the offender's noncompliance. A juvenile may be released only to a responsible adult or the department of family services.
- i) All relevant and material evidence helpful in determining the need for detention or shelter care may be admitted by the court even though not competent in an adjudicatory hearing on the allegations of the petition.
- j) Preference shall be given to keeping the child at home or in the least restrictive placement possible with supports and supervision, if needed, to protect public safety or ensure the child's appearance at future proceedings.
- k) If a child is not released after a detention or shelter care hearing and it appears by sworn statement of the parents, guardian or custodian that they did not receive notice and did not waive notice and appearance at the hearing, the court shall rehear the matter without delay.

**§ 14-6-210. Hearing conducted by commissioner; authority and duty; review by court.**

- a) In the absence or incapacity of the judge, the detention or shelter care hearing may be conducted by a district court commissioner of the county in which the child is being detained or held in shelter care.
- b) The commissioner may make any order concerning the child's release, continued detention or shelter care as authorized to the judge under W.S. 14-6-209. If the child is not released after the hearing, the commissioner shall promptly file with the court a complete written resume of the evidence adduced at the hearing and his reasons for not releasing the child. The commissioner shall conduct the hearing pursuant to W.S. 14-6-209 except that, if a child who has been advised of his rights wishes to admit the allegations, the commissioner may take testimony to establish a factual basis and accept the admission and perform all other requirements of the initial hearing but shall not proceed to disposition. The hearing shall be conducted in the presence of counsel and guardian ad litem, if so appointed. The commissioner may also appoint counsel, appoint a guardian ad litem, order a predisposition report, appoint a multidisciplinary team, issue subpoenas or search warrants, order physical or medical examinations and authorize emergency medical, surgical or dental treatment all as provided in this act. The commissioner shall not make final orders of adjudication or disposition.
- c) The court shall review the reports, orders and actions of the commissioner as soon as reasonably possible and confirm or modify the commissioner's orders and actions as it deems appropriate.

**§ 14-6-211. Complaints alleging a juvenile offense; investigation and determination by district attorney.**

- a) Complaints alleging a child has committed a juvenile offense shall be referred to the office of the district attorney. The district attorney shall determine whether the best interest of the child or of the public require that judicial action be taken. The department, the county sheriff and the county probation departments 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 public or child. Prior to filing a petition, the district attorney shall exhaust all other appropriate community based diversion alternatives, including, but not limited to, appropriate school interventions, restorative justice

approaches to holding the offender accountable, and juvenile detention alternative initiative options.

- b) In lieu of prosecution, the district attorney may enter into a diversion agreement with the child.
- c) A diversion agreement shall be a contract between a juvenile accused of an offense whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the district attorney, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.
- d) Any admissions made during the diversion process shall not be used against a juvenile in any later proceedings.
- e) Divertees and potential divertees shall be afforded due process in all contacts during the diversion process. Such due process shall include, but not be limited to, the following:
  - (i) A written diversion agreement shall be executed stating all conditions and the length of the term of diversion in clearly understandable language;
  - (ii) Violation of the terms of the agreement shall be the only grounds for termination;
- f) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the district attorney to convert an unpaid fine into community restitution.
- g) Fines imposed under this section shall be collected and paid into the county general fund and may be used only for juvenile services.

**§ 14-6-212. Commencement of proceedings; contents of petition.**

- a) Juvenile offender proceedings in juvenile court are commenced by filing a petition with the clerk of the court. The petition must be filed no later than fifteen (15) days after a detention or shelter care hearing if the child is not held in detention or shelter care or within 72 hours of the detention or shelter care hearing if the child is in custody. 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

- i) The child's name, date of birth and address;
  - ii) The names and addresses of the child's parents, guardian or custodian and spouse, if any;
  - iii) Whether the child is being held in detention or shelter care and if so, the name and address of the facility and the time detention or shelter care commenced; and
  - iv) A statement setting forth with particularity the facts which bring the child within the provisions of W.S. 14-6-203. If the basis of the petition is an alleged unlawful act based upon a violation of the laws of the state or a political subdivision, the petition shall cite the alleged law violated.
- c) The petition shall state if any of the facts enumerated in subsection (b) of this section are unknown.

**§ 14-6-213. Order to appear; contents thereof; waiver of service.**

- a) After a petition is filed, the court shall issue an order to appear. The order shall:
  - i) State the name of the court, the title of the proceedings and the time and place for the initial hearing;
  - ii) Direct the persons named therein to appear personally at the hearing and direct the person having actual physical custody or control of the child to present the child before the court;
  - iii) Be directed to the child's parents, guardian, custodian and spouse, if any, and to any other person the court deems necessary; and
  - iv) Be directed to the child alleged to have committed a juvenile offense.
- b) Service of the order may be waived either in writing or by voluntary appearance at the hearing, provided a child may waive service of the order only with the consent of his parents, guardian, custodian, guardian ad litem or counsel.

**§ 14-6-214. Service of process; order of custody or detention.**

- a) In proceedings under this act, service of order to appear or other process within the state shall be made by the sheriff of the county where service is made, by his undersheriff or deputy or by any law enforcement officer or responsible adult not a party to the proceeding and appointed by the clerk.
- b) Within the state, service of order to appear is made by personally delivering a copy of the order together with a copy of the petition to

the person ordered to appear, provided that parents of a child may both be served by personally delivering to either parent two (2) copies of the order and petition, one (1) copy for each parent. A child under the age of fourteen (14) years is served by delivering a copy of the order together with a copy of the petition to the child's parents, guardian, custodian or other adult having the actual physical custody and control of the child or to a guardian ad litem or attorney appointed for the child.

- c) If it appears to the court by affidavit that the parents, guardian or custodian of the child cannot be found within the state, the court may order personal service outside the state or service by certified mail with return receipt requested signed by addressee only. If the address of the child's parents, guardian or custodian is unknown and cannot with reasonable diligence be ascertained, the court shall appoint a guardian ad litem to represent the child and to receive service of process.
- d) Service by certified mail is complete on the date the clerk receives the return receipt signed by addressee. Personal service either within or outside the state is complete on the date when copies of the order to appear and petition are delivered to the person to be served.
- e) When personal service of order to appear is made within the state, service shall be completed not less than two (2) days before the hearing and when made outside the state, service shall be completed not less than five (5) days before the hearing. However, notwithstanding any provision within this act, the court may order that a child be taken into custody as provided in W.S. 14-6-213 or that a child be held in detention or shelter care pending further proceedings as provided in W.S. 14-6-209, even though service of order to appear on the parents, guardian or custodian of the child is not complete at the time of making the order.

**§ 14-6-215. Presence of parent, custodian or guardian at hearing; failure to appear; avoidance of service; issuance of bench warrant.**

- a) The court shall insure the presence at any hearing of the parents, guardian or custodian of any child subject to the proceedings under this act.
- b) If a person served with an order to appear as provided in W.S. 14-6-214 and without reasonable cause fails to appear, the court may issue a bench warrant to cause the person to be brought before the court.

- c) If the child, his parents, guardian or custodian or any other person willfully avoids or refuses service of order to appear, or it appears to the court that service of the order will be ineffectual or that the welfare of the child requires that he be brought immediately into the custody of the court, a bench warrant may be issued by the court for the child or his parents, guardian, custodian or any person having the actual physical custody or control of the child.

**§ 14-6-216. Appointment of guardian ad litem.**

The court shall appoint a guardian ad litem for a child who is a party to proceedings under this act if the child has no parent, guardian or custodian appearing in his behalf or if the interests of the parents, guardian or custodian are adverse to the best interest of the child. A party to the proceeding or employee or representative thereof shall not be appointed guardian ad litem for the child. The guardian ad litem shall not be a substitute for the child's attorney.

**§ 14-6-217. Subpoenas for witnesses and evidence.**

Upon application of any party to the proceeding, the clerk shall issue and the court on its own motion may issue subpoenas requiring the attendance and testimony of witnesses and the production of records, documents or other tangible evidence at any hearing.

**§ 14-6-218. Search warrant; when authorized; affidavit required; contents of affidavit and warrant; service and return.**

- a) The court or a commissioner may issue a search warrant within the court's jurisdiction if it appears by application supported by affidavit of one (1) or more adults that there is probable cause to believe a child has committed an unlawful act and the child is in hiding to avoid service of process or being taken into custody, or it appears by application supported by affidavit of one (1) or more adults that there is probable cause to believe a child has committed an unlawful act.
- b) The affidavit shall be in writing, signed and affirmed by the affiant. The affidavit shall set forth:
  - i) The name and age of the child sought, provided that if the name or age of the child is unknown the affidavit shall set forth a description of the child sufficient to identify him with reasonable certainty and a statement that the affiant believes the child is of age to come within the provisions of this act; and

- ii) The affiant's belief that the child sought has committed an unlawful act and is in hiding to avoid service of process or being taken into custody, and a statement of the facts upon which the belief is based.
- c) The warrant may be directed to any law enforcement officer of the county or municipality in which the place or premises to be searched is located. The warrant shall:
  - i) Name or describe the child sought;
  - ii) Name the address or location and describe the place or premises to be searched;
  - iii) State the grounds for issuance of the warrant;
  - iv) Name the person or persons whose affidavit has been taken in support of the warrant; and
  - v) Authorize the officer to whom the warrant is directed to conduct the search and instruct him as to the disposition of the child if found, pending further proceedings by the court.
- d) The officer making the search may enter the place or premises described in the warrant at any time with force if necessary, in order to remove the child or to obtain evidence that a delinquent act has been committed. The officer conducting the search shall serve a copy of the warrant upon the person in possession of the place or premises searched and shall return the original warrant to the court showing his actions in the premises.

**§ 14-6-219. Physical and mental examinations; involuntary commitment of incompetents; subsequent proceedings.**

- a) Any time after the filing of a petition, on motion of the district attorney or the child's parents, guardian, custodian or attorney, or on motion of the court, the court may order the child to be examined by a licensed and qualified physician, surgeon, psychiatrist or psychologist designated by the court to aid in determining the physical, developmental and mental condition of the child to determine if he or she is competent to understand the delinquency proceedings and to aid the defense.
- b) The examination shall be conducted on an outpatient basis, but the court may commit the child to a suitable medical facility or institution for examination if the court finds that the child is a danger to himself or others. Commitment for examination shall not exceed fifteen (15) days and must meet the requirements of Title 25.
- c) Any time after the filing of a petition, the court on its own motion or motion of the district attorney or the child's parents, guardian, custodian

or attorney, may order the child's parents, guardians or other custodial members of the child's family to undergo a substance abuse assessment at the expense of the child's parents, guardians or other custodial members of the child's family and to fully comply with all findings and recommendations set forth in the assessment. The court shall make a determination of ability to pay, and if the parents, guardians or other custodial members of the child's family are determined to be indigent, the court will waive the expense. Failure to comply with a valid court order requiring an assessment may result in contempt proceedings as set forth in W.S. 14-6-242.

- d) If a child has been committed to a medical facility or institution for mental examination prior to adjudication of the petition and if it appears to the court from the mental examination that the child is competent to participate in further proceedings and is not suffering from mental illness or intellectual disability to a degree rendering the child subject to involuntary commitment to the Wyoming state hospital, the court shall order the child returned to the court without delay.
- e) If it appears to the court by mental examination conducted before adjudication of the petition that a child alleged to be delinquent is incompetent to participate in further proceedings by reason of mental illness or intellectual disability to a degree that would render the child subject to involuntary commitment to the Wyoming state hospital, or does not have the developmental capacity to understand the nature of the pending delinquency proceedings and to assist in the defense, the court shall hold further proceedings under this act in abeyance.
- f) The juvenile court may not retain jurisdiction over the petition if the child is not likely to regain competency in the reasonably foreseeable future or if involuntary commitment proceedings conducted pursuant to Title 25 result in the commitment of the child to the Wyoming state hospital of other facility for the treatment of people with mental illness. .

**§ 14-6-221. Reports of medical or mental health screening, assessments, evaluations and examinations; use of results; copies; protection from self-incrimination.**

- a) The results of any medical or mental health screening, assessment, evaluation, or examination authorized or ordered by the court, including evaluations conducted pursuant to § 14-6-219 shall be reported to the court in writing and signed by the person making the examination. The results may not be considered by the court prior to adjudication but may

be considered only in making a disposition under this act. Copies of the examination reports shall be made available to the child's attorney.

- b) No statement, admission or confession, or incriminating information obtained from a child, the child's parent or guardian, in the course of any risk assessment, screening, medical or mental examination that is undertaken in conjunction with proceedings under this chapter, including but not limited to that which is court-ordered, shall be admitted into evidence against the child, parent, or guardian, in any proceeding under this chapter, or used as a basis for such evidence in any future adjudication or disposition hearings or criminal proceeding.

**§ 14-6-222. Advising of right to counsel required; appointment of counsel; duties of child's attorney; verification of financial condition.**

**a) Appointment of Counsel.**

- i) A child shall have the right to be represented by counsel at all stages of the proceedings under this Chapter, including appeal. In all juvenile offender matters the court shall appoint legal defense counsel who is not also a guardian ad litem for the same child. The child shall be represented by counsel at all stages, including detention hearings, diversion proceedings, adjudicatory and disposition hearings; probation revocation proceedings; and post-disposition matters. If indigent, the child shall have the right to have counsel appointed for him by the juvenile court.
- ii) The right to counsel includes the right to the appointment of necessary experts.
- iii) If the court finds that the parents of the child are financially able, it may order the parents to pay some or all of the costs of the child's representation pursuant to W.S. 14-6-235(c) provided the child is adjudicated a juvenile offender under this Chapter.
- iv) The court may appoint counsel for any party when necessary in the interest of justice.

**b) Duties of Child's Attorney.**

- i) In addition to those duties referenced in W.S. 14-6-201 the duties of a child's attorney include, but are not limited to, the following:
  - A) Irrespective of the age of the child, meet with the child prior to juvenile court hearings, when apprised of

emergencies or significant events impacting on the child, and as necessary to prepare for the juvenile court proceeding. The child's attorney shall explain, in terms understandable to the child, what is expected to happen at each stage of the proceedings, as well as the rights of the child at each stage of the proceedings.

- B) Conduct a prompt, thorough, and independent investigation of the facts, the health, family, social history, and educational background of the child, possible defenses, and applicable law, and seek discovery from the prosecution.
- C) Based upon the investigation, advise the child, in terms he or she can understand, as to his or her options for proceeding in the case and the likely outcomes of the various courses of action. Conduct the defense in accordance with the expressed interests of the client regarding whether to seek release from detention, whether to admit or deny the allegations, whether to testify, whether to enter into a negotiated settlement, whether to appeal, whether to accept or oppose a recommended disposition, and the overall goals of the representation.
- D) Attend all hearings scheduled by the juvenile court and file all necessary pleadings and motions to promote the expressed interests of the child and protect his or her rights.
- E) Maintain familiarity with the dispositional resources available through the juvenile court and in the community, and recommend appropriate services to the child and the family. Advocate in the dispositional process to protect the rights of the client, meet the goals of the representation, and ensure that the juvenile court is aware of any special needs of the child that should be addressed in the dispositional process.

**§ 14-6-223. Parental presence during interrogation; privilege against self-incrimination; rights of parties generally; demand for and conduct of jury trial.**

- a) A child alleged to have committed a juvenile offense may remain silent and need not be a witness against or otherwise incriminate himself, whether before the court voluntarily, by subpoena or otherwise.
- b) Before the child is questioned about anything concerning the charge on which the child was taken into custody, the person asking the questions shall inform the child of the following rights, in language understandable to the child:
  - i) That the child has the right to a child's attorney.
  - ii) That if the child is unable to pay for a child's attorney and if the parent, legal guardian, or legal custodian of the child has not provided a child's attorney for the child, one will be appointed. That the child is not required to say anything and that anything the child says may be used against the child.
  - iii) That the child has a right to communicate with his or her parent, legal guardian, or legal custodian, whether or not that person is present. If necessary, reasonable means will be provided for the child to do so.
  - iv) That even if the child's attorney is not present or has not yet been appointed, the child has the right to communicate with him or her and that, if necessary, reasonable means will be provided for the child to do so.
- c) Any admission, confession or statement, written or oral, made by a child to a police officer or juvenile court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless made by such child in the presence of his parent or parents or guardian and after the parent or parents or guardian and child have been advised of the rights in subsection (a). A custodial interrogation is any interrogation during which:
  - i) A reasonable person in the child's position would consider himself or herself to be unable to terminate the encounter; and
  - ii) A question is asked, or its functional equivalent occurs, that the law enforcement officer knew or should have known is reasonably likely to elicit an incriminating response.
- d) A party to any proceeding under this act is entitled to:
  - i) A copy of all charges made against him;
  - ii) Confront and cross-examine adverse witnesses;
  - iii) Introduce evidence, present witnesses and otherwise be heard in his own behalf; and

- iv) Issue of process by the court to compel the appearance of witnesses or the production of evidence.
- e) A party against whom a petition has been filed or the district attorney may demand in writing or on the record a trial by jury at an adjudicatory hearing. The jury shall be composed of jurors selected, qualified and compensated as provided by law for the trial of civil matters in the district court. The jury may be drawn from the jury panel of the district court or a special jury panel may be drawn from “jury box number three (3)” containing the names of persons residing within five (5) miles of the city or town where the trial is to be held, whichever the court directs. Demand for a jury trial must be made to the court not later than ten (10) days after the party making the demand is advised of his right to a jury trial. No deposit for jury fees is required. Failure of a party to demand a jury is a waiver of this right.

**§ 14-6-224. Conduct of hearings generally; exclusion of general public and child; exceptions; consolidations permitted.**

- a) Unless a jury trial is demanded, hearings under this act shall be conducted by the court without a jury in an orderly manner and separate from other proceedings not included in W.S. 14-6-203. The district attorney shall present evidence in support of the petition and otherwise represent the state. If the allegations in the petition are denied, adjudicatory and disposition hearings shall be recorded by the court reporter or by electronic, mechanical or other appropriate means.
- b) The general public is excluded from hearings under this act. Only the parties, counsel for the parties, jurors, witnesses, victims and members of their immediate families and other persons the court finds having a proper interest in the proceedings or in the work of the court shall be admitted.
- c) Hearings on two (2) or more petitions may be consolidated for purposes of adjudication when the allegations in the petitions pertain to the same act or offense constituting the alleged delinquency. Separate hearings on the petitions may be held thereafter for purposes of disposition.

**§ 14-6-225. Burden of proof required; verdict of jury; effect thereof.**

- a) Allegations that a child has committed an unlawful act must be proved beyond a reasonable doubt.

- 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 determination by the jury that the allegations are true is not deemed a conviction of guilt, but is a finding of a juvenile offense and that judicial intervention is necessary for the best interest and welfare of the child and the public.

**§ 14-6-226. Initial appearance; adjudicatory or transfer hearing; entry of decree and disposition; evidentiary matters; continuance of disposition hearing.**

- a) At their initial hearing, which may be held after a detention or shelter care hearing or a transfer hearing pursuant to W.S. 14-6-237, the child and his parents, guardian or custodian shall be advised in writing by the court of their rights under law and as provided in this act, including the right to appointed counsel if indigent. They shall also be advised of the specific allegations in the petition and given an opportunity to admit or deny them, unless motion is made to the court to transfer the allegations against the minor to another court. They shall also be advised of the possible liability for costs of treatment or services pursuant to this act or W.S. 25-11-101 through 25-11-108. When a detention or shelter care hearing is held in accordance with W.S. 14-6-209, a separate initial hearing is not required if the child and his parents, guardian or custodian were present at the detention or shelter care hearing and advised by the court as provided in this subsection.
- b) If the allegations of the petition are denied, the court may, with consent of the parties, proceed immediately to hear evidence on the petition, provided the child has been afforded the opportunity to consult with counsel, or it may set a later time not to exceed thirty (30) days if the child is not in detention or shelter care, or ten (10) days if the child is in custody, for an adjudicatory hearing unless the court finds good cause to delay or postpone the hearing. In no case shall the court hold the adjudicatory hearing more than ninety (90) days after the date the petition is filed.
- c) Only competent, relevant and material evidence shall be admissible at an adjudicatory hearing to determine the truth of the allegations in the petition. If after an adjudicatory hearing the court finds that the allegations in the petition are not established as required by this act, it shall dismiss the petition and order the child released from any detention or shelter care.

- d) If after an adjudicatory hearing or a valid admission or confession the court or jury finds that a child committed the alleged acts, it shall enter a decree to that effect stating the jurisdictional facts upon which the decree is based. It shall then proceed immediately or at a postponed hearing that shall be held within thirty (30) days after the adjudicatory hearing if the child is in detention, to make proper disposition of the child, unless the court finds good cause to delay or postpone the hearing.
- e) In detention or shelter care hearings, disposition hearings or transfer hearings, all material and relevant evidence helpful in determining questions may be received by the court and relied upon for probative value. The parties or their counsel may examine and controvert written reports received as evidence and cross-examine persons making the reports.
- f) On motion of any party or on its own motion, the court may continue a disposition hearing for a reasonable time not to exceed thirty (30) days to receive reports and other evidence bearing on the disposition to be made. The court shall make an appropriate order for detention or shelter care of the child or for his release from detention or shelter care subject to any terms and conditions the court deems necessary during the period of continuance.
- g) At any time prior to disposition under W.S. 14-6-229, the court, on motion of any party or on its own motion, may reconsider its order regarding detention, shelter care or conditions of release made under W.S. 14-6-209(d) or 14-6-214(e).

**§ 14-6-228. 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 has committed a juvenile offense and before adjudication, the court may, with the consent of the child and the state and without entering a judgment of guilt or conviction, defer further proceedings and place the child on probation for a term not to exceed one year. The terms of probation shall include that the child:
  - (i) Report to the court at times and places fixed in the order;
  - (ii) Conduct himself or herself in a law-abiding manner;
  - (iii) Not leave the state without the consent of the court;

Jennifer Horvath 12/2/10 3:40 PM  
**Comment:** I removed consent of the child's attorney and notification to the parents in order to more closely mirror 7-13-301. In addition, if a child doesn't have an attorney, would s/he be barred from entering a consent decree? Must parents be notified? If so, we can add notification to parents/guardian. I would ask folks for a final opinion on this.

- (iv) Conform his or her conduct to any other terms of probation the court finds proper; and
- (v) Pay restitution to each victim in accordance with W.S. [7-9-101](#) and [7-9-103](#) through [7-9-112](#).
- b) The consent decree shall be in writing and copies given to each of the parties.
  - (i) The decree shall include the case plan for the child.
  - (i) Modifications to an existing consent decree shall be in writing and copies shall be given to each of the parties.
- c) If the court finds the child has fulfilled the terms of probation, the court may at the end of the term of probation, discharge the child and dismiss the proceedings against him or her.
- d) If the child violates a term or condition of probation at any time before final discharge, the court may:
  - (i) Enter a finding of guilt and proceed to disposition pursuant to W.S. 14-6-226 if the child previously pled guilty to or was found guilty of the original charge for which probation was granted under this section; or
  - (ii) Order that the trial of the original charge proceed if the child has not previously pled or been found guilty on the instant charges.
- e) Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for any purpose.
- f) If a consent decree is in effect and the child is in placement, the court shall hold six (6) month and twelve (12) month reviews under W.S. [14-6-229](#).

**§ 14-6-227. Predisposition studies and reports.**

- a) After a finding is made that a child has committed a juvenile offense, the court shall order the department of family services to make a predisposition study and report in consultation with the child's multidisciplinary team if one is appointed pursuant to section 14-6-229 (e). The court shall establish a deadline for completion of the report to ensure that the disposition hearing shall be held within thirty (30) days after a finding that the child has committed a juvenile offense if the child is held in detention or shelter care pending disposition. While preparing the study the department shall consult with the child's school and school district to determine the child's educational needs. The study and report shall also cover:
  - i) The social history, environment and present condition of the child and his family;

- ii) The performance of the child in school, including whether the child receives special education services and how his goals and objectives might be impacted by the court's disposition, provided the school receives authorization to share the information;
- iii) The presence of child abuse and neglect or domestic violence histories, past acts of violence, learning disabilities, cognitive disabilities or physical impairments and the necessary services to accommodate the disabilities and impairments;
- iv) The presence of any mental health or substance abuse risk factors, including current participation in counseling, therapy or treatment; and
- v) Other matters relevant to the child's present status as a delinquent, including any pertinent family information, treatment of the child or proper disposition of the case, including any information required by W.S. 21-13-315(d).

**§ 14-6-229. Decree where child adjudged a juvenile offender; dispositions; multidisciplinary team; terms and conditions; legal custody.**

- 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 as provided in (e) of this section, 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 act 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 have committed a juvenile offense, the court shall enter its decree to that effect and make a disposition consistent with the purposes of this act;
  - iv) The court shall not order an out-of-state placement unless:
    - A) The court makes an affirmative finding on the record that no placement can be made in a Wyoming institution or in a private residential treatment facility or group home located

in Wyoming that can provide adequate treatment or services for the child; and

- B) The court states on the record why no in-state placement is available.
- b) The court shall not order a child removed from the home unless all available appropriate and less restrictive alternatives and interventions have been considered and a finding is made that an out-of-home placement is necessary to protect public safety and in the best interest of the child. In no event shall a child be ordered into secure custody for conduct that is not a crime if committed by an adult.
- c) In cases where a child is ordered removed from the child's home the child shall be committed to the department of family services and become the responsibility of the department, and:
- i) At least every three (3) months the department and child's placement shall recommend to the court if the order should be continued;
  - ii) Not less than once every six (6) months, the juvenile court shall conduct a formal review to assess and determine the appropriateness of the current placement, the reasonable efforts made to reunify the family, the safety of the child and the permanency plan for the child.
  - iii) The court shall order the parents or other legally obligated person to pay a reasonable sum for the support and treatment of the child as required by W.S. 14-6-236, or shall state on the record the reasons why an order for support was not entered;
  - iv) In cases where the child is placed in custody of the department, support shall be established by the department through a separate civil action.
- d) An order of disposition shall remain in force for a presumptive period of one (1) year. At the end of this presumptive period of commitment, the child shall be considered for release.
- i) The presumptive period shall not be extended unless the court finds that the child has not met the terms of the court's orders and that the purposes of this act will be served by the extension of the presumptive period.
  - ii) Prior to extending the presumptive period, the juvenile court shall conduct a formal review to assess and determine the appropriateness of extending the presumptive period of commitment.
- e) Under the following circumstances after a finding that the child has committed a juvenile offense the court shall at the adjudicatory hearing

appoint a multidisciplinary team to develop a disposition recommendation that serves the best interest of the child and an individual case plan:

Cases in which a minor is found to have committed a felony or a misdemeanor punishable by imprisonment for more than six (6) months if the court determines the minor may be ordered into an out-of-home placement, or

- i) Cases in which the child suffers from mental illness, a substance abuse problem, or developmental disability and would be able to be released home or to the community, if appropriate services were available to keep the child safe in a non-residential placement.
- f) The multidisciplinary team shall include the following:
  - i) The child's parent, parents or guardian;
  - ii) The child;
  - iii) A representative of the school district who has direct knowledge of the child and, if the child receives special education, is a member of the child's individualized education plan team;
  - iv) A representative of the department;
  - v) The child's psychiatrist, psychologist or mental health professional;
  - vi) The child's guardian ad litem, if one is appointed by the court;
  - vii) The volunteer lay advocate, if one is appointed by the court; and
  - viii) The foster parent.
- g) In addition to the persons listed in subsection (c) of this section, the court may appoint one (1) or more of the following persons to the multidisciplinary team:
  - i) A relative;
  - ii) If the pre-dispositional study indicates a parent or child has special needs, an appropriate representative of the department of health's substance abuse, mental health or developmental disabilities division who has knowledge of the services available in the state's system of care that are pertinent to those identified needs;
  - iii) Other professionals or persons who have particular knowledge relating to the child or his family, or expertise in children's services and the child's or parent's specific disability or special needs, including linguistic and cultural needs.
- h) Before the post-adjudication, pre-disposition multidisciplinary team meeting, the department of family services shall provide each member of the multidisciplinary team with a brief summary of the case detailing the

allegations in the petition that have been adjudicated and a summary of the strengths, needs, and risk of the child.

i) The multidisciplinary team shall, as quickly as reasonably possible, but in no event more than fourteen (14) days after the adjudicatory hearing, review the child's personal and family history, school, mental health and department of family services records and any other pertinent information, for the purpose of making disposition recommendations to the court. The team shall involve the child in the development of recommendations. Neither the prosecutor nor the child's attorney shall be part of the multidisciplinary team meetings.

j) The multidisciplinary team shall determine the strengths and needs of the family and create recommendations for an individualized service plan with the goal of preventing out of home placement and maintaining the child in the home.

k) All recommendations of the multi-disciplinary team shall be provided to the court, the minor, the minor's parent or legal guardian, the prosecutor and the child's attorney at least 10 days prior to any court proceedings at which the recommendation will be considered.

l) The disposition hearing at which the recommendation of the multidisciplinary is initially considered shall be held within thirty (30) days after a finding that the child has committed a juvenile offense if the child is held in detention or shelter care pending disposition.

m) If the child is ordered into an out-of-home placement as part of the case disposition, the multidisciplinary team if one is appointed shall again periodically meet to formulate reasonable and attainable recommendations for the court outlining the goals or objectives the parents should be required to meet for the child to be returned to the home or for the case to be closed. The team will identify and address immediate concerns of safety for the youth such as medical needs, severe psychiatric symptoms, educational needs, behaviors that may place the child or others in danger, or issues related to child living in an unsafe environment. The team will determine services and supports that would be necessary for the child to be released home and develop a plan to connect the family to such services. At each subsequent meeting, the multidisciplinary team shall review the progress of the parents and the child, and shall reevaluate the plan ordered by the court. For cause, which shall be set forth with specificity, the multidisciplinary team may adjust its recommendations to the court with respect to the goals or objectives in the plan to effect the return of the child to the home or to close the case. The multidisciplinary team shall formulate written recommendations regarding the specific

incentive, interventions, and services the child and family need to allow the child to safely remain in the home consistent with the purposes of this act. The court must make a finding of necessity for any changes in the disposition of the case or case plan.

n) After each multidisciplinary team meeting, the coordinator shall prepare for submission to each member of the team and to the court a summary of the multidisciplinary team meeting specifically describing the recommendations for the court and the goals and objectives which should be met to return the child to the home or to close the case. If the recommendations for the case plan have been changed, the summary shall include a detailed explanation of the change in the recommendations and the reasons for the change. The case plans shall be narrowly tailored to address the behaviors underlying the finding of delinquency.

o) All records, reports and sanction recommendations of the multidisciplinary team are confidential except as provided by this section. The records and reports prepared by the multidisciplinary team shall not be admissible in subsequent actions without the express authorization of the child and the child's attorney. 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).

p) Any member of a multidisciplinary team who cannot attend team meetings in person or by telephone may submit written reports and recommendations to the other team members and to the court. Individuals who are not members of the multidisciplinary team but have knowledge pertinent to the team's decisions may be asked to provide information to the multidisciplinary team. The individuals shall be bound by the confidentiality provisions of subsection (o) of this section.

q) The department shall develop a case plan for juveniles adjudicated delinquent which shall be based on the recommendations of the multidisciplinary team if one has been appointed. If there is a recommendation for out of home placement the case plan must specify which alternative non-residential placement services and interventions were considered and implemented and why such services were found to be inadequate to prevent out of home placement.

r) If the child is allowed to remain in the home with appropriate supports and services, the department shall develop a case plan specifying the supports and services needed.

s) If the child is placed outside the home, the multidisciplinary team if one is appointed shall meet quarterly to review the child's and the family's progress toward meeting the goals or expectations in the case plan and the

multidisciplinary team shall provide a written report with recommendations to the court prior to each review hearing.

t) No later than five (5) business days prior to the child's dispositional hearing, the multidisciplinary team shall file with the court the multidisciplinary team report which shall include the multidisciplinary team's recommendations and the department case plan in a standard format established by the department.

u) Ten (10) business days prior to each review hearing, the multidisciplinary team shall file with the court and serve on all parties a report updating the multidisciplinary team report, the multidisciplinary team's recommendations and the department case plan.

v) An institution, organization or agency vested with legal custody of a child by court order shall have the right to determine where and with whom the child shall live, provided that placement of the child does not remove him from the state of Wyoming without court authorization. An individual vested with legal custody of a child by court order shall personally exercise custodial rights and responsibilities unless otherwise authorized by the court.

w) Whenever the court vests legal custody of a child in an institution, organization or agency it shall transmit with the order copies of all clinical reports, social studies and other information pertinent to the care and treatment of the child. The institution, organization or agency receiving legal custody of a child shall provide the court with any information concerning the child that the court may request.

x) In placing a child in the custody of an individual or a private agency or institution, the court shall give primary consideration to the needs and welfare of the child. Where a choice of equivalent services exists, the court shall, whenever practicable, select a person or an agency or institution governed by persons of the same religion as that of the parents of the child. In case of a difference in the religious faith of the parents, then the court shall select the person, agency or institution governed by persons of the religious faith of the child, or if the religious faith of the child is not ascertainable, then of the faith of either parent.

y) The clerk of the court granting probation to a youth found to have committed a juvenile offense shall send a certified copy of the order to the department of family services if the department has been requested to provide supervision of the probationer.

z) At the time of granting probation or at any later time, the court may request the department of family services to provide supervision of the probationer. The supervising probation officer shall not be required to

supervise or report on a youth granted probation unless requested to do so by the court granting probation.

aa) Absent a specific provision in the placement order requiring prior court approval for any change in placement, a department of state government vested with temporary legal custody of a child by court order under this section has authority to place the child in a residential facility or other out-of-home placement of similar or less restrictive confinement provided:

- i) At least ten (10) days prior to the change in placement written notice of the proposed placement is served upon the child, the child's parents, the child's attorney, the current placement provider and the office of the district attorney of original jurisdiction, personally or by certified mail to the recipient's last known address; and
- ii) None of the parties within ten (10) days after notice is filed with the juvenile court having jurisdiction, makes a written objection to the proposed change in placement.

bb) If a placement order vesting a department of state government with temporary legal custody of a child under this section includes a provision that court approval shall be required prior to any change in placement, the department may proceed to place the child in a residential facility or other out of home placement of similar or less restrictive confinement, and the court shall be deemed to have approved such change in placement, if:

- i) The conditions of paragraphs (aa)(i) and (ii) of this section are met; and
- ii) The court on its own motion does not set the matter for hearing within fifteen (15) days after notice of the proposed change in placement is filed with the juvenile court.

cc) An agency of state government vested with temporary legal custody of a child under this section shall have the right to transport the child as necessary.

**§ 14-6-230. Orders of protection; requirements.**

- a) On application of any party to the proceedings or on its own motion the court may make an order of protection in support of the decree and order of disposition, restraining or otherwise controlling the conduct of the child's parents, guardian or custodian or any party to the proceeding whom the court finds to be encouraging, causing or contributing to the acts or conditions which bring the child within the provisions of this act.

- b) The order of protection may require the person against whom it is directed to do or to refrain from doing any acts required or forbidden by law and necessary for the welfare of the child and the enforcement of the order of disposition, including the following requirements to:
  - i) Perform any legal obligation of support;
  - ii) Not make contact with the child or his place of abode;
  - iii) Refrain from conduct which in any way interferes with or disrupts the control and supervision of the child by his legal custodian;
  - iv) Permit a parent reasonable visitation privileges under specified conditions and terms;
  - v) Give proper attention to care of the home and to refrain from conduct detrimental to the child and the home environment; or
  - vi) Enforce the child's compliance with the terms and conditions imposed upon him by the order of disposition.

**§ 14-6-231. Release of child from institution; duration of orders of disposition; termination of orders.**

- a) A child committed to the Wyoming boys' school, the Wyoming girls' school or the Wyoming state hospital may be released from that institution by the agency having the direct authority and control of the institution. This release shall not affect any other terms or conditions of the court's order. The agency shall notify the court of any planned release and shall recommend further disposition of the child. The court shall discharge the child from further court jurisdiction or shall enter any other order of disposition specified under W.S. 14-6-229 for a child adjudicated a juvenile offender. An order of disposition shall remain in force until terminated by the court whenever it appears the purpose of the order has been achieved and it is in the child's best interest that he be discharged from further court jurisdiction.
- b) Unless sooner terminated by court order, all orders issued under this act shall terminate with respect to a juvenile offender when s/he reaches twenty-one (21) years of age.
  - 1) Prior to release from the custody, the department of family services shall develop a comprehensive individual re-entry plan.
  - 2) An individual re-entry plan shall include a comprehensive assessment of an offender initiated at the time the offender is committed to the custody of the department. The plan shall address both the assets and needs of the offender and describe actions needed to prepare an individual for release, define terms and conditions of release, and address the supervision and

services needed in the community. At a minimum the plan shall address the needs of the child related to education, housing, health and mental health, substance abuse, parenting, employment, domestic violence, legal services, childcare, social and recreation activities, and family relations.

**§ 14-6-232. Probation revocation hearing; how commenced and conducted; contents of petition; disposition.**

- a) A child on probation for a juvenile offense who commits a new unlawful act or violates the terms and conditions of probation may be proceeded against in a probation revocation hearing.
- b) A proceeding to revoke probation shall be commenced by a petition designated as “A Petition to Revoke Probation” and shall be heard by the court without a jury. The petition shall:
  - i) Be reviewed and prepared by the district attorney in the same manner and shall contain the same information as required by W.S. 14-6-212;
  - ii) Set forth the date when the child was placed on probation and the time and manner in which notice of the terms of probation were given;
  - iii) Set forth the graduated responses that have been used to address violation behaviors that do not pose a substantial risk to the child’s or public safety, and the reasons that no other less restrictive interventions are appropriate, and
  - iv) At least seven (7) days before the date of the hearing, be served together with an order to appear on all parties having an interest in the proceedings as provided in W.S. 14-6-213.
- c) If a child is found to have violated the terms of the child's probation, the court may amend the terms and conditions of the probation order, extend the period of probation or make any other order of disposition specified in W.S. 14-6-229(d). Prior to amending or revoking a child’s probation the court shall review the graduated responses employed to address the conduct resulting in a violation. A child is subject to return to the court for violation of court-ordered terms or conditions of probation provided appropriate graduated responses are employed as a prerequisite to a recommendation of revocation;

**§ 14-6-233. Appeal; right generally; transcript provided; cost thereof.**

- a) Any party including the state may appeal any final order, judgment or decree of the juvenile court to the Supreme Court within the time and

in the manner provided by the Wyoming Rules of Appellate Procedure.

- b) Upon motion of the child or his parents, guardian or custodian, supported by affidavit stating they are financially unable to purchase a transcript of the proceeding, a transcript or so much thereof necessary to support the appeal shall be provided at no cost or at a cost the court determines they are able to pay. Any cost of the transcript not charged to the appellant shall be certified by the court to the county treasurer and paid from the funds of the county in which the proceedings were held.

**§ 14-6-234. Stay of orders pending appeal; securing of payment; staying transfer of legal custody.**

- a) If an appeal is taken, an order to pay a fine, costs, support for a child, restitution or any order for the payment of money may be stayed by the juvenile court or by the supreme court pending appeal. The court may require the appellant to deposit with the clerk of court the whole or any part of the payment ordered, to give bond for the payment thereof or any other terms and conditions to secure payment upon final determination of the appeal as the court deems proper. The court may also issue any appropriate order to restrain the appellant from dissipating his assets pending appeal.
- b) Either the juvenile court or the Supreme Court may stay an order transferring legal custody of a child to a person, agency, organization or institution other than his parents, guardian or former custodian, provided that suitable provision is made for the detention or shelter care of the child pending the appeal.

**§ 14-6-235. Fees, costs and expenses.**

- a) There is no fee for filing a petition under this act nor shall any state, county or local law enforcement officer charge a fee for service of process under this act. Witness fees, juror fees and travel expenses in the amounts allowable by law may be paid to persons other than the parties who are subpoenaed or required to appear at any hearing pursuant to this act.
- b) The following costs and expenses, when approved and certified by the court to the county treasurer, shall be a charge upon the funds of the county where the proceedings are held and shall be paid by the board of county commissioners of that county:

- i) Witness fees and travel expense;
  - ii) Jury fees, costs and travel expense;
  - iii) Costs of service of process or notice by certified mail;
  - iv) Costs of any physical or mental examinations or treatment ordered by the court;
  - v) Reasonable compensation for services and costs of counsel appointed by the court;
  - vi) Reasonable compensation for services and costs of a guardian ad litem appointed by the court; and
  - vii) Any other costs of the proceedings which would be assessable as costs in the district court.
- c) Legal services rendered to a child for his benefit and protection are necessities which the child's parents or any person obligated by law for the child's support may be held responsible. In every case in which a guardian ad litem has been appointed to represent the child under W.S. 14-6-216 or all cases in which counsel has been appointed under W.S. 14-6-222 to represent the child, the child's parents, guardian or other person responsible for the child's support, and the child is adjudicated a delinquent, the court shall determine whether the child, the child's parents, guardian or other person responsible for the child's support is able to pay part or all of the costs of representation and shall enter specific findings on the record. If the court determines that any of the parties is able to pay any amount as reimbursement for costs of representation, the court may order reimbursement or shall state on the record the reasons why reimbursement was not ordered. The court may also in any case order that all or any part of the costs and expenses enumerated in paragraphs (b)(i), (iii), (iv) and (vii) of this section, be reimbursed to the county by the child, his parents or any person legally obligated for his support, or any of them jointly and severally, upon terms the court may direct provided the court has adjudicated the child has committed a juvenile offense and a finding is entered that the person is able to pay part or all of the costs. An order for reimbursement of costs made pursuant to this subsection may be enforced as provided in W.S. 14-6-236.
- d) The department of family services shall promulgate rules and regulations establishing a standard fee schedule for probation services provided under this act. In every case in which a child has been placed on probation under W.S. 14-6-229(d), the court shall determine whether the child, the child's parents, guardian or other

person legally obligated for the child's support is able to pay part or all of the expenses of probation determined in accordance with the department's fee schedule and shall enter specific findings on the record. If the court determines that any of the parties is able to pay any amount as reimbursement for expenses of probation, the court shall order reimbursement by any or all of the parties, jointly and severally, or shall state on the record the reasons why reimbursement was not ordered. An order for reimbursement of expenses made pursuant to this subsection may be enforced as provided in W.S. 14-6-236.

- e) The court shall make a determination of financial ability to pay for any costs and fees under this section. If the court makes a determination of inability to pay, costs and fees shall be waived.

**§ 14-6-236. Ordering payment for support and treatment of child; how paid; enforcement.**

- a) When legal custody of a child found to be delinquent, other than temporary guardianship, is vested by court order in an individual, agency, institution or organization other than the child's parents, the court shall in the same proceeding inquire into the financial condition of the child's parents or any other person who may be legally obligated to support the child. After due notice and hearing the court shall order the parents or any other legally obligated person to pay a reasonable sum for the support and treatment of the child during the time that a dispositional order is in force if the court finds the parent has the ability to pay such a sum. The requirements of W.S. 20-2-101 through 20-2-406 apply to this section. The amount of support shall be determined in accordance with the presumptive child support established by W.S. 20-2-304. In any case where the court has deviated from the presumptive child support, the reasons therefore shall be specifically set forth in the order. The amount ordered to be paid shall be paid to the clerk of the district court for transmission to the person, institution or agency having legal custody of the child or to whom compensation is due. The clerk of court is authorized to receive periodic payments payable in the name or for the benefit of the child, including but not limited to social security, veteran's administration benefits or insurance annuities, and apply the payments as the court directs. An order for support under this subsection shall include a statement of the addresses and social security numbers if known, of each obligor, the names and addresses of each obligor's

employer and the names and birthdates of each child to whom the order relates. The court shall order each obligor to notify the clerk of court in writing within fifteen (15) days of any change in address or employment. If any person who is legally obligated to support the child does not have full time employment, the court may require that person to seek full time employment and may require community service work in lieu of payment until full time employment is obtained.

- b) An order for the payment of money entered against a parent or other person legally obligated to support a child under the provisions of W.S. 14-6-235, 20-2-101 through 20-2-406 or this section shall be entered separately from the decree of disposition under W.S. 14-6-229 and shall not be treated as a part of the confidential court record under W.S. 14-6-239. The order may be filed in the district court of any county in the state. From the time of filing, the order shall have the same effect as a judgment or decree of the district court in a civil action and may be enforced by the district attorney, or the department of family services in the same manner and with the same powers as in other child support cases under W.S. 20-2-303 through 20-2-305, 20-2-307, 20-2-311, 20-2-401 through 20-2-406 and 20-6-101 through 20-6-222, or in any manner provided by law for enforcement of a civil judgment for money.
- c) The court shall make a determination of financial ability to pay for support and treatment of the child. If the court makes a determination of inability to pay, costs and fees shall be waived.

**§ 14-6-237. Transfer hearing; transfer of proceedings commenced in district court or in municipal or circuit court.**

- a) After a petition alleging a child who is sixteen or seventeen has committed a juvenile offense that is a violent felony as defined by W.S. 6-1-104(a)(xii) or a felony punishable under the Wyoming Criminal Code by life, life without parole or death, the court may, on its own motion or that of any party any time prior to the adjudicatory hearing, order a transfer hearing to determine if the matter should be transferred to another court having jurisdiction of the offense charged for criminal prosecution as provided by law. Notice in writing of the time, place and purpose of the transfer hearing shall be given to the child and his attorney, and his parents, guardian or custodian at least 10 days before the hearing. The transfer hearing shall be conducted in conformity with W.S. 14-6-222 through 14-6-224 except there shall be no jury.
- b) The court may order the matter transferred to the appropriate court for

prosecution if after the transfer hearing it finds that the prosecutor has established by clear and convincing evidence that proper reasons therefore exists. The determinative factors to be considered by the judge in deciding the juvenile court's jurisdiction over such offenses will be waived are the following:

- i) The prospects for rehabilitation of the child within the juvenile system;
  - ii) Whether the protection of the community will be better served by the transfer of jurisdiction;
  - iii) The seriousness of the alleged offense;
  - iv) Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
  - v) The age of the child;
  - vi) The desirability of trial and disposition of the entire offense in one (1) court when the juvenile's associates in the alleged offense are adults who will be charged with a crime;
  - vii) The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living;
  - viii) The child's prior criminal history.
- c) If the court orders the matter transferred under subsection (b) of this section, the court shall state on the record its basis for the decision and shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.
  - d) The court may make any necessary orders for the detention of the child until the court to which the matter is transferred has acquired jurisdiction, at which time jurisdiction of the juvenile court with respect to the alleged unlawful act terminates.
  - e) Statements made by the child at a transfer hearing are not admissible against him over objection in a criminal proceeding following the transfer.
  - f) If the case is not transferred, the judge who conducted the hearing shall not, over objection of an interested party, preside at the adjudicatory hearing on the petition. If the case is transferred to a court of which the judge who conducted the transfer hearing is also a judge, he may be disqualified from presiding at the criminal proceeding.

**§ 14-6-238. Proceedings deemed in equity; effect of orders and decrees.**

All proceedings under this act shall be regarded as proceedings in equity and the court shall have and exercise equitable jurisdiction. No order or decree

pursuant to this act shall be deemed a conviction of a crime or impose any civil disabilities, nor shall it disqualify the child for any civil or military service application or appointment or from holding public office.

**§ 14-6-239. Records and reports confidential; inspection.**

- a) Throughout proceedings pursuant to this act the court shall safeguard the records from disclosure. Upon completion of the proceedings, whether or not there is an adjudication, the court shall order the entire file, except for child support orders, and record of the proceeding sealed and the court shall not release these records except as provided in W.S. 14-6-203(g) or 14-6-240.
- b) Nothing in subsection (a) of this section shall limit the disclosure of records authorized by W.S. 7-19-504.

**§ 14-6-240. Fingerprinting or photographing of child; disclosure of child's records.**

- a) No child shall be fingerprinted or photographed by a law enforcement agency or peace officer.
- b) Law enforcement records of a child against whom a petition is filed under this act shall be kept separate from records and files of adults and shall not be open to public inspection nor disclosed to the news media without the written consent of the court or except as provided in W.S. 14-6-203(g).
- c) The court or the prosecuting attorney may release the name of the minor, the legal records or disposition in any juvenile offender proceeding filed in juvenile court to the minor's victim or victims and the members of the immediate family of any victim. The victim of a delinquent act constituting a felony shall be provided additional information regarding the delinquency proceeding in accordance with W.S. 14-6-501 through 14-6-509. Legal records released by the court under this subsection shall not include predisposition studies and reports, social summaries, medical or psychological reports, educational records or transcripts of dispositional hearings.

**§ 14-6-241. Expungement and sealing of records in juvenile cases.**

- a) Upon dismissal of a petition alleging delinquency where no finding of delinquency is made, or upon completion of the process in a case handled through diversion, informal adjustment, mediation, or other non-adjudicatory procedure, the court shall order the expungement of the files and records in the case.

b) The juvenile court records of all juveniles, except those specified in § 14-6-241 (c), who have been adjudicated delinquent under the provisions of this act shall be automatically expunged when the juvenile reaches the age of majority.

c) Any person adjudicated delinquent under the provisions of this act as a result of having committed a homicide or felony level sexual assault may petition the court for the expungement of his record in the juvenile court upon reaching the age of majority. If after investigation the court finds that the petitioner has not been convicted of a felony since adjudication, that no proceeding involving a felony is pending or being instituted against the petitioner and the rehabilitation of the petitioner has been attained, it shall order expunged all records in the custody of the court or any agency or official, pertaining to the petitioner's case. Copies of the order shall be sent to each agency or official named in the order. Upon entry of an order the proceedings in the petitioner's case are deemed never to have occurred and the petitioner may reply accordingly upon any inquiry in the matter.

d) All information related to any delinquency case in the state's juvenile justice information data system shall be sealed in accordance with § 7-19-504 and 7-19-505.

**§ 14-6-242. Liability for contempt; penalties.**

- a) Notwithstanding any other provision of law, the court upon its own motion or upon the motion of the district or county attorney, or guardian ad litem, may find that the child, child's parent, parents, or guardian or any other person who willfully violates, or neglects or refuses to obey or perform any order or provision of this act is liable for contempt of court and may be fined not more than five hundred dollars (\$500.00) or incarcerated not more than ninety (90) days, or both, provided however that no child shall be placed in secure confinement for contemptuous behavior that is not a crime if committed by an adult.
- b) If the court finds that the child, child's parent, parents, or guardian or any other person is in contempt of court, the court will set a hearing on the charge of contempt. At least seven (7) days before the date of the hearing, all parties having an interest in the proceedings as provided in W.S. 14-6-213 will be served with notice of the hearing date. The notice shall set forth the purpose of the hearing; the time and place of the hearing, notice of charges; and how and by what means the contemtor violated the court's orders.

- c) If the child is alleged to be in criminal contempt of court, he shall have the right to a jury trial and all the protections of a criminal process pursuant to W.S.\_\_\_\_\_.

**§ 14-6-243. Separate docket for juvenile cases; availability of records for statistics.**

The clerk of the court shall maintain a separate docket for juvenile cases and record therein the case number, the offense charged, the age of the child involved and the disposition made. The records shall be made available for statistical purposes provided the names of the offenders are not revealed.

**§ 14-6-244. Parental liability for participation in all court proceedings and related programming.**

- a) A parent or guardian having custody of a child shall appear at every proceeding related to the child's juvenile case and shall participate in all proceedings related to the multidisciplinary team, should one be appointed pursuant to W.S. 14-6-227(b), as well as any family services ordered by the court.
- b) At any point during the juvenile case, if the court finds that the parent or guardian having custody of the child has failed or neglected to participate without just cause in court proceedings and related programming, the court may, if the child is placed on probation, require the parent or guardian to furnish a cash deposit or bond in an amount not to exceed five hundred dollars (\$500.00). The court will make a determination of parent's financial ability to pay prior to ordering a cash deposit or bond.
- c) The court may declare all or part of a cash deposit or bond posted under subsection (b) of this section forfeited if the court, after hearing, finds that the child's act was proximately caused by the failure or neglect of the parent or guardian to carry out orders by the court including, but not limited to, enforcement of curfew, home detention, school attendance, participation in therapy or other services, participation in multidisciplinary team meetings, or other conditions of probation.
- d) Funds received upon forfeiture of a cash deposit or bond under subsection (c) of this section shall be applied in payment of damages, if any, which may have been caused by the juvenile. The balance of the proceeds shall be retained by the court to apply to any future damages resulting from the act or acts of the juvenile until the juvenile

reaches eighteen (18) years of age at which time any remaining proceeds shall be returned to the parent or guardian.

- e) The provisions of this section as it relates to the failure or neglect of a parent or guardian to participate in all court proceedings and related programming are in addition to and not in substitution for any other requirements of law. The provisions of this section shall not apply to foster parents.

**14-6-245. Graduated responses guidelines.**

a) The Department of Family Services shall through rules and regulation develop an array of graduated responses to violations of probation that ensure:

- i) the use of incentives to promote positive behavior changes, as well as sanctions for violations;
- iv) that fit the seriousness of the offending behavior, and
- v) take into account the risk of the youthful offender.

**New Section: Access to Health, Mental Health, and Substance Abuse Treatment.**

- a) Youth in the juvenile justice system shall be provided access to all medically necessary health, mental health, and substance abuse treatment from the point of disposition and immediately upon release from custody.
- b) Juvenile probation officers and residential treatment staff shall collaborate on a single plan, developed within 30 days of placement, that integrates treatment and aftercare services, including appropriate educational placement and goals developed in consultation with the appropriate school district.
- c) In the case of any youth who is enrolled for medical assistance under the state's Medicaid plan at the date of commitment:
  - i) The state shall not terminate eligibility for medical assistance of any such individual, but shall establish a process so that the state does not claim federal financial participation for services that are excluded under federal law;

- ii) Such individual shall be presumed enrolled for medical assistance upon release from custody unless and until there is a determination that the individual is no longer eligible to be so enrolled; and
- iii) Once discharge from custody is anticipated, the state shall take whatever steps are necessary to ensure that the eligible individual can begin receiving Medicaid-covered services immediately upon leaving custody.
- d) In the case of any juvenile who is not enrolled for medical assistance under the state's Medicaid plan at the date of commitment:
  - i) The state shall take whatever steps necessary to determine Medicaid eligibility prior to release from custody;
  - ii) Once discharge from custody is anticipated, probation officers, residential treatment staff, department of family services staff and department of mental health staff shall meet with the child and family to determine medically necessary mental health services to be provided in the community upon discharge; and
  - iii) Once discharge from custody is anticipated the state shall ensure that, if eligibility is established, Medicaid-covered services will begin immediately upon leaving custody.

**New Section: Education Access.**

- a) Youth in the juvenile justice system shall be provided access to basic and special education and related services while in custody and immediately upon release from custody;
- b) All school-aged youth leaving custody shall be:
  - i) Reenrolled in an appropriate education placement immediately upon release; and
  - ii) Entitled to an educational placement in the least restrictive environment.
- c) All agencies and entities responsible to ensure reenrollment, including residential facility staff, the department of family services, the department of education and local school districts where the child will reside upon release shall:
  - i) Collaborate to develop a reenrollment plan with the participation of the youth and appropriate family member or guardian prior to the child's discharge from custody;
  - ii) Provide access to information necessary to ensure reenrollment consistent with state and federal confidentiality laws and regulations;

- iii) Ensure the timely transfer of records;
- iv) Ensure continuity of educational services to achieve individualized academic and behavioral goals, including conducting special education individualized Education plan meetings; and
- v) Provide transportation to indigent parents or guardians, and other accommodations, as necessary, to facilitate participation in educational release planning.

**New Section. The juvenile detention standards board; detention standards.**

- a) All juvenile detention facilities in the state shall conform to national standards for construction and operation;
- b) The juvenile standards board is created to develop, maintain, and ensure compliance with national and professional best practice standards;
- c) The juvenile detention standards board shall consist of the director of the department of family services, a representative of the sheriffs' association, the state fire marshall, a representative of the police officers' association, a representative of the bar association, a representative of the county commissioners' association, one person who at the time of appointment is responsible for the operation of a juvenile detention facility, a public health representative, a representative of the advisory council on juvenile justice and one juvenile court judge;
- d) The members of the board shall serve without compensation, but shall be reimbursed for actual expenses while engaged in the performance of official duties;
- e) The juvenile detention standards board shall develop minimum standards for construction, maintenance and operation of juvenile detention facilities, including standards for physical facilities, care, programs, disciplinary procedures, staffing, staff training, admission and release, classification, records and data collection systems, mail, visitation, telephone access, exercise, education, recreation, legal access, food, health, and sanitation;
- f) The juvenile detention standards board shall monitor all juvenile detention facilities and, on an annual basis, report to the joint judiciary interim committee whether each detention facility meets detention standards;
- g) The board shall develop a plan and timeline for each detention facility not in compliance with detention standards to come into compliance, and provide technical assistance and advice to juvenile detention facilities to assist them in complying with detention standards.

**New Section: Incentives to reduce state commitments and the use of incarceration**  
**[modeled after Redeploy Illinois]**

(a) The purpose of this section is to encourage the deinstitutionalization of juvenile offenders establishing pilot projects in counties or groups of counties that reallocate state funds from juvenile correctional confinement to local jurisdictions, which will establish a continuum of local, community-based sanctions and treatment alternatives for juvenile offenders who would be incarcerated if those local services and sanctions did not exist. The allotment of funds will be based on a formula that rewards local jurisdictions for the establishment or expansion of local alternatives to incarceration, and requires them to pay for utilization of incarceration as a sanction. This redeployment of funds shall be made in a manner consistent with the juvenile justice act and the following purposes and policies:

- (1) The juvenile justice system should protect the community, impose accountability to victims and communities for violations of law, and equip juvenile offenders with competencies to live responsibly and productively.
  - (2) Juveniles should be treated in the least restrictive manner possible while maintaining the safety of the community.
  - (3) A continuum of services and sanctions from least restrictive to most restrictive should be available in every community.
  - (4) There should be local responsibility and authority for planning, organizing, and coordinating service resources in the community. People in the community can best choose a range of services that reflect community values and meet the needs of their own youth.
  - (5) Juveniles who pose a threat to the community or themselves need special care, including secure settings. Such services as detention, long-term incarceration, or residential treatment are too costly to provide in each community and should be coordinated and provided on a regional or statewide basis.
  - (6) The roles of state and local government in creating and maintaining services to youth in the juvenile justice system should be clearly defined. The role of the state is to fund services, set standards of care, train service providers, and monitor the integration and coordination of services. The role of local government should be to oversee the provision of services.
- (b) Each county or circuit participating in the pilot program must create a local plan demonstrating how it will reduce the utilization of secure confinement of juvenile offenders in county detention centers or state operated residential facilities by the creation or expansion of individualized

services or programs that may include but are not limited to the following:

- (1) Assessment and evaluation services to provide the juvenile justice system with accurate individualized case information on each juvenile offender including mental health, substance abuse, educational, and family information;
- (2) Direct services to individual juvenile offenders including educational, vocational, mental health, substance abuse, supervision, and service coordination; and
- (3) Programs that seek to restore the offender to the community, such as victim offender panels, teen courts, competency building, enhanced accountability measures, restitution, and community service. The local plan must be directed in such a manner as to emphasize an individualized approach to providing services to juvenile offenders in an integrated community based system including probation as the broker of services. The plan must also detail the reduction in utilization of secure confinement. The local plan shall be limited to services and shall not include costs for:
  - (i) capital expenditures;
  - (ii) renovations or remodeling;
  - (iii) personnel costs for probation.

The local plan shall be submitted to the department of family services.

(c) A county or group of counties may develop an agreement with the department of family services to reduce their number of commitments of juvenile offenders to the department, and then use the savings to develop local programming for youth who would otherwise have been committed. A county or group of counties shall agree to limit their commitments to 75% of the level of commitments from the average number of juvenile commitments for the past 3 years, and will receive the savings to redeploy for local programming for juveniles who would otherwise be held in confinement. For any county or group of counties with a decrease of juvenile commitments of at least 25%, based on the average reductions of the prior 3 years, which are chosen to participate or continue as pilot sites, the department of family services has the authority to reduce the required percentage of future commitments to achieve the purpose of this Section.

The agreement shall set forth the following:

- (1) a statement of the number and type of juvenile offenders from the county who were held in secure confinement or in county detention the previous year, and an explanation of which, and how many, of these offenders might be served through the proposed Wyoming Community Incentive Program for which the funds shall be used;
- (2) a statement of the service needs of currently confined juveniles;

- (3) a statement of the type of services and programs to provide for the individual needs of the juvenile offenders, and the research or evidence base that qualifies those services and programs as proven or promising practices;
- (4) a budget indicating the costs of each service or program to be funded under the plan;
- (5) a summary of contracts and service agreements indicating the treatment goals and number of juvenile offenders to be served by each service provider; and
- (6) a Statement indicating that the Community Incentive Program will not duplicate existing services and programs. Funds for this plan shall not supplant existing county funded programs.
- (f) The department of family services shall be responsible for the following:
  - (1) Reviewing each Community Incentive Program plan for compliance with standards established for such plans. A plan may be approved as submitted, approved with modifications, or rejected.
  - (2) Monitoring on a continual basis and evaluating annually both the program and its fiscal activities in all counties receiving an allocation under the Community Incentive Program. Any program or service that has not met the goals and objectives of its contract or service agreement shall be subject to denial for funding in subsequent years. The department of family services shall evaluate the effectiveness of the Community Incentive Program in each county. In determining the future funding for the Community Incentive Program under this Act, the evaluation shall include, as a primary indicator of success, a decreased number of confinement days for the county's juvenile offenders.
- (f) Any Community Incentive Program allocations not applied for and approved by the department of family services shall be available for redistribution to approved plans for the remainder of that fiscal year. Any county that invests local moneys in the Community Incentive Program shall be given first consideration for any redistribution of allocations. Jurisdictions participating in the Community Incentive Program that exceed their agreed upon level of commitments to the department of family services shall reimburse the department for each commitment above the agreed upon level.
- (g) Implementation of the Community Incentive Program.
  - (1) Planning Phase.
  - (i) Community Incentive Oversight Board. The department of family services shall convene an oversight board to develop plans for a pilot Community Incentive Program. The Board shall include, but not be limited to, designees from the department of family services, the Administrative

Office of Wyoming Courts, the sheriffs' association, the Wyoming Criminal Justice Information Authority, the state juvenile justice advisory committee, the State Board of Education, the state office of public defense and county attorney's association.

(ii) Community Incentive Oversight Board. The Oversight Board shall:

(A) Identify jurisdictions to be invited in the initial pilot program of Community Incentive Program.

(B) Develop a formula for reimbursement of local jurisdictions for local and community-based services utilized in lieu of commitment to the department of family services, as well as for any charges for local jurisdictions for commitments above the agreed upon limit in the approved plan.

(C) Identify resources sufficient to support the administration and evaluation of the Community Incentive Program.

(D) Develop a process and identify resources to support on-going monitoring and evaluation of the Community Incentive Program.

(E) Develop a process and identify resources to support training on the Community Incentive Program.

(F) Report to the Governor and the joint judiciary interim committee on an annual basis on the progress of the Community Incentive Program.

(iii) Length of Planning Phase. The planning phase may last up to, but may in no event last longer than, July 1, 2012.

(2) Pilot Phase. In the second phase of the Community Incentive Program, the department of family services shall implement several pilot programs of the Community Incentive Programs in counties or groups of counties as identified by the Oversight Board. Annual review of the Community Incentive Program by the Oversight Board shall include recommendations for future sites for the Program.

## ARTICLE 5 - JUVENILE JUSTICE INFORMATION SYSTEM

Beth and Chuck's 9.9.10 version

### **7-19-501. Definitions.**

(a) As used in this act:

- (i) "Adjudicated" or "adjudication" means ~~as defined by W.S. 14-6-201 (a)(i)~~; **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;~~
- (ii) “Court” means a municipal, circuit, or district court;**
- ~~(iii) “Delinquent child” means as defined by W.S. 14-6-201;~~
- ~~(iv) “Disposition” means the action ordered by the juvenile court judge under W.S. 14-6-229 upon adjudication of a juvenile for a delinquent act.~~
- (iii) “Disposition” means the action ordered by the judge of a municipal, circuit, or district court;**
- ~~(iv)(v) “Division” means the Wyoming division of criminal investigation with the office of the attorney general;~~
- ~~(v)(v) “Juvenile” means an individual who is under the age of majority;~~
- (vi) “Juvenile Justice Information System” means a management information system to collect all data pertaining to juveniles who come into contact with law enforcement and the judicial system, including juvenile offenders, status offenders, liquor law violations, children in need of supervision (CHINS), abuse and neglect, and runaways;**
- (vii) “Juvenile offender” means a child who has committed a juvenile offense;**
- (viii) “Juvenile offense” means an act punishable as a criminal offense by the laws of this state or any political subdivision thereof;**
- ~~(vii) “Qualifying offense” means conduct that, if committed by an adult, would constitute a felony under the provisions of W.S. 6-1-104 (a)(xii) or 35-7-1.31 or under similar federal law;~~
- (ix) “Re-offending Rate” means the number of times an individual youth has contact with law enforcements, the courts, diversion programs, and other youth services.**
- (x) “Status offender” means an individual who has been charged with or adjudicated for conduct that would not, pursuant to the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. A status offender who violates the terms of his or her probation or aftercare remains a status offender unless the child**

**is contemporaneously adjudicated for having committed a juvenile offense that is not a status offense.**

**(xi) “Status Offense” means an offense which, if committed by an adult, would not constitute an act punishable as a criminal offense by the laws of this state or a violation of a municipal ordinance.**

**(xi) ~~(viii)~~ “This act” means W.S. 7-19-501 through ~~7-19-505~~. 7-19-506.**

**7-19-502. Record system created.**

**(a) The division shall create and maintain a database for a juvenile justice information system as provided in this act in consultation with:**

- (i) The state advisory council on juvenile justice,**
- (ii) Representatives of law enforcement agencies and district attorneys,**
- (iii) Operators of juvenile detention facilities,**
- (iv) Supreme court data division and representatives from municipal, circuit, and district courts,**
- (v) The departments of family services, education, health, and corrections, and**
- (vi) Any state entities collecting juvenile justice information under state and/or federal grants.**

**(b) The database shall be a management information system containing the juvenile justice information required by this act. Access to information in the database shall be limited as provided by W.S. ~~7-19-504~~. RENUMBER 7-19-505. The purpose of the management information system is to collect data pertaining to juveniles who come into contact with law enforcement and the judicial system, enhance the evaluation of juvenile justice practices and policies, and stimulate and conduct research using multi-agency data.**

**(c) The division shall promulgate reasonable rules and regulations necessary to carry out the provisions of this act. The division shall present the data and analysis in an annual report annually report by March 1 to the joint judiciary interim committee on the numbers of entries and usage of the database. ~~by January 1 of each year.~~**

**(d) The division’s management information system shall coordinate juvenile justice data and information located in local and state agencies and through state and/or federal grants.**

**(i) Local and state agencies, as well as state entities collecting juvenile justice information under state and/or federal grants, shall provide the requested information.**

**(ii) Failure to provide the requested information will result in reductions to future funding for agencies’ technology services or discontinuation of state and/or federal funds to a state entity collecting juvenile justice information.**

**7-19-503. Collection of juvenile justice information. DELETE EXISTING DATA COLLECTION (7-19-503 (a) through (c)) AND REPLACE WITH:**

- (a) The management information system shall include:**
  - (i) Juvenile arrests by county, race, gender, age, and offense;**
  - (ii) Juvenile referrals to diversion programs, by county, race, gender, age, and offense including:**
    - (A) Completion rates,**
    - (B) Re-offending rates, and**
    - (C) Average cost per juvenile;**
  - (iii) Court referrals for juvenile and status offender proceedings by county, race, gender, age, offense, and referral type;**
  - (iv) Juvenile and status offender adjudications by county, race, gender, age, and offense;**
  - (v) Disposition of juvenile and status offender adjudications by county, race, gender, age, and offense;**
  - (vi) Juvenile detention by county, race, gender, age, and offense for both pre- and post-adjudication populations, including:**
    - (A) Number of youth in detention annually,**
    - (B) Length of stay in detention,**
    - (C) Re-offending rates, and**
    - (D) Average cost per juvenile;**
  - (vii) Juvenile assessment results by county, race, gender, age, and offense;**

- (viii) Number of youth under probation supervision by county, race, gender, age, and offense;**
- (ix) Probation violation data by county, race, gender, age, and offense, including violation behavior and underlying offense severity;**
- (x) Juvenile out-of-home placements by county, race, gender, age, and offense for both pre-and post-adjudication populations, including:
  - (A) Number of youth annually in out-of-home placement,**
  - (B) Length of stay in placement,**
  - (C) Re-offending rates, and**
  - (D) Average cost per juvenile;****
- (xi) Number of youth receiving services at home or in the community compared to out of home placements, by county, race, gender, age, and offense for both pre- and post-adjudication populations, including:
  - (A) Number of youth annually receiving services at home or in the community;**
  - (B) Number of days receiving services,**
  - (C) Re-offending rates, and**
  - (D) Average cost per youth associated with these services;****
- (xii) Data on youth alleged to have committed a juvenile offense who have had prior involvement with the child protection system;**
- (xiii) Data on characteristics of committed youth or youth in detention to show service needs, including family dysfunction, mental health, substance abuse, and educational needs;**
- (xiv) Number of youth transferred to adult jurisdiction, by county, race, gender, age, and offense;**
- (xv) Number of youth convicted as adults, by county, race, gender, age, and offense;**
- (xvi) Graduation rates by school district;**
- (xvii) School attendance;**
- (xviii) Performance scores on educational statewide assessment;**

- (xix) **School referrals for delinquency adjudications by county, race, gender, age, and offense.**

**RENUMBER EXISTING 7-19-504 AND INSERT**

**7-19-504 Electronic records.**

- (a) **The division is required to adopt appropriate control methods to ensure adequate integrity, security, and confidentiality of any electronic records of juveniles generated or maintained in this management information system.**
- (b) **The juvenile justice information system must be maintained separately from any adult offender management information system in the criminal justice or corrections system.**
- (c) **On a youth's 18<sup>th</sup> birthday or when extended supervision ends, the youth's records must be physically sealed, all hard-copy information must be destroyed, and any electronic records must disassociate the information from the name of the youth.**
  - (i) **Such electronic records may be used only for research and program evaluation authorized by the division and subject to any applicable laws.**

**~~7-19-504.~~ RENUMBERED 7-19-505 Access to and dissemination of information.**

(a) Information contained in the juvenile justice information system shall be accessible, whether directly or through an intermediary, to:

- (i) Other criminal justice agencies;
- (ii) Any person designated for the purpose provided by W.S. 14-6-227;
- (iii) ~~The department of family services if the subject is in the custody of the department;~~ **state agencies with statutory responsibility for a particular youth;**
- (iv) An individual who has met the requirements established by the division to ensure the record will be used solely as a statistical research

or reporting record and that the record is to be transferred in a form that is not individually identifiable;

(v) Any record subject as provided by W.S. 7-19-109.

(b) When a subject reaches the age of majority, all information in the juvenile justice information system pertaining to that subject shall be ~~deleted~~. **sealed. Any electronic records must disassociate the information from the name of the youth.**

**(i) Such electronic records may be used only for research and program evaluation authorized by the division and subject to any applicable laws.**

(c) Any person who willfully violates subsection (a) or (b) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00). Any person or entity who violates subsection (a) of this section shall be denied further access to the system.

**~~7-19-505.~~ RENUMBERED 7-19-506 Inspection of information.**

An individual, his parents and guardian have the right to inspect all juvenile justice record information located within this state which refers to that individual in accordance with W.S. 7-19-109.