



**A LIGHT BOX
PUBLICATION**

PROSECUTING ABUSE AND NEGLECT CASES IN WYOMING

First Edition
December 2018



**CHILDREN'S
JUSTICE PROJECT**

A Project of the Wyoming Supreme Court

Prosecuting Abuse and Neglect Cases in Wyoming

First Edition (December 2018)

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The Children’s Justice Project provided funds for this publication in accordance with the Omnibus Budget Reconciliation Act of 1993, § 13712 of Subchapter C Part 1, Court Improvement Program Grants, from the U.S. Department of Health and Human Services, Administration for Children and Families. The points of view expressed in this handbook are those of the authors, and do not necessarily represent the official position or policies of the Wyoming Supreme Court and/or the Children’s Justice Project. This publication should not be relied upon as a substitute for independent legal research to original sources of authority, the advice of a lawyer, or both.

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1 INTRODUCTION: THE ROLE OF THE PROSECUTOR

In Wyoming, child welfare is the responsibility of the local Department of Family Services (DFS) office, the county and prosecuting attorney, and the juvenile court. Ultimately, the decision of whether to institute court action falls to the discretion of the county and prosecuting attorney's office. Prosecutors are tasked with determining whether prosecution is in the best interest of the child and in the public interest. Prosecutors must also decide what evidence can be used, whether it is reliable, and whether the evidence will meet the burden of proof. Once there has been a finding of abuse or neglect, it is then incumbent upon the prosecutor to oversee the juvenile court process, ensuring that everyone is meeting their court ordered obligations.

When it comes to prosecution, a prosecutor should be an "[i]ndependent administrator of justice. The primary responsibility of a prosecutor is to seek justice, which can only be achieved by the representation and presentation of the truth." *National Prosecution Standards*, National District Attorneys Association, Third Edition, § 1-1.1.

Under Wyoming Statutes, prosecutors do not represent DFS in abuse and neglect proceedings. Prosecutors represent the State. Prosecutors are independent parties that oversee abuse and neglect proceedings to ensure progression in accordance with law. While prosecutors rely on DFS workers to provide information and to carry out the orders of the court, this relationship is not an attorney/client relationship and the two entities may have different positions. However, it is the role of the prosecutor to inform the court of the progress that DFS and the family have made in an abuse and neglect case and to request orders to address whatever is necessary to advance the case.

Prosecutors are tasked with determining whether prosecution is in the best interest of the child and in the public interest. In making these decisions, basic principles must be followed. These include the basic purposes of the child welfare system in Wyoming as outlined by Wyoming Statute § 14-3-201, which include:

- To protect the best interest of children
- To offer protective services to prevent harm to children in the home
- To protect children from abuse or neglect which jeopardizes their health or welfare
- To stabilize home environments
- To preserve family life whenever possible
- To provide permanency for children in appropriate circumstances

Wyoming Statute § 14-3-201 also states that "[t]he child's health, safety and welfare shall be of paramount concern in implementing and enforcing [the Child Protective Services Act]."

Prosecuting abuse and neglect cases is unique because the prosecutor's goal is not simply to get an adjudication of neglect or abuse. Rather, the goal is to craft a plan for the child and the family that protects the child's best interest and welfare while working towards reunifying the family. In some cases, the best plan for the child may not include adjudication.

Prosecutors have an ethical duty to ensure that taxpayer funds are used appropriately, that prosecutions are not malicious, and that all individuals brought into the court process are treated

fairly. Prosecutors must also be knowledgeable in the policy and procedure of various agencies, state and federal law, and social work principles.

In abuse and neglect proceedings, the ultimate goal is to reunify the family while protecting the child, a task that requires a prosecutor to be a master of all types of law, including juvenile, criminal, and family law. These proceedings are about offering rehabilitative services and opportunities, with the ultimate goal of reunification. If, as a prosecutor, your primary concern is punishment and criminal convictions, this may not be the area of law for you.

While the goal is reunification, sometimes you will have to make a recommendation to terminate parental rights. This decision will have long lasting effects on the child, family, and the community, and you will have to make this decision with the fullest respect for prosecution as a profession and the law.

Prosecuting abuse and neglect cases can be rewarding as it allows for an active role in working with families and children. It provides numerous opportunities to learn new law, meet new people, and make a positive difference in the community. Prosecutors should be knowledgeable about abuse and neglect law and the principles upon which it is based.

This handbook is intended as an introductory handbook on prosecuting abuse and neglect cases in Wyoming. It is not an exhaustive treatise, and you should look to other resources to supplement your knowledge of these proceedings, as well as continually seeking other learning opportunities related to abuse and neglect.

2 CHAPTER ONE: UNDERSTANDING ABUSE AND NEGLECT

2.1 INTRODUCTION

As a prosecutor of abuse and neglect cases, you should have a wide knowledge base regarding children and families. The foundation of this knowledge begins with a basic understanding of child development and the effects of abuse and neglect. You should have a basic understanding of what constitutes abuse and neglect, how abuse and neglect presents, how abuse and neglect affects children, how to respond to abuse and neglect, and how this can improve the quality of State intervention in these matters.

2.2 THE BASICS OF CHILD DEVELOPMENT

It is important that prosecutors have a basic understanding of child development, as many of the critical issues within an abuse and neglect case involve a child's failure to meet developmental milestones. Childhood abuse and neglect can have long-lasting effects on a child's emotions and behaviors, causing issues that should be addressed within the context of abuse and neglect proceedings.

Development takes place across the human lifespan. Prior to reaching adolescence, children will develop in a variety of ways, including biologically, socially, and emotionally. For children, there are distinct periods of development from infancy to young adulthood. While most children will follow common established timelines and developmental milestones, every child is different. There are various theories on how, when, and why children develop as they do. However, there are some commonly accepted principles of child development.

The early years of a child's life are important in determining the long-term health of the child. In these formative years, children are rapidly developing socially, emotionally, and intellectually. The brain is rapidly changing and biologically forming pathways that will determine how the brain will interpret the rest of the child's life and dictate the child's behavior. This development is affected by both genetics and experience. Experience can affect brain development, and brain development can affect how experiences are interpreted. Because experience plays a role in brain development, both familial and social issues can impact child behavior and development. Abuse and neglect can disrupt development resulting in long-term consequences on the quality of the child's life.

Children learn at their own pace, but there are age appropriate milestones. For example, there are milestones for walking, talking, playing, and learning specific activities. As children age into adolescence, their brains continue to develop. Learning is sequential and each new experience or skill learned builds on the previous one. If one of these skills or experiences is missed, development can be delayed or a child may not develop appropriately. There are numerous charts and resources outlining when children should meet certain milestones. A good starting place is the Center for Disease Control developmental milestones webpage located at: <https://www.cdc.gov/ncbddd/actearly/milestones/>.

2.2.1 ATTACHMENT

Attachment is the bond that develops between a child and another individual. Attachment is a key element of human well-being. Attachment is grounded in formative experiences that occur within the first few years of life. What happens during the first few years of life impacts a child's ability to develop relationships with others. Permanent alternation of a child's brain can result when a child does not attach during the first few years.

Children usually attach to their primary caregivers. A secure attachment relationship develops when a child is consistently cared for by a primary caregiver who responds to the child's needs. From this experience, the child learns that people are dependable and safe. If a child receives inconsistent, hostile, or unpredictable care—as in cases of abuse or neglect—the child develops an insecure attachment. The child develops the expectation that people are unreliable and unavailable in times of need and the child does not learn how to appropriately regulate his or her emotions. Failure to develop appropriate attachment relationships may affect the quality of the child's relationships and ability to attach to others for the rest of the child's life.

Children who miss out on developing a secure attachment relationship are at risk of developing social and emotional problems including depression, anxiety, aggression, addiction, and other medical problems. In the most severe cases, the child can suffer from reactive attachment disorder. Reactive attachment disorder is a condition of emotional dysfunction characterized by a child's inability to form a bond with its parents or caregivers due to early neglect or mistreatment. You should educate yourself on reactive attachment disorder as many children in foster care suffer from its effects.

Removal from the home is traumatic for a child and disrupts healthy child development. When a child is removed from his or her primary caretaker and placed in foster care, that child is denied the opportunity to develop an attachment with his or her parents. Attachment occurs on a daily basis as parent and child interact and the child learns to trust the parent. Not only is a child in foster care left without the opportunity to bond with his or her parent, the child forms attachments to a substitute caregiver. It is traumatic for a child to be taken away from his or her parents, but it can also be traumatic for a child to be returned to his or her parents after forming an attachment with a substitute caregiver. For this reason, attachment theory governs many principles of child well-being in abuse and neglect proceedings. Whenever a safe home environment can be created, children should remain within the home with their parents, or return to the home as soon as it can be deemed safe.

2.3 TYPES OF ABUSE AND NEGLECT

Abuse and neglect are typically categorized into four major types: physical abuse, neglect, sexual abuse, and emotional abuse.

Physical Abuse: Physical abuse is a result of non-accidental physical injury. This includes a range of physical injuries from bruising to death. Physical abuse can be the result of various physical actions against a child, such as kicking, hitting, biting, burning, shaking, choking, or any other physical harm. Physical actions that are not meant to cause harm, but ultimately do, can also be considered physical abuse. In most cases, spanking does not amount to

physical abuse unless it is unnecessarily punitive and causes bodily injury to a child. However, excessive or inappropriate corporal punishment can be considered abuse. Driving a motor vehicle while under the influence of drugs or alcohol can be considered abuse in certain cases.

Neglect: Neglect is a failure to take actions required for a child's care. Some types of neglect include physical, medical, educational, or emotional. Neglect includes failure to provide food or shelter, failure to make a child attend school, child abandonment, or failure to provide necessary medical or psychological treatment. There are limited exceptions to the definition of neglect for religious beliefs. Neglect can also include parental substance abuse if it places the child in harm's way and prevents inadequate care. This includes driving a vehicle while under the influence with children present.

Sexual Abuse: Sexual abuse is defined by the CHILD ABUSE PREVENTION AND TREATMENT ACT as "the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children."¹ Wyoming has specifically defined sexual abuse as committing or allowing the commission of a sexual offense as defined by Wyoming criminal law against a child.²

Emotional Abuse: Emotional abuse involves taking actions that impair a child's emotional development or self-esteem. This can include withholding affection, threats, criticism, or rejection of the child. Emotional abuse is incredibly hard to prove in court and requires proof of mental injury to the child. As a prosecutor, these cases will be rare and difficult to prosecute.

In Wyoming, abuse and neglect are defined by statute as follows:

Abuse: "Abuse' means inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, unless the abandonment is a relinquishment substantially in accordance with W.S. 14-11-1101 through 14-11-109, excessive or unreasonable corporal punishment, malnutrition or substantial risk thereof by reason of intentional or unintentional neglect, and the commission or allowing the commission of a sexual offense against a child as defined by law[.]"³

Neglect: "Neglect' means a failure or refusal by those responsible for the child's welfare to provide adequate care, maintenance, supervision, education or medical, surgical or any other care necessary for the child's well-being. Treatment given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination is not child neglect for that reason alone[.]"⁴

2.4 SIGNS OF ABUSE AND NEGLECT

1. 42 U.S.C. § 5106(g)(4).

2. Wyo. Stat. § 6-2-316 and 317.

3. Wyo. Stat. § 14-3-202(a)(ii).

4. Wyo. Stat. § 14-3-202(a)(vii).

As a prosecutor, you should be aware of the signs of abuse and neglect, as observation of these signs is typically the primary evidence you will present at an adjudicatory hearing.

Children subject to physical abuse may present with:

- Unexplained physical injuries;
- Burns, bites, bruises, broken bones, black eyes;
- Bruises and other injuries in various stages of healing;
- Fear of the parents or sadness when it is time to go home;
- Fear of other adults; and/or,
- Abusive behavior towards animals or pets.

Children subject to neglect may present with:

- Frequent absences from school;
- Begging for or stealing food;
- A lack of needed medical attention; and/or,
- Unclean physical appearance.

Children subject to sexual abuse may present with:

- Difficulty walking or sitting;
- Nightmares or bedwetting;
- Refusing to change for gym;
- Sudden changes in appetite;
- Unusual sexual knowledge; and/or,
- Overly affectionate behavior to strangers.

Children subject to emotional maltreatment may present with:

- Extreme behavior, such as overly compliant or overly demanding;
- Inappropriately mature or immature;
- Delays in physical and emotional development; and/or,
- Attempted suicide.

This is not an exhaustive list. You should seek out additional resources on identifying abuse and neglect. You should also familiarize yourself with the causes of abuse and neglect, as these are the issues the respondents will be required to address after adjudication. The causes of abuse and neglect include such issues as mental health, substance abuse, poverty, criminal behavior, and unresolved trauma. These concepts will be discussed in further detail later in the manual.

2.5 EFFECTS OF ABUSE AND NEGLECT

Abuse and neglect can have long-term, negative effects on children. This, in part, is why the State intervenes in such cases. Children subject to abuse and neglect may present with a variety of issues. As discussed above, abuse and neglect can lead to long-term consequences for children. Abused and neglected children often perform poorly in school and have untreated medical problems. In

addition, they can suffer from separation and loss, attachment issues, and anxiety. Severely abused children or children removed from the home may suffer from post-traumatic stress disorder, depression, and anxiety. For a variety of reasons, they may be prone to oppositional behavior and violence. Many abused and neglected children suffer from mental health diagnoses which can result in substance abuse issues as adults. Because of these issues, many abused and neglected children will need mental health services at an early age. Severely abused or neglected children may need long-term residential treatment and special education services to address educational and developmental deficiencies.

2.6 WYOMING ABUSE AND NEGLECT PROCEEDINGS

Child abuse and neglect cases are statutory in nature. These proceedings are governed by the CHILD PROTECTION ACT, Wyoming Statutes §§ 14-3-401 through 14-3-441, and the CHILD PROTECTIVE SERVICES Act, Wyoming Statutes §§ 14-3-201 through 14-3-214.

In Wyoming, Juvenile Courts are legislatively established. Pursuant to Wyoming Statute § 5-8-101, Juvenile Courts are established in every county, with the district judges presiding. Juvenile Courts have general jurisdiction over “all matters and proceedings commenced there which concern any minor alleged to be neglected, his parents, and all persons living in the same household.”⁵

Abuse and neglect proceedings are special proceedings. These cases are civil in nature, and the WYOMING RULES OF CIVIL PROCEDURE apply. A special set of procedural rules, the RULES OF PROCEDURE FOR JUVENILE COURTS also apply. The statutory authority for proceedings comes from the CHILD PROTECTION ACT, Wyoming Statutes §§ 14-3-410 through 14-3-441.

2.7 PARTIES INVOLVED

For those unfamiliar with the prosecution of abuse and neglect proceedings, it is helpful to understand the individuals and entities involved in these cases. For prosecutors, it is helpful to understand that there are far more individuals involved in abuse and neglect cases than in criminal cases.

Department of Family Services: The Department of Family Services (DFS) is a statutorily created agency whose mission is “to promote the safety, well-being and self-sufficiency of families through community partnerships.”⁶ One of DFS’s duties is to “cooperate, coordinate and assist with the prosecution” of abuse and neglect cases.⁷ DFS workers are tasked with administering the court’s orders and monitoring the family’s progress. DFS is also responsible for making reasonable efforts to prevent the removal of the child from the home or to reunify the family after removal.

Guardian ad Litem (GAL): Pursuant to federal and State statute, the Court is required to appoint counsel for any child in an abuse and neglect proceeding.⁸ In Wyoming, the Legislature has established the Wyoming GAL Program to provide GALs for children in abuse and neglect, child in need of supervision, and delinquency proceedings. GALs are licensed attorneys and are entitled to participate in full courtroom advocacy for their

⁵ Wyo. Stat. § 5-8-102(a)(i).

⁶ See the DFS website at <http://dfsweb.wyo.gov>.

⁷ Wyo. Stat. § 14-3-204(a)(vii).

⁸ Wyo. Stat. § 14-3-211(a).

clients. A GAL should be appointed immediately upon the filing of a petition. In Wyoming, GAL's serve a hybrid role of representing the child's best interest and the child's wishes.

Respondents: Respondents include the individuals who are alleged to have abused or neglected the child. Respondents can include parents, guardians, custodians, step-parents, and significant others.

Counsel for Parties: The Court may appoint counsel for "any party when necessary in the interest of justice."⁹ Parties include "the child, his parents, guardian or custodian, the state of Wyoming and any other person made a party by an order to appear, or named by the juvenile court."¹⁰

Court Appointed Special Advocates: Court Appointed Special Advocates, or CASAs, are lay advocates that are appointed to represent the best interest of the child in judicial districts where CASA programs exist. For more about CASA advocates, see WYOMING RULES OF PROCEDURE FOR JUVENILE COURTS Rule 8.

Prosecutor: Prosecutors are tasked with instituting and prosecuting abuse and neglect proceedings in Wyoming. It is the responsibility of the prosecutor to review referrals from DFS, law enforcement, schools, and community members to determine when it is in the best interest of the child and community to file an abuse and neglect case. Prosecutors must make an independent decision to file abuse and neglect proceedings upon evaluation of the evidence. Prosecutors must work with DFS to oversee rehabilitation of the family, yet at the same time, must hold DFS responsible for fulfilling its statutory obligations.

9. Wyo. Stat. § 14-3-211(b).

10. Wyo. Stat. § 14-3-402(a)(xiv).

3 CHAPTER TWO: WYOMING ABUSE AND NEGLECT LAW

Abuse and neglect proceedings in Wyoming begin when a petition is filed with the Clerk of the District Court. Petitions arise in one of two ways: either the child is taken into temporary protective custody by law enforcement, a medical practitioner, or court order and, after notification of the protective custody, the prosecuting attorney elects to file a petition; or the prosecuting attorney files a petition with the court based on information that the prosecuting attorney has obtained through other means. Proceedings can be commenced in the county where the child is living, or in the county where the child is present when the proceedings are commenced.

3.1 TEMPORARY PROTECTIVE CUSTODY

Pursuant to Wyoming Statute § 14-3-405, a child can be taken into protective custody without the parents' permission in three situations. The first is when a law enforcement officer has reasonable grounds to believe that the child is abandoned, lost, suffering from an illness or injury, or would be seriously endangered by his or her surroundings and the child needs immediate custody for protection. Law enforcement may also take protective custody of a child when the child's behavior or conduct seriously endangers the child and it appears that immediate custody is necessary. The second situation is when a medical practitioner, defined by statute as a physician, physician's assistant or nurse practitioner, has reasonable cause to believe an imminent danger to the child's life, health, or safety would exist if the child was not taken into protective custody. The third situation is when the court issues an order of protection as a result of a petition filed by the prosecuting attorney, DFS, law enforcement, the administrator of a hospital in which a child is being treated, or a medical practitioner. To place a child in protective custody without a hearing, the court must find "there is reasonable cause to believe that a child has been abused or neglected and that the child, by continuing in his place of residence or in the care and custody of the person responsible for his health, safety and welfare, [the child] would be in imminent danger of his life, health or safety[.]"¹¹ DFS cannot take protective custody of a child on its own.

A child may not remain in temporary protective custody for longer than forty-eight (48) hours without a court hearing, weekends and holidays excluded. If the child is taken into temporary protective custody, he or she is placed in what is referred to as shelter care. Once a child is in shelter care, the child is placed in the temporary custody of DFS pending a court hearing. A child can be released from shelter care if the prosecuting attorney determines that shelter care is no longer needed, unless the temporary custody was taken pursuant to a court order. If the county or district attorney determines that continued shelter care is needed, he or she must file a juvenile petition pursuant to Wyoming Statute § 14-3-412.

While a child is in shelter care, DFS is required to accept custody of the child, make reasonable efforts to inform the parents that the child is in shelter care, arrange for the care and supervision of the child, investigate the allegations against the parent, assess the needs of the child, and provide ordinary and emergency medical care. If it is in the best interest of the child, DFS must place the child with a noncustodial parent or extended family member. The placement will occur upon

¹¹ Wyo. Stat. § 14-3-405(c).

conclusion of a background check, which will ensure the noncustodial parent has not committed a crime involving serious harm to a child and is not on the central child abuse registry.

Once a child is placed in shelter care and a petition is filed, the court must hold a hearing within 48 hours, excluding weekends and legal holidays, of the child being taken into custody. At the shelter care hearing, the court must advise the parents of the contents of the petition and the nature of the allegations. The parents must be advised of their rights, and the court must advise the parents of the State's obligation to seek termination of parental rights if the child remains in foster care for fifteen (15) of the most recent twenty-two (22) months.

At the shelter care hearing, pursuant to Wyoming Statute § 14-3-409, the court must also:

[D]etermine whether or not the child's full-time shelter care is required to protect the child's welfare pending further proceedings. If the court determines that returning the child to the home is contrary to the welfare of the child, the court shall enter the finding on the record and order the child placed in the legal custody of the department of family services. If the court finds that full-time 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 supervision of the department of family services or under the protective supervision of any individual or organization approved by the court that agrees to supervise the child; or
- (ii) Impose any other terms and conditions of release deemed reasonably necessary to assure the appearance of the child at subsequent proceedings or necessary to his protection from harm.

In making this decision, the court can consider any relevant and material evidence that is helpful in assisting the court in determining whether there is a continued need for shelter care.

A shelter care hearing can be combined with the next procedural hearing or the initial appearance if the court complies with the requirements of Wyoming Statute § 14-3-413. From the initial appearance forward, the case process is the same regardless of whether the case was commenced by the taking of protective custody or the filing of a petition.

3.2 FILING OF A PETITION

Abuse and neglect proceedings can begin without the taking of protective custody. Pursuant to Wyoming Statutes §§ 14-3-411 and 412, the county or district attorney can file a petition alleging neglect of a minor child without the taking of protective custody. Upon filing, the court issues an Order to Appear for an initial appearance, which is served upon the parents. The Order to Appear can direct removal into temporary protective custody at the time it is served if the court believes, based on an affidavit accompanying the petition, that the child's conduct, condition, or surroundings seriously endanger the health or welfare of the child, or if the court finds that the child may be removed from the jurisdiction prior to the court hearing. The petition must be served in accordance with Wyoming Statute § 14-3-414.

The Order to Appear directs the parent, guardian, or custodian to appear for an initial appearance. Pursuant to Wyoming Statute § 14-6-226, at the initial appearance:

[T]he child and his parents, guardian or custodian shall be advised by the court of their rights under law and as provided in this act. They shall also be advised of the specific allegations in the petition and given an opportunity to admit or deny them. They shall also be advised of the possible liability for costs of treatment or services pursuant to this act. It is not necessary at the initial hearing for the district attorney to establish probable cause to believe the allegations in the petition are true.

After the proceedings commence, the court orders DFS to prepare a predisposition study and report, a document detailing the history of the child and family for use by the court in making future decisions. The court also must appoint a multidisciplinary team (MDT) within ten (10) days of the petition being filed. Pursuant to Wyoming Statute § 14-3-427:

(e) Before the first 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, if any. The multidisciplinary team shall review the child's personal and family history, school records, mental health records and department of family services records and any other pertinent information, for the purpose of making case planning recommendations. To the extent appropriate, the team shall involve the child in the development of the recommendations.

(f) At the first multidisciplinary team meeting, the team shall 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, or until ordered by the court in termination proceedings. 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. In formulating recommendations, the multidisciplinary team shall give consideration to the best interest of the child, the best interest of the family, the most appropriate and least restrictive case planning options available as well as costs of care. 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.

DFS is also tasked with preparing a case plan for the family when there is a recommendation to place the child outside of the home. Generally, a case plan will be developed in every case regardless of placement. The case plan should be an agreement between DFS and the parents as to what tasks the parent will accomplish and how DFS will assist in those tasks. The parent must comply with the terms and conditions of the case plan. If a parent chooses not to comply with or participate in the case plan developed by DFS, that parent is prohibited from later objecting to or complaining about the services that were provided to the child and family.

3.3 ADJUDICATION

The next step in the case process is adjudication. A child can be adjudicated as a neglected child by either an admission of a parent or by a finding that the facts alleged in the petition are true at trial. At the initial appearance, the parents are given an opportunity to admit or deny the allegations. If the parent admits, pursuant to Wyoming Statute § 14-3-426,:

[T]he court shall make the appropriate adjudication and may proceed immediately to a disposition of the case, provided the court has the predisposition report and multidisciplinary team recommendations, in accordance with the provisions of W.S. 14-3-429, except that a commissioner acting in the absence or incapacity of the judge may take testimony to establish a factual basis and accept an admission and perform all other requirements of the initial hearing but shall not proceed to disposition.

If the parent denies the allegations:

[T]he court may, with consent of the parties, proceed immediately to hear evidence on the petition or it may set a later time not to exceed sixty (60) days 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. 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 shelter care.

The adjudicatory hearing may be a bench or jury trial. Parents must be advised of their right to a jury trial and make the demand for a jury trial within ten (10) days of the advisement. Typically a jury is a six (6) person jury; however, pursuant to Wyoming Statute § 1-11-119, a party may file a written demand for twelve (12) jurors within the time a demand for a jury may be filed.

At the adjudicatory hearing, the allegations of the petition must be proved by a preponderance of the evidence through the admission of competent, relevant, and material evidence. Adjudicatory hearings are held in compliance with the Wyoming Rules of Civil Procedure and Wyoming Rules of Evidence. At the conclusion of the adjudicatory hearing, if there is an adjudication, the matter can proceed immediately to disposition or the court can set a disposition hearing. If there is not an adjudication, the matter is dismissed. If the child was removed from the home the child is returned to his or her parents.

The statutes provide one alternative to adjudication. Pursuant to Wyoming Statute § 14-3-428, if the parties are able to negotiate an agreement, a consent decree may be entered. A consent decree is entered pre-adjudication and holds future proceedings in abeyance. The parties negotiate the terms and conditions of the consent decree, and the parties are expected to comply with the decree. If the parent successfully completes the terms and conditions of the consent decree, the case is dismissed without an adjudication. If the parent does not complete the terms and conditions of the consent decree, the district attorney can file a petition to have the proceedings reinstated.

3.4 POST-ADJUDICATION

Once there has been an adjudication, the next procedural hearing is the disposition hearing. Wyo. Stat. § 14-3-429(a) provides:

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

(i) The court shall review the predisposition report, the recommendations, if any, of the multidisciplinary team, the case plan and other reports or evaluations ordered by the court and indicate on the record what materials were considered in reaching the disposition;

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

(iii) When a child is adjudged by the court to be neglected the court shall enter its decree to that effect and make a disposition as provided in this section that places the child in the least restrictive environment consistent with what is best suited to the public interest of preserving families and the physical, mental and moral welfare of the child;

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

Wyoming Statute § 14-3-429 further provides:

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

(i) Permit the child to remain in the legal custody of his parents, guardian or custodian without protective supervision, subject to terms and conditions prescribed by the court;

(ii) Place the child under protective supervision;

(iii) Transfer temporary legal custody to a relative or other suitable adult the court finds qualified to receive and care for the child, with or without supervision, subject to terms and conditions prescribed by the court;

(iv) Transfer temporary legal custody to the department of family services or a state or local public agency responsible for the care and placement of neglected children, provided the child shall not be committed to the Wyoming boys' school, the Wyoming girls' school or the Wyoming state hospital.

(c) In cases where a child is ordered removed from the child's home:

(i) If a child is committed or transferred to an agency or institution under this section, at least every three (3) months the agency or institution shall recommend to the court if the order should be continued;

(ii) 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. 14-3-435, or shall state on the record the reasons why an order for support was not entered;

(iii) In cases where the child is placed in custody of the department, support shall be established by the department through a separate civil action;

(iv) Any order regarding potential placement at a psychiatric residential treatment facility shall not specify a particular psychiatric residential treatment facility or level of care for the placement of the child.

(d) As a part of any order of disposition and the terms and conditions thereof, the court may:

(i) Impose any demands, requirements, limitations, restrictions or restraints on the child, and do all things with regard to the child that his parents might reasonably and lawfully do under similar circumstances;

(ii) Order the child, or his parents, or both, to undergo evaluation and indicated treatment or another program designed to address problems which contributed to the adjudication. A parent who willfully violates or neglects or refuses to comply with any order of the court may be found in contempt and punished as provided by W.S. 14-3-438;

(iii) Require the child's parents or guardian to attend a parenting class or other appropriate education or treatment designed to address problems which contributed to the adjudication and to pay all or part of the cost of the class, education or treatment in accordance with the court's determination of their ability to pay;

(iv) Require the child's parents or guardian and the child to participate in a court supervised treatment program qualified under W.S. 7-13-1601 through 7-13-1615, provided the court supervised treatment program accepts the child's parents or guardian and the child for participation in its program.

The order of disposition remains in effect for an indefinite period until terminated by the court. The court can terminate the order and close the case whenever it appears the purpose of the order has been achieved and the child's best interests require case closure.

If the case remains open and the child remains out of the parents' home, whether as result of an adjudication or a consent decree, the court is required to hold review hearings every six (6) months pursuant to Wyoming Statute § 14-3-431(c), which states:

The court shall conduct a review hearing six (6) months from the date of the child's removal from the home and every six (6) months thereafter. At the six (6) month review hearing the court shall review the case plan to determine:

(i) The health and safety of the child;

(ii) The continuing necessity for the placement;

(iii) The appropriateness of the current placement;

- (iv) The reasonableness of efforts made to reunify the family and the consistency of those efforts with the case plan;
- (v) The appropriateness of the case plan and the extent of compliance with the case plan including the permanent placement of the child;
- (vi) If progress has been made toward alleviating or mitigating the causes necessitating placement outside the home and the extent of that progress; and
- (vii) The date the child is expected to be returned to the home or placed for adoption or legal guardianship.

The court is also required to hold a permanency hearing twelve (12) months after the child's removal from the home and every twelve (12) months thereafter if the child remains out of the home. The purpose of the permanency hearing is to determine if DFS has made reasonable efforts, as defined by Wyoming Statute § 14-3-440, to return the child to the home and effectuate a permanency plan for the child. The permanency plan is the long-term goal for the child, whether it be returning the child to the home, finding a permanent guardian for the child, or planning for the child's adoption after parental rights have been relinquished or terminated.

Wyoming Statute § 14-3-431 states the following about permanency hearings:

- (d) The court shall conduct a permanency hearing no later than twelve (12) months from the date of the child's removal from the home and not less than once every twelve (12) months thereafter if the child remains in out-of-home placement or more frequently as deemed necessary by the court.
- (e) If the court determines as provided in W.S. 14-2-309(a)(vi), (b) or (c) that reasonable efforts to preserve and reunify the family are not required, a permanency hearing shall be held for the child within thirty (30) days after the determination.
- (f) At the permanency hearing, the court shall make determinations of reasonable efforts as outlined in W.S. 14-3-440.
- (g) A permanency hearing is not required if the case was dismissed, the child was not removed from the home or the child was returned to the child's parent or guardian.
- (h) The permanency hearing may be combined with a hearing required by other sections of this chapter if the hearing is held within twelve (12) months from the date of the child's removal from the home. If a permanency hearing is combined with another hearing, the requirements of the court related to the disposition of the other hearing shall be met in addition to the requirements of this section.
- (j) At the permanency hearing, the department of family services shall present to the court:
 - (i) Efforts made to:

(A) Effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding other permanency options and set forth the proposed plan to carry out the placement decision, including specific times for achieving the permanency plan; and

(B) Ensure the child be provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences as defined in W.S. 14-13-101(a)(i) to promote healthy child and adolescent development consistent with W.S. 14-13-101 through 14-13-104.

(ii) If the permanency plan is classified as another planned permanent living arrangement:

(A) A compelling reason for establishing another planned permanent living arrangement; and

(B) Documentation of the ongoing and unsuccessful efforts to return the child home, place the child for adoption or with a legal guardian or a fit and willing relative for purposes of guardianship or adoption, including evidence of efforts to use social media or other search technology to find biological family members for the child.

(k) At the permanency hearing, the court shall:

(i) Determine whether the permanency plan is in the best interest of the child and whether the department of family services has made reasonable efforts to finalize the plan;

(ii) Order the department of family services to take any additional steps necessary to effectuate the terms of the permanency plan;

(iii) Ask the child about his desired permanency outcome if it is determined that the child should be present at the hearing;

(iv) Ask the child's guardian ad litem or other legal representative about the child's desired permanency outcome if it is determined inappropriate for the child to be present at the hearing;

(v) If the permanency plan is classified as another planned permanent living arrangement:

(A) Make a judicial determination and explain why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child; and

(B) Provide reasons why it continues not to be in the best interest of the child to return home or be placed for adoption or with a legal guardian or a fit and willing relative for purposes of guardianship or adoption.

(vi) Require that the child be provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences as defined in W.S. 14-13-101(a)(i) to promote healthy child and adolescent development consistent with W.S. 14-13-101 through 14-13-104.

(m) When a child has been placed in foster care under the responsibility of the state for fifteen (15) of the most recent twenty-two (22) months the state shall file a petition to terminate parental rights or seek to be joined as a party to the petition if a petition has been filed by another party, unless:

(i) The child is in the care of a relative;

(ii) The state agency has documented in the case plan a compelling reason for determining that filing the petition is not in the best interest of the child; or

(iii) The state agency has not provided services to the child's family deemed to be necessary for the safe return of the child to the home, if reasonable efforts described in W.S. 14-3-440 are required to be made.

The permanency hearing is a critical point in the proceeding, as the order from the permanency hearing determines the direction the case will take. If the court orders DFS to continue to make reasonable efforts, the matter will proceed under the dispositional order with continued review hearings until such time as the court determines that the case should close. If the court orders the permanency plan be changed to adoption, then DFS will file a separate, civil proceeding seeking termination of parental rights. If, in that separate proceeding, parental rights are terminated, the parents are released from the juvenile case and the child is placed in the custody of DFS for adoption.

3.5 STATUTORY SPECIAL PROCEEDINGS

Because of their special statutory nature, abuse and neglect proceedings differ from criminal prosecutions in various ways.

3.5.1 PROCEDURAL RULES

Abuse and neglect cases are civil in nature, thus the WYOMING RULES OF CIVIL PROCEDURE (W.R.C.P) apply. These cases also have their own set of procedural rules, the RULES OF PROCEDURE FOR JUVENILE COURTS (W.R.P.J.C.). Pursuant to W.R.P.J.C. Rule 1(d), the WYOMING RULES OF EVIDENCE (W.R.E.) apply to adjudicatory hearings pursuant to W.R.E. 1101(b)(3). Parties may also assert privileges throughout abuse and neglect proceedings pursuant to W.R.E. 1101(b)(3); however, the assertion of privileges is limited by Wyo. Stat. § 14-3-210.

| Wyoming Rules of Procedure for Juvenile Courts | |
|---|--|
| Rule 1 | Definitional rule with scope; Dictates that WRE apply to juvenile proceedings |
| Rule 2 | Presence of certain parties in court: presence of child, presence of foster parents with limitations, notice to caregivers and opportunity to be heard |
| Rule 3 | Discovery rule including self-executing discovery required by State |
| Rule 4 | Timeline for filing reports is five business days before court with service on parties |
| Rule 5 | Right to counsel for Respondents; Notice and advisement of right to counsel |
| Rule 6 | Authority of court to hold pretrial conferences |
| Rule 7 | Authority of parties to stipulate to matters; Specific requirements for ICWA cases |
| Rule 8 | CASA requirements |
| Rule 9 | Plea-bargaining agreements with informational protections; Parties may enter plea agreement where information obtained by the State in case-planning or MDT meetings will not be used by the State in criminal cases |
| Rule 10 | Prohibition against delaying juvenile cases for pending criminal proceedings |

Note: The W.R.P.J.C were updated recently, with new rules going into effect on June 1, 2018. Previous versions of these rules are no longer accurate.

3.5.2 COURT JURISDICTION

Wyoming statutes give broad jurisdiction to juvenile courts in order to remedy abuse and neglect. Once an abuse and neglect case is filed, the court has jurisdiction to determine legal custody of the child. The court also has the authority to “order any party to the proceedings to perform any acts, duties and responsibilities the court deems necessary; or 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.”¹² The district court may continue to exercise jurisdiction over custody, parental rights, or guardianships; however, juvenile court orders will override these orders until such time as the juvenile case is closed.¹³

3.5.3 CONFIDENTIALITY

Juvenile court proceedings are confidential and are not open to members of the general public.¹⁴ Generally, only the parties to the case are allowed in the courtroom. However, under W.R.P.J.C. Rule 2(c), the Court may admit specific individuals into a hearing upon considering the welfare of the child and the family.

12. Wyo. Stat. § 14-3-403(a).

10. Wyo. Stat. § 14-3-403(b).

14. See W.R.P.J.C. Rule 2(c).

Furthermore, all records associated with reports and investigations of abuse and neglect are confidential as well.¹⁵ If confidentiality of the records is not maintained, the individual disclosing the records can be prosecuted for a violation of Wyoming Statute. § 14-3-214(a) or 14-3-427(g) and subject to a fine of not more than five hundred dollars (\$500) or imprisonment for not more than six (6) months. There are provisions in Wyoming Statute § 14-3-214 that allow DFS to disclose records to certain individuals upon request.

Foster parents or other out-of-home providers are entitled to be heard at any hearing pursuant to W.R.P.J.C. Rule 2(b). However, the court may exclude them from the courtroom when they are not being heard if it is necessary to protect the best interest of the child or the privacy of the parties.

3.6 DEFINITIONS

Many of the terms used within abuse and neglect proceedings are specially defined terms. You should familiarize yourself with the following terms and chart containing all of the special definitions related to abuse and neglect proceedings.

Child: “Any person under the age of eighteen (18).”¹⁶ The statutes also define a child as “an individual who is under the age of majority.”¹⁷

Minor: “An individual who is under the age of majority.”¹⁸

Adult: “An individual who has attained the age of majority.”¹⁹

Parties: “[I]nclude[s] the child, his parents, guardian or custodian, the state of Wyoming and any other person made a party by an order to appear, or named by the juvenile court.”²⁰

Neglected Child: A child who has been subjected to neglect or abuse as those terms are defined below.²¹

Abuse: “Inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, unless the abandonment is a relinquishment substantially in accordance with W.S. 14-11-101 through 14-11-109, excessive or unreasonable corporal punishment, malnutrition or substantial risk thereof by reason of intentional or unintentional neglect, and the commission or allowing the commission of a sexual offense against a child as defined by law[.]”²²

Neglect: “A failure or refusal by those responsible for the child’s welfare to provide adequate care, maintenance, supervision, education or medical, surgical or any other care necessary for the child’s well-being. Treatment given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination is not child neglect for that reason alone [.]”²³

15. Wyo. Stat. § 14-3-214(a).

16. Wyo. Stat. § 14-3-202(a)(iii).

17. Wyo. Stat. § 14-3-402(iii).

18. Wyo. Stat. § 14-3-401(a)(xi).

19. Wyo. Stat. § 14-3-402(a)(ii).

20. Wyo. Stat. § 14-3-402(a)(xiv).

21. Wyo. Stat. § 14-2-402(a)(xii).

22. Wyo. Stat. § 14-3-202(a)(ii).

23. Wyo. Stat. § 14-3-202(a)(vii).

Mental Injury: “An injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in his ability to function within a normal range of performance and behavior with due regard to his culture[.]”²⁴

Physical Injury: “Any harm to a child including but not limited to disfigurement, impairment of any bodily organ, skin bruising if greater in magnitude than minor bruising associated with reasonable corporal punishment, bleeding, burns, fracture of any bone, subdural hematoma or substantial malnutrition[.]”²⁵

Substantial Risk: “A strong possibility as contrasted with a remote or insignificant possibility[.]”²⁶

Imminent Danger: “[I]ncludes threatened harm and means a statement, overt act, condition or status which represents an immediate and substantial risk of sexual abuse or physical or mental injury. ‘Imminent danger’ includes violations of W.S. 31-5-233(m).”²⁷

A person responsible for a child’s welfare: “[I]ncludes the child’s parent, noncustodial parent, guardian, custodian, stepparent, foster parent or other person, institution or agency having the physical custody or control of the child.”²⁸

Parent: “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.”²⁹

Custodian: “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.”³⁰

Protective Supervision: “A legal status created by court order following an adjudication of neglect, whereby the child is permitted to remain in his home subject to supervision by the department of family services, a county or state probation officer or other qualified agency or individual the court may designate.”³¹

Legal Custody: “A legal status created by court order which vests in a custodian the right to have physical custody of a minor, the right and duty to protect, train and discipline a minor, the duty to provide him with food, shelter, clothing, transportation, ordinary medical care, education and in an emergency the right and duty to authorize surgery or other extraordinary medical care. The rights and duties of legal custody are subject to the rights and duties of the guardian or the person of the minor, and to residual parental rights and duties.”³²

Temporary Protective Custody: “A legal status created prior to a shelter care hearing when a court, law enforcement officer, physician, physician’s assistant or nurse practitioner takes a child into protective custody pursuant to W.S. 14-3-405.”³³

Shelter Care: “The temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement or commitment.”³⁴

24. Wyo. Stat. § 14-3-202(a)(ii)(A).

25. Wyo. Stat. § 14-3-202(a)(ii)(B).

26. Wyo. Stat. § 14-3-202(a)(ii)(C).

27. Wyo. Stat. § 14-3-202(a)(ii)(D).

28. Wyo. Stat. § 14-3-202(a)(i).

29. Wyo. Stat. § 14-3-402(a)(xiii).

30. Wyo. Stat. § 14-3-402(a)(vii).

31. Wyo. Stat. § 14-3-402(a)(xv).

32. Wyo. Stat. § 14-3-402(a)(x).

33. Wyo. Stat. § 14-3-402(a)(xix).

34. Wyo. Stat. § 14-2-402(a)(xvii).

Adjudication: “A finding by the court or the jury, incorporated in a decree, as to the truth of the facts alleged in the petition.”³⁵

Disposition: While not defined by statute, the term disposition has a commonly accepted definition amongst abuse and neglect practitioners. In abuse and neglect cases, after the court has adjudicated that child abuse and neglect has occurred, the dispositional hearing will be held within sixty (60) days. At this hearing, the court decides who will have legal custody of the child, physical custody of the child, and what conditions will be placed upon the parties for resolution of the case. All the orders of the court may change at future review and permanency hearings, but disposition in child abuse and neglect cases should not be confused with case closure or with the review or permanency hearings, both of which occur after the disposition hearing.

Central Registry: Wyoming Statute § 14-3-213 requires DFS to maintain a record of all child protection reports and the status of the investigation. This record is called the central registry. Whether an individual is on the central registry is an administrative decision made by DFS without court involvement. The central registry contains information on whether an investigation is continuing or “substantiated,” meaning that at the conclusion of the investigation DFS found that the report was supported by a preponderance of the evidence. DFS is required to follow certain timelines in relation to the central registry. Further information on the central registry can be found in DFS policy.

| Term | Statute Defining | Definition |
|------------------------|-------------------------|--|
| Abuse | 14-3-202(a)(iii) | Inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, unless the abandonment is a relinquishment substantially in accordance with W.S. 14-11-101 through 14-11-109, excessive or unreasonable corporal punishment, malnutrition or substantial risk thereof by reason of intentional or unintentional neglect, and the commission or allowing the commission of a sexual offence against a child as defined by law. |
| Adjudication | 14-3-402(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. |
| Custodian | 14-3-402(vii) | 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. |
| Deprivation of Custody | 14-3-402(a)(viii) | Transfer of legal custody by the court from a parent or previous legal custodian to another person, agency, organization or institution. |
| Imminent Danger | 14-3-202(a)(ii)(D) | Includes threatened harm and means a statement, overt act, condition or status which represents an immediate and substantial risk of sexual abuse or physical or mental injury. "Imminent danger" includes violation of W.S. 31-5-233(m). |
| Mental Injury | 14-3-202(a)(ii)(A) | An injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in his ability to function within a normal range of performance and behavior with due regard to his culture. |
| Minor | 14-2-402(a)(xi) | An individual who is under the age of majority. |
| Neglected Child | 14-2-402(a)(xii) | A child (a) who has been subjected to neglect as defined in W.S. 14-3-202(a)(vii); or (b) who has been subjected to abuse as defined in W.S. 14-3-202(a)(ii). |
| Neglect | 14-3-202(a)(vii) | A failure or refusal by those responsible for the child's welfare to provide adequate care, maintenance, supervision, education or medical, surgical or |

35. Wyo. Stat. § 14-3-402(a)(i).

| <i>Term</i> | <i>Statute Defining</i> | <i>Definition</i> |
|--|-------------------------|---|
| | | any other care necessary for the child's well-being. Treatment given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination is not child neglect for that reason alone. |
| Parent | 14-2-402(a)(xiii) | 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. |
| Parties | 14-2-402(a)(xiv) | Parties include the child, his parents, guardian or custodian, the state of Wyoming and any other person made a party by an order to appear, or named by the juvenile court. |
| Person Responsible for a Child's Welfare | 14-3-202(a)(i) | Includes the child's parent, noncustodial parent, guardian, custodian, stepparent, foster parent or other person, institution or agency having the physical custody or control of the child. |
| Physical Injury | 14-3-202(a)(ii)(B) | Any harm to a child including but not limited to disfigurement, impairment of any bodily organ, skin bruising if greater in magnitude than minor bruising associated with reasonable corporal punishment, bleeding, burns, fracture of any bone, subdural hematoma or substantial malnutrition. |
| Shelter Care | 14-2-402(a)(xvii) | The temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement or commitment. |
| Substantial Risk | 14-3-202(a)(ii)(C) | A strong possibility as contrasted with a remote or insignificant possibility. |
| Temporary Protective Custody | 14-2-402(a)(xix) | A legal status created prior to a shelter care hearing when a court, law enforcement officer, physician, physician's assistant or nurse practitioner takes a child into protective custody pursuant to W.S. 14-3-405. Temporary protective custody vests in a custodian the duty to protect the child and arrange for the provision of food, shelter, clothing, transportation, ordinary medical care and education. Temporary protective custody shall be transferred from the law enforcement officer, physician, physician's assistant or nurse practitioner to the local child protection agency as soon as practicable to facilitate such care. Temporary protective custody divests the parent or custodian of his right to the custody and control of the child. |
| Unsubstantiated Report | 14-3-202(a)(x) | Any report made pursuant to W.S. 14-3-201 through 14-3-216 that, upon investigation, is not supported by a preponderance of the evidence. |

3.7 FEDERAL LAW

Prosecutors are required to be experts in many areas of both State and federal law. There are numerous federal laws that govern abuse and neglect proceedings, and prosecutors must have a working knowledge of how these federal laws affect their cases. The following are a some of the more common federal laws that affect the prosecution of abuse and neglect proceedings.

3.7.1 CHILD ABUSE PREVENTION AND TREATMENT ACT (1974)

The CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) provides States with a mechanism to access federal funding to assist in responding to cases of child maltreatment. CAPTA includes numerous requirements that a state must meet to receive federal funds including a system of mandated reporting for suspected child abuse and neglect, assessments to determine which reports of suspected child abuse and neglect are valid, and responses that are appropriate based on the level of risk to the child. Of particular importance is CAPTA's requirement that a GAL be appointed to represent a child when judicial intervention is necessary. CAPTA also establishes

requirements for DFS worker training and disclosure of information to government entities; requires mandatory child abuse reporting; and provides minimum standards for defining physical child abuse, neglect, and sexual abuse. Wyoming's statutory definitions of child abuse and neglect conform to these minimum standards.

3.7.2 ADOPTION ASSISTANCE AND CHILD WELFARE ACT (1980)

The ADOPTION ASSISTANCE AND CHILD WELFARE ACT (AACWA) established Titles IV-B and IV-E of the SOCIAL SECURITY ACT. The AACWA has two primary goals: 1) reduce the number of children entering the foster care system, and 2) reduce the length of time children remain in the foster care system.

To accomplish these goals, the AACWA amended Titles IV-B and established Title IV-E of the SOCIAL SECURITY ACT. In order for a state to be eligible for funding under Titles IV-B and IV-E, the state must comply with the requirements set forth therein. Title IV-B requires a state to develop a plan to prevent and respond to child abuse and neglect cases in order to receive federal funding. Title IV-E provides federal funding to assist in offsetting the costs of foster care when children are removed from their homes. These Titles also provide federal adoption subsidies for special needs children (specifically, older children and children with emotional or behavioral problems).

3.7.3 ADOPTION AND SAFE FAMILIES ACT (1997)

The ADOPTION AND SAFE FAMILIES ACT (ASFA) is an extensive federal law that provides specific requirements for states when developing child welfare law practices. Wyoming law has adopted these provisions, and the provisions dictate how each abuse and neglect case proceeds. A comprehensive understanding of ASFA as embodied in Wyoming law is essential, as ASFA's provisions lay the groundwork for what is done in court every day. This section provides a general overview of ASFA's provisions. Please review Wyoming Statutes to gain a complete understanding of how these provisions have been codified in Wyoming.

ASFA amended Title IV-E and IV-B of the SOCIAL SECURITY ACT. ASFA continued to provide funding to support family preservation and reunification through the provisions of reasonable efforts. However, ASFA made clear that "in determining reasonable efforts to be made with respect to a child... the child's health and safety shall be the paramount concern."

Some issues to consider with AFSA include:

Reasonable Efforts. ASFA requires that, in most circumstances, reasonable efforts must be provided to facilitate family reunification. Although "reasonable efforts" is not defined, ASFA requires that the state agency establish a written case plan that details the child's placement, school, medical, and other information, and the services that will be provided to assist in reunification or, if reunification is not the goal, that services that will be provided to reach the alternate permanency goal. ASFA continued the requirement for six-month review hearings, and added the requirement for a permanency hearing at least once every twelve (12) months while a child is in foster care.

ASFA also clarified that reasonable efforts toward reunification may not be required in cases in which the harm done to the child is significant and, in some situations, even mandates that the state proceed immediately to a termination of parental rights. ASFA's

specific circumstances in which reasonable efforts toward reunification need not be provided are mirrored in Wyoming Statute § 14-2-309(c).

Fifteen of Twenty-Two Rule. ASFA also established the oft-quoted “15 of 22” rule, requiring a state agency to seek termination of parental rights when a child has been in foster care for fifteen (15) of the most recent twenty-two (22) months, unless one of the enumerated exceptions applies. The purpose of this rule is to ensure children do not “linger” in the foster care system without progress toward permanency. This rule is extremely important to understand as it is a legal tool to reach permanency for children when their parents delay progress or are simply incapable of meeting the requirements of their case plans. For Wyoming’s “15 of 22” rule, see Wyoming Statute § 14-3-431(m).

Permanency. ASFA’s focus on permanency for children is also evident in its expansion of alternate permanency options to include permanent guardianships and “another planned permanent living arrangement” (APPLA), and its increased adoption subsidies and incentives.

3.7.4 TITLES IV-B AND IV-E OF THE SOCIAL SECURITY ACT

In broad terms, Titles IV-B and IV-E require the following:

- Reasonable efforts shall be provided to prevent removal of a child from the home;
- Reasonable efforts shall be provided to reunify children with their families; and
- Permanency planning for each child, specifically six-month review hearings to monitor progress on the case and details for services to facilitate the permanency plan for the child.

Titles IV-B and IV-E are particularly relevant to prosecutors. These Titles drive much of what DFS does in a case, and failure to follow the mandate can have significant consequence for DFS and the child should funding be lost. In order to receive Title IV-E funding, specific requirements must be met by the juvenile court system. These requirements include the following:

- In the first court order following the removal of the child from the home, the court must find that it is contrary to the welfare of the child to remain in or return to the child’s home;
- Reasonable efforts to prevent the removal of the child must be made within sixty (60) days of the date the child was removed from the home;
- A case plan must be developed within sixty (60) days of the date the child was removed from the home;
- A six-month periodic review hearing must be held within six (6) months after placement in foster care. (Wyoming Statutes require these hearings every six (6) months from the date of removal. See Wyoming Statute § 14-3-431).
- Reasonable efforts to finalize a permanency plan must be made every twelve (12) months after the child enters foster care. (Wyoming Statutes require these hearings every six (6) months from the date of the actual removal. See Wyoming Statute § 14-3-431).
- A petition to terminate parental rights must be filed if the child is in foster care for fifteen (15) of the most recent twenty-two (22) months.

3.7.5 MULTI-ETHNIC PLACEMENT ACT AND THE INTERETHNIC ADOPTION PROVISIONS (1994)

The MULTI-ETHNIC PLACEMENT ACT AND THE INTERETHNIC ADOPTION PROVISIONS (MEPA-IEP) seek to eliminate the consideration of race, color, or national origin when licensing foster parents and when making decisions for foster care or adoptive placements. The MEPA-IEP also requires that DFS make diligent efforts to recruit foster and adoptive parents “that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed.” The MEPA-IEP prohibits delay in placement in order to place in a racially congruent home, and prohibits the use of race, color, or national origin to deny eligibility for foster care or adoption or to become a foster or adoptive parent.

Race, color, or national origin can be considered in very restricted circumstances, such as when an older child wishes to be placed with a family of a particular race, or has a special need for placement with a particular race. MEPA-IEP does not apply to any child who qualifies as an Indian child under the Indian Child Welfare Act (ICWA).

3.7.6 THE FOSTER CARE INDEPENDENCE ACT (1999)

The FOSTER CARE INDEPENDENCE ACT, known as the CHAFEE ACT, was established to assist children remaining in foster care until the age of eighteen (18) (or twenty-one (21)) to transition into independence. The CHAFEE ACT authorizes the provision of independent living services including education services (vocational training, assistance in obtaining a diploma, or post-secondary education), employment services (job placement assistance), self-care services (financial assistance, housing assistance, and counseling), and Medicaid eligibility (the Act authorizes states to extend Medicaid eligibility to former foster youth to age twenty-one). The CHAFEE ACT mandates the use of a portion of federal funding to assist former foster youth to the age of twenty-one (21).

The Chafee Education and Training Vouchers were added to the CHAFEE ACT in 2000 to provide federal funds (up to \$5000 per year per youth) for former foster youth to help pay for post-secondary education or vocational education.

3.7.7 FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT (2008)

The FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT (FOSTERING CONNECTIONS ACT) allows states to continue to provide foster care services to youth up to the age of twenty-one (21), as long as those youth are participating in one of the following:

- Completing a secondary education program or program leading to an equivalent credential;
- Enrolled in an institution which provides post-secondary or vocational education;
- Participating in a program or activity designed to promote, or remove barriers to, employment;
- Employed for at least eighty (80) hours per month; or
- Incapable of doing any of the above activities due to a medical condition, which is supported by regularly updated information in the case plan of the child.

Children over the age of eighteen (18) may stay eligible for foster care payments if they are living independently, but in a supervised setting. Finally, the FOSTERING CONNECTIONS ACT also

provides funding for relatives who take guardianship of children in foster care. This law also requires clients to stay in their home school if at all possible.

3.7.8 CHILD AND FAMILY SERVICES IMPROVEMENT ACT OF 2006

The CHILD AND FAMILY SERVICES IMPROVEMENT ACT OF 2006 requires the court to consider the wishes of older and transitioning youth when making permanency decisions or developing transition plans. The court must consult with the youth about these decisions in an age-appropriate manner.

3.7.9 PREVENTING SEX TRAFFICKING AND STRENGTHENING FAMILIES ACT (2014)

The PREVENTING SEX TRAFFICKING AND STRENGTHENING FAMILIES ACT focuses on identifying and finding services for children at risk of or who are victims of sex trafficking. It also requires the state agency to report on these victims. Subtitle B of the Act focuses on permanency, one of the biggest changes being that another planned permanent living arrangement (APPLA) can only be used as a permanency goal in limited circumstances. The Act requires that children have appropriate documentation when they age out of foster care, including a copy of their birth certificate, Social Security card, health insurance information, copies of medical records, and a driver's license. Finally, the Act requires that children in foster care are allowed to participate in age appropriate activities.

3.7.10 UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT AND PARENTAL KIDNAPPING PREVENTION ACT

The purpose of the UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA) is to avoid jurisdictional competition and conflict between courts of different states in child custody matters. A "child custody proceeding" is a legal proceeding where legal or physical custody is at issue, or where visitation with a child is at issue, such as a divorce, separation, abuse or neglect, guardianship, paternity, termination of parental rights, or domestic violence protection order hearings.

The purpose of the PARENTAL KIDNAPPING PREVENTION ACT (PKPA) is to determine which custody decrees are entitled to full faith and credit. The rules that govern court jurisdiction to make an initial custody determination differ from those governing jurisdiction to modify an existing order.

3.7.11 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

The INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) establishes uniform legal and administrative procedures governing the interstate placement of foster children. Before a child in the custody of the state can be placed in a home in another state (whether a foster home, relative's home, child care institution or pre-adoptive placement), ICPC requires the sending state to notify the receiving state of the intention to place a child in a home in the receiving state. The receiving state must then provide notice to the sending state of the proposed placement.

In practice, the ICPC process includes a home study of the potential home and approval by the receiving state. This process is cumbersome and can take many months, sometimes years. If there is a potential placement with relatives, noncustodial parents, or other families in another state, you

should encourage DFS to begin the ICPC process as soon as possible in order to receive the necessary notice from the receiving state. Anytime you are considering placing a child in a state other than Wyoming, be sure you are following the requirements of ICPC, as any placement of a child in another state that does not follow ICPC is illegal. This includes ensuring that DFS sends notice, requests a home study or information about the placement, and the home study or information is returned to Wyoming before placement. This is done through the state ICPC administrators. Every state has one.

3.7.12 INDIAN CHILD WELFARE ACT

Note: This paragraph is not a full treatise on the Indian Child Welfare Act (ICWA). ICWA has very specific requirements that prosecutors must follow, and prosecutors should make it a priority to received detailed training on ICWA. Training and education can be located through agencies such as the National Indian Child Welfare Association, Bureau of Indian Affairs, National Indian Law Center, American Bar Association, and others.

The ICWA is a substantive federal law whose purpose is to preserve Indian families. ICWA establishes strict guidelines for when an “Indian child” is involved in a “child custody proceeding,” including any action involving foster care placement, adoption, or termination of parental rights. Because abuse and neglect cases very often involve foster care placement, it is essential that you are well-versed in ICWA’s requirements, as failure to follow these requirements can result in invalidation of the proceedings. If ICWA applies to a case, see the Bureau of Indian Affairs Guidelines for State Courts, the ICWA Regulations, and the Indian Child Custody Proceedings (BIA Guidelines) for guidance. Several ICWA provisions are jurisdictional in nature and can be raised at any time during the proceedings. As a result, it is imperative that ICWA compliance starts at the beginning of the case so permanency for the child is not disrupted at a later date. Any party can bring a petition to invalidate state court action taken in violation of ICWA. Therefore, it is critical that the court makes the necessary findings under ICWA and the court orders reflect the correct findings.

ICWA is a complicated piece of federal legislation with significant consequences for violations. Furthermore, failure to follow the provisions of ICWA can have serious consequences on the children. This manual is not intended as a full treatise on ICWA. Prosecutors MUST seek out education and training regarding ICWA compliance.

Some issues to consider with ICWA include:

Full Faith and Credit. State courts must give full faith and credit to tribal court orders. In cases where state and federal laws are inconsistent, ICWA states the highest protection law shall stand.

Federal Recognition. ICWA only applies when the tribe involved is federally-recognized. A list of federally-recognized tribes can be found on the BIA website.

Exclusive Jurisdiction. The tribal court has exclusive jurisdiction when the child resides or is domiciled on a reservation or the child is a ward of a tribal court. For all other cases, either the tribal court or the state court must exercise jurisdiction. Absent good cause, the state court must transfer the case to the tribal court upon petition of the parent, Indian custodian,

or tribe. If the state court retains jurisdiction, the tribe may intervene at any point and become a party to the case. A parent can veto a transfer.

Notice Requirement. The prosecutor must notify the tribe if they know or have reasons to know that the child is an Indian child. The prosecutor must give notice to all potential tribes or, if the specific tribe is unknown, to the Secretary of the Interior.

Active Efforts. Active efforts are required to prevent the removal of an Indian child from the Indian family or to reunify the Indian family. Active efforts require more than reasonable efforts. "Active efforts" are defined in 25 CFR 23.2 as:

[A]ffirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with his or her family. Where an agency is involved in the child-custody proceeding, active efforts must involve assisting the parent or parents or Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan. To the maximum extent possible, active efforts should be provided in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's Tribe and should be conducted in partnership with the Indian child and the Indian child's parents, extended family members, Indian custodians, and Tribe. Active efforts are to be tailored to the facts and circumstances of the case and may include, for example:

- (1) Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal;
- (2) Identifying appropriate services and helping the parents to overcome barriers, including actively assisting the parents in obtaining such services;
- (3) Identifying, notifying, and inviting representatives of the Indian child's Tribe to participate in providing support and services to the Indian child's family and in family team meetings, permanency planning, and resolution of placement issues;
- (4) Conducting or causing to be conducted a diligent search for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parents;
- (5) Offering and employing all available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the child's Tribe;
- (6) Taking steps to keep siblings together whenever possible;
- (7) Supporting regular visits with parents or Indian custodians in the most natural setting possible as well as trial home visits of the Indian child during any period of removal,

consistent with the need to ensure the health, safety, and welfare of the child;

(8) Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or, when appropriate, the child's family, in utilizing and accessing those resources;

(9) Monitoring progress and participation in services;

(10) Considering alternative ways to address the needs of the Indian child's parents and, where appropriate, the family, if the optimum services do not exist or are not available;

(11) Providing post-reunification services and monitoring.

Qualified Expert Witness. Expert testimony is required at the removal hearing to establish that continued custody by the parent is likely to result in serious emotional or physical damage to the child. This testimony must come from a Qualified Expert Witness. The BIA Guidelines define a qualified expert witness as:

(b) [P]ersons with the following characteristics are most likely to meet the requirements for a qualified expert witness for purposes of Indian child custody proceedings:

(i) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family or organization in childrearing practices.

(ii) A lay expert witness having substantial experience in the delivery of child and family services to Indians and an extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe.

(iii) A professional having substantial education and experience in the area of his or her specialty.

Qualified expert witnesses can be located by contacting the tribe in question.

Foster Care Placement Preferences. ICWA outlines a schedule of placement preferences for Indian children removed from the home. The preferences are as follows:

- Member of the child's extended family;
- Indian foster home licensed by the tribe;
- Indian foster home licensed by another agency; and,
- Institution approved by the tribe.

4 CHAPTER THREE: INVESTIGATION AND CHARGING

The first step in prosecuting abuse and neglect cases is reviewing referrals and making the decision to prosecute. You may be notified that a child is in temporary protective custody by law enforcement or a medical provider or a case may be referred to you by DFS, law enforcement, schools, or other community members. When notified, you will need to review the situation to determine if court intervention is necessary. You may also come across criminal cases in your office that may warrant abuse and neglect proceedings. Regardless of how the case arrives on your desk, you are the one that will have to make the decision on whether to prosecute. In making this decision, you will need to consider the effects of prosecution on the child, family, and community; whether alternative courses of action exist; whether it is a responsible utilization of taxpayer funds to prosecute; and whether the evidence is strong enough to support prosecution.

4.1 THE DECISION TO PROSECUTE

Filing of an abuse and neglect petition is within the full and exclusive authority of the prosecutor. Prosecutors should review all complaints alleging abuse or neglect; however, the prosecuting attorney does not have to file a petition simply because the matter was referred. The prosecutor has a statutory duty to determine whether it is in the best interest of the child to take judicial action.³⁶ Prosecutors should use discretion in determining which cases will be charged and which cases will be declined. Prosecutors should also ensure that when a petition is filed, it is accurate to the best knowledge of the prosecutor at the time of filing. Prosecutors should file a petition when it is necessary to protect the interests of the child.³⁷

As soon as the prosecutor is notified that a child is in temporary protective custody, the prosecutor should review whether continued shelter care is necessary. Children can be released from custody prior to a court hearing, but only upon the directive of the prosecuting attorney.³⁸

4.1.1 FACTORS TO CONSIDER

There are many different factors to consider when determining whether to file a juvenile case. Among these factors are:

- Whether it appears that the respondent engaged in abusive or neglectful behavior as defined by law;
- Whether the evidence supports that an act of abuse or neglect occurred;
- The impact of prosecution on the child;
- The availability of alternative courses of action;
- Whether further investigation is needed before a juvenile case is filed;
- Whether it is in the state's best interest to intervene in the situation;
- Whether it is in the child's best interest to intervene in the situation;
- The likelihood that a juvenile court action will lead to remedial measures;
- Whether the investigation was unbiased and completed in compliance with the law;

36. Wyo. Stat. § 14-3-411.

37. *Id.*

38. Wyo. Stat. § 14-3-408(b).

- The remedial steps taken by the family since the events occurred;
- Whether the event was a one-time occurrence or part of an ongoing pattern of behavior; and
- Whether it is an adequate use of state and judicial resources to prosecute the matter.

4.2 TEMPORARY PROTECTIVE CUSTODY

The first way that a case may be referred to you for prosecution is when a child is taken into protective custody. In this situation, you will be advised of the alleged abuse and neglect after the child is in custody.

Pursuant to Wyoming Statute § 14-3-405, a child can be taken into temporary protective custody without the parents' permission in three situations. The first is when a law enforcement officer has reasonable grounds to believe that the child is abandoned, lost, suffering from an illness or injury, or would be seriously endangered by his or her surrounding and the child needs immediate custody for protection. Law enforcement may also take protective custody of a child when the child's behavior or conduct seriously endangers the child and it appears that immediate custody is necessary. The second situation is when a medical practitioner, defined by statutes as a physician, physician's assistant or nurse practitioner, has reasonable cause to believe an imminent danger to the child's life, health or safety would exist if the child was not taken into protective custody. The third situation is when the court issues an order of protection as a result of a petition filed by the prosecuting attorney, DFS, law enforcement, the administrator of a hospital in which a child is being treated, or a medical practitioner. To issue an order placing a child in protective custody without a hearing, the court must find "there is reasonable cause to believe that a child has been abused or neglected and that the child, by continuing in his place of residence or in the care and custody of the person responsible for his health, safety and welfare, [the child] would be in imminent danger of his life, health or safety[.]"³⁹ DFS cannot take protective custody of a child on its own.

Once a child is placed in temporary protective custody, the agency taking custody must contact DFS. DFS must then accept physical custody of the child, make reasonable efforts to inform the parents or guardians of the child's placement, and arrange for the care and supervision of the child in the least restrictive setting.⁴⁰ Family placements are in the best interest of the child and preferred by statute and should be facilitated once a background check is complete. This background check includes determining if the family member has been convicted of a crime involving serious harm to children or if the family member is on the central registry.⁴¹ DFS also has statutory duties to investigate the allegations that led to temporary protective custody being taken and seek medical care if necessary.⁴²

A law enforcement agency or medical provider who has taken protective custody of a minor child should immediately notify the court and the prosecuting attorney's office.⁴³ DFS should also advise

³⁹ Wyo. Stat. § 14-3-405(c).

⁴⁰ Wyo. Stat. § 14-3-208(a).

⁴¹ Id.

⁴² Id.

⁴³ Id.

the prosecuting attorney that a child has been placed in its temporary protective custody.⁴⁴ The entity taking temporary protective custody should provide a written statement to the prosecuting attorney as soon as possible setting forth the facts that led to the taking of the child.⁴⁵ The best practice is to establish a protocol in your jurisdiction requiring a written affidavit that can be utilized as the statement of facts for the petition.

When filing a petition, the best practice is to attach an affidavit from the individual taking temporary protective custody outlining the facts that led to protective custody. At a shelter care hearing, the court may consider hearsay. As a prosecutor, you can ask the court to consider the affidavit included with the petition as evidence for continuing shelter care.

A child may not remain in temporary protective custody for longer than forty-eight (48) hours without a court hearing, weekends and holidays excluded.⁴⁶ A child must be released from temporary protective custody upon a parent's written promise to present the child to the court upon request, unless it is necessary to protect the child, prevent the child from being removed from the jurisdiction, there is no person to care for the child, or when there is a court order.

A child can be released from protective custody if the prosecuting attorney determines that shelter care is no longer needed, unless the temporary custody was taken pursuant to a court order. If the county or district attorney determines that continued shelter care is needed, he or she must file a juvenile petition pursuant to Wyoming Statute § 14-3-412. Because of this, when you are advised of a child being placed in temporary protective custody, it is vitally important to conduct an independent review of the facts of the situation to determine whether continued shelter care is necessary.

This independent review should consist of speaking to the individual who took temporary protective custody to determine why they did so. It should also consist of speaking with the DFS worker assigned to the case about any information regarding the children they have obtained since the child was taken into temporary protective custody.

One of the responsibilities you have as a prosecutor is to evaluate whether it was appropriate for the child to be taken into protective custody. If the child was taken into protective custody wrongfully, you should authorize the immediate return of the child to the home. If, upon review of the temporary protective custody, you determine it was appropriate to take the child, but it is now safe for the child to be returned to the home, you should authorize the return of the child and consider whether further prosecution is needed. If it was appropriate to take the child and it continues to be unsafe for the child to return home, you should proceed with prosecution.

44. 14-3-407(c).

45. 14-3-408(a).

46. Wyo. Stat. § 14-3-208(c).

4.3 INVESTIGATION REFERRALS

In Wyoming, abuse and neglect reports can be made to law enforcement or DFS. Once those agencies receive a report of suspected abuse or neglect, they will begin an investigation into the allegations. If they believe that prosecution is necessary, they will contact the prosecuting attorney to determine if prosecution is warranted.

Law enforcement and DFS may need to utilize the resources of your office in order to investigate the allegations. If families are non-cooperative with the investigation, it may be necessary to obtain a search warrant. Pursuant to Wyoming Statute § 14-3-418, the court can issue a search warrant within its jurisdiction if it appears from an affidavit that there is evidence of child abuse or neglect. This search warrant can direct that the child in question be taken into custody once found. It may also be necessary to obtain an *ex parte* order for temporary protective custody pursuant to Wyoming Statute § 14-3-405(c). In order to do this, you will have to file an emergency petition for protective custody. If the child is taken into protective custody, you will need to file a petition and follow the shelter care procedure.

If DFS has been denied access to a child, DFS may request an *ex parte* order from the court requiring access to the child pursuant to Wyoming Statute § 14-3-204(a)(iii). The court may issue an order if it is in the child's best interest.

If the child is not taken into protective custody and law enforcement or DFS make a referral for prosecution, you will have to evaluate the thoroughness of the investigation, the quality of the evidence, the likelihood of an adjudication, and the effects of a prosecution. If, after evaluating the investigation, you determine that prosecution should not commence, there will be no court intervention. If you review the investigation and determine that further investigation should be done, you should direct the investigator to continue their investigation. If after evaluation of the evidence you believe that prosecution is warranted, you should prepare and file a petition with an Order to Appear.

Wyoming is a mandatory reporting State, and per Wyoming Statute §§ 14-3-201 – 214, any person who “knows or has reasonable cause to believe or suspect that a child has been abused or neglected or who observes any child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, shall immediately report it to the child protective agency or local law enforcement agency or cause a report to be made.” This statute also makes it a misdemeanor to fire an employee for reporting abuse or neglect or to make a false report of child abuse or neglect.

While not a direct part of prosecuting abuse and neglect cases, as a prosecutor you should be aware of the DFS central registry. Pursuant to Wyoming Statute § 14-3-213, DFS is required to keep a central registry of cases which are under investigation and “substantiated” (supported by a preponderance of the evidence after an investigation). This is an independent, administrative procedure conducted through DFS. However, if there is an adjudication in an abuse or neglect proceeding, the respondents will be placed on the central registry. Being on the central registry effects an individual's ability to obtain employment in certain areas that involve working with children and vulnerable adults. For many parents, the consequences of being placed on the central

registry far outweigh the consequences of an adjudication as it effects their ability to support themselves financially.

Statutorily and procedurally, DFS has its own internal requirements for investigation into claims of child abuse and neglect.⁴⁷ This investigation includes the ability to request from the court an *ex parte* order for access to the child if reasonable access is denied.⁴⁸

If during the course of the investigation DFS determines that the best interest of the child requires court action, they are to refer the matter to the county and prosecuting attorney's office for prosecution.⁴⁹ If the prosecutor elects not to file an abuse and neglect petition, and DFS believes that court intervention is still necessary, DFS can request the appointment of a GAL to act in the best interest of the child, including petitioning the court for an order to show cause against the county and prosecuting attorney's office to direct the county attorney to justify why an abuse and neglect proceeding is not warranted.⁵⁰

4.4 INDEPENDENT DECISION TO PROSECUTE

As a prosecutor, you may also file a petition on matters that were not referred for prosecution by DFS or law enforcement. For example, in reviewing charges against an individual, it may become apparent that abuse and neglect of a child occurred during the course of the criminal events. Or, school officials may refer matters directly to the prosecuting attorney. Prosecutors may file petitions based on their own independent decision to pursue judicial action. If this decision is made, DFS and the county sheriff are required to assist in the investigation.⁵¹

4.5 INITIAL CONSIDERATIONS

An abuse and neglect proceeding does not commence until a petition is filed with the Clerk of Court.⁵² The prosecuting attorney must file this petition and file promptly if the child is in shelter care.⁵³

4.5.1 CONTENTS OF PETITION

Wyoming Statute § 14-3-412 outlines specific statutory requirements for the contents of a petition. Prosecutors must ensure that petitions comply with these statutory requirements. A sample petition is included in Appendix A.

Wyoming Statute § 14-3-412 requires a petition to include the child's name, date of birth and address; the names and addresses of the child's parents, guardian or custodian and the child's spouse, if any; whether the child is being held in shelter care and, if so, the name and address of the facility and the time shelter care commenced; a statement setting forth with particularity the facts which bring the child within the provision of the Act; and whether the child is an Indian child as

47. For the statutory requirements, see Wyo. Stat. § 14-3-204.

48. Wyo. Stat. § 14-3-204(a)(iii).

49. See Wyo. Stat. § 14-3-204(a)(viii).

50. *Id.*

51. Wyo. Stat. § 14-3-411.

52. Wyo. Stat. § 14-3-412.

53. Wyo. Stat. § 14-3-409.

defined in ICWA and, if so, a statement setting forth with particularity the notice provided to the appropriate tribal court.

4.5.2 VENUE

The prosecutor may file abuse and neglect proceedings in the county where the child lives or in the county where the child is present at the commencement of proceedings. A request for change of venue may be filed in the same manner as such request would be filed in a civil case.⁵⁴

4.5.3 JURISDICTION

The UCCJEA applies to abuse and neglect proceedings so it is important at the outset of prosecution to determine whether Wyoming is the home state of the child under the UCCJEA. If Wyoming is not the home state of the child, then Wyoming can only exercise temporary emergency jurisdiction under the UCCJEA and may only issue temporary orders until such time as the home state exercises jurisdiction. See *In the Interest of NC*, 2013 WY 2, 294 P.3d 866 (Wyo. 2013). If Wyoming is the home state of the minor child, then Wyoming has jurisdiction.

4.5.4 ABUSE OR NEGLECT

One of the first charging decisions to be made is whether to charge the allegations as abuse, neglect, or both. This decision will be made based on the definitions of abuse and neglect found in Wyoming Statute § 14-3-202. See above sections for abuse and neglect definitions per Wyoming Statute.

4.5.5 RESPONDENTS

Another important consideration is who the respondents will be in the petition and how you will charge the case. Direct the petition to the individuals who committed the alleged acts.

54. Wyo. Stat. § 14-3-404.

4.5.6 NEGLECT

If the case is charged as neglect, allegations can be raised against the child's parent, noncustodial parent, guardian, custodian, stepparent, foster parent, or other person, institution or agency having the physical custody or control of the child.

4.5.7 ABUSE

The abuse statute does not impose limitations on who may be charged with abusing a child, thus as a prosecutor you will have to exercise some common sense and discretion on whom to level abuse allegations against. Keeping in mind the reasons and purposes for abuse and neglect proceedings, abuse allegations should only be brought against individuals who are in a position to continue to harm the child. If the abusive individual is no longer allowed access to the child, such as when a neighbor or day care provider abuses a child, a petition is probably not warranted. However, if the person has continuing access to the child, such as a stepparent or significant other, prosecution may be warranted.

4.5.8 DOMESTIC VIOLENCE SITUATIONS

There is a dispute between prosecutors and domestic violence advocates on whether victims of domestic violence should be named as respondents in abuse and neglect petitions for exposing children to domestic violence. Some jurisdictions will charge the victim as well as the perpetrator with exposing the children to domestic violence when the domestic violence has been ongoing and the victim should have reasonably expected that violence would occur in the presence of the children. Other jurisdictions will not charge the victim at all, saying the victim is caught in the cycle of violence. This is a decision will make on how cases are handled in your jurisdiction. For commentary on children and domestic violence in abuse and neglect proceedings, see *In the Interest of KLS*, 2004 WY 87, 94 P.3d 1025 (Wyo. 2004).

4.5.9 CHILDREN

Another consideration is whether to name children in the petition. In considering the evidence, you should name any children exposed to abuse and neglect in the home. However, in some cases, abuse or neglect may be inflicted on one child in the home when the other children were not present. In that case, you will have to decide whether to name the other children who reside in the home.

One of the overarching purposes of child protective services in Wyoming as outlined in Wyoming Statute § 14-3-201 is to “further offer protective services when necessary in order to prevent any harm to the child *or any other children living within the home.*” (emphasis added). Under this statute, some judges will allow any child in the home to be named in the petition and adjudicated as an abused or neglected child. Other judges, however, will not allow children who were not present at the time of the abuse or neglect to be named in the petition. You will need to find out how the judges in your jurisdiction handle this situation.

4.6 SEARCH WARRANTS

Pursuant to Wyoming Statute § 14-3-418(a), a judge or district court commissioner can issue a search warrant to assist in the investigation of abuse and neglect. The search warrant must be supported by an affidavit signed by at least one adult. A search warrant allows law enforcement to search a premise, by force if necessary, to recover evidence that a child is being neglected, unlawfully detained, or physically abused. A judge or commissioner may issue a warrant if a child appears to be neglected, unlawfully detained, or physically abused. The child's health or welfare must require that the child be taken into immediate custody.

4.7 FILING THE PETITION

4.7.1 SHELTER CARE VS. INITIAL HEARING

Pursuant to Wyoming Statutes §§ 14-3-411 and 412, the prosecutor can file a petition alleging neglect of a minor child without the taking of protective custody. Upon filing, the court issues an order to appear for an initial appearance, which is served upon the parents. The petition must be served in accordance with Wyoming Statute § 14-3-414. If you elect to pursue temporary protective custody and an order is issued, the case will proceed as a shelter care case. If you elect not to seek temporary protective custody, the case will commence with an initial hearing.

4.7.2 ORDER TO APPEAR

Upon the filing of a petition, the court should issue an order to appear. The order to appear directs the parent to appear for a shelter care hearing or an initial appearance. The order to appear should direct the parents to appear in person, as well as the person or entity having physical custody or control of the child. Any child over the age of fourteen (14) should also receive the order to appear.⁵⁵

If the child has not already been taken into temporary protective custody, the order to appear may direct that the person serving the order to appear take the child into custody if it appears that the child is seriously endangered or that the child may be removed from the jurisdiction.⁵⁶

The order to appear must be served upon the parties. Service can be waived by writing or by voluntary appearance.⁵⁷ Within the State, personal service should be made. If a parent resides out of the State, service can be personal or by certified mail. Service can also be done by publication when necessary.⁵⁸

55. Wyo. Stat. § 14-3-413.

56. Wyo. Stat. § 14-3-413(b).

57. Wyo. Stat. 14-3-413(c).

58. Wyo. Stat. § 14-3-414.

4.7.3 *BENCH WARRANT*

If any person willfully avoids or refuses service of the order to appear, or if the court determines that services will be ineffectual, the court may issue a bench warrant requiring the individual to be brought before the court immediately.⁵⁹

4.8 ALTERNATIVE COURSE OF ACTION

There may be times when you determine that prosecution is not in the best interest of justice. There may be times when you believe services are necessary, but that prosecution is too intrusive of an intervention into family life. There are various factors that can influence this decision including a lack of evidence or a small likelihood of an adjudication. You may not believe that prosecution is a wise utilization of tax payer money. You may believe that an abuse or neglect petition would do more harm to the child than good. There may be pending criminal prosecutions and every service you would implement has already been ordered through the criminal case. If you determine that services are necessary, but that prosecution is too intrusive, there are alternative courses of actions you can pursue.

4.8.1 *CRIMINAL CASE*

Often respondents will have criminal cases as well as abuse and neglect referrals. If you believe the criminal case can implement appropriate services, you can communicate this to the criminal prosecutor and request those services through the criminal case.

4.8.2 *VOLUNTARY CASE PLANS*

Families can voluntarily enter into case plans with DFS, agreeing to participate in services without court involvement. As a prosecutor, you can agree with the family to defer prosecution in favor of the family participating in a voluntary case plan with DFS.

4.8.3 *OTHER AGREEMENTS*

As a prosecutor, you can agree to defer prosecution dependent upon the family participating in certain services. For example, you could agree not to file a petition if the parents complete a parenting class within a certain amount of time.

Appendix A contains a sample prosecution deferral letter.

4.9 DFS DECISION TO PURSUE CASE AFTER DECLINATION

In certain situations, you may decline a case that DFS believes should be pursued. If DFS desires prosecution even after you have declined prosecution, DFS can petition the court for appointment of a GAL to act in the best interest of the child. If the GAL determines it is in the best interest of the child for court action to commence, the GAL may petition the court for an order to show cause to bring a child protection proceeding. The statutory authority for this procedure is in Wyoming Statute § 14-3-204(a)(vii) and 14-3-202(a)(v); however, neither of these statutes address how the constitutional separation of powers come into play.

59. Wyo. Stat. § 14-3-415(c).

5 CHAPTER FOUR: SHELTER CARE AND INITIAL APPEARANCE

Depending on how the case has commenced, the first hearing will either be a shelter care hearing or an initial hearing. Shelter care hearings are only held when the child is in temporary protective custody. Every case requires an initial hearing. The court can hold the initial hearing in conjunction with the shelter care hearing, at a later date after the shelter care hearing, or at a prearranged court date if the child is not in temporary protective custody.

As a prosecutor, one of your most important tasks is to prepare written orders after court hearings. It is vitally important that these orders are accurate and complete. Furthermore, there is specific statutory language that must be included in every order to ensure federal funding of abuse and neglect cases. Every order must include findings on whether reasonable efforts to prevent removal of the child were made. Any order that removes, or continues the removal of the child, must find that the court made that decision by clear and convincing evidence. Sample orders are included in the Appendix.

Another important prosecutor task is to ensure that all hearings take place in a timely manner. Juvenile cases move very quickly and have specific, mandatory statutory timelines. Failure to comply with these timelines can result in loss of federal funding and, when it comes to adjudication, dismissal of the case for failure to follow statutory timelines. You should be familiar with these timelines and make every effort to ensure the parties comply with them.

5.1 SHELTER CARE HEARING

The purpose of the shelter care hearing is for the court to determine whether the child should continue out-of-home placement. This is the main difference between a shelter care hearing and an initial hearing; however, a party can request removal at the initial hearing.

Once a child is placed in shelter care with a filed petition, the court must hold a hearing within forty-eight (48) hours, excluding weekends and legal holidays. At the shelter care hearing, the court must advise the parents of the contents of the petition, the nature of the allegations, their rights, and the State's obligation to seek termination of parental rights if the child remains in foster care for fifteen (15) of the most recent twenty-two (22) months.

Pursuant to W.R.P.J.C. Rule 2(a), children are encouraged to attend court proceedings, but the child does not need to be present at any hearing unless the court specifically orders the child to attend, except for permanency hearings, which will be discussed later.

Pursuant to Wyoming Statute § 14-3-409, at the shelter care hearing, the court must also:

[D]etermine whether or not the child's full-time shelter care is required to protect the child's welfare pending further proceedings. If the court determines that returning the child to the home is contrary to the welfare of the child, the court shall enter the finding on the record and order the child placed in the legal custody of the department of family services. If the court finds that full-time 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 supervision of the department of family services or under the protective supervision of any individual or organization approved by the court that agrees to supervise the child; or

(ii) Impose any other terms and conditions of release deemed reasonably necessary to assure the appearance of the child at subsequent proceedings or necessary to his protection from harm.

In making this decision, the court can consider any relevant and material evidence that is helpful in assisting whether there is a continued need for shelter care.

A shelter care hearing can be combined with the next procedural hearing, the initial appearance, if the court complies with the requirements of Wyoming Statutes §§ 14-3-413, 414, and 426.

5.1.1 BURDEN OF PROOF

At a shelter care hearing, the burden of proof is clear and convincing evidence. If you are advocating for the child to remain in DFS custody, you must establish by clear and convincing evidence that it is contrary to the welfare of the child to return home.

5.1.2 PRESENCE OF PARENT

All parents, guardians, and custodians of the child must be present at all hearings. Any served party that fails to appear can be liable for contempt of court.⁶⁰ If a parent is not present at a shelter care hearing, the court should hold another hearing with the parent present as soon as possible.

5.1.3 RIGHT TO COUNSEL

Respondents in abuse and neglect proceedings are entitled to counsel.⁶¹ Respondents must be served written notice of this right within the order setting the initial appearance, thus this advice should be contained within the order to appear. The notice must advise the respondent of the availability of court-appointed counsel and that the respondent should obtain a financial affidavit and present it to the court five (5) days prior to the initial appearance. Respondents who fail to do so can be liable for contempt or the costs resulting from delays.⁶²

The court must also advise the respondents of this right at the initial hearing, whether it is a shelter care hearing or an initial hearing.⁶³ Respondents may waive this right if the waiver is in accordance with Wyoming Statute § 7-6-107, which states:

A person who has been advised of his rights under W.S. 7-6-105 may waive any right provided by this act if at the time of or after waiver, the court finds that the person has acted with full awareness of his rights and of the consequences of a waiver and if the waiver is otherwise made according to law. Before making its findings, the court shall consider such factors as the person's age, education, familiarity with the English language and the complexity of the crime involved. A person who knowingly and voluntarily waives his right

60. Wyo. Stat. § 14-3-415.

61. See. W.R.P.J.C. Rule 5(a).

62. W.R.P.J.C. Rule 5(c).

63. W.R.P.J.C. Rule 5(d).

to counsel and who elects to represent himself shall not be entitled to standby counsel under this act.

As a prosecutor, you should zealously protect a respondent's right to counsel. Prosecutors should not interact with represented respondents and care should be taken when interacting with unrepresented respondents. If an unrepresented respondent indicates that he or she desires representation, you should advise the respondent how to obtain court appointed counsel. Prosecutors should further ensure that if a respondent has requested representation at a court proceeding that the respondent does not say anything or engage in any behavior that would jeopardize his rights until he or she has had time to consult with an attorney.

Because GAL's are automatically appointed for children in abuse and neglect cases, it is important to note that children are a represented party. Take care to not to speak with children without the prior approval of the GAL.

Note that the court may appoint counsel for non-respondents if the court deems it necessary. Wyoming Statute § 14-3-211(b) allows appointment of counsel for any party when it is in the interest of justice.

In many abuse and neglect cases, the respondent may not be competent enough to understand whether they need an attorney. While competency is not a defense to an abuse or neglect allegation, and there is no right to have proceedings suspended pending competency, respondents of lower competency do have a right to fairness in court proceedings. If you believe that there are competency or mental health concerns with the respondent that warrant appointment of counsel, you should advise the court that you believe it is in the best interest of justice for the respondent to have counsel appointed.

5.1.4 CONTINUATION OF SHELTER CARE

If you determine that the child should remain in out-of-home placement at the shelter care hearing, you should be prepared to participate in an evidentiary hearing. If you determine that the child should return home, you may make the recommendation to the court without an evidentiary hearing. However, if the GAL or DFS recommends continued shelter care, you will need to proceed with an evidentiary hearing.

5.1.5 CONTINUED REMOVAL

Removal from the home should be a last resort. There are large amounts of research illustrating how traumatic removal is and, if the child is removed, you should work to return the child to the home as soon as reasonably possible. If services are available to allow the child to return home with supervision, you should pursue this course. However, in Wyoming, there is a severe lack of resources and in some situations removal from the home may be the only way to protect the child.

5.1.6 EVIDENCE

At the shelter care hearing, the court may receive any material and relevant evidence. As recommended earlier in this manual, the best practice is to include an affidavit of the individual taking protective custody of the child with your petition. You may then request that the court consider the affidavit as evidence for shelter care.

5.1.7 RIGHT TO REMAIN SILENT

Every individual always has the fifth Amendment right to remain silent, regardless of the type of proceeding. Respondents can be witnesses at the shelter care hearing or they can choose to make statements on their own behalf. However, respondents can also exercise their right to remain silent. Shelter care hearings are tricky when it comes to the right to remain silent. Many respondents may request appointment of counsel, but the court still must proceed with the shelter care hearing. As a prosecutor, you have the responsibility to protect the rights of all parties involved. If a respondent has requested assistance of counsel, and the court tries to obtain statements from the respondent, it is best to remind the court of the respondent's right to remain silent or offer the respondent immunity for any statements made at the shelter care hearing. While this may seem contrary to the desire to obtain an adjudication, as a prosecutor you should seek justice while being fair. There are fewer times in abuse and neglect proceedings when respondents' rights are as vulnerable as at the shelter care hearing.

You should also be prepared to have either the individual taking protective custody or the DFS worker testify. Sample questions are below.

5.1.8 RULES OF EVIDENCE

At a shelter care hearing, all relevant and material evidence helpful in determining whether the child should continue in out-of-home placement may be considered by the court and relied upon for probative value. The W.R.E. do not apply to shelter care hearings.

5.1.9 PLACEMENT

If the court continues out-of-home placement, the next decision is placement for the child. The Court can leave the child in DFS custody for placement with a relative, a responsible adult, in foster care, or in a residential facility. The law gives a compelling preference to placement with nuclear or extended family members.⁶⁴ For out of home placements, make every effort to place them with a family member as soon as possible. Moving from place to place is very hard on children and long-term placement should be made as soon as possible.

63. Wyo. Stat. § 14-3-208(a)(iii).

5.1.10 OUT-OF-STATE PARENTS

Consider out-of-state parents as placement options. If continued supervision or continuation of the case is desired, an out-of-state parent will have to have an ICPC home study done first. This is a long and time-consuming process so request the ICPC as soon as possible.

The court should place the child in the least restrictive placement.⁶⁵ Certain statutory requirements must be met if a child is placed in a residential facility. See Wyoming Statute § 14-3-429(c). Similarly, out-of-state residential placements shall not be ordered unless they are compliant Wyoming Statute § 21-13-315.

If a child is removed from the home, the parents should be required to pay child support through an independent child support action filed by the Child Support Authority.⁶⁶ There are other technical requirements for out of home placement that can be found in Wyoming Statute § 14-3-429.

ICPC applies to the non-custodial parent and must be followed for out-of-state placements. Once the court makes the determination that a non-custodial parent is the best placement option, DFS handles the ICPC request (sends package to state coordinator who sends to the other state) and notifies the parties once the request is approved.

5.1.11 NOTICE TO FOSTER PARENTS, PARENTS, GUARDIANS, CUSTODIANS, AND RELATIVE CAREGIVERS

The prosecuting attorney is required to provide written notice of every hearing to every foster parent, pre-adoptive parent, guardian, custodian, or relative caregiver, unless the Court has delegated that responsibility to another party. See W.R.P.J.C. Rule 2(e).

65. Wyo. Stat. § 14-3-429(a)(iii).

66. Wyo. Stat. § 14-3-429(c).

5.2 SAMPLE QUESTIONS: SHELTER CARE – DFS WORKER

- Could you please state and spell your name for the record?
- Where are you employed?
- What is your business address?
- How long have you been employed there?
- What is your current job title?
- How long have you been in that position?
- Prior to your current job, did you work any other position with DFS? What? When?
- In your employment with DFS, have you had any training related to child welfare?
- What type of training?
- When did you receive that training?
- What is your educational background?
- Are you familiar with the _____ family?
- How do you know them?
- Who are the members of that family?
- Are any members of the family here today? Who? Can you identify them for the record?
- Have you reviewed the petition that brings us here today?
- What are the names and ages of the children named in the petition?
- Where do the children live?
- Are there any other children in the home?
- Where are the children now?
- Who removed the children from their parents' custody?
- How did you become aware the children were removed?
- What information were you provided when you were advised the children were removed?
- Have you been provided with any other information since the children were removed?
- Have you conducted an investigation regarding the removal? What did it consist of? What information did you discover?
- Have you been to the home? What condition was it in at the time you were there?
- Since the removal of the children, what services has DFS provided to the family?
- Do you believe that the children could be returned to the home at this time with oversight from DFS? Why or why not?
- What specific safety concerns does DFS have about returning the children?
- What services does DFS believe need to be in place before returning the children?
- What terms and conditions would DFS like the parents to abide by pending further court action in this matter?

5.3 SAMPLE QUESTIONS: SHELTER CARE – LAW ENFORCEMENT OFFICER

- Could you please state and spell your name for the record?
- Where are you employed? What is your business address?
- How long have you been employed there?
- What is your current job title?
- Are you a certified peace officer in the State of Wyoming?
- When did you obtain that certification?
- How long have you been in that position?
- Prior to your current position, did you work any other position in law enforcement? What? When?
- What are your present job duties?
- Is one of your duties to take protective custody of children when the situation warrants?
- What is your understanding of when protective custody can be taken?
- Did you have occasion to become involved in an incident involving child abuse or neglect related to the _____ family?
- Are any members of the _____ family here today? Who? Can you identify them for the record?
- What date did you become involved with the family?
- What time of day did you become involved?
- How is it that you became involved?
- Where did the events take place?
- What did you do in response?
- Who was present?
- What did you observe during your interactions with the family?
- Did you have any concerns for the children during your interactions?
- What were your concerns?
- Did you observe anything that made you believe that the children were seriously endangered by themselves or their surroundings? What was that?
- Why did you believe the children were endangered?
- Were the parents capable of taking care of the children safely at the time of removal? Why not?
- Did you take temporary protective custody of the children? Why?
- What did you do after you took custody?

5.4 INITIAL HEARING

There are many similarities between a shelter care hearing and an initial hearing. At an initial hearing, placement of the child is usually not an issue unless new evidence has arisen that warrants the removal of the child. A party may request removal from the home at the initial appearance. If this is the case, hold a shelter care hearing.

At the initial hearing, the court must advise the parties of their rights and the allegations in the petition. Respondents must be given an opportunity to admit or deny the allegations in the petition. Respondents should also be advised of the potential liability for services and costs incurred under the petition. The initial hearing is not a probable cause hearing, and you are not required to prove anything.⁶⁷

If the respondent admits the allegations in the petition, the court enters a decree finding the child a neglected child. The court can then immediately proceed to disposition in the matter if the court has received a predisposition report and MDT recommendations. Or, the court can set a disposition hearing within sixty (60) days.⁶⁸ In making its determination, the court can rely on any material and relevant evidence, including written reports and witnesses. Respondents retain the right to cross-examine witnesses and controvert the evidence.⁶⁹

If the allegations are denied, the court can immediately proceed to trial or it may set a time for trial within sixty (60) days after the date of the initial appearance. For good cause, the court may continue the trial setting, but in no case can the adjudicatory hearing be more than ninety (90) days after the filing of the petition.⁷⁰

After proceedings have commenced, the court is required to order DFS to prepare a predisposition study and report, a document detailing the history of the child and family for use by the court in making future decisions. The court also must appoint a MDT.

At an initial hearing, the parents should be present and advised of their right to counsel as discussed above.

5.4.1 RIGHTS OF THE PARTIES

At the shelter care or initial hearing, the court must advise the parties of their rights. Parties to abuse and neglect proceedings have the right to:⁷¹

- A copy of all charges made against them;
- Confront and cross-examine adverse witnesses;
- Introduce evidence, present witnesses and otherwise be heard on their own behalf;
- Issue of process by the court to compel the appearance of witnesses or the production of evidence; and

67. Wyo. Stat. § 14-3-426(a).

68. Wyo. Stat. § 14-3-426.

69. Wyo. Stat. § 14-3-426(e).

70. Wyo. Stat. § 14-3-426(b).

71. Wyo. Stat. § 14-3-423.

- A trial by jury.

5.5 TEMPORARY TERMS AND CONDITIONS

At the conclusion of the shelter care hearing and the initial hearing, the court should enter temporary terms and conditions for the parties to follow pending the next court hearing. These terms and conditions will vary depending on whether the child is removed from or returned to the home and whether the allegations in the petition are admitted or denied.

As the prosecutor, you will have the opportunity to make recommendations as to what the temporary terms and conditions should be. Pursuant to Wyoming Statute § 14-3-409(d)(ii), the court is to enter orders that assure the appearance of the child at further proceedings and prohibit harm to the child. Respondents have the presumption that they have not abused or neglected their children if they have entered a denial, and the temporary terms and conditions you recommend should be tailored to protect that presumption while ensuring the safety of the child. The terms and conditions ordered are going to vary depending on the factual situation of the case. These temporary terms and conditions are not limited to the respondent. The court may order DFS, the GAL, and the State to submit to temporary terms and conditions as well. Sample terms and conditions are contained in the sample Order on Shelter Care and Order on Initial Hearing included in Appendix A.

5.5.1 PLACEMENT

One of the temporary terms and conditions that you will have to recommend will be placement pending further court action. There are a variety of placement options including returning the child to the respondent under DFS supervision, placing the child with a non-custodial parent or relative after DFS has conducted a background check, placing the child in kinship care with individuals who have a close relationship with the family and are approved by DFS, and placing the child in foster care or in a residential treatment facility.

When making placement recommendations, the child should always be placed in the least restrictive setting to protect the safety of the child. In most cases, this means placing the child in the situation most likely to mirror family life. Removing a child from his home of origin is incredibly traumatic for a child, even when the child was being abused or neglected in the home. The child is being removed from familiar surroundings and placed in an unfamiliar setting. In most cases it is best to return the child to the home as soon as the home is safe.

5.5.2 VISITATION

If the child is placed outside of the home, the court will also have to consider visitation. In all but the most extreme cases, visitation should commence immediately. Frequent and consistent visitation is the best method of ensuring reunification of the family. Visitation can be supervised or unsupervised depending on the facts of the case and the resources available in your community.

In extreme cases of abuse or neglect, you may want to recommend no visitation; however, you should rarely make this recommendation. While a child may have been removed from an unsafe caregiver, the child is familiar with seeing that individual on a consistent basis. If the child does not see that caregiver on a consistent basis for a period, and then is required to resume that

relationship as part of the reunification process, the reintroduction of that individual into the child's life can be more traumatic than having the child continue to see the caregiver in a safe and supervised setting from the beginning of the case. Structure visitation to protect the child and commence visitation as soon as possible, whether in the form of therapeutic family counseling, supervised visitation, or another solution crafted by the parties.

In many cases, the respondent may have criminal charges related to the abuse and neglect. In the criminal case, the criminal court may have prohibited contact between the respondent and the child as a term and condition of the respondent's bond, which can hinder visitation. As the prosecutor, you should work with the prosecutor handling the criminal case to ensure the crafting of bond conditions that allow for visitation and reunification efforts. You can accomplish this by requesting bond conditions in the criminal case that leave contact between the respondent and the child to the discretion of the juvenile court.

In some cases, the criminal court may also order no contact between the respondents. This can also complicate reunification efforts if the parties in the juvenile case are wanting the respondents to participate in services together, such as parenting classes or counseling. Again, as the prosecutor, you should coordinate with the criminal prosecutor to address these concerns.

5.5.3 EMERGENCY MEDICAL, SURGICAL OR DENTAL EXAMINATION OR TREATMENT

At any point during the proceedings, the court may authorize emergency medical care for the child upon evidence from a licensed medical provider that the child is suffering from a serious physical condition or illness, which requires immediate treatment. Medical care may also be authorized if it is necessary to preserve evidence of neglect.⁷² Provide copies of the to the court, but the court may not consider the reports prior to adjudication. Other reports must be provided to other parties upon request.⁷³

5.5.4 DRUG TESTING

In many cases, it may be requested that respondents submit to drug testing to ensure that the children are not being exposed to alcohol or controlled substances. This may include submitting to random testing and testing before visitation. Depending on the jurisdiction, this testing may or may not be allowed. However, if it is necessary to assure the safety of the children, you should zealously advocate for testing before visitation.

5.6 OTHER MATTERS

5.6.1 PREDISPOSITION STUDIES

After a petition is filed, the court should order DFS to make a predisposition study and report.⁷⁴ This report should include the following information:

- The child's educational needs;
- The social history, environment and present conditions of the child and his family;

72. Wyo. Stat. § 14-3-420.

73. Wyo. Stat. § 14-3-421.

74. Wyo. Stat. § 14-3-427(a).

- 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;
- 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;
- The presence of any mental health or substance abuse risk factors, including current participation in counseling, therapy or treatment; and
- Other matters relevant to treatment of the child, including any pertinent family information or proper disposition of the case.

Provide the report to the court five (5) days prior to the disposition hearing.⁷⁵ The court cannot consider this report prior to disposition.

5.6.2 *MULTIDISCIPLINARY TEAM*

Within ten (10) days of filing the petition, the Court shall appoint a MDT. This is a team of people who play a significant role in the family's life and shall include the parents or guardians, a representative of the school district, a DFS representative, the child's mental health professionals, the prosecuting attorney, the GAL, the CASA advocate, if one is appointed, and the foster parents. The court may appoint additional individuals if necessary. The role of the MDT is to review the case and family history and develop case planning recommendations. These recommendations should be reasonable and attainable and should outline for the court what goals the family has to achieve for the children to return home or for the case to close. At subsequent meetings, the MDT should review the progress of the family and reevaluate the plan. The MDT may modify recommendations to the court for cause. The MDT should always focus on the best interest of the child, the best interest of the family, and the most appropriate and least restrictive case planning options. At the end of each MDT meeting, a summary of the MDT meeting, including the goals and objective developed by the team, should be prepared and distributed to the parties.⁷⁶

If the MDT meets prior to disposition, the court cannot consider the report prior to adjudication without the consent of the child and the parents.⁷⁷

The MDT should meet quarterly if the child continues in out-of-home placement. The MDT should also meet prior to all court hearings.⁷⁸

5.6.3 *CASE PLANNING*

DFS is also tasked with preparing a case plan for the family when there is a recommendation to place the child outside of the home. Generally, a case plan will be developed in every case regardless of placement. The case plan is an agreement between DFS and the parents as to what

⁷⁵ Wyo. Stat. § 14-3-427(n) and W.R.P.J.C. Rule 4.

⁷⁶ Wyo. Stat. § 14-3-427.

⁷⁷ Wyo. Stat. § 14-3-427(h).

⁷⁸ Wyo. Stat. § 14-3-427.

tasks the parent will accomplish and how DFS will assist in those tasks. The parents or guardians must comply with the terms and conditions of the case plan.

The case plan acts as a roadmap for how the case will proceed. Pursuant to DFS Rule § 7(f), a written case plan must be completed within sixty (60) days of out-of-home placement or thirty (30) days after the completion of the investigation, whichever occurs first. DFS is then obligated, pursuant Rule §7(g), to provide services consistent with the case plan. Development of a case plan can occur before or after adjudication depending on the facts and circumstances of the case.

As part of the case plan, DFS will develop a permanency plan with the client. At this point in the proceedings, the permanency plan should be reunification of the child with the respondent or family preservation if the child remains in the home. DFS may also ask the respondent for a concurrent placement. A concurrent placement is a designation of who the child should go to if the respondent is unable to secure reunification or preservation.

Provide the case plan to all parties upon completion. All orders issued by the Court should reference the case plan and require the parties to comply with the case plan. This includes requiring DFS to make reasonable efforts.

From the initial appearance forward, the case process is the same regardless of whether the case was commenced by the taking of protective custody or the filing of a petition.

6 CHAPTER FIVE: DISCOVERY, PRETRIAL PREPARATION, AND ADJUDICATION

If the parent denies the allegations of the Petition, and pursuant to Wyoming Statute § 14-3-426,

[T]he court may, with consent of the parties, proceed immediately to hear evidence on the petition or it may set a later time not to exceed sixty (60) days 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. 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 shelter care.

The adjudicatory hearing may be a bench trial or, if the parent demands a jury within ten (10) days of advisement of his or her right to a jury, it may be a jury trial. At the adjudicatory hearing, you must prove the allegations of the petition by a preponderance of the evidence using admissible competent, relevant, and material evidence. At the conclusion of the adjudicatory hearing, if there is an adjudication, the matter can proceed immediately to disposition or the court can set a dispositional hearing. If there is not an adjudication, the matter is dismissed. If the child was removed from the home the child is returned to his or her parents.

After the initial hearing, if there has been a denial, the next steps are discovery, pretrial preparation, and adjudication.

6.1 DISCOVERY

Prosecutors bear the burden of ensuring that discovery is provided in compliance with the law and rules of procedure. This includes the responsibility of providing self-executing discovery. It also includes ensuring that discovery is not obtained in improper manners or through illegal investigations.

6.1.1 SELF-EXECUTING DISCOVERY

W.R.P.J.C. Rule 3(b) requires the prosecutor to provide certain items of discovery to the GAL and the respondents within thirty (30) days of service of the petition. This discovery **MUST** be provided without the necessity of a discovery request. These items include:

- Any material or information within the knowledge, possession or control of the State which tends to negate the involvement of the respondent as to the offense charged;
- Information regarding specific searches and seizures and the acquisition of statements made by the respondent;
- Any prehearing identification of the respondent by a witness for the State;
- The name and address of each person the State intends to call as a witness at any hearing to prove its case in chief or to rebut alibi testimony to the extent then known;
- All statements made by the respondent to a State agent which the State intends to use at a hearing including a copy of each written or recorded statement and the substance of each oral statement and a copy of all reports of each oral statement;

- All statements made by a co-respondent to a State agent which the State intends to use at a hearing, unless the court ordered a severance, including a copy of each written or recorded statement and the substance of each oral statement and a copy of all reports of each oral statement;
- Any written reports or statements made in connection with the particular case by each expert consulted by the State, if the State intends to offer the testimony of the expert or the report at any hearing, including the written substance of any oral reports and conclusions made in connection with the particular case by each expert consulted by the State, the results of any physical or mental examination, scientific test, experiment or comparison, and all information on which the expert's opinion is based;
- Any book, paper, document, recording, photograph, or any tangible object which the State intends to use at any hearing, in order to permit the respondent to inspect, copy and/or photograph them.

The obligation to produce the above-listed discovery extends to “all material and information in the possession or control of members of the prosecutor’s staff and of any others who have participated in the investigation or evaluation of the case and who either regularly report or with reference to the particular case have reported to” the prosecutor’s office.⁷⁹ This means that as a prosecutor of an abuse and neglect case, you have a duty to disclose information possessed or controlled by criminal prosecutors in your office, law enforcement officers involved in the case, school officials who have reported to you on the case, DFS, and any other agency that works with you on a regular basis or has provided information to you related to the case.

In regards to DFS records, pursuant to W.R.P.J.C. Rule (3)(b)(10) these records must be requested through the prosecutor’s office through a discovery request. Once the records are requested, DFS must provide the records to the prosecutor AND the GAL. The State may then provide the records to the respondent or contest the discovery request pursuant to the W.R.P.J.C. or any confidentiality issues under Wyoming Statute § 14-3-214.

In many cases, there are corresponding criminal charges against the respondents related to the abuse and neglect case. In offices with multiple attorneys handling different matters, you should confer with the attorneys handling the criminal matters to ensure that all discoverable information in the case is provided to the parties in both the criminal and juvenile case when appropriate. Remember, many records and report held by DFS are confidential, and it may be a violation of law for you to share certain information with the criminal prosecutor.

6.1.2 COMPLIANCE WITH SELF-EXECUTING DISCOVERY

The prosecutor may comply with W.R.P.J.C. Rule 3(b) by advising the respondents and the GAL in writing or on the record that they “may inspect the discoverable portions of the State’s file and by allowing such inspection to occur at any time during normal business hours.” The best practice is to include this language in the petition but still provide actual copies of discovery to the respondents

79. W.R.P.J.C. Rule 3(b)(9).

and the GAL. However, any exculpatory evidence must be promptly supplied to the respondents and the GAL.⁸⁰

6.1.3 MATTERS NOT SUBJECT TO DISCOVERY

Pursuant to W.R.P.J.C. Rule 3(d), parties are not required to disclose:

- Any documents to the extent that they contain the opinions, theories, conclusions, or other work product;
- The identity of a confidential informant of the State, so long as the failure to disclose the informant's identity does not infringe on a constitutional right of the respondent, and the State does not intend to call the informant as a witness; and
- Any matter which the court orders need not be disclosed.

6.1.4 PROTECTIVE ORDERS

Any party may request a protective order to restrict disclosure of certain information. Upon a showing of good cause, the court may issue a protective order. See W.R.P.J.C. Rule 3(h).

6.1.5 RECIPROCAL DISCOVERY

Respondents are not required to provide self-executing discovery. In order to obtain discovery from the respondents, the prosecutor must file a written request for discovery within thirty (30) days of the service of the petition. Pursuant to W.R.P.J.C. Rule 3(e)(2), the prosecutor may request that the respondents:

- Produce the names and address of each person the respondent intends to call as a witness at any hearing;
- Produce and permit the State and the GAL to inspect and copy all written reports made in connection with the particular case by each expert the respondent intends to call as a witness at the hearing, including the substance of any oral report and conclusion made in connection with the particular case by an expert which the respondent intends to use at the hearing and the results of any physical or mental examination, scientific test, experiment, or comparison; and
- Furnish, upon designation by the State of the time, place and date of the alleged occurrence, the name and address of each witness other than the respondent who the respondent intends to call as a witness to show he or she was not present at the time, place and date designated by the State or the GAL in its request.

Upon service of the request for reciprocal discovery, the respondents must provide the requested information within thirty (30) days.⁸¹ Because of the short time frame between service of the petition and the adjudication hearing, request reciprocal discovery as soon as possible.

6.1.6 COURT MODIFICATION OF DISCOVERY TIMELINES

The Court may, upon good cause, issue its own orders regarding discovery.⁸²

80. W.R.P.J.C. Rule 3(c).

81. W.R.P.J.C. Rule 3(f).

82. W.R.P.J.C. Rule 3(i).

6.1.7 EXTENSIONS OF TIME TO RESPOND

A party may request an extension of time in which to respond to discovery requests from the court upon a showing of good cause.⁸³ All discovery must be provided in time to permit beneficial use.⁸⁴

6.1.8 FAILURE TO PROVIDE DISCOVERY

If a party fails to disclose discovery in a timely manner under the rules, the opposing party may file a motion to compel discovery. If a motion to compel discovery is filed, court must hold a hearing within three (3) days after the motion is filed.

If during the course of the case the court is advised that a party has failed to disclose discovery as required by W.R.P.J.C. Rule 3, the court may:

- Order such party to permit the discovery of the matters not previously disclosed;
- Strike the testimony to which the undisclosed matter relates;
- Grant a reasonable continuance;
- Prohibit the party from introducing in evidence the matter not disclosed;
- Grant a mistrial; or
- Enter such other order as may be appropriate under the circumstances.⁸⁵

6.1.9 ORDERS FOR IDENTIFYING INFORMATION

Upon a written motion filed by the prosecutor or the GAL, the court may, upon good cause, order the respondent to:

- Appear in a lineup for identification;
- Speak for identification;
- Be fingerprinted;
- Pose for photographs not involving reenactment of a scene;
- Try on articles of clothing;
- Permit the taking of specimens of material under his fingernails;
- Permit the taking from his body samples of blood, hair, and other material involving no unreasonable intrusion upon his person;
- Provide specimens of his handwriting; or
- Submit to a reasonable physical inspection of his body or a mental examination.

6.1.10 PHYSICAL AND MENTAL EXAMINATIONS

Pursuant to Wyoming Statute § 14-3-419, you may move the court to order an examination of the child by a a medical provider to assist the court in understanding the child's condition.

83. W.R.P.J.C. Rule 3(f).

84. W.R.P.J.C. Rule 3(j).

85. See W.R.P.J.C. Rule 3(f).

6.1.11 CONTINUING DUTY TO DISCLOSE

The duty to disclose discovery does not end upon the initial production of discovery. If any party learns of additional discovery that was previously requested and required to be furnished, that information must be promptly provided. This obligation does not end upon adjudication but continues throughout the entirety of the case. See W.R.P.J.C. Rule 3(g).

6.1.12 CIVIL DISCOVERY

Because abuse and neglect proceedings are civil in nature, the W.R.C.P. apply. Because the W.R.C.P. apply, the parties can engage in civil discovery, including the taking of depositions, interrogatories, requests for production of documents, and requests for admission. Prosecutors should familiarize themselves with these types of discovery and be prepared to participate in the process.

6.2 PRETRIAL PREPARATION

This manual is not intended as a trial skills manual and will only briefly cover trial preparation tactics. You should seek out specific training regarding trial and trial preparation.

Along with providing all discovery to the respondents and the GAL, you must also review all the discovery yourself to develop your case and prepare for trial. Preparation for trial should include reviewing discovery, interviewing and preparing witnesses, engaging in reciprocal discovery, and preparing pre-trial documentation.

6.2.1 REVIEWING DISCOVERY

You should review all the discovery you provided to the respondent and the GAL and any discovery provided by them. This review should include review of DFS records, school records, criminal records, and medical records if necessary. As mentioned above, you can utilize traditional means of civil discovery, including requests for admission. You should consider whether requests for admissions would be helpful in your case and utilize them if helpful.

6.2.2 WITNESSES

You should develop a list of witnesses who are going to testify on behalf of the State. With certain exceptions, interview and prepare the witnesses for trial. There are a few special issues to note about certain witnesses.

Child: If you intend to use the child as a witness at trial, you must ascertain before trial whether the child is emotionally, mentally, and physically capable of testifying at trial. You should meet with the child to determine whether testifying is a possibility. Because the child is represented by a GAL, you should obtain the GAL's permission prior to speaking to the child.

Respondents: Respondents testify in abuse and neglect cases. If the respondents exercise their fifth Amendment right to remain silent, that silence can be used against them. If you are going to trial, you should plan to call the respondents as witnesses. If they assert their fifth Amendment rights, the finder of fact can then infer that the respondent participated in the abuse or neglect. If the respondents are not called, the finder of fact cannot make this inference.

Experts: Expert witnesses may be necessary in abuse and neglect trials. If an expert witness is necessary, you must ensure that you comply with the W.R.E.

6.2.3 PRIVILEGES

Wyoming Statutes give an exemption to certain privileges in child protection cases. Under Wyoming Statute § 14-3-210, the only privileges in child welfare proceedings are attorney/client, physician/client, and clergy/client privileges. Pursuant to Wyoming Statute § 14-3-210, spouses cannot claim spousal privilege to exclude evidence. Neither can family violence and sexual assault advocates, as defined by Wyoming Statute § 1-12-116, claim privileged communication.

6.2.4 PRETRIAL CONFERENCE

The court may hold a pretrial conference in accordance with its own procedures.⁸⁶ Prosecutors should know whether the judges they practice in front of hold pretrial conferences and how they conduct pretrial conferences, as well as how the judges like pretrial conference orders drafted.

6.2.5 JURY INSTRUCTIONS

If the matter is set for jury trial, you may be required to submit proposed jury instructions. The Wyoming State Bar has published the 2016 JUVENILE PATTERN JURY INSTRUCTIONS, which are a great resource for jury instructions.

6.3 ADJUDICATION

If a matter is set for an adjudicatory hearing, it may proceed to adjudication, or the respondents may consent to proceeding under a different course of action. Respondents may admit the allegations, stipulate to the jurisdiction of the court, or agree to participate in a consent decree.

6.3.1 BURDEN OF PROOF

The burden of proof at an adjudicatory hearing is preponderance of the evidence.⁸⁷ The burden rests with the State.

6.3.2 JURY TRIAL

An adjudicatory hearing may be a jury trial if one is demanded within ten (10) days of the advisement of the right to a jury trial. Failure to demand a jury trial is a waiver of this right. As the prosecutor, you may demand a jury trial as well. Appendix A has a sample Demand for Jury Trial.

6.3.3 BENCH TRIAL

Bench trials are to be conducted in an informal but orderly manner.⁸⁸ If at the conclusion of trial, the finder of fact finds that the allegations in the petition are true, the court will enter an adjudication. At that point, the court should enter a temporary order or proceed to disposition if the predisposition study and report are prepared and the MDT has met to formulate recommendations.

86. W.R.P.J.C. Rule 6.

87. Wyo. Stat. § 14-3-425.

88. Wyo. Stat. § 14-3-424.

6.3.4 ADMISSION

The respondents may admit to the allegations in the petition. An admission requires the respondent to lay a factual basis for the allegations.

6.3.5 STIPULATED ADJUDICATIONS

Rather than having a respondent admit to the allegations in the petition, the parties may stipulate to an adjudication pursuant to W.R.P.J.C. Rule 7. The benefits of a Rule 7 adjudication to a respondent are similar to that of a no-contest plea in a criminal matter. The respondent is not required to admit to any of the allegations or provide a factual basis under oath in court, preserving his or her right to remain silent.

Stipulated adjudications are subject to the approval of the court. Stipulations of adjudication under Rule 7 may be done in open court or in writing. In cases involving Native American children, stipulated adjudications must be in writing, agreed to in court, and signed by the parent or custodian. Stipulations require the agreement of all parties involved in the case.

The Court can only accept a stipulation of adjudication if it determines that the parties understand their rights and have had an opportunity to consult with counsel if they have elected to be represented.

6.3.6 CONSENT DECREE

Wyoming Statute § 14-3-428 provides that proceedings can be held in abeyance if the parties stipulate to a consent decree. A consent decree is an agreement between the parties that the parents will cooperate with the juvenile court process subject to certain terms and conditions negotiated by the parties. A consent decree can be entered with or without an admission, depending on what is negotiated by the parties. The State's attorney, the GAL, and the parents must agree to a consent decree. If the child is in the home at the time of entry of the consent decree, the parties can negotiate the period of time for which the consent decree will be in effect. If the child is not in the home, the consent decree can only be in effect for six (6) months, but the parties may agree to extend the consent decree for an additional six (6) months at the end of the consent decree. In order to extend the consent decree, the court must find that good cause exists to extend the consent decree. If the parents fail to fulfill their obligations under the consent decree, the prosecutor may file a motion to have the original proceedings reinstated.

In the case of *In re CDR*, 2015 WY 79, 351 P.3d 264 (Wyo. 2015), the Wyoming Supreme Court stated that consent decrees are contractual in nature and thus should be strictly interpreted based on the language contained therein. Consideration should not be given to the overall purposes of juvenile cases or the intent of the parties at the time of signing. *In re CDR*, the father appealed the finding of the district court revoking the consent decree and entering an adjudication based on an alleged violation of the consent decree by the mother. The consent decree contained a term which required the mother to follow all treatment recommendations from her substance abuse evaluation. One of the recommendations from her evaluation was that she refrain from consuming alcohol for the rest of her life. The mother consumed alcohol and, based on that consumption, the district court revoked the consent decree for violation of the term and condition to follow her treatment recommendations. The Wyoming Supreme Court reversed this decision finding that

because the consent decree did not contain a specific term requiring the mother to refrain from consuming alcohol, she was not required to refrain from alcohol consumption under the consent decree. Specifically, the Court stated “[c]onsent decrees do not result from a court’s resolution of the merits of a dispute, but rather from a contractual agreement between the parties. Consequently, they should be enforced as a contract in accordance with the parties’ intent.” Id. at ¶ 24.

6.4 OTHER MATTERS

6.4.1 *W.R.P.J.C RULE 9 AGREEMENTS*

Pursuant to W.R.P.J.C. Rule 9, a prosecutor may enter into an agreement with a respondent, which provides that information gained from the respondent in MDT meetings and the case planning process will not be used against the respondent in criminal proceedings. These agreements do not prohibit law enforcement from obtaining the same information as part of an independent investigation.

6.4.2 *TIMELINESS*

Abuse and neglect proceedings move quickly through the court system. Wyoming Statute §14-3-426(b) requires an adjudication no later than ninety (90) days after the filing of a petition. Because of the short time frames to achieve discovery and get to adjudication, parties may request continuances. Try to avoid continuances at all costs. If the matter does not get to adjudication within the ninety (90) days, the court may dismiss the petition.

6.4.3 *CONCURRENT CRIMINAL PROCEEDINGS*

Parties may also be dealing with concurrent criminal proceedings which have a bearing on the abuse and neglect proceedings. Abuse and neglect proceedings cannot be delayed pending the outcome of a criminal proceeding. Proceedings must proceed according to statutory timelines pursuant to W.R.P.J.C. Rule 10.

7 CHAPTER SIX: POST-ADJUDICATION

After adjudication, your role in the case as prosecutor will be far less time-consuming, but just as critical. After adjudication, the case will be entrusted to DFS to work with the family to address the issues that brought the family to the court system. DFS will expect the family to work on the case plan and follow the court orders, but DFS is also required to continue to make reasonable efforts to preserve or reunify the family. While reasonable efforts are not defined by law, under Wyoming Statute § 14-3-440(e), services provided must be available, appropriate, and accessible.

As a prosecutor, you are not the attorney for DFS. You are the attorney for the citizens of the State of Wyoming. It is helpful to remember the reasons for child welfare proceedings in Wyoming. Consider the reasons in Wyoming Statute § 14-3-201:

- To protect the best interest of children;
- To offer protective services to prevent harm to children in the home;
- To protect children from abuse or neglect which jeopardize their health or welfare;
- To stabilize home environments;
- To preserve family life whenever possible; and
- To provide permanency for children in appropriate circumstances.

Wyoming Statute § 14-2-201 also states that “[t]he child’s health, safety and welfare shall be of paramount concern in implementing and enforcing [the Child Protective Services Act].” Your responsibility is to ensure that the case remains focused on these principles. You will oversee the case and address the failures of any parties, including DFS, to meet their court ordered and legal obligations.

While abuse and neglect proceedings are civil in nature, the relationship between the prosecutor and DFS is comparable to that of the relationship between the prosecutor and probation and parole in criminal cases. DFS is an administrative agency tasked with carrying out the court’s orders. If the orders are not followed, DFS should refer the matter to the prosecutor for further court action. As the prosecutor, you oversee the interaction between the family and DFS to ensure that the court process is followed correctly.

7.1 PERMANENCY

Before continuing to discuss the court process, the concept of permanency should be addressed. Permanency refers to the long-term placement plan for the child: reunification with his family, adoption, guardianship, or APPLA. For the majority of abuse and neglect cases, the permanency options are reunification or adoption. Adoption requires termination of parental rights, the most drastic of outcomes in these proceedings. Wyoming and federal law requires that a permanency hearing be held within twelve (12) months of the date of removal if the child remains in an out-of-home placement. Federal law mandates, and Wyoming Statute § 14-3-431(m) requires, that if a child remains in State custody for fifteen (15) of the most recent twenty-two (22) months, DFS must seek termination of parental rights unless a compelling reason not to can be documented in the case plan. Because of these timelines, it is important that permanency and timeliness are addressed throughout the case.

Permanency is also important for the child. Children need safety and stability in their lives, and the uncertainty of where they are going to live and who they are going to live with can have a dramatic effect on their health and well-being. Research shows that reunification with the parents is always the best option for the child. However, if reunification is not possible, then another course of permanency should be pursued in a timely manner.

If, after adjudication, the child is in out-of-home care, it is important that the case be focused on what is necessary for reunification and that everyone moves towards that goal. Delays in services, whether through the fault of the respondents or another party involved, are not productive. As the prosecutor, you have the ability to oversee the proceedings and continually push towards achieving permanency. Ultimately, that permanency may be reunification, or it may be adoption, guardianship, or APPLA. Regardless, it must be done in a timely manner so that the child can achieve permanency.

7.2 DISPOSITION

The disposition hearing is held within sixty (60) days of an adjudication hearing. Prior to disposition, the court shall receive the predisposition study as well as a report from the MDT. A party can request that a disposition hearing be continued for an additional sixty (60) days in order to gather other evidence.⁸⁹ At any time prior to the disposition hearing, the court can reconsider its shelter care decision and terms and conditions imposed.⁹⁰

Disposition hearings can be evidentiary hearings, with the submission of reports or testimony by the parties; however, the W.R.E. do not apply and the court can consider any relevant and helpful evidence in determining what terms and conditions to impose. The case plan, predisposition report, and MDT recommendations should be presented to the court. Witnesses can be called if necessary. Respondents have the opportunity to challenge written reports and cross-examine the individuals making the reports.

Once an order of disposition is issued, it can remain in force for an indefinite period of time until terminated by the court. However, all orders shall terminate when the child turns eighteen (18) unless the court specifically orders that services should continue. If services are sought for a child after the age of eighteen (18), the court must hold a review hearing six (6) months prior to the child turning eighteen (18) to determine how long jurisdiction will continue.⁹¹

7.2.1 PLACEMENT

The court should make a placement decision regarding the child at the disposition hearing. A recommendation as to placement should be contained in the predisposition report or the MDT report. If the court does not place the child in accordance with the recommendations presented, the court must place findings of fact on the record supporting the decision not to place the child in accordance with the recommendation.⁹² Always place the child in the least restrictive placement.

89. Wyo. Stat. § 14-3-426.

90. Wyo. Stat. § 14-3-426(e).

91. Wyo. Stat. § 14-3-431.

92. Wyo. Stat. § 14-3-429(a)(ii).

The disposition order will likely carry forward all previous terms and conditions and, also, add additional terms and conditions presented by the MDT and DFS in the predisposition report and study. The court must adopt unanimous MDT recommendations unless it states on the record the reasons why it is deviating from the recommendations. If MDT recommendations are not unanimous, each party may argue to the court for a final decision regarding the terms and conditions.

7.2.2 TERMS AND CONDITIONS

The court has broad discretion in imposing terms and conditions in abuse and neglect proceedings. As part of an order of disposition, the court can:

- Impose any demands, requirements, limitations, restrictions or restraints on the child, and do all things with regard to the child that his parents might reasonably and lawfully do under similar circumstances;
- Order the child, or his parents, or both, to undergo evaluation and indicated treatment or another program designed to address problems which contributed to the adjudication;
- Require the child's parents or guardian to attend a parenting class or other appropriate education or treatment designed to address problems which contributed to the adjudication and to pay all or part of the costs of the class, education or treatment in accordance with the court's determination of their ability to pay; or
- Require the child's parents or guardian and the child to participate in a court supervised treatment program provided the court supervised treatment program accepts the child's parents or guardian and the child for participation in the program.⁹³

7.2.3 SUBMITTAL OF REPORTS

All reports for court consideration at a hearing must be provided to the Court and the other parties no later than five (5) business days prior to the hearing. The prosecutor should ensure that DFS has provided everyone with the necessary reports prior to the hearing including copies of any evaluations, the pre-dispositional report (social summary), MDT notes, and a copy of the family service plan (case plan).⁹⁴

7.2.4 NOTICE TO FOSTER PARENTS AND RELATIVE CAREGIVERS

The prosecuting attorney is required to provide written notice of every hearing to every foster parent, pre-adoptive parent, parent guardian, custodian, or relative caregiver, unless the court has delegated that responsibility to another party. See W.R.P.J.C. Rule 2(e).

93. Wyo. Stat. § 14-3-429(d).

94. Wyo. Stat. § W.R.P.J.C. Rule 4.

7.2.5 STIPULATED DISPOSITIONS

If the parties agree, they may stipulate to a disposition pursuant to W.R.P.J.C. Rule 7. Stipulated dispositions are subject to the approval of the court.

Stipulations of disposition under Rule 7 may be done in open court or in writing. In cases involving Native American children, stipulated dispositions must be in writing, agreed to in court, and signed by the parent or custodian. Stipulations require the agreement of all parties involved in the case.

The Court can only accept a stipulation of disposition if it determines that the parties understand their rights and have had an opportunity to consult with counsel, if represented.

7.2.6 ORDERS OF PROTECTION

Any party to the proceeding can move the court for an order of protection in support of a decree of disposition. An order of protection can restrain or control the conduct of the parents or any other party to the proceeding who is encouraging, causing, or contributing to the acts or conditions which brought the child within the jurisdiction of the court. The order of protection may require the party whom it is filed against to perform a legal obligation of support, not contact the child, permit visitation, maintain the home, or refrain from conduct that is detrimental to the child.⁹⁵

7.2.7 MDT MEETINGS

Prior to the disposition hearing, hold an MDT meeting to formulate recommendations for the case plan. See the MDT section above.

You should participate fully in MDT meetings. At these meetings, you should monitor the progress of the family towards achieving the goals set forth by the court and the case plan. You should monitor whether DFS has provided services that are accessible, available, and appropriate. You should also monitor whether the child is receiving appropriate services.

Many prosecutors tend to come off as aggressive or negative in MDT meetings. You should strive not to be this way and remember that you are part of a team that is meant to encourage the family and improve upon their situation. MDT meetings have the potential to turn into hostile and negative experiences for the family, turning them off to the system and making them resistant to services. This is not the role a prosecutor should play in these proceedings.

7.2.8 AGE AND DEVELOPMENTALLY APPROPRIATE ACTIVITIES

At the permanency hearing, one of the findings the Court must make is whether the child has had the opportunity to participate in age and developmentally appropriate activities as defined by Wyoming Statute § 14-13-101. It is important to monitor the case to ensure that the child is being allowed to participate in these activities in order for the court to make the appropriate findings at the permanency hearing.

95. Wyo. Stat. § 14-3-430.

7.3 CONTEMPT OF COURT

There are times, as the prosecutor, when you must be adversarial to the respondents. If the respondents are refusing to comply with the requirements of court order, you may have to consider charging the respondent with indirect criminal contempt of court pursuant to Wyoming Statute § 14-3-438.

Contempt actions must be prosecuted in accordance with Wyoming Rules of Criminal Procedure Rule 42(c). The Wyoming Supreme Court recently reviewed contempt actions in relation to juvenile court cases in *Brown v. State*, 2017 WY 45, and prosecutors should familiarize themselves with this case. In *Brown*, the Court held that juvenile and district court share concurrent jurisdiction over indirect contempt actions. Thus, contempt actions can be filed in either juvenile or district court. Contempt actions must be brought as separate, independent court actions. Contempt actions must also satisfy due process requirements including giving adequate notice of the alleged violations and an opportunity to be heard regarding the violations.

7.4 MDT CHECKLIST

Case Plan

The case plan should incorporate services that are available, accessible, and appropriate.

- When was the case plan established and updated?
 - What are the goals of the case plan?
 - How are the goals related to the situation that brought the family to court?
 - Are more goals/services needed?
-

Parent Efforts

Parents should be cooperating with service providers and working towards achieving their case plan goals.

- What efforts have the parents made to accomplish each of the case plan goals?
 - Have the parents maintained consistent contact/efforts with treatment providers?
 - If substance abuse is an issue, have the parents submitted to testing?
-

DFS Efforts

DFS should be complying with their statutory requirements and making reasonable efforts towards reunification.

- What services have been provided to the family?
 - What efforts has DFS made to overcome barriers to services?
 - Has visitation been facilitated? How have visits gone?
 - Are the requirements placed on the parents realistic and achievable?
-

Miscellaneous

- Is a review hearing needed?
 - What is the permanency goal?
 - What is the concurrent plan?
 - How long have the children been in state custody?
 - What other services are needed at this time?
 - What is the timeframe for case closure?
 - Have the children participated in age and developmentally appropriate activities?
-

8 REVIEW HEARINGS

After disposition, the Child Protection Act requires review hearings every six (6) months *from the date of removal from the home* and a permanency hearing twelve (12) months *from the date of removal from the home*. Review hearings are an opportunity to create a record, fix gaps in services provided, and advocate for changes to the case plan. At the six-month (6) review hearing, the court should review the case plan to determine:

- The health and safety of the child;
- The continuing necessity for the placement;
- The appropriateness of the current placement;
- The reasonableness of efforts made to reunify the family and the consistency of those efforts with the case plan;
- The appropriateness of the case plan and the extent of compliance with the case plan including the permanent placement of the child;
- If progress has been made toward alleviating or mitigating the causes necessitating placement outside the home and the extent of that progress; and
- The date the child is expected to be returned to the home or placed for adoption or legal guardianship.⁹⁶

You should also consider requesting review hearings if there is a substantial change in the case. Review hearings allow the court to order a modification in the case plan.

8.1.1 PERMANENCY HEARINGS

The court must hold a permanency hearing within twelve (12) months of the child's removal from the home and every twelve (12) months thereafter.⁹⁷ At the permanency hearing, the court must make determinations of whether DFS has made reasonable efforts based on the requirements of Wyoming Statute § 14-3-440.

At the permanency hearing, DFS must present information to the court showing the efforts made to effectuate the permanency plan for the child, examine the reasons for excluding other permanency options, and set forth the proposed plan to carry out the placement decision, including specific times for achieving the permanency plan.⁹⁸ They must also present information on efforts made to ensure the child has been provided the opportunity to participate in age appropriate or developmentally appropriate activities.⁹⁹ This information is best presented in the form of the prosecutor calling the DFS worker as a witness and questioning the worker about reasonable efforts; however, the permanency hearing does not have to be an evidentiary hearing unless requested by the respondent.¹⁰⁰

Many DFS workers will want to focus on services provided to the children at the permanency hearing. While it is important that the court hear evidence concerning services provided to the

96. Wyo. Stat. § 14-3-431(c).

97. Wyo. Stat. § 14-3-431(d).

98. Wyo. Stat. § 14-3-431(j).

99. *Id.*

100. *In the Interest of GC*, 2015 WY 73.

children, the purpose of the hearing is for the court to be updated on services to reunify the family, in particular the services being provided to the parents and their willingness to participate in those services.

A permanency hearing can be combined with a review hearing if the requirements of both hearings are met.¹⁰¹

At the conclusion of the permanency hearing, the court must:

- Determine whether the permanency plan is in the best interest of the child and whether DFS has made reasonable efforts to finalize the plan;
- Order DFS to take any additional steps necessary to effectuate the terms of the permanency plan;
- Ask the child about his desired permanency outcome, if it is determined that the child should be present at the hearing. The child should be present at the hearing unless someone has requested prior to the hearing that the child be excused. If the child is excused, the child's GAL or other legal representative should present the child's desired permanency outcome;
- If the permanency plan is classified as another planned permanent living arrangement, make a judicial determination and explain why another planned permanent living arrangement is the best permanency plan for the child and provide reasons why it continues to not be in the best interest of the child to return home or be placed for adoption or with a legal guardian or with a fit and willing relative for purposes of guardianship or adoption; and
- Require the child be provided, to the greatest extent possible, the opportunity to participate in age appropriate or developmentally appropriate activities and experiences.¹⁰²

8.1.2 ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT

Wyoming Statutes allow for a permanency option known as *another planned permanent living arrangement* (APPLA). This permanency plan is only utilized in cases where reunification, adoption, and guardianship have been ruled out. Courts can only consider APPLA if the child is over the age of sixteen (16). If APPLA is the recommended permanency plan, DFS must present evidence to the court showing a compelling reason why and documentation of ongoing efforts made to effectuate a different permanency plan, including using social media to try and locate biological family members. If the court adopts APPLA as the permanency plan, the court must make specific findings as to why that plan is in the best interest of the child and why other plans are not in the best interest of the child.

8.1.3 REASONABLE EFFORTS

As part of a permanency order, the court can determine whether DFS is required to continue to make reasonable efforts for family reunification. Wyoming Statute § 14-3-440(d) allows the court to order that reasonable efforts may cease if it determines that reasonable efforts are not consistent

101. Wyo. Stat. § 14-3-431(h).

102. Wyo. Stat. § 14-3-431(k).

with the permanency plan. In some cases, it may benefit the well-being of the children to cease reasonable efforts. However, in many cases, if the court orders that DFS is no longer required to make reasonable efforts, DFS may opt not to facilitate visitation between the parent and the child anymore. While this may seem appropriate at the time, it is important to remember that this can be extremely traumatic for the child if the termination petition is not granted and the child resumes visitation with the parent after a significant time of separation. Because of this, give consideration to whether a recommendation that reasonable efforts should cease is the best recommendation at a permanency hearing.

8.1.4 STIPULATIONS

Under W.R.P.J.C. Rule 7, parties may stipulate to any matter. Parties may stipulate to the terms and conditions of an order, placement of the child, and the permanency plan, among other things. In order to ensure compliance with IV-E requirements, DFS needs to agree with the placement and such agreement should be noted in the paperwork.

8.2 THE DECISION TO TERMINATE PARENTAL RIGHTS

One of the hardest decisions you will have to make as a prosecutor is whether to recommend termination of parental rights. While abuse and neglect proceedings are meant to be rehabilitative, there are times when respondents are not able or are not willing to rehabilitate. Eventually, you will have to make the decision that it is in the best interest of the child to proceed with adoption as a permanency goal, which will then necessitate a termination action. This is not a decision to be made lightly, and it is not a process that will proceed quickly.

The decision to terminate parental rights should be based on the actions of the respondents and their ability to parent, not on personal justifications as to how the child's current placement is better for the child. Do not pursue termination because the child has more opportunities in foster care; has developed a bond with the new caretaker; or is doing better emotionally, socially, or academically in the new placement. Only pursue termination when the statutory time frames have passed and the respondents have willfully failed to make substantial progress at addressing the situation that brought the family to juvenile court. Do not pursue termination if there is no alternative permanency plan of adoption in place for the child.

When you decide to recommend adoption, a permanency hearing will need to be held for the court to determine whether it is time to pursue a new permanency plan for the child. If the court orders that the permanency goal change to adoption, the court will also have to consider whether DFS should continue to make reasonable efforts. While it is tempting to recommend that all reasonable efforts should cease pending termination, do not make this decision hastily. There is no guarantee that the termination petition will be granted. If the termination is not granted, reasonable efforts will have to resume and a child who has not been participating in visitation and services for a period of time can be traumatized by having to resume these services. It may be in the best interest of the child to continue efforts until the termination case is resolved.

8.3 PERMANENCY HEARING CHECKLIST

Case Plan

It is important to gather evidence showing both DFS and the Respondents' efforts toward achieving the case plan goals.

-
- Does everyone have an updated copy of the case plan?

 - Have MDT meeting minutes been provided to everyone?

 - Is a witness who is capable of testifying about progress towards achieving case plan goals available?

 - Are other witnesses needed to testify about the case plan?

Parent Efforts

The parents should be in a position to have the children returned to their home within a reasonable time of the permanency hearing.

-
- Are updated reports from service providers needed?

 - If you need to call the respondents as witnesses, has Rule 9 immunity been offered?

 - Are any expert witnesses needed to testify about respondents' efforts?

 - Is someone available to testify about the current home situation?

DFS Efforts

DFS efforts should be in compliance with the law and services should be assessable, available, and appropriate.

-
- If additional documentation is needed from DFS, has it been provided and discovered?

 - Is a DFS worker available to testify about services provided?

 - Are other workers needed to testify about respondents' attitude and level of cooperation with DFS?

 - Is the worker prepared to testify?

Miscellaneous

-
- Will the children be present to advise the court of their preference or has the court granted permission for the GAL to speak on their behalf?

 - Have the parents requested an evidentiary permanency hearing?

 - What is the concurrent plan?

 - How long have the children been in state custody?

 - Has DFS met its statutory obligations?

 - With further services, could reunification be achieved?

 - What is the time frame for achieving the permanency goal?

 - Have the children participated in developmentally appropriate activities?

9 CHAPTER SEVEN: SPECIAL ISSUES IN ABUSE AND NEGLECT PROCEEDINGS

In the course of working with families in abuse and neglect proceedings, you will learn that many of the parents and children are dealing with issues in addition to court involvement. The majority of parents who abuse and neglect their children have other problems in their lives, such as mental health issues, substance abuse issues, or domestic violence. These issues can be contributing factors that lead to parents being involved in the juvenile court system. In most cases, these issues will must be addressed before resolution of the juvenile case. Be aware of these special issues and how they affect families and understand how these issues are treated so that you can make appropriate recommendations in the case.

The following chapter is meant to be a brief introduction to some of these special issues. These issues will not be discussed in depth, and you should take the time to educate yourself fully on these complex issues, including attending trainings related to these issues.

9.1 MENTAL HEALTH

Some parents who are involved in abuse and neglect proceedings are struggling with some sort of mental health issue, such as temporary depression as a result of having their child removed from the home or another mental health diagnosis. Many of these parents have never received or are not currently receiving medical, psychological, or psychiatric treatment for these issues. In the course of the proceedings, it is likely that the parents will be required to take some steps to address these issues. Prosecutors should have a basic understanding of who diagnoses and treats the disorders, how mental health disorders are diagnosed, and what these disorders are. This chapter is not an authoritative treatise on these issues. Prosecutors should familiarize themselves with issues related to mental health to further monitor services.

9.2 MENTAL HEALTH PROFESSIONALS

In Wyoming, licensed master's level counselors, nurse practitioners, physician's assistants, medical doctors, psychiatrists, and psychologists can diagnose mental health disorders. Some types of practitioners are more experienced in diagnosing than others. Most parents with significant mental health disorders will be referred to psychiatrists and psychologists. Any of the above listed providers can provide some type of treatment services, such as prescribing medication or providing counseling services.

Substance abuse providers will be discussed below and should not be confused with mental health providers. While some mental health providers can provide substance abuse treatment, substance abuse providers cannot provide mental health treatment unless specifically trained and licensed.

The three most commonly utilized mental health providers within abuse and neglect proceedings are master's level counselors, psychologists, and psychiatrists. A master's level counselor is an individual who has obtained their master's degree in a mental health or social work-related field. They have completed supervised clinical hours to meet State licensing requirements. The State

must license mental health counselors. Licensure requirements are available on the Wyoming Mental Health Professions Licensing Board website at <http://mentalhealth.wyo.gov>.

Psychologists are individuals who have obtained a Ph.D. or Psy. D in a field of psychology. Psychologists will diagnose and counsel clients, but they cannot prescribe psychiatric medications in Wyoming. The State must license psychologists. Psychologists licensing requirements are available at the Wyoming Board of Psychology website at <http://plboards.state.wy.us/psychology/>.

Psychiatrists are licensed medical doctors who have completed medical school and have specialized in diagnosis and prevention of mental health issues. Psychiatrists can be board certified, meaning they have met national criteria and passed a national exam. Psychiatrists can specialize in specific areas, such as child psychiatry. Psychiatrists are required to be licensed by the State. Psychiatrists can prescribe medications. Psychiatrists licensing requirements are available at the Wyoming Board of Medicine website at <http://wyomedboard.wyo.gov>.

Each of the above listed mental health providers can supervise interns and provisionally licensed providers.

9.3 DIAGNOSIS

Families may see a mental health provider for routine treatment, or they may be ordered by the court to obtain a specific assessment. These assessments can include psychiatric evaluations, psychological evaluations, psychosexual evaluations and counseling or mental health needs assessments, among others. There are numerous different types of evaluations, and you should consult with a mental health professional and conduct your own research into the requirements and results of various evaluations.

Mental health disorders are diagnosed using the DSM-5, the authoritative treatise on mental health and diagnosis. The DSM-5 sets forth the criteria used by mental health providers to determine the specific mental health disorders a client is presenting with at the time of evaluation. The provider will interview the client and may administer screening tools prior to diagnosis. The results of that interview and the assessments are then cross referenced with the DSM-5 to determine a diagnosis. Diagnosis of a client is subjective, and it is possible to have different providers determine different diagnoses.

9.4 SUBSTANCE ABUSE

Many parents in abuse and neglect proceedings are suffering from a substance abuse disorder. Whether it be alcohol abuse or issues with controlled substances, the parent will be required to participate in treatment as a part of the abuse and neglect proceeding. A parent that chronically struggles with substance abuse may need a significant period of time to stabilize. Relapses may be common early on in recovery. Because of this, it can be extremely difficult for a parent struggling with substance abuse to secure return of their child within the time frames set out by Wyoming statutes.

Substance abuse treatment needs are determined during a substance abuse evaluation. A substance abuse assessment is administered by a licensed master's level counselor or by a licensed addiction

therapist (LAT). LATs must have a master’s degree. They can participate in substance abuse treatment. Master’s level substance abuse providers must be licensed to provide mental health services and their licensure requirements are available on the Wyoming Mental Health Professions Licensing Board website at <http://mentalhealth.wyo.gov>.

The substance abuse evaluation should include an addiction severity index (ASI) interview. The ASI is designed to gather information about areas of a client’s life that may contribute to their substance abuse problems. The DSM-5 is used to make a diagnosis. Recommendations from the assessment should include a level of treatment ranging from no treatment to intensive inpatient treatment. This is usually given as an ASAM level of treatment. The ASAM levels are as follows:

| <i>ASAM Level</i> | <i>Type of Care</i> |
|--------------------------|--|
| .5 | Early Intervention |
| 1 | Outpatient |
| 2.1 | Intensive Outpatient |
| 2.5 | Partial Hospitalization Services |
| 3.1 | Clinically Managed Low-Intensity Residential Services |
| 3.3 | Clinically Managed Population Specific High-Intensity Residential Services |
| 3.5 | Clinically Managed High-Intensity Residential Services |
| 3.7 | Medically Monitored Intensive Inpatient Services |

If a client is referred for inpatient treatment, they will have to locate and be accepted at an approved facility. Clients referred for outpatient treatment may be required to attend a class or participate in outpatient or intensive outpatient treatment, which are usually community-based.

9.5 DOMESTIC VIOLENCE

Many abuse and neglect proceedings involve domestic violence. Domestic violence is an incredibly complex issue and no two cases will be the same. While research has shown the harmful effects that domestic violence can have on a child, the actual impacts vary depending on numerous factors. This section is meant as a brief overview of the role domestic violence can play in an abuse and neglect case, but should in no way substitute for an intensive study of the issues related to domestic violence.

In *KLS*, the Wyoming Supreme Court established the following precedent regarding exposing children to domestic violence:

Other jurisdictions have recognized that subjecting a child to witnessing domestic violence between parents constitutes neglect and abuse of the child. Children who witness acts of violence between their parents may be in imminent danger of becoming impaired, if they have not already suffered actual emotional harm. Children are victimized by a climate of violence existing between their parents, even if they are not direct targets of the abuse. A New York court of appeals upheld a finding of neglect based on abuse between parents, stating:

While violence between parents adversely affects all children, younger children in particular are most likely to suffer from psychosomatic illnesses and arrested development.

The law review article cited by the New York court describes scientific support for the proposition that witnessing abuse between parents has a profound negative impact on children:

Studies have shown that children who witness domestic violence suffer many harmful psychological and emotional effects. Areas in which such problems exist include "health[,] socioemotional development[,] and behavior" relating to others. A more recent study, which compared children with no history of domestic violence to children with violent family backgrounds, found that the latter group had borderline to severe behavioral problems, below average adaptive behavior skills, lower reading levels, a significant difference in their social competence and more aggressive responses.

Many, if not most, jurisdictions have echoed the conclusion that subjecting children to domestic violence justifies termination of parental rights. In *In re Stephen Tyler R.*, 213 W.Va. 725, 584 S.E.2d 581 (2003), the facts resemble those we are faced with in this case, and the court affirmed a termination of parental rights. In that case, the father struck the child's mother while she was holding the child in her arms, and repeatedly refused to cooperate in a family case plan or undergo therapy for anger management. In *In re: J.R.*, 991 S.W.2d 318 (Tex.Civ.App.1999), a Texas court terminated mother's parental rights finding that she knowingly placed or allowed the children to remain in conditions or surroundings that endangered their emotional or physical well-being.

A young child is not a mere bystander to domestic violence.¹⁰³

It is becoming more common to see victims of domestic violence facing allegations of abuse and neglect for exposing the child to domestic violence when they had a reasonable expectation that violence was going to occur based on past assaults. The response of child welfare advocates to domestic violence has been to focus on the child's best interest, which often leads to the child's removal from the home. Researchers are now stating that in many situations it is better for the child to remain with the non-abusing parent than to be removed from the home.

Dealing with domestic violence issues in abuse and neglect proceedings can be complicated if there are related criminal proceedings or a domestic violence protection order. Refer aggressors for an anger management or batterer intervention assessment, both of which a licensed counselor can administer. These assessments may recommend that the client participate in group or individual therapy. Refer victims to mental health services and require to participation in individual counseling. It is becoming more common to see mutual-aggressor situations in domestic violence cases. In these matters, both parents may be referred for anger management or batterer intervention assessments.

102. *In the Interest of KLS*, 2004 WY 87.

10 CHAPTER EIGHT: OTHER COLLATERAL JUDICIAL PROCEEDINGS

While prosecuting abuse and neglect proceedings, you must also be aware of other court proceedings in which the family may be involved. These proceedings and the court orders therein can have an effect on the abuse and neglect case.

10.1 APPEALS

Within the context of the abuse and neglect proceedings, various orders can be appealed by following the WYOMING RULES OF APPELLATE PROCEDURE. Pursuant to Wyoming Statute § 14-3-432(a):

(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.

Furthermore, pursuant to WYOMING RULES OF APPELLATE PROCEDURE Rule 1.05(b), parties may appeal any order affecting a substantial right, such as an adjudication order or a permanency order.

If an order from your abuse and neglect proceeding is appealed, the appeal will be handled by the Attorney General's office. You should fully cooperate with the Attorney General's office and provide any and all requested information in a timely manner.

The respondents may request that an order of the court be stayed pending the outcome of the appeal.¹⁰⁴ Orders that can be stayed include orders to pay financial costs and orders transferring legal custody of the child to someone other than the child's parents, guardian or former custodian. Whether you choose to oppose a request for stay will depend on the facts and circumstances of your case.

10.2 ADMINISTRATIVE PROCEEDINGS

When DFS receives notice of an allegation of abuse and neglect, it begins an internal administrative process pursuant to statute. While separate from abuse and neglect proceedings, administrative proceedings can have a lasting impact on the respondent. DFS conducts an internal investigation into the allegations to determine if it is appropriate to place the alleged perpetrator on the central registry, a database of information related to child protection.

Under DFS Rule § 6(b)(i) an allegation is substantiated when credible evidence of abuse or neglect is determined. Furthermore, under DFS Chapter 2 Rule § 6(b)(ii), DFS must substantiate all reports where a court has accepted a criminal plea of guilty or *nolo contendere* or a civil, juvenile, or criminal court has made a finding that the alleged perpetrator committed certain acts that constitute abuse or neglect under these rules. Respondents have the opportunity to dispute the substantiation finding through an administrative process outside of any juvenile court proceedings.

If a respondent is substantiated against and placed on the central registry, the respondent may be disqualified in the future from obtaining employment in certain areas such as child and elder care.

104. See Wyo. Stat. § 14-3-433.

Even if there is not an adjudication in the abuse and neglect proceedings, the respondent may still be placed on the central registry by DFS. For some respondents, the consequences of being placed on the central registry can have serious, long-term employment consequences. Thus, they may choose to go to trial on the allegations to protect their employment options.

10.3 CRIMINAL PROCEEDINGS

Many respondents will have criminal charges related to the abuse and neglect proceedings. These respondents will have to make decisions in the abuse and neglect case that may be based on the status of their criminal cases. Many of these respondents may elect to stipulate to the jurisdiction of the court under W.R.P.J.C. Rule 7 in order to protect their right to remain silent. You should be aware of what the respondents' criminal charges are and the status of their criminal cases.

As the prosecutor, you should be aware of any no-contact provisions that are included in the respondents' criminal bonds and ensure that the parties are aware of those provisions. Criminal bond conditions can severely impact the ability of DFS to make reasonable efforts when respondents are prohibited from having contact with their children or co-respondent. You should work with the criminal prosecutor to ensure that the language in the respondents' criminal bonds allows for contact within the juvenile case for the purpose of working towards reunification.

You should also be aware of the possible consequences of the respondent's criminal cases. If a respondent is likely to get probation or a small jail sentence, reunification may proceed much more quickly than in a case where the respondent is potentially looking at multiple years in the penitentiary. Having a knowledge and awareness of the status of the respondent's criminal cases will make it easier to determine what recommendations you should make in the juvenile case.

10.4 TERMINATION OF PARENTAL RIGHTS

Termination of parental rights proceedings are separate from abuse and neglect proceedings. However, as these proceedings often flow from abuse and neglect proceedings and affect the rights of parents in abuse and neglect proceedings, prosecutors should spend a significant amount of time familiarizing themselves with the process and requirements of termination of parental rights.

Wyoming Statute § 14-2-309 establishes the grounds for termination of parental rights as follows:

- (a) The parent-child legal relationship may be terminated if any one (1) or more of the following facts is established by clear and convincing evidence:
 - (i) The child has been left in the care of another person without provision for the child's support and without communication from the absent parent for a period of at least one (1) year. In making the above determination, the court may disregard occasional contributions, or incidental contacts and communications. For purposes of this paragraph, a court order of custody shall not preclude a finding that a child has been left in the care of another person;
 - (ii) The child has been abandoned with no means of identification for at least three (3) months and efforts to locate the parent have been unsuccessful;

(iii) The child has been abused or neglected by the parent and reasonable efforts by an authorized agency or mental health professional have been unsuccessful in rehabilitating the family or the family has refused rehabilitative treatment, and it is shown that the child's health and safety would be seriously jeopardized by remaining with or returning to the parent;

(iv) The parent is incarcerated due to the conviction of a felony and a showing that the parent is unfit to have the custody and control of the child;

(v) The child has been in foster care under the responsibility of the state of Wyoming for fifteen (15) of the most recent twenty-two (22) months, and a showing that the parent is unfit to have custody and control of the child;

(vi) The child is abandoned at less than one (1) year of age and has been abandoned for at least six (6) months;

(vii) The child was relinquished to a safe haven provider in accordance with W.S. 14-11-101 through 14-11-109, and neither parent has affirmatively sought the return of the child within three (3) months from the date of relinquishment;

(viii) The parent is convicted of murder or homicide of the other parent of the child under W.S. 6-2-101 through 6-2-104.

(b) Proof by clear and convincing evidence that the parent has been convicted of any of the following crimes may constitute grounds that the parent is unfit to have custody or control of any child and may be grounds for terminating the parent-child relationship as to any child with no requirement that reasonable efforts be made to reunify the family:

(i) Murder or voluntary manslaughter of another child of the parent or aiding and abetting, attempting, conspiring to commit or soliciting such a crime; or

(ii) Commission of a felony assault which results in serious bodily injury to a child of the parent. As used in this paragraph "serious bodily injury" means as defined by W.S. 6-1-104.

(c) Notwithstanding any other provision of this section, evidence that reasonable efforts have been made to preserve and reunify the family is not required in any case in which the court determines any one (1) or more of the following by clear and convincing evidence:

(i) The parental rights of the parent to any other child have been terminated involuntarily;

(ii) The parent abandoned, chronically abused, tortured or sexually abused the child;

(iii) The parent has been convicted of committing one (1) or more of the following crimes against the child or another child of that parent:

(A) Sexual assault under W.S. 6-2-302 through 6-2-304;

(B) Sexual battery under W.S. 6-2-313;

(C) Sexual abuse of a minor under W.S. 6-2-314 through 6-2-317.

(iv) The parent is required to register as a sex offender pursuant to W.S. 7-19-302 if the offense involved the child or another child of that parent. This shall not apply if the parent is only required to register for conviction under W.S. 6-2-201;

(v) Other aggravating circumstances exist indicating that there is little likelihood that services to the family will result in successful reunification.

Termination of parental rights matters are civil cases and proceed according to civil procedure. A parent, the guardian or custodian of the child, or an authorized agency such as DFS can file termination of parental rights cases. When DFS is the petitioner they are represented by the county or district attorney (in termination of parental right proceedings only). The county or district attorney may request assistance from the Attorney General's office when prosecuting the termination of parental right proceeding.

10.5 CIVIL CUSTODY AND CHILD SUPPORT PROCEEDINGS

Civil custody and child support proceedings can be impacted by abuse and neglect proceedings. In cases where the parents no longer reside together, it is important for the parties to ascertain who has primary custody and whether paternity has been established. When the custodial parent has abused or neglected the child, the non-custodial parent may file for a change in custody. Or, in some cases, there is no custody order and the parents will have to file for custody.

If the child is placed in State custody, the parent is obligated to pay child support. DFS will refer the matter to the local child support enforcement office if it is anticipated that the child will remain in foster care longer than sixty (60) days. Parents are required to pay child support while their child is in DFS custody, and if they do not, it may be used against them in permanency hearings and termination proceedings. If the child is in care and paternity is not established, DFS will also refer the matter to child support enforcement to establish paternity.

10.6 FAMILY VIOLENCE PROTECTION AND STALKING PROTECTION ORDERS

You should also be aware of any collateral family violence protection orders and stalking protection orders, as these can impact reunification. Family violence protection orders and stalking protection orders arise from separate, non-criminal proceedings. Wyoming Statute § 35-21-105 provides for the issuance of a family violence protection order. Wyoming Statute § 7-3-509 governs stalking protection orders.

Similar to the issues caused by criminal bond conditions, protection orders can lead to barriers to visitation. If the respondent is subject to a family violence protection order or stalking protection order issued by the circuit court, the respondent may be ordered to have no contact with the other parent or child. Some courts may take the position that the juvenile court cannot override a circuit court order. Until the protection order is modified or dismissed, it may be impossible to facilitate visitation.

10.7 CONTEMPT

Parents who fail to comply with the requirements of the court orders in an abuse and neglect proceeding may face criminal charges for indirect contempt of court. Pursuant to Wyoming Statute § 14-3-438:

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'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.

Contempt actions must be prosecuted in accordance with Wyoming Rules of Criminal Procedure Rule 42(c). Additionally, contempt actions must be filed as separate, criminal proceedings:

In addition to strict compliance with the due process mandates of W.R.Cr.P. 42(c), a proceeding in indirect criminal contempt must be instituted and conducted as a separate and independent criminal action apart from the original cause in which the contempt arose. *Swain* [v. State], [2009 WY 142,] ¶¶ 15-17, 220 P.3d [504,] 508-09 [(Wyo. 2009)]; *UMWA, Local 1972* [v. *Decker Coal Co.*], 774 P.2d [1274] at 1284 [(Wyo. 1989)]; *Garber v. United Mine Workers of America*, 524 P.2d 578, 579-80 (Wyo.1974). That is, an indirect criminal contempt action may not be pursued and treated simply as a component of the case giving rise to the contemptuous conduct. We have held that the failure to adhere to the separate and independent action rule constitutes a fatal jurisdictional defect which renders any judgment of contempt null and void. *Swain*, ¶ 17, 220 P.3d at 509; *UMWA, Local 1972*, 774 P.2d at 1284.

As a prosecutor, you will have to make the decision when to file a contempt action. Some prosecutors rarely choose to pursue contempt actions, others do so quite often, as convictions for contempt of court can be useful in termination of parental rights actions. You will have to develop your own style in regard to when you will and will not file contempt actions.

11 APPENDIX A: SAMPLE FORMS

The Wyoming Children's Justice Project makes no representation regarding the accuracy, adequacy, or completeness of any of the sample forms provided. These forms are provided as examples only and the information within must be tailored to the circumstances of each case. Under no circumstances does the Wyoming Children's Justice Project accept any liability associated with your use of these forms or your reliance on the information contained within the forms. Use the forms at your own risk. We are not providing legal advice.

11.1 ABUSE AND NEGLECT PETITION

| | | | |
|---|---|--------------------------------|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | Juvenile Case No. | |
| In the Interest of: | | | |
| Child #1 DOB: _____ | | | |
| Child #2 DOB: _____ | | | |
| <hr/> | | | |
| JUVENILE PETITION – WYO. STAT. ANN. § 14-3-401 et. seq. | | | |
| <hr/> | | | |
| <p>COMES NOW (Attorney Name), Deputy County and Prosecuting Attorney for (County Name) County, Wyoming, and petitions the Court for an Order finding that the above-named minor children are neglected children per Wyo. Stat. §14-3-402(a)(xii)(A) and Wyo. Stat. §14-3-202(a)(vii).</p> | | | |
| <p>1. (Child Name) is a minor child of the age of (Age) years, having been born (DOB). (Child Name) is a minor child of the age of (Age) years, having been born (DOB).</p> | | | |
| <p>2. The children's mother is (Name) who resides at (Address), (City), (County) County, Wyoming; and whose telephone number is (Telephone Number). The child's father is (Name) who resides at (Address), (City), (County) County, Wyoming; and whose telephone number is (Telephone Number).</p> | | | |
| <p>3. The minor children reside with (Person Children Reside With). OR The minor child was taken into protective custody on (Date) by (Who took Protective Custody). The minor child is currently in the temporary protective custody of the Department of Family Services and placed (Where Placed).</p> | | | |

4. It is unknown if the minor children are Indian children as defined in the Federal Indian Child Welfare Act. **OR** The minor children are Indian children as defined in the Federal Indian Child Welfare Act; specifically, they are alleged to be members of the (Tribe Name) tribe located in (Location of Tribe). The (Name of Tribe) tribe has been notified of these proceedings by (How Tribe Notified).

5. These minor children are subject to the jurisdiction of this Court pursuant to Wyo. Stat. § 14-3-402, in that they are alleged to be neglected children as defined by Wyo. Stat. §14-3-402(a)(xi)(A) and Wyo. Stat. §14-3-202(a)(vi) in that it is alleged their (Parent Whom Allegations Are Against) has failed or refused to provide adequate care, supervision, medical, or any other care necessary for the children's well-being, to wit: (Descriptions of Events Amounting to Neglect **OR** reference to an attached Affidavit);

AND/OR:

These minor children are subject to the jurisdiction of this Court pursuant to Wyo. Stat. §14-3-402, in that they are alleged to be neglected/abused children as defined by Wyo. Stat. §14-3-402(a)(xi)(B) and Wyo. Stat. §14-3-202(a)(ii) in that it is alleged that the minor children have been abused by inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of the children, other than by accidental means, or the commission or allowing the commission of a sexual offense against a child as defined by law, to wit: (Description of Allegations Amounting to Abuse).

This Petition is supported by the Affidavit of (name of affiant), attached hereto and incorporated by reference.

WHEREFORE Petitioner requests that this matter be set for hearing and for such other proceedings as may be proper in the matter. Petitioner also requests that a Guardian ad Litem be appointed in this matter.

DATED this _____ day of (Month), (Year).

(SIGNATURE BLOCK)

I, (Name), Deputy County and Prosecuting Attorney, being first duly sworn that I am the petitioner in the foregoing matter; that I have read the foregoing petition, and upon information and belief state that the contents and the statements made therein are true.

(Name)

STATE OF WYOMING

}
} ss

COUNTY OF (County)

SWORN to and subscribed before me, a Notarial Officer, this _____ day of (Month), (Year) by (Name of Attorney).

NOTARIAL OFFICER

My commission expires:

11.2 ORDER TO APPEAR – SHELTER CARE

| | | |
|--|--------------------------------|--------------------------------|
| <i>State of Wyoming</i> | | <i>In the Juvenile Court</i> |
| <i>County of _____</i> | | <i>_____ Judicial District</i> |
| STATE OF WYOMING | | |
| In the Interest of: | } | Juvenile Case No. |
| Child #1 | | |
| DOB: _____ | | |
| Child #2 | | |
| DOB: _____ | | |
| <hr/> ORDER TO APPEAR SHELTER CARE <hr/> | | |
| <p>NOTICE: THE ABOVE-NAMED CHILD(REN) WAS/WERE TAKEN INTO TEMPORARY PROTECTIVE CUSTODY BY (WHO TOOK CUSTODY) ON (DATE OF CUSTODY) AT (TIME OF CUSTODY). PURSUANT TO WYO. STAT. ANN. § 14-3-409, A SHELTER CARE HEARING MUST BE HELD WITHIN FORTY-EIGHT (48) BUSINESS HOURS OF THE CHILD(REN)'S REMOVAL TO DETERMINE WHETHER OR NOT THE CHILD(REN)'S FULL TIME SHELTER CARE IS NECESSARY.</p> | | |
| <p>Pursuant to Wyo. Stat. Ann. § 14-3-402 et. seq., the attached PETITION has been filed by the State of Wyoming in the Juvenile Court of (County Name) County, Wyoming, asking that the below listed Respondents be brought before the Court.</p> | | |
| <p>IT IS THEREFORE ORDERED that an Shelter Care Hearing shall be held before the Juvenile Court on the (Day) day of (Month), (Year), at the hour of (Time), in District Courtroom (Courtroom Number), (Address of Courtroom), (City), Wyoming. Said hearing is scheduled for (Number of Minutes) minutes. Upon arrival, all named parties shall report to the main office of the Court to check in for court proceedings.</p> | | |
| <p>IT IS FURTHER ORDERED that the below named parties MUST appear before the Court at said time for further proceedings:</p> | | |
| <u>Name</u> | <u>Physical Address</u> | |

AT THIS HEARING, THE COURT WILL DETERMINE WHETHER THE CHILD(REN)'S WELFARE REQUIRE CONTINUED PLACEMENT IN DEPARTMENT OF FAMILY SERVICES CUSTODY.

The above-named minor child(ren) must also appear before the Court.

IF THE ABOVE NAMED PARTIES FAIL TO APPEAR AS ORDERED, A BENCH WARRANT SHALL BE ISSUED FOR THEIR ARREST AND THEY WILL BE BROUGHT BEFORE THE COURT AND HELD LIABLE FOR CONTEMPT OF COURT. Contempt of Court carries a maximum penalty of ninety (90) days incarceration and a \$500 fine.

Any person having actual physical custody or control of the all minor children shall cause the minors to be brought before the court at the hearing, including but not limited, to the Sheriff, law enforcement, or Department of Family Services.

IT IS FURTHER ORDERED that this Order shall be expeditiously served by the Sheriff upon all parties named above and proof of service shall be returned to the Court as soon as possible.

IT IS FURTHER ORDERED that if any of the parties cannot be found within the state or reside out of state that the Clerk of the District Court shall have them served by personal service or by certified mail with return receipt requested signed by the addressee only. If any of the parties whose whereabouts are currently unknown become known, the Clerk of the District Court shall have them served by personal service or by certified mail with return receipt requested signed by the addressee.

IT IS FURTHER ORDERED that the Wyoming Guardian ad Litem shall appoint a Guardian ad Litem to represent the minor child(ren) and shall present an Order Appointing Guardian ad Litem to the Court immediately for signature.

NOTICE OF RIGHTS

1. You have the right to remain silent. You need not make any statements to or answer any questions from the County Attorney, law enforcement, DFS, or the Guardian ad Litem.
2. You are entitled to receive copies of the Petition.
3. You have the right to be represented by an attorney at all hearings.
4. You have the right to confront and cross-examine all witnesses.
5. You have the right to present witnesses and otherwise be heard on their own behalf.
6. Court process is available to make witnesses come to Court to testify.
7. If allegations in the Petition are denied, adjudicatory and disposition hearings will be reported by a court reporter or the proceedings will be recorded by electronic, mechanical or other appropriate means and a transcript may be obtained by any party.
8. If it is determined that the allegations in the juvenile petition are true, you could suffer serious consequences including having the minor child(ren) removed from your home and placed in foster care or an institution.
9. If the minor(s) are left in your home another person or agency could be appointed to supervise your care of the minor(s).

10. You could be required to submit to evaluations and counseling.
11. You could be required to pay all or part of the costs for your court appointed attorney pursuant to Wyo. Stat. Ann. § 14-3-434(c) as well as other costs as determined by the court.
12. You could be required to pay all or part of the costs and expenses associated with physical or mental examinations of the minor(s), the costs of the Guardian ad Litem, witness fees and expenses, and other costs of the proceedings if you are responsible for the child's support.
13. **You have the right to be represented by an attorney at every stage of this case, including an appeal.** You are not required to have an attorney but the proceedings can be confusing and it is prudent to have an attorney to protect your rights. You may hire the attorney of your choice. If you want an attorney but are unable to afford to hire one you may request that an attorney be appointed for you. A judge will decide whether or not to appoint an attorney for you. If an attorney is appointed to represent you the judge will require you to pay for the appointed attorney to the extent of your ability to do so.
14. If you want an appointed attorney, you **MUST** fill out the attached "Request and Affidavit for Court Appointed Counsel." Your signature on that form must be notarized. When you have filled out the form you must bring it to the Court. The form can be notarized at the Court, but the form must be signed in the presence of the notary.
15. If you hire your own attorney, the attorney must come with you to the hearing. If you want an attorney to be appointed for you, then you must fill out the form and bring it to the Court at the Shelter Care Hearing.

Pursuant to the WYOMING RULES OF PROCEDURE FOR JUVENILE COURTS Rule 3(b), the State is required to disclose certain information pertaining to this case to you. In compliance with W.R.P.J.C. Rule 3(c), the State would notify you that you may view this information by contacting the County Attorney's Office at (phone number), during regular business hours, and making arrangements to review the discoverable portions of the State's file. You may also make arrangements to pick up copies of discoverable information. In the event you have an attorney, this information will be shared with your attorney upon request.

BY THE COURT:

Judge of the Juvenile Court

11.3 ORDER TO APPEAR – INITIAL APPEARANCE

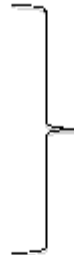
State of Wyoming *In the Juvenile Court*
County of _____ *_____ Judicial District*

STATE OF WYOMING

In the Interest of:

Child #1
 DOB: _____

Child #2
 DOB: _____



Juvenile Case No.

**ORDER TO APPEAR
 INITIAL APPEARANCE**

Pursuant to Wyo. Stat. § 14-3-402 et. seq., the attached PETITION has been filed by the State of Wyoming in the Juvenile Court of (County Name) County, Wyoming, asking that the below listed Respondents be brought before the Juvenile Court for an Initial Appearance and such other proceedings as are proper.

IT IS THEREFORE ORDERED that an Initial Appearance shall be held before the Juvenile Court on the (Day) day of (Month), (Year), at the hour of (Time), in District Courtroom (Courtroom Number), (Address of Courtroom), (City), Wyoming. Said hearing is scheduled for (Number of Minutes) minutes. Upon arrival, all named parties shall report to the main office of the Court to check in for court proceedings.

IT IS FURTHER ORDERED that the below named parties **MUST** appear before the Court at said time for further proceedings:

| | |
|-------------|-------------------------|
| <u>Name</u> | <u>Physical Address</u> |
|-------------|-------------------------|

The above-named minor child(ren) must also appear before the Court.

IF THE ABOVE NAMED PARTIES FAIL TO APPEAR AS ORDERED, A BENCH WARRANT SHALL BE ISSUED FOR THEIR ARREST AND THEY WILL BE BROUGHT BEFORE THE COURT AND HELD LIABLE FOR CONTEMPT OF COURT. Contempt of Court carries a maximum penalty of ninety (90) days incarceration and a

\$500 fine.

Any person having actual physical custody or control of the minor shall cause the minor to be brought before the court at the hearing, including but not limited to the Sheriff, law enforcement, or Department of Family Services.

IT IS FURTHER ORDERED that this Order shall be expeditiously served by the Sheriff upon all parties named above and proof of service shall be returned to the Court as soon as possible.

IT IS FURTHER ORDERED that if any of the parties cannot be found within the state or reside out of state that the Clerk of the District Court shall have them served by personal service or by certified mail with return receipt requested signed by the addressee only. If any of the parties whose whereabouts are currently unknown become known, the Clerk of the District Court shall have them served by personal service or by certified mail with return receipt requested signed by the addressee.

IT IS FURTHER ORDERED that the Wyoming Guardian ad Litem shall appoint a Guardian ad Litem to represent the minor child(ren) and shall present an Order Appointing Guardian ad Litem to the Court immediately for signature.

NOTICE OF RIGHTS

1. You have the right to remain silent. You need not make any statements to or answer any questions from the County Attorney, law enforcement, DFS, or the Guardian ad Litem.
2. You are entitled to receive copies of the Petition.
3. You have the right to be represented by an attorney at all hearings.
4. You have the right to confront and cross-examine all witnesses.
5. You have the right to present witnesses and otherwise be heard on their own behalf.
6. Court process is available to make witnesses come to Court to testify.
7. If allegations in the Petition are denied, adjudicatory and disposition hearings will be reported by a court reporter or the proceedings will be recorded by electronic, mechanical or other appropriate means and a transcript may be obtained by any party.
8. If it is determined that the allegations in the juvenile petition are true, you could suffer serious consequences including having the minor child(ren) removed from your home and placed in foster care or an institution.
9. If the minor(s) are left in your home another person or agency could be appointed to supervise your care of the minor(s).
10. You could be required to submit to evaluations and counseling.
11. You could be required to pay all or part of the costs for your court appointed attorney pursuant to Wyo. Stat. Ann. § 14-3-434(c) as well as other costs as determined by the court.
12. You could be required to pay all or part of the costs and expenses associated with physical or mental examinations of the minor(s), the costs of the Guardian ad Litem, witness fees and expenses, and other costs of the proceedings if you are responsible for the child's support.
13. **You have the right to be represented by an attorney at every stage of this case, including an appeal.** You are not required to have an attorney but the proceedings can be confusing and it is prudent to have an attorney to protect your rights. You may hire the attorney of your choice. If you want an attorney but are unable to afford to hire one you may request that an attorney be appointed for you. A judge will decide whether or not to

appoint an attorney for you. If an attorney is appointed to represent you the judge will require you to pay for the appointed attorney to the extent of your ability to do so.

14. If you want an appointed attorney, you **MUST** fill out the attached "Request and Affidavit for Court Appointed Counsel." Your signature on that form must be notarized. When you have filled out the form you must bring it to the Court. The form can be notarized at the Court, but the form must be signed in the presence of the notary.
15. If you hire your own attorney, the attorney must come with you to the hearing. If you want an attorney to be appointed for you, then you must fill out the form and bring it to the Court at least five (5) days before the scheduled hearing.

Pursuant to the WYOMING RULES OF PROCEDURE FOR JUVENILE COURTS Rule 3(b), the State is required to disclose certain information pertaining to this case to you. In compliance with W.R.P.J.C. Rule 3(c), the State would notify you that you may view this information by contacting the County Attorney's Office at (Phone Number), during regular business hours, and making arrangements to review the discoverable portions of the State's file. You may also make arrangements to pick up copies of discoverable information. In the event you have an attorney, this information will be shared with your attorney upon request.

BY THE COURT:

Judge of the Juvenile Court

11.4 NOTICE TO NONCUSTODIAL PARENT/PUTATIVE FATHER

| | | | |
|--|---|--------------------------------|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | Juvenile Case No. | |
| In the Interest of: | | | |
| Child #1 | | | |
| DOB: _____ | | | |
| Child #2 | } | | |
| DOB: _____ | | | |
| <hr/> | | | |
| NOTICE TO NONCUSTODIAL PARENT/PUTATIVE FATHER | | | |
| <hr/> | | | |
| <p>Pursuant to Wyo. Stat. § 14-3-402 et. seq., the attached JUVENILE PETITION has been filed by the State of Wyoming in the Juvenile Court of (County Name) County, Wyoming, asking that the below listed Respondents be brought before the Juvenile Court for an Initial Appearance and such other proceedings as are proper.</p> | | | |
| <p>You have been named as the noncustodial parent/putative father of the minor children. You must respond to this notice within sixty (60) days of service by contacting the prosecuting attorney at (phone number) and advising of your intention to participate in these proceedings.</p> | | | |
| <p>You have the right to deny that you are the noncustodial parent/putative father. A denial must be in writing and filed with the District Court at (Clerk's address). Should you fail to respond to this notice, appear at further court proceedings, or participate in this case, your parental rights MAY be terminated. Furthermore, if you fail to respond you MAY be prohibited from asserting parental rights in contravention of any permanency plan for the children.</p> | | | |
| <p>You have the right to be considered as a placement option for your children.</p> | | | |
| <u>NOTICE OF RIGHTS</u> | | | |
| <ol style="list-style-type: none">1. You have the right to remain silent. You need not make any statements to or answer any questions from the County Attorney, law enforcement, DFS, or the Guardian ad Litem.2. You are entitled to receive copies of the Petition.3. You have the right to be represented by an attorney at all hearings.4. You have the right to confront and cross-examine all witnesses.5. You have the right to present witnesses and otherwise be heard on their own behalf.6. Court process is available to make witnesses come to Court to testify. | | | |

7. If allegations in the Petition are denied, adjudicatory and disposition hearings will be reported by a court reporter or the proceedings will be recorded by electronic, mechanical or other appropriate means and a transcript may be obtained by any party.
8. If it is determined that the allegations in the juvenile petition are true, you could suffer serious consequences including having the minor child(ren) removed from your home and placed in foster care or an institution.
9. If the minor(s) are left in your home another person or agency could be appointed to supervise your care of the minor(s).
10. You could be required to submit to evaluations and counseling.
11. You could be required to pay all or part of the costs for your court appointed attorney pursuant to Wyo. Stat. § 14-3-434(c) as well as other costs as determined by the court.
12. You could be required to pay all or part of the costs and expenses associated with physical or mental examinations of the minor(s), the costs of the Guardian ad Litem, witness fees and expenses, and other costs of the proceedings if you are responsible for the child's support.
13. **You have the right to be represented by an attorney at every stage of this case, including an appeal.** You are not required to have an attorney but the proceedings can be confusing and it is prudent to have an attorney to protect your rights. You may hire the attorney of your choice. If you want an attorney but are unable to afford to hire one you may request that an attorney be appointed for you. A judge will decide whether or not to appoint an attorney for you. If an attorney is appointed to represent you the judge will require you to pay for the appointed attorney to the extent of your ability to do so.
14. If you want an appointed attorney, you **MUST** fill out the attached "Request and Affidavit for Court Appointed Counsel." Your signature on that form must be notarized. When you have filled out the form you must bring it to the Court. The form can be notarized at the Court, but the form must be signed in the presence of the notary.
15. If you hire your own attorney, the attorney must come with you to the hearing. If you want an attorney to be appointed for you, then you must fill out the form and bring it to the Court at least five (5) days before the scheduled hearing.

Pursuant to the WYOMING RULES OF PROCEDURE FOR JUVENILE COURTS Rule 3(b), the State is required to disclose certain information pertaining to this case to you. In compliance with W.R.P.J.C. Rule 3(c), the State would notify you that you may view this information by contacting the County Attorney's Office at (phone number), during regular business hours, and making arrangements to review the discoverable portions of the State's file. You may also make arrangements to pick up copies of discoverable information. In the event you have an attorney, this information will be shared with your attorney upon request.

BY THE COURT:

Judge of the Juvenile Court

11.5 ORDER ON SHELTER CARE HEARING

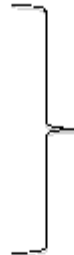
State of Wyoming *In the Juvenile Court*
County of _____ *_____ Judicial District*

STATE OF WYOMING

In the Interest of:

Child #1
DOB: _____

Child #2
DOB: _____



Juvenile Case No.

ORDER ON SHELTER CARE HEARING

THIS MATTER came before the Court on (Date), upon a **NEGLECT PETITION** alleging the minors to be neglected children. The minor children were not present, however, were represented by their Guardian ad Litem, (GAL Name). The State of Wyoming was represented by (CAO Name), (County) County and Prosecuting Attorney. Also present were: (Others Present).

The Court addressed the Respondents and:

1. Determined that the personal information about the children and Respondents was correct as stated in the **NEGLECT PETITION**.
2. Determined the children were removed from the home on (Date).
3. Determined that the Respondents were not under the influence of any drug or intoxicant, nor suffering from a mental illness or deficiency affecting their ability to understand their situation.
4. Reviewed the **NEGLECT PETITION** and the applicable statutes with the Respondents and explained the consequences that could attend an adjudication of neglect.
5. Determined it is contrary to the welfare of the children to remain in the home and it is in the best interest of the children to be placed in protective custody because [insert reason].
6. Determined it is neither appropriate nor in the best interest of the children for the children to remain in the home. This finding was made with the knowledge that reasonable efforts were made to prevent removal of the minor from the home.
7. Reviewed the rights guaranteed by the Constitution of the United States and the

statutes of the State of Wyoming.

8. Explained that an admission of neglect:
 - a. Waived possible defects in the neglect petition;
 - b. Waived the Constitutional rights previously explained;
 - c. Waived all possible defenses;
 - d. Waived possible complaints about unconstitutionally obtained evidence;
 - e. Subjected themselves to the maximum punishment permitted by law;
 - f. Waived right to appeal;
 - g. Is an admission of every element of the offense underlying the allegation of neglect.

9. Explained their right to be represented by an attorney and their right to court-appointed counsel should they be unable to afford to hire a private attorney.

The Court entered a denial on behalf of (Respondents) as to the allegation of neglect as stated in the Petition.

IT IS THEREFORE ORDERED that, pending the Initial Appearance in this matter, the minor children, (Names of Children) shall be placed under the protective supervision of the Department of Family Services.

IT IS FURTHER ORDERED that (Respondent's Names) shall:

1. Fully cooperate with the Department of Family Services, the Guardian ad Litem and CASA in all respects, including:
 - a. Submitting to random home visits.
 - b. Maintaining a clean and suitable home.
2. Comply with all terms and conditions of the Department of Family Services' case plan.
3. Live a law-abiding life and violate no law of any county, city, state or political subdivision.
4. Not take minor children from the county without the prior permission of the Department of Family Services nor from the State for more than five (5) days without prior permission of the Court.
5. Obtain and/or maintain telephone service or the equivalent (pager, etc.).
6. Any changes in physical or mailing address(es) or telephone number(s) shall be reported in writing to the Department of Family Services, County Attorney's Office, CASA,

Guardian ad Litem, Respondents' respective attorneys, and Clerk of Court with five (5) days of any change.

7. Sign releases of information requested by the Department of Family Services within five (5) days of the request.

8. Not use, consume or possess any alcoholic beverages, mind altering substances, illegal controlled substances or drug paraphernalia.

9. Participate in any Multi-Disciplinary Team (MDT) meetings and attend all further Court proceedings.

10. Have visitation with the minor children as established by the Department of Family Services and the Guardian ad Litem.

IT IS FURTHER ORDERED that (Respondents' Names) shall:

1. At the request of a Department of Family Services caseworker, law enforcement or CASA representative upon reasonable suspicion:

a. Submit to searches of your person, automobile(s), or residence(s), or any other place or thing within your dominion and control.

b. Submit to the extraction of body substances (blood, breath, urine, saliva, etc.) for testing.

[With respect to the requirements of this paragraph the parent may refuse to submit to searches or extractions, but such refusal shall be considered a material violation of this Order.]

2. Abide by the terms and conditions of (his/her/their) criminal case.

IT IS FURTHER ORDERED that this matter shall be set for an initial appearance at a date that is convenient to all parties.

DATED this ____ day of (Month), (Year).

BY THE COURT:

The Honorable (Judge's Name)
Juvenile Court Judge

APPROVED AS TO FORM:

11.6 INITIAL SCHEDULING ORDER

| | | | |
|--|--|--------------------------------|--|
| <i>State of Wyoming</i> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| STATE OF WYOMING | | | |
| In the Interest of: | | Juvenile Case No. | |
| Child #1 DOB: _____ | | } | |
| Child #2 DOB: _____ | | | |
| <hr/> <p style="text-align: center;">INITIAL SCHEDULING ORDER</p> <hr/> | | | |
| <p>THIS MATTER came before the Court on a JUVENILE PETITION filed by the State of Wyoming. The Court finds it is necessary to enter initial scheduling Orders to comply with the requirements of Wyo. Stat. Ann. § 14-3-401 et. seq.</p> | | | |
| <p>The Petition in this matter was filed on (Date Petition Filed).</p> | | | |
| <p>IT IS THEREFORE ORDERED that the State of Wyoming shall supply all necessary discovery required under WYOMING RULES OF PROCEDURE FOR JUVENILE COURT Rule 3 by (date thirty days from filing of Petition).</p> | | | |
| <p>IT IS FURTHER ORDERED that a scheduling conference/pre-trial shall be held in this matter on (date of scheduling conference).</p> | | | |
| <p>IT IS FURTHER ORDERED that this matter shall be set or trial within sixty (60) days of (Date of Initial Appearance). If a jury trial is requested by (Date ten days after Initial Appearance), a jury trial will be held in this matter on (Date for jury trial). If a jury trial is not requested by (Date ten days after Initial Appearance), a bench trial shall be held in this matter on (Date for bench trial).</p> | | | |
| <p>IT IS FURTHER ORDERED that all other hearings shall happen on or before the following dates:</p> | | | |
| <ol style="list-style-type: none">1. Adjudication Hearing: (Date)2. Disposition Hearing: (Date)3. Six-Month Review Hearing: (Date)4. Permanency Hearing: (Date) | | | |

5. Second Six-Month Review Hearing: (Date)

6. Second Permanency Hearing: (Date)

DATED this ____ day of _____, 20__.

BY THE COURT:

The Honorable (Judge's Name)
Juvenile Court Judge

11.7 JURY DEMAND

| | | | |
|---|---|--------------------------------|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | | |
| STATE OF WYOMING | } | | |
| In the Interest of: | | Juvenile Case No. | |
| Child #1 DOB: _____ | | | |
| Child #2 DOB: _____ | | | |
| <hr/> | | | |
| STATE'S DEMAND FOR JURY TRIAL | | | |
| <hr/> | | | |
| <p>COMES NOW the State of Wyoming, by and through (CAO Name), Deputy County and Prosecuting Attorney, and hereby request pursuant to Wyo. Stat. § 14-3-423(b). that the above-captioned matter be tried by jury.</p> | | | |
| (SIGNATURE BLOCK) | | | |
| <u>CERTIFICATE OF SERVICES</u> | | | |
| <p>I hereby certify that on this ____ day of _____, 20____, I served a true and correct copy of the above and foregoing STATE'S DEMAND FOR JURY TRIAL by _____.</p> | | | |
| (SIGNATURE BLOCK) | | | |

11.8 NOTICE OF DISCOVERY AND RIGHT OF INSPECTION

| | |
|---|--------------------------------|
| <i>State of Wyoming</i> | <i>In the Juvenile Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| <hr/> | |
| STATE OF WYOMING | |
| In the Interest of: | Juvenile Case No. |
| Child #1 DOB: _____ | } |
| Child #2 DOB: _____ | |
| <hr/> | |
| NOTICE OF DISCOVERY AND RIGHT OF INSPECTION | |
| <hr/> | |
| <p>COMES NOW (Name), Deputy County and Prosecuting Attorney of the County of (County) and State of Wyoming, and in the name and by the authority of the State of Wyoming informs the Court that the Attorney for the State, to the best of his knowledge and belief, pursuant to WYOMING RULES OF PROCEDURE FOR JUVENILE COURT Rule 3 without the necessity of a request by the Respondent or the Guardian ad Litem, and within thirty (30) days of service of the applicable PETITION, furnished to the Respondents and Guardian ad Litem:</p> | |
| <ol style="list-style-type: none">1. Any material or information within the knowledge, possession or control of the State which tends to negate the involvement of the Respondent as to the offense charged;2. Any relevant material or information regarding specific searches and seizures; the acquisition of statements made by the Respondent; and prehearing identification of the Respondent by a witness for the State;3. The name and address of each person the State intends to call as a witness at any hearing to prove its case in chief or to rebut alibi testimony to the extent then known, who are: (name witnesses, address, telephone number, and substance of testimony)4. All statements made by the Respondent to a State agent which the State intends to use at a hearing:<ol style="list-style-type: none">(a) A copy of each written or recorded Statement; and(b) The substance of each oral statement and a copy of all reports of each oral statement;5. All statements made by a Co-Respondent to a State agent which the State intends to use at a hearing, unless a severance has been ordered by the court:<ol style="list-style-type: none">(a) A copy of each written or recorded statement; and(b) The substance of each oral statement and a copy of all reports of each oral statement.6. Any written reports or statements made in connection with the particular case by each expert consulted by the State, if the State intends to offer the testimony of the | |

expert or the report at any hearing, including the written substance of any oral reports and conclusions made in connection with the particular case by each expert consulted by the State; the results of any physical or mental examination, Scientific test, experiment or comparison, and all information on which the expert's opinion is based;

7. Any book, paper, document, recording, photograph and any tangible object which the State intends to use at any hearing, in order to permit the Respondent to inspect, copy and/or photograph them;
8. Any item obtained from or belonging to the Respondent which the State intends to use at any hearing, in order to permit the Respondent to inspect, copy and/or photograph it;
9. The State's obligations under this section extend to material and information in the possession or control of members of the prosecutor's staff and of any others who have participated in the investigation or evaluation of the case and who either regularly report or with reference to the particular case have reported to his office.

REQUEST FOR RECORDS FROM THE DEPARTMENT OF FAMILY SERVICES

BE ADVISED THAT: Records created or held by the Department of Family Services (DPS) may be subject to discovery in proceedings in juvenile court, pursuant to this Rule. Respondent or the Guardian ad Litem shall request discovery of DFS records through the State. Upon a request for discovery, DFS shall provide its records to the State and Guardian ad Litem. The State may, pursuant to this rule, provide the records to the Respondent and the guardian ad litem, or may contest the discovery request pursuant to these Rules. Discovery requests concerning Child Protection records are further subject to the provisions of Wyo. Stat. Ann. S 14 3-214, and access to such records may be limited pursuant to such statutory section. This Rule is specific to discovery requests in juvenile court proceedings and does not relate to discovery of DFS records in other types of proceedings.

RIGHT OF INSPECTION

BE ADVISED THAT: The Attorney for the Respondent and the Guardian ad Litem may inspect the discoverable portions of the State's file during normal business hours. However, if the State has any exculpatory information specified in this Rule, the State shall promptly furnish Such information to the Respondent and the Guardian ad Litem, whether or not the Respondent or the Guardian ad Litem has made the inspection provided for by that subsection.

BE FURTHER ADVISED THAT the Attorney for the State is not require a party to disclose:

1. Any documents to the extent that they contain the opinions, theories, conclusions, or other work product;
2. The identity of a confidential informant of the State, so long as the failure to disclose the informant's identity does not infringe on a constitutional right of the Respondent, and the State does not intend to call the informant as a witness; and
3. Any matter which the court orders need not be disclosed.

WHEREFORE pursuant to WYOMING RULES OF PROCEDURE FOR JUVENILE COURT Rule 3 the attorney for the state has to the best of his knowledge and belief provided the above described documents to the Respondent or the Guardian ad Litem.

DATED this ____ day of (Month), (Year).

(SIGNATURE BLOCK)

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of ____, 20____, I served a true and correct copy of the above and foregoing Notice of Discovery and Right of Inspection by _____.

(SIGNATURE BLOCK)

11.9 REQUEST FOR RECIPROCAL DISCOVERY

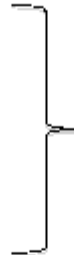
State of Wyoming In the Juvenile Court
County of _____ Judicial District

STATE OF WYOMING

In the Interest of:

Child #1
DOB: _____

Child #2
DOB: _____



Juvenile Case No.

REQUEST FOR RECIPROCAL DISCOVERY

COMES NOW (CAO Name), Deputy, County and Prosecuting Attorney of the County of (County Name) and pursuant to WYOMING RULES OF PROCEDURE FOR JUVENILE COURT Rule 3(e) request that the Respondents and the Guardian ad Litem, in time to permit its beneficial use:

- (a) Produce the names and address of each person the Respondents and Guardian ad Litem intend to call as a witness at any hearing;
- (b) Produce and permit the State to inspect and copy all written reports made in connection with the particular case by each expert the Respondents and Guardian ad Litem intend to call as a witness at the hearing, including the substance of any oral report and conclusion made in connection with the particular case by an expert which the Respondents and Guardian ad Litem intend to use at the hearing and the results of any physical or mental examination, Scientific test, experiment, or comparison; and
- (c) Furnish, upon designation by the State of the time, place and date of the alleged occurrence, the name and address of each witness other than the Respondents whom the Respondents or Guardian ad Litem intend to call as a witness to show he was not present at the time, place and date designated by the State in its request.

BE ADVISED THAT the Respondent and the Guardian ad Litem shall:

A. FURNISH DISCOVERY: Furnish the discovery required under this Rule within thirty (30) days after a request is made. The Court, for good cause shown, may extend the time for discovery. If discovery is not furnished as required, a motion to compel discovery may be filed which shall specify the items which have not been furnished. A hearing shall be held no later than three (3) days after the motion is filed. If, at any time during the proceedings, it is brought to the attention of the court that a party has failed to comply with this Rule or an order issued under this Rule, the court may:

- (1) Order such party to permit the discovery of the matters not previously disclosed;
- (2) Strike the testimony to which the undisclosed matter relates;

- (3) Grant a reasonable continuance;
- (4) Prohibit the party from introducing in evidence the matter not disclosed;
- (5) Grant a mistrial; or
- (6) Enter such other order as may be appropriate under the circumstances.

B. CONTINUING DUTY TO DISCLOSE: If, subsequent to compliance with a request made under this Rule or with any order compelling discovery, a party learns of additional information previously requested and required to be furnished, he shall promptly furnish the information to the other party or his counsel. If the additional information is learned during a hearing, he shall, in addition to furnishing the information promptly to the other party or his counsel, notify the court that such matter is being furnished.

BE FURTHER ADVISED THAT:

Protective Orders. On motion and a showing of good cause, the court may order that specified disclosures be restricted.

Other Orders. In any proceeding, the court may, upon good cause shown, pass such orders in aid of discovery, and inspection of evidence as justice may require.

Timely Disclosure Required. All matters and information to which a party is entitled must be disclosed in time to permit its beneficial use. Upon the written request of the State or the guardian ad litem, when pertinent to the issues and upon a showing of good cause, the court may order the Respondent to:

- (a) Appear in a lineup for identification;
- (b) Speak for identification;
- (c) Be fingerprinted, or if the Respondent is a juvenile, be fingerprinted pursuant to Wyo. Stat. Ann. S 14-6-240;
- (d) Pose for photographs not involving reenactment of a scene, or if the Respondent is a juvenile, be photographed pursuant to Wyo. Stat. Ann S 14-6-240;
- (e) Try on articles of clothing;
- (f) Permit the taking of specimens of material under his fingernails;
- (g) Permit the taking from his body of samples of blood, hair, and other material involving no unreasonable intrusion upon his person;
- (h) Provide specimens of his handwriting, or
- (i) Submit to a reasonable physical inspection of his body or a mental examination, or if the Respondent is a juvenile, physical or mental examinations may be ordered pursuant to Wyo. Stat. Ann S 14-6-419;

WHEREFORE pursuant to WYOMING RULES OF PROCEDURE FOR JUVENILE COURT Rule 3 the attorney for the state requests the above described information from the Respondent and the Guardian ad Litem.

DATED this ____ day of _____, 20__.

(SIGNATURE BLOCK)

CERTIFICATE OF SERVICE

I hereby certify that on this ___ day of ___, 20___, I served a true and correct copy of the above and foregoing REQUEST FOR RECIPROCAL DISCOVERY by _____.

(SIGNATURE BLOCK)

11.10 ORDER ON INITIAL APPEARANCE

State of Wyoming *In the Juvenile Court*
County of _____ *_____ Judicial District*

STATE OF WYOMING

In the Interest of:

Child #1
DOB: _____

Child #2
DOB: _____

Juvenile Case No.

ORDER ON INITIAL APPEARANCE

THIS MATTER came before the Court on (Date), for an Initial Appearance alleging the minors to be neglected children. The minor children were not present, however, they were represented by their Guardian ad Litem, (GAL Name), who appeared by phone. The State of Wyoming was represented by (CAO Name), Deputy County and Prosecuting Attorney. Also present were: (DFS Worker), representative of the Department of Family Services; (Mother's Name), mother of the minor children; and (Father's Name), father of the minor children. The children were removed from the home on (Date).

The Court addressed the parents and:

1. Determined that the personal information about the children and parents was correct as stated in the Neglect Petition.
2. Determined that the parents were not under the influence of any drug or intoxicant, nor suffering from a mental illness or deficiency affecting their ability to understand their situation.
3. Reviewed the Neglect Petition and the applicable statutes with the parents and explained the consequences which could attend an adjudication of neglect.
4. Determined it is contrary to the welfare of the children to remain in the home and it is in the best interest of the children to be placed in protective custody because [insert reason].
5. Determined it is neither appropriate nor in the best interest of the children for the children to remain in the home. This finding was made with the knowledge that reasonable efforts were made to prevent removal of the minor from the home.

6. Reviewed the rights guaranteed by the Constitution of the United States and the statutes of the State of Wyoming.

7. Explained that an admission of neglect:

- a. Waived possible defects in the neglect petition;
- b. Waived the Constitutional rights previously explained;
- c. Waived all possible defenses;
- d. Waived possible complaints about unconstitutionally obtained evidence;
- e. Subjected themselves to the maximum punishment permitted by law;
- f. Waived right to appeal;
- g. Is an admission of every element underlying the allegation of neglect.

8. Explained their right to be represented by attorneys and their right to court-appointed counsel should they be unable to afford to hire a private attorney.

The Court entered a denial on behalf of **(Respondent Denying)** as to the allegation of neglect as stated in the Petition.

IT IS THEREFORE ORDERED that, pending trial in this matter, the minor children, **(Children's Names)**, shall remain in the legal and physical custody of **(either parents OR DFS)** and under the protective supervision of the Department of Family Services.

IT IS FURTHER ORDERED that **(Respondents' Names)** shall:

1. Fully cooperate with the Department of Family Services, the Guardian ad Litem and CASA in all respects, including:

- a. Submitting to random home visits.
- b. Maintaining a clean and suitable home.

2. Comply with all terms and conditions of the Department of Family Services' case plan.

3. Live a law-abiding life and violate no law of any county, city, state or political subdivision.

4. Not take minor children from the county without the prior permission of the Department of Family Services nor from the State for more than five (5) days without prior permission of the Court.

5. Obtain and/or maintain telephone service or the equivalent (pager, etc.).

6. Report any changes in physical or mailing address(es) or telephone number(s) in writing to the Department of Family Services, County Attorney's Office, CASA, Guardian ad Litem,

parents' respective attorneys, and Clerk of Court with five (5) days of any change.

7. Sign releases of information requested by the Department of Family Services within five (5) days of the request.

8. Not use, consume or possess any alcoholic beverages, mind altering substances, illegal controlled substances or drug paraphernalia.

9. Participate in any Multi-Disciplinary Team (MDT) meetings and attend all further Court proceedings.

10. Have visitation with the minor children as established by the Department of Family Services and the Guardian ad Litem.

IT IS FURTHER ORDERED that (Respondent's Names) shall:

1. At the request of a Department of Family Services caseworker, law enforcement or CASA representative:

a. Submit to searches of their person, automobile(s), or residence(s), or any other place or thing within their dominion and control.

b. Submit to the extraction of body substances (blood, breath, urine, saliva, etc.) for testing.

[With respect to the requirements of this paragraph the parent may refuse to submit to searches or extractions, but such refusal shall be considered a material violation of this Order.]

2. Abide by the terms and conditions of their criminal cases.

IT IS FURTHER ORDERED that this matter shall be set for trial at a date that is convenient to all parties.

DATED this ____ day of (Month), (Year).

BY THE COURT:

The Honorable (Judge's Name)
Juvenile Court Judge

APPROVED AS TO FORM:

11.11 DESIGNATION OF EXPERT WITNESS

| | |
|---|--------------------------------|
| <i>State of Wyoming</i> | <i>In the Juvenile Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| <hr/> | |
| STATE OF WYOMING | |
| In the Interest of: | Juvenile Case No. |
| Child #1 DOB: _____ | } |
| Child #2 DOB: _____ | |
| <hr/> | |
| STATE'S DESIGNATION OF EXPERT WITNESS AND CERTIFICATION OF DISCLOSURE OF EXPERT REPORT | |
| <hr/> | |
| <p>COMES NOW the State of Wyoming, by and through (Name), Deputy County and Prosecuting Attorney, and gives notice to the parties of the State's intention to call the following witnesses as expert witnesses at trial:</p> | |
| <p>1. (Name of Witness), (Title of Witness), (Address of Witness), (Phone Number of Witness): (Description of Testimony). (Qualifications as Expert). A copy of (Witness's Name)'s expert report is hereby attached as "Exhibit A."</p> | |
| <p>2. (Name of Witness), (Title of Witness), (Address of Witness), (Phone Number of Witness): (Description of Testimony). (Qualifications as Expert). A copy of (Witness's Name)'s expert report is hereby attached as "Exhibit B."</p> | |
| <p>WHEREFORE the State respectfully requests that the Court receive the proffered testimony at trial.</p> | |
| <p>DATED this _____ day of (Month, Year).</p> | |
| <p>(SIGNATURE BLOCK)</p> | |
| <p><u>CERTIFICATE OF SERVICE</u></p> | |
| <p>I hereby certify that on this ___ day of ___, 20___, I served a true and correct copy of the above and foregoing STATE'S DESIGNATION OF EXPERT WITNESS AND CERTIFICATION OF DISCLOSURE OF EXPERT REPORT by _____.</p> | |

11.12 NOTICE OF INTENT TO USE 404(B) EVIDENCE

| | |
|--|------------------------------|
| <i>State of Wyoming</i> | <i>In the Juvenile Court</i> |
| County of _____ | _____ Judicial District |
| STATE OF WYOMING | |
| In the Interest of: | } Juvenile Case No. |
| Child #1 DOB: _____ | } |
| Child #2 DOB: _____ | } |
| STATE'S NOTICE OF INTENT TO USE 404(b) EVIDENCE | |
| <p>COMES NOW the State of Wyoming, by and through (Name), Deputy County and Prosecuting Attorney, and gives notice to the parties of the State's intention to use evidence at the adjudication trial which may arguably come within the purview of the WYOMING RULES OF EVIDENCE 404(b). The State notifies the parties and the Court that the specific instances of prior misconduct include the following:</p> <p style="text-align: center;">(Description of intended evidence)</p> <p>WHEREFORE the State respectfully requests that the Court receive the proffered evidence at trial.</p> <p>DATED this _____ day of (Month, Year).</p> <p style="text-align: right;">(SIGNATURE BLOCK)</p> | |
| <u>CERTIFICATE OF SERVICE</u> | |
| <p>I hereby certify that on this ___ day of ____, 20___, I served a true and correct copy of the above and foregoing STATE'S NOTICE OF INTENT TO USE 404(B) EVIDENCE by _____.</p> <p style="text-align: right;">(SIGNATURE BLOCK)</p> | |

11.13 RULE 9 AGREEMENT

| | | | |
|---|--|--------------------------------|--|
| <i>State of Wyoming</i> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| STATE OF WYOMING | | | |
| In the Interest of: | | Juvenile Case No. | |
| Child #1 DOB: _____ SSN: _____ | | } | |
| Child #2 DOB: _____ SSN: _____ | | | |
| <hr/> <p style="text-align: center;">WYOMING RULES OF PROCEDURE FOR JUVENILE COURTS RULE 9 AGREEMENT</p> <hr/> | | | |
| <p>COMES NOW the parties here, the State of Wyoming, by and through (CAO Name), Deputy and Prosecuting Attorney in and for (County) County, Wyoming, (GAL Name) Guardian ad Litem for the Minors, (Father's Name), father of the minor children; (Father's Attorney), Attorney for (Father's Name); (Mother's Name), the minors' mother; (Mother's Attorney), Attorney for the minors' mother, who agree and stipulate pursuant to W.R.P.J.C. Rule 9 as follows:</p> | | | |
| <p>1. That the Respondents will admit to the allegations of neglect as contained in the Juvenile Petition in this matter.</p> | | | |
| <p>2. That in exchange for the Respondents admissions, the State of Wyoming shall not use any statements made by the Respondents in the case planning or MDT proceedings against the Respondents in any criminal proceedings. Specifically, the State shall not use the information obtained from the following:</p> | | | |
| <p>a. Respondent statements made at any change of admission hearing;</p> | | | |
| <p>b. Respondent statements made at any MDT meeting;</p> | | | |
| <p>c. Respondent statements made to the DFS worker.</p> | | | |
| <p>3. This agreement does not prevent any law enforcement officer from independently producing or obtaining the same or similar facts, information, or evidence for use in any criminal prosecution.</p> | | | |
| <p>3. The parties further (agree/do not agree) that this extends to the admission of</p> | | | |

violations of the court order in MDT meetings.

Dated this _____ day of (Month, Year).

Dated this _____ day of (Month, Year).

(CAO Name) – (WSB#)
Deputy County and Prosecuting Attorney

(GAL Name) – (WSB#)
Guardian ad Litem

Dated this _____ day of (Month, Year).

Dated this _____ day of (Month, Year).

(Mother's Name)
Mother of the Minors
Dated this _____ day of (Month, Year).

(Mother's Attorney) – (WSB#)
Attorney for the Mother
Dated this _____ day of (Month, Year).

(Father's Name)
Father of the Minors

(Father's Attorney) – (WSB#)
Attorney for the Father

11.14 ORDER OF ADJUDICATION

| | | | |
|--|--|--------------------------------|--|
| <i>State of Wyoming</i> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| STATE OF WYOMING | | | |
| In the Interest of: | | Juvenile Case No. | |
| Child #1 DOB: _____ | | } | |
| Child #2 DOB: _____ | | | |
| <hr/> <p style="text-align: center;">ORDER OF ADJUDICATION</p> <hr/> | | | |
| <p>THIS MATTER came before the Court on (Date of Adjudication), upon a Neglect Petition alleging the minors to be neglected children. The minor children were not present; however, was represented by their Guardian ad Litem, (GAL Name). The State of Wyoming was represented by (CAO Name), Deputy County and Prosecuting Attorney. Also present were: (DPS Worker), representative of the Department of Family Services; (Mother's name), mother of the minor children; (Mother's Attorney), attorney for the mother; (Father's name), father of the minor children; and (Father's Attorney), attorney for the father.</p> | | | |
| The Court addressed the Respondents, and: | | | |
| 1. Determined that the personal information about the children was correct. | | | |
| 2. Determined that the Respondent's were not under the influence of any drug or intoxicant, nor suffering from a mental illness or deficiency affecting their ability to understand their situation. | | | |
| 3. Reviewed the JUVENILE PETITION and the applicable statutes with the Respondents and explained the consequences that could attend an adjudication of neglect. | | | |
| 4. Reviewed the rights guaranteed by the Constitution of the United States and the statutes of the State of Wyoming. | | | |
| 5. Explained that an admission of neglect: | | | |
| a. Waived possible defects in the neglect petition; | | | |
| b. Waived the Constitutional rights previously explained; | | | |

- c. Waived all possible defenses;
 - d. Waived possible complaints about unconstitutionally obtained evidence;
 - f. Waived the right to appeal;
 - g. Is an admission of every element underlying the allegation of neglect.
6. Explained their right to be represented by attorneys and their right to court-appointed counsel should they be unable to afford to hire a private attorney.
 7. Explained that in the event the children are in custody for 15 of 22 months, that the State may move toward termination of parental rights.

(Respondents' Names) then admitted the allegation of neglect as stated in the PETITION.

THE COURT FINDS AND CONCLUDES:

1. (Respondents' Names) are alert and not under the influence of any drug or alcohol.
2. (Respondents' Names) knowingly and intelligently waived their right to counsel and elected to proceed without the services of an attorney and proceeded pro se.
3. (Respondents' Names) understands the nature and purpose of the proceedings and the consequences of their admission.
4. There is a factual basis upon which the admission rests.
5. (Respondents' Names) are competent to enter their admission.
6. The minor children are neglected children.

THE COURT HEREBY ADJUDGES THE MINORS TO BE NEGLECTED CHILDREN, WITHIN THE JURISDICTION OF THE COURT PURSUANT TO WYOMING STATUTE S14-3-402, et seq. to wit: (description of allegations from Petition).

IT IS ORDERED that a predisposition report be prepared by the Department of Family Services and that a report of the same be submitted to this Court prior to the disposition hearing with a copy to all parties. The minor children's family shall cooperate with the preparation of the predisposition report.

The Court then inquired of those present and counsel regarding their recommendations for a temporary disposition and was otherwise fully advised.

THE COURT FINDS by clear and convincing evidence that:

1. The Department of Family Services has made reasonable efforts to prevent the minor children's removal from the home.
2. To return the minor children to the home of their parents would not at this time be

in their best interest.

3. The minor children are residents of (School District Name) and all efforts should be made to ensure that the children remain in their current school.

4. The planned placement is a certified foster care home.

5. The Department of Family Services agrees with the placement.

IT IS THEREFORE ORDERED that the minor children, shall remain in the legal and physical custody of the Department of Family Services for continued placement in foster care, and under the protective supervision of the Department of Family Services. The children may return to the legal and physical custody of their parents if approved by the Department of Family Services and Guardian ad Litem.

IT IS FURTHER ORDERED that (Respondents' Names), shall:

1. Fully cooperate with the Department of Family Services, the Guardian ad Litem and CASA in all respects, including:

a. Submitting to random home visits.

b. Maintaining a clean and suitable home.

2. Comply with all terms and conditions of the Department of Family Services case plan.

3. Live a law-abiding life and violate no law of any county, city, state or political subdivision.

4. Not take minor children from the county without the prior permission of the Department of Family Services nor from the State for more than five (5) days without prior permission of the Court.

5. Obtain and/or maintain telephone service or the equivalent (pager, etc.).

6. Report any changes in physical or mailing address(es) or telephone number(s) in writing to the Department of Family Services, County Attorney's Office, Guardian ad Litem, and Clerk of Court with five (5) days of any change.

7. Sign releases of information requested by the Department of Family Services within five (5) days of the request.

8. Not use, consume or possess any alcoholic beverages, mind altering substances, illegal controlled substances or drug paraphernalia. If the Department of Family Services has reasonable cause to believe the parents are under the influence or have used any alcohol, mind altering substances or illegal controlled substances, visitation shall be denied.

9. Not be in any bars or liquor stores or any other place where alcohol is the chief item of sale.

10. At the request of a Department of Family Services caseworker, law enforcement or CASA representative:

a. Submit to searches of their person, automobile(s), or residence(s), or any other place or thing within their dominion and control.

b. Submit to the extraction of body substances (blood, breath, urine, saliva, etc.) for testing.

[With respect to the requirements of this paragraph the parent may refuse to submit to searches or extractions, but such refusal shall be considered a material violation of this Order.]

11. Report for a substance abuse evaluations, sign a releases of information for the Court, the County Attorney's Office, the Department of Family Services, CASA, GAL, and follow whatever is recommended.

12. Contact Child Support Authority within three (3) days from the date of this hearing in an attempt to determine a contribution for the support of the minor children while the minor children are in the custody of the Department of Family Services.

13. Participate in any Multi-Disciplinary Team (MDT) meetings and attend all further Court proceedings.

14. Have visitation with the minor children as established by the Department of Family Services and the Guardian ad Litem.

15. Abide by all orders from any other court.

IT IS FURTHER ORDERED that a counseling needs assessment shall be done on the children, and recommendations of the assessment shall be followed.

DATED this ____ day of (Month), (Year).

BY THE COURT:

The Honorable (Judge's Name)
Juvenile Court Judge

APPROVED AS TO FORM:

11.15 ORDER APPOINTING MULTI-DISCIPLINARY TEAM

| | | | |
|--|--|--|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <hr/> <i>In the Juvenile Court</i> <hr/> | |
| <i>County of _____</i> | | <hr/> <i>_____ Judicial District</i> <hr/> | |
| STATE OF WYOMING | | | |
| In the Interest of: | | Juvenile Case No. | |
| Child #1 DOB: _____ | | } | |
| Child #2 DOB: _____ | | | |
| <hr/> | | | |
| ORDER APPOINTING MULTI-DISCIPLINARY TEAM | | | |
| <hr/> | | | |
| <p>THE COURT finds that the children named in the caption are in need of special services and, in accordance with Wyoming Statute §14-3-427, a Multi-Disciplinary Team should be appointed.</p> | | | |
| <p>IT IS THEREFORE ORDERED that the following individuals are appointed to a Multi-Disciplinary Team in the above-captioned matter:</p> | | | |
| (Name), County Attorney's Office; | | | |
| (GAL Name), Guardian ad Litem; | | | |
| Department of Family Services' Caseworker; | | | |
| Representative from CASA; | | | |
| Representative from the (County Name) County School District; | | | |
| (Mother's Name), Mother of the Minors; | | | |
| Attorney for the Mother (if applicable); | | | |
| (Father's name), Father of the Minors; | | | |
| Attorney for the Father (if applicable); | | | |
| (Foster Parent(s)' Name), Foster Parent(s) (if applicable); | | | |
| <p>IT IS FURTHER ORDERED that the above Multi-Disciplinary Team members shall be appointed to review the children's personal and family history, school, mental health and Department of Family Services records and any other pertinent information, for the purpose of making recommendations to the Court. In making its recommendations, the Multi-Disciplinary</p> | | | |

Team shall give consideration to the best interests of the children, the best interests of the family, the most appropriate and least restrictive case planning options available, as well as cost of care.

IT IS FURTHER ORDERED that all records, reports, and case planning recommendations from the Multi-Disciplinary Team are confidential, except as provided by law. Any person who willfully violates is guilty of a misdemeanor, and upon conviction shall be fined not more than five hundred dollars (\$500.00).

IT IS FURTHER ORDERED that the report of the Multi-Disciplinary Team shall be presented to the Court at its earliest convenience.

DATED this ____ day of (Month), (Year).

BY THE COURT:

HONORABLE (Judge Name)

Judge of the Juvenile Court

APPROVED AS TO FORM:

11.16 RULE 7 STIPULATED ADJUDICATION

| | | | |
|---|---|--------------------------------|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | Juvenile Case No. | |
| In the Interest of: | | | |
| Child #1 | | | |
| DOB: _____ | | | |
| Child #2 | } | | |
| DOB: _____ | | | |
| <hr/> | | | |
| STIPULATED ADJUDICATION PURSUANT TO W.R.P.J.C. RULE 7 | | | |
| <hr/> | | | |
| <p>THIS MATTER having come before the Court upon the stipulation of the State of Wyoming, by and through (CAO Name), Deputy County and Prosecuting Attorney; (Mother's Name), mother of the minor children; (Mother's Attorney), counsel for (Mother's Name); (Father's Name), father of the minor children; (Father's Attorney), counsel for (Father's Name) and (GAL Name), Guardian ad Litem; and pursuant to WYOMING RULES OF PROCEDURE FOR JUVENILE COURT'S Rule 7.</p> | | | |
| <p>THE COURT FINDS that:</p> | | | |
| <p>1. On (Date of Initial Appearance), the Honorable (Judge Name) of the (District Number) Judicial District Court advised the Respondents, (Respondents' Names), of their rights in this matter.</p> | | | |
| <p>2. The Respondents have consulted with their court appointed counsel in this matter.</p> | | | |
| <p>3. The parties hereby stipulate that the Court should enter an adjudication finding the minor children to be neglected children pursuant to W.S. § 14-3-402, et seq.</p> | | | |
| <p>4. The parties hereby stipulate that the Court should take jurisdiction over the minor children and the parents.</p> | | | |
| <p>THE COURT HEREBY ADJUDICATES THE MINOR CHILDREN TO BE NEGLECTED CHILDREN, WITHIN THE JURISDICTION OF THE COURT PURSUANT TO WYOMING STATUTE §14-3-402, et seq.</p> | | | |
| <p>IT IS ORDERED that a predisposition report be prepared by the Department of Family</p> | | | |

Services and that a report of the same be submitted to this Court prior to the disposition hearing with a copy to all parties. The minor children's family shall cooperate with the preparation of the predisposition report.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the minor children shall remain in the legal and physical custody of the Department of Family Services for placement in foster care. The children may be returned to their parents at the discretion of the Department of Family Services and the Guardian ad Litem.

THE COURT FINDS by that:

1. To return the minor children to the home of their parents would not at this time be in their best interest.
2. The minor children are residents of (School District) and every effort should be made to ensure they children remain in their school of origin.
3. The planned placement is a certified foster care home.
4. The Department of Family Services agrees with the placement.

IT IS FURTHER ORDERED that (Respondents' Names) shall:

1. Fully cooperate with the Department of Family Services, the Guardian ad Litem and CASA in all respects.
2. Comply with all terms and conditions of the Department of Family Services' case plan.
3. Not take minor children from the county without the prior permission of the Department of Family Services nor from the State for more than five (5) days without prior permission of the Court.
4. Participate in any Multi-Disciplinary Team (MDT) meetings and attend all further Court proceedings.
5. Live a law-abiding life and violate no law of any county, city, state or political subdivision.
6. Obtain and/or maintain telephone service or the equivalent (pager, etc.).
7. Report any changes in physical or mailing address(es) or telephone number(s) in writing to the Department of Family Services, County Attorney's Office, CASA, Guardian ad Litem, (Respondents' Attorneys), and Clerk of Court with five (5) days of any change.
8. Sign releases of information requested by the Department of Family Services within five (5) days of the request.

9. Participate in, and successfully complete parenting classes as recommended by the Department of Family Services or the Guardian ad Litem.

10. Not use, consume or possess any alcoholic beverages, mind altering substances, illegal controlled substances or drug paraphernalia. If the Department of Family Services has reasonable cause to believe the parents are under the influence or have used any alcohol, mind altering substances or illegal controlled substances, visitation shall be denied.

11. Not be in bars or liquor stores or any other place where alcohol is the chief item of sale.

12. At the request of a Department of Family Services caseworker, law enforcement or CASA representative:

- a. submit to searches of their person, automobiles, or residences, or any other place or thing within their dominion and control.
- b. submit to the extraction of body substances (blood, breath, urine, saliva, etc.) for testing.

[With respect to the requirements of this paragraph the parents may refuse to submit to searches or extractions, but such refusal shall be considered a material violation of this Order.]

13. Have visitation with the minor children as established by the Department of Family Services and the Guardian ad Litem.

IT IS FURTHER ORDERED that (Respondents' Names) shall report for a substance abuse assessment, sign a release of information for the Court, the County Attorney's Office, the Department of Family Services, CASA, GAL, and (Respondents' Attorneys), and follow whatever is recommended.

IT IS FURTHER ORDERED that this matter shall be set for a Disposition hearing at a date that is convenient to all parties.

DATED this ____ day of (Month), (Year).

BY THE COURT:

The Honorable (Judge's Name)
Juvenile Court Judge

11.17 CONSENT DECREE

| | |
|--|--------------------------------|
| <i>State of Wyoming</i> | <i>In the Juvenile Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| STATE OF WYOMING | |
| In the Interest of: | Juvenile Case No. |
| Child #1 DOB: _____ | } |
| Child #2 DOB: _____ | |
| CONSENT DECREE | |
| <p>THIS MATTER came before the Court upon a JUVENILE PETITION alleging the minors to be Neglected Children. Upon the terms of a stipulation entered into between the parties and pursuant to Wyoming Statute §14-3-428, and the Court being advised in the premises;</p> <p>IT IS HEREBY ORDERED:</p> <ol style="list-style-type: none">1. The party(s) (admit/denied) the allegations in the JUVENILE PETITION.2. The admittance and/or further proceedings in the above-entitled matter will be held in abeyance during the term of the CONSENT DECREE.3. The term of the CONSENT DECREE shall not exceed six (6) months during which the minors shall remain in the legal and physical custody of the (Department of Family Services OR their parents) commencing on (Commencement Date). A review hearing shall be held within six (6) months (of the children's removal, which occurred on (Date of Removal)).4. IT IS FURTHER ORDERED that (Parents' Names) shall enter into an Agreement with the following terms:<ol style="list-style-type: none">a. Fully cooperate with the Department of Family Services, the Guardian ad Litem and CASA in all respects, including:<ol style="list-style-type: none">i. Submitting to random home visits.ii. Maintaining a clean and suitable home.iii. (Insert other specific case terms).b. Comply with all terms and conditions of the Department of Family Services' | |

case plan.

c. Live a law-abiding life and violate no law of any county, city, state or political subdivision.

d. Not take the minor children from the county without the prior permission of the Department of Family Services nor from the State for more than five (5) days without prior permission of the Court.

e. Obtain and/or maintain telephone service or the equivalent (pager, etc.).

f. Report any changes in physical or mailing addresses or telephone numbers in writing to the Department of Family Services, County Attorney's Office, CASA, Guardian ad Litem, (Other Attorney's Names) and Clerk of Court with five (5) days of any change.

g. Sign releases of information, pertaining to the children, requested by the Department of Family Services within five (5) days of the request.

h. Not use, consume or possess any alcoholic beverages.

i. Not be in any bars or liquor stores or any other place where alcohol is the chief item of sale.

j. Participate in any Multi-Disciplinary Team (MDT) meetings and attend all further Court proceedings.

k. Commit no acts or threats of violence toward anyone for any reason.

l. Visitation shall be at the discretion of the Department of Family Services and the Guardian ad Litem.

5. The terms of the Agreement are hereby adopted and they shall remain in force for the period of (Length of Decree) unless sooner discharged by order of this Court. The parties shall abide by all the terms and conditions of the Agreement and the Agreement contains the entire understanding of these parties and is entered into for the purpose of obtaining a CONSENT DECREE from (enter County). If any party does not abide by the terms of the Agreement, the Agreement will be revoked and the Court may proceed to (File a New Petition OR Adjudication OR Disposition) of this matter.

DATED this ____ day (Month, Year).

BY THE COURT:

HONORABLE (Judge Name)

Judge of the Juvenile Court

ACKNOWLEDGED AND APPROVED AS TO FORM:

(CAO Name) – (WSB#)
Deputy County and Prosecuting Attorney

(GAL Name) – (WSB#)
Guardian ad Litem

(Mother's Name)
Mother of the Minor Children
Dated this _____ day of (Month, Year).

(Mother's Attorney) – (WSB#)
Attorney for the Mother
Dated this _____ day of (Month, Year).

(Father's Name)
Father of the Minor Children

(Father's Attorney) – (WSB#)
Attorney for the Father

11.18 ALTERNATIVE COURSE OR DIVERSION LETTER

Date

Address

Re: Referral for Prosecution, Abuse and Neglect

Dear Name:

On [date], the Department of Family Services contacted my office regarding an abuse and neglect investigation concerning you and your children. This matter has been referred to my office for prosecution at this time. If a Petition is filed regarding you and your children, you will be required to appear in front of a judge to address these issues. Once a Petition is filed, there are numerous courses of action that could be followed by the Court, including removing your children from your custody.

In reviewing this matter, it appears that there may be a remedy to this situation short of requiring you to appear in court for prosecution. My office is willing to refrain from prosecuting you regarding this matter upon the following conditions:

1. Within thirty (30) days of the date of this letter, you report to the Department of Family Services and agree to participate in a voluntary case plan. If you successfully complete the voluntary case plan, I will not prosecute. If you fail to complete the voluntary case plan, I will file an abuse and neglect petition.
2. You report for an anger management/substance abuse/batterer intervention assessment within thirty (30) days of the date of this letter and provide a copy of the assessment to my office. You must then follow all of the recommendations of the evaluation. You will be expected to sign releases of information for my office and provide documentation that you are following the recommendations of the evaluation. If you successfully complete the recommended course of treatment and provide documentation to my office, I will not prosecute.
3. You attend a parenting class within thirty (30) days of the date of this letter and provide documentation to my office of successful completion.

If these terms are acceptable to you, please contact me at (phone number) immediately and we will discuss how to move forward. If I do not hear from you within thirty (30) days, I will file a Petition regarding you and your children.

Sincerely,

(name)

11.19 ORDER OF DISPOSITION

| | |
|--|--------------------------------|
| <i>State of Wyoming</i> | <i>In the Juvenile Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| STATE OF WYOMING | |
| In the Interest of: | Juvenile Case No. |
| Child #1 DOB: _____ | } |
| Child #2 DOB: _____ | |
| ORDER OF DISPOSITION | |
| <p>THIS MATTER came before the Court for a Disposition Hearing on (Date of Hearing). The minor children were not present; however, were represented by their Guardian ad Litem, (GAL Name) OR minor children were present and represented by their Guardian ad Litem, (GAL Name). The State of Wyoming was represented by (CAO Name), Deputy County and Prosecuting Attorney. Also present were: (DFS Worker), representative of the Department of Family Services, (Mother's Name), mother of the minor child; (Mother's Attorney), attorney for the mother; (Father's Name), father of the minor child; and (Father's Attorney), attorney for the father.</p> <p>The minor children were originally adjudicated to be neglected children on (Date of Adjudication), within the jurisdiction of the Court pursuant to Wyoming Statute §14-3-402, to wit: (Grounds for Adjudication).</p> <p>The Court reviewed the minutes of the Multi-Disciplinary Team meeting held on (MDT Meeting Date), the file in this matter and the predisposition study and report prepared by the Department of Family Services; and the Court, having heard comments of the parties, those present, and counsel regarding recommendations for disposition, being otherwise fully advised FINDS that:</p> <ol style="list-style-type: none">1. The Department of Family Services has made reasonable efforts to reunify the minor children with their parents.2. To return the minor children to the home of their parents would not at this time be in their best interest.3. The minor children are residents of (School District) and efforts have been made to | |

ensure that the children remain in their school of origin.

4. The planned placement is a certified foster care home and the goal is family reunification.

5. The Department of Family Services agrees with the placement.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the children shall continue in the legal and physical custody of the Department of Family Services, for continued placement in foster care, and under the protective custody of the Department of Family Services.

IT IS FURTHER ORDERED that (Respondent Names) shall:

1. Fully cooperate with the Department of Family Services, the Guardian ad Litem and CASA in all respects, including submitting to random home visits.

2. Comply with all terms and conditions of the Department of Family Services' case plan.

3. Live a law-abiding life and violate no law of any county, city, state or political subdivision.

4. Not take minor children from the county or State without the prior permission of the Department of Family Services.

5. Obtain and/or maintain telephone service or the equivalent (pager, etc.).

6. Report any changes in physical or mailing address(es) or telephone number(s) in writing to the Department of Family Services, County Attorney's Office, CASA, Guardian ad Litem, (Respondent Attorneys), and Clerk of Court with five (5) days of any change.

7. Sign releases of information requested by the Department of Family Services within five (5) days of the request.

8. Not use, consume or possess any alcoholic beverages, mind altering substances, illegal controlled substances or drug paraphernalia. If the Department of Family Services has reasonable cause to believe the Respondents are under the influence or have used any alcohol, mind altering substances or illegal controlled substances, visitation may be denied.

9. Not be in any bars or liquor stores or any other place where alcohol is the chief item of sale.

10. At the request of a Department of Family Services' caseworker, law enforcement or CASA representative:

a. Submit to searches of your person, automobile(s), or residence(s), or any other place or thing within your dominion and control.

b. Submit to the extraction of body substances (blood, breath, urine, saliva, etc.) for testing.

[With respect to the requirements of this paragraph the parent may refuse to submit to searches or extractions, but such refusal shall be considered a material violation of this Order.]

11. Participate in any Multi-Disciplinary Team (MDT) meetings and attend all further Court proceedings.

12. Have visitation with the minor children as established by the Department of Family Services and the Guardian ad Litem and following negative results of a urinalysis screen.

13. Follow all recommendations of their substance abuse evaluations, sign a release of information for the Court, the County Attorney's Office, the Department of Family Services, CASA, GAL, (Respondent Attorneys).

14. Successfully complete a parenting class as soon as possible.

DATED this ____ day of (Month), (Year).

BY THE COURT:

HONORABLE (Judge Name)

Judge of the Juvenile Court

APPROVED AS TO FORM:

11.20 ORDER UPON REVIEW HEARING

| | |
|--|--------------------------------|
| <i>State of Wyoming</i> | <i>In the Juvenile Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| STATE OF WYOMING | |
| In the Interest of: | Juvenile Case No. |
| Child #1 DOB: _____ | } |
| Child #2 DOB: _____ | |
| ORDER UPON REVIEW HEARING | |
| <p>THIS MATTER came before the Court for a Review Hearing on (Date of Hearing). The minor children were not present; however, were represented by their Guardian ad Litem, (GAL Name). The State of Wyoming was represented by (CAO Name), Deputy County and Prosecuting Attorney. Also present were: (DPS Worker), representative of the Department of Family Services, (Mother's name), mother of the minor child; (Mother's Attorney), attorney for the mother; (Father's name), father of the minor child; and (Father's Attorney), attorney for the father.</p> <p>The minor children were originally adjudicated to be neglected children on (Date of Adjudication), within the jurisdiction of the Court pursuant to Wyo. Stat. §14-3-402, to wit: (Grounds for Adjudication).</p> <p>The Court reviewed the minutes of the Multi-Disciplinary Team meeting held on (MDT Meeting Date) and the report submitted by the Department of Family Services, and the Court, having heard comments of the parties, those present, and counsel regarding recommendations for continued disposition, was otherwise fully advised FINDS:</p> <ol style="list-style-type: none">1. The Department of Family Services has made reasonable efforts to reunify the minor children with their parents.2. The permanency plan for the minor children is (Describe the permanency plan; reunification, guardianship, or adoption), which is in the best interest of the child, and the Department of Family Services has made reasonable efforts to finalize the permanency plan. The Department of Family Services is in agreement with the permanency plan ordered by the Court. | |

3. To return the minor children to the home of their parents would not at this time be in their best interest.

4. The minor children are residents of (School District) and efforts have been made to ensure that the children remain in their school of origin.

5. The planned placement is a certified foster care home.

6. The Department of Family Services agrees with the placement.

7. The case plan was reviewed and addresses the health and safety of the child, the continuing necessity for placement, the appropriateness of the current placement, the reasonableness of efforts to reunify the family, the appropriateness of the case plan and compliance with the case plan, progress towards alleviating or mitigating the causes necessitating placement outside the home and the extent of the progress, and the date the child is expected to be returned home or place for adoption or legal guardianship (Date).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the children shall continue in the legal and physical custody of the Department of Family Services, for continued placement in foster care, and under the protective custody of the Department of Family Services.

IT IS FURTHER ORDERED that (Respondents' Names) shall:

1. Fully cooperate with the Department of Family Services, the Guardian ad Litem and CASA in all respects, including submitting to random home visits.

2. Comply with all terms and conditions of the Department of Family Services' case plan.

3. Live a law-abiding life and violate no law of any county, city, state or political subdivision.

4. Not take minor children from the county or State without the prior permission of the Department of Family Services.

5. Obtain and/or maintain telephone service or the equivalent (pager, etc.).

6. Report any changes in physical or mailing address(es) or telephone number(s) in writing to the Department of Family Services, County Attorney's Office, CASA, Guardian ad Litem, (b), and Clerk of Court with five (5) days of any change.

7. Sign releases of information requested by the Department of Family Services within five (5) days of the request.

8. Not use, consume or possess any alcoholic beverages, mind altering substances, illegal controlled substances or drug paraphernalia. If the Department of Family Services has

reasonable cause to believe the Respondents are under the influence or have used any alcohol, mind altering substances or illegal controlled substances, visitation may be denied.

9. Not be in any bars or liquor stores or any other place where alcohol is the chief item of sale.

10. At the request of a Department of Family Services' caseworker, law enforcement or CASA representative:

a. Submit to searches of your person, automobile(s), or residence(s), or any other place or thing within your dominion and control.

b. Submit to the extraction of body substances (blood, breath, urine, saliva, etc.) for testing.

[With respect to the requirements of this paragraph the parent may refuse to submit to searches or extractions, but such refusal shall be considered a material violation of this Order.]

11. Participate in any Multi-Disciplinary Team (MDT) meetings and attend all further Court proceedings.

12. Have visitation with the minor children as established by the Department of Family Services and the Guardian ad Litem and following negative results of a urinalysis screen.

13. Follow all recommendations of their substance abuse evaluations, signing releases of information for the Court, the County Attorney's Office, the Department of Family Services, CASA, GAL, (Respondent Attorneys).

14. Successfully complete a parenting class as soon as possible.

DATED this ____ day of (Month), (Year).

BY THE COURT:

The Honorable (Judge's Name)
Juvenile Court Judge

APPROVED AS TO FORM:

11.21 ORDER UPON PERMANENCY HEARING

| | |
|-------------------------|--------------------------------|
| <i>State of Wyoming</i> | <i>In the Juvenile Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| STATE OF WYOMING | |
| In the Interest of: | } Juvenile Case No. |
| Child #1 | |
| DOB: _____ | |
| Child #2 | |
| DOB: _____ | |

ORDER UPON PERMANENCY HEARING

THIS MATTER came before the Court for a Permanency Hearing on *(Date of Hearing)*. The minor children were present *(if not present, the Court must make a determination prior to the hearing)* and represented by their Guardian ad Litem, *(GAL Name)*. The State of Wyoming was represented by *(CAO Name)*, Deputy County and Prosecuting Attorney. Also present were: *(DPS Worker)*, representative of the Department of Family Services, *(Mother's Name)*, mother of the minor child; *(Mother's Attorney)*, attorney for the mother; *(Father's Name)*, father of the minor child; and, *(Father's Attorney)*, attorney for the father.

The minor children were originally adjudicated to be neglected children on *(Date of Adjudication)*, within the jurisdiction of the Court pursuant to Wyo. Stat. §14-3-402, to wit: *(Grounds for Adjudication)*.

The Court reviewed the minutes of the Multi-Disciplinary Team meeting held on *(MDT Meeting Date)*, heard evidence from *(Evidence Presented)*, heard the preference of the minor children by *(Children's Statements/GAL Statements)*, and reviewed the report submitted by the Department of Family Services, and the Court, having heard comments of the parties, those present, and counsel regarding recommendations for continued disposition, was otherwise fully advised.

THE COURT FINDS that:

1. The Department of Family Services has made reasonable efforts to reunify the minor children with their parents. The efforts made have been available, accessible, and appropriate.
2. The permanency plan for the minor children is *(Describe the permanency plan;*

reunification, guardianship, or adoption), which is in the best interest of the child, and the Department of Family Services has made reasonable efforts to finalize the permanency plan. The Department of Family Services is in agreement with the permanency plan ordered by the Court.

3. The minor children have been provided the opportunity to participate in age and developmentally appropriate activities and experiences, consistent with promoting healthy children.

4. To return the minor children to the home of their parents would not at this time be in their best interest.

5. The minor children are residents of (School District) and efforts have been made to ensure that the children remain in their school of origin.

6. The planned placement is a certified foster care home.

7. The Department of Family Services agrees with the placement.

8. The case plan was reviewed and addresses the health and safety of the child, the continuing necessity for placement, the appropriateness of the current placement, the reasonableness of efforts to reunify the family, the appropriateness of the case plan and compliance with the case plan, progress towards alleviating or mitigating the causes necessitating placement outside the home and the extent of the progress, and the date the child is expected to be returned home or place for adoption or legal guardianship (Date).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the permanency plan in this matter shall be (Permanency Plan). The timeline for achieving this permanency plan shall be (Timeline).

IT IS FURTHER ORDERED that the children shall continue in the legal and physical custody of the Department of Family Services, for continued placement in foster care, and under the protective custody of the Department of Family Services.

IT IS FURTHER ORDERED that the Department of Family Services (Shall/ Shall Not) continue to make reasonable efforts in this matter.

IT IS FURTHER ORDERED that (Respondents' Names) shall:

1. Fully cooperate with the Department of Family Services, the Guardian ad Litem and CASA in all respects, including submitting to random home visits.

2. Comply with all terms and conditions of the Department of Family Services' case plan.

3. Live a law-abiding life and violate no law of any county, city, state or political subdivision.

4. Not take minor children from the county or State without the prior permission of the Department of Family Services.
 5. Obtain and/or maintain telephone service or the equivalent (pager, etc.).
 6. Report any changes in physical or mailing address(es) or telephone number(s) in writing to the Department of Family Services, County Attorney's Office, CASA, Guardian ad Litem, (Respondent Attorneys), and Clerk of Court with five (5) days of any change.
 7. Sign releases of information requested by the Department of Family Services within five (5) days of the request.
 8. Not use, consume or possess any alcoholic beverages, mind altering substances, illegal controlled substances or drug paraphernalia. If the Department of Family Services has reasonable cause to believe the Respondents are under the influence or have used any alcohol, mind altering substances or illegal controlled substances, visitation may be denied.
 9. Not be in any bars or liquor stores or any other place where alcohol is the chief item of sale.
 10. At the request of a Department of Family Services' caseworker, law enforcement or CASA representative:
 - a. Submit to searches of your person, automobile(s), or residence(s), or any other place or thing within your dominion and control.
 - b. Submit to the extraction of body substances (blood, breath, urine, saliva, etc.) for testing.

[With respect to the requirements of this paragraph the parent may refuse to submit to searches or extractions, but such refusal shall be considered a material violation of this Order.]
 11. Participate in any Multi-Disciplinary Team (MDT) meetings and attend all further Court proceedings.
 12. Have visitation with the minor children as established by the Department of Family Services and the Guardian ad Litem and following negative results of a urinalysis screen.
 13. Follow all recommendations of their substance abuse evaluations, sign a release of information for the Court, the County Attorney's Office, the Department of Family Services, CASA, GAL, (Respondent Attorneys).
 14. Successfully complete a parenting class as soon as possible.
- DATED this ____ day of (Month), (Year).

BY THE COURT:

The Honorable (Judge's Name)
Juvenile Court Judge

APPROVED AS TO FORM:

11.22 PETITION TO DISMISS AND CLOSE CASE AND SEAL FILE

| | | | |
|--|---|--------------------------------|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | | |
| STATE OF WYOMING | } | | |
| In the Interest of: | | Juvenile Case No. | |
| Child #1 DOB: _____ | | | |
| Child #2 DOB: _____ | | | |
| <hr/> | | | |
| PETITION TO DISMISS AND CLOSE CASE AND SEAL FILE | | | |
| <hr/> | | | |
| <p>COMES NOW (CAO Name), Deputy County and Prosecuting Attorney for the County of (County Name), and moves the Court for an Order to dismiss and close the case and seal the file based upon (provide a reason and date of meeting or report identifying the reason).</p> | | | |
| <p>DATED this _____ day of (Month), (Year).</p> | | | |
| <p>(SIGNATURE BLOCK)</p> | | | |
| <p><u>CERTIFICATE OF SERVICES</u></p> | | | |
| <p>I hereby certify that on this ___ day of ___, 20___, I served a true and correct copy of the above and foregoing PETITION TO CLOSE CASE AND SEAL FILE by _____.</p> | | | |
| <p>(SIGNATURE BLOCK)</p> | | | |

11.23 MOTION TO DISMISS

| | |
|---|--------------------------------|
| <i>State of Wyoming</i> | <i>In the Juvenile Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| STATE OF WYOMING | |
| In the Interest of: | Juvenile Case No. |
| Child #1 DOB: _____ | } |
| Child #2 DOB: _____ | |
| <hr/> STATE'S MOTION TO DISMISS <hr/> | |
| <p>COMES NOW the State of Wyoming, by and through (CAO Name), Deputy County and Prosecuting Attorney, and hereby request that the Honorable Court dismiss the above-captioned case as the State of Wyoming has determined that there is no further need for State intervention in this matter.</p> | |
| <p>(SIGNATURE BLOCK)</p> | |
| <p><u>CERTIFICATE OF SERVICES</u></p> | |
| <p>I hereby certify that on this ____ day of _____, 20____, I served a true and correct copy of the above and foregoing STATE'S MOTION TO DISMISS by _____.</p> | |
| <p>(SIGNATURE BLOCK)</p> | |

11.24 ORDER DISMISSING CASE

| | | | |
|--|--|--------------------------------|--|
| <i>State of Wyoming</i> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| STATE OF WYOMING | | | |
| In the Interest of: | | Juvenile Case No. | |
| Child #1 | | | |
| DOB: _____ | | | |
| Child #2 | | | |
| DOB: _____ | | | |
| <hr/> | | | |
| ORDER DISMISSING CASE | | | |
| <hr/> | | | |
| <p>THIS MATTER came before the Court on a MOTION TO DISMISS filed by the State of Wyoming. The Court finds from review of said MOTION and the file herein, that the purposes of the orders entered herein have been achieved and it is in the best interest of the children that all parties be discharged from further court supervision and obligation.</p> | | | |
| <p>IT IS THEREFORE ORDERED that the requirements of prior court orders entered in this matter are herein terminated, that all parties are discharged from further jurisdiction of the Juvenile Court, and that this case shall be closed.</p> | | | |
| <p>IT IS FURTHERE ORDERED that the Clerk of the District Court shall cause the entire file and recorded proceedings sealed, except for child support orders and any outstanding fees owed, and the same shall not be re-opened except as provided by Wyo. Stat. § 14-6-437.</p> | | | |
| <p>DATED this ____ day of (Month), (Year).</p> | | | |
| <p>BY THE COURT:</p> | | | |
| <p>_____ The Honorable (Judge's Name) Juvenile Court Judge</p> | | | |
| <p>APPROVED AS TO FORM:</p> | | | |

11.25 ORDER CLOSING CASE AND SEALING FILE

| | | | |
|--|---|--------------------------------|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the Juvenile Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | | |
| In the Interest of: | | Juvenile Case No. | |
| Child #1 DOB: _____ | | | |
| Child #2 DOB: _____ | | | |
| <hr/> | | | |
| ORDER CLOSING CASE AND SEALING FILE | | | |
| <hr/> | | | |
| <p>THIS MATTER came before the Court on a PETITION TO CLOSE AND SEAL FILE filed by the State of Wyoming. The Court finds from review of said PETITION and the file herein, that the purposes of the orders entered herein have been achieved and it is in the best interest of the children that all parties be discharged from further court supervision and obligation.</p> | | | |
| <p>IT IS THEREFORE ORDERED that the requirements of prior court orders entered in this matter are herein terminated, that all parties are discharged from further jurisdiction of the Juvenile Court, and that this case shall be closed.</p> | | | |
| <p>IT IS FURTHERE ORDERED that the Clerk of the District Court shall cause the entire file and recorded proceedings sealed, except for child support orders and any outstanding fees owed, and the same shall not be re-opened except as provided by Wyo. Stat. § 14-6-437.</p> | | | |
| <p>DATED this _____ day of (Month), (Year).</p> | | | |
| <p>BY THE COURT:</p> | | | |
| <p>_____ The Honorable (Judge's Name) Juvenile Court Judge</p> | | | |

11.26 AFFIDAVIT IN SUPPORT OF MOTION FOR ORDER TO SHOW CAUSE

| | |
|-------------------------|---|
| <u>State of Wyoming</u> | <u>In the (Juvenile/District) Court</u> |
| <u>County of _____</u> | <u>_____ Judicial District</u> |

| | | |
|------------------|---|------------------------------|
| STATE OF WYOMING | } | |
| vs. | | (Criminal/Juvenile) Case No. |
| (Defendant) | } | |

**AFFIDAVIT IN SUPPORT OF MOTION
FOR ORDER TO SHOW CAUSE**

THE UNDERSIGNED, being of lawful age and being first duly sworn upon oath,
disposes and states as follows:

1. On (Date Order Issued), the Court held the (Hearing Order Came From) in this matter. At that hearing, the Defendant was ordered to (Specific Conduct Defendant Was to Follow).
2. (Facts and Circumstances Leading to Contempt).

DATED this _____ day of (Month, Year).

(Affiant Name)

I, (Affiant Name), first duly sworn, state that I have read the foregoing information, and upon information and belief state that the contents and the statements made therein are true.

(Affiant Name)

| | | |
|--------------------|---|-----|
| STATE OF WYOMING | } | |
| COUNTY OF (County) | } | ss. |

The forgoing Affidavit in Support of Motion for Order to Show Cause was sworn to and signed before me, a Notarial Officer, by (Affiant Name) on _____ day of (Month, Year).

NOTARIAL OFFICER

My Commission Expires:

11.27 MOTION FOR ORDER TO SHOW CAUSE

| | | | |
|---|---|---|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the (Juvenile/District) Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | (Criminal/Juvenile) Case No. | |
| vs. | | | |
| (Defendant) | | | |
| <hr/> | | | |
| MOTION FOR ORDER TO SHOW CAUSE WHY DEFENDANT OUGHT NOT BE HELD IN CRIMINAL CONTEMPT OF COURT | | | |
| <hr/> | | | |
| <p>COMES NOW (Prosecutor Name), Deputy County and Prosecuting Attorney, pursuant to Wyoming Rules of Criminal Procedure Rule 42(a)(2)(C) and (c)(1), who states and alleges that:</p> | | | |
| <p>1. The Defendant, (Defendant Name), on or about (Date of Contempt), did willfully violate, neglect, or refuse to obey or perform certain terms and conditions of the (Order Violated) dated (Date of Order), in Juvenile Case No. (Case Number), in that the Defendant:</p> | | | |
| <p>a. (Specific Provisions of Court Order that were Violated);</p> | | | |
| <p>b. (Specific Provisions of Court Order that were Violated).</p> | | | |
| <p>2. Said failures constitute a violation of Wyoming Statute §14-3-438, Contempt of Court, punishable by a fine of not more than Five Hundred Dollars (\$500.00), incarceration for not more than ninety (90) days, or both, and contrary to the peace and dignity of the State of Wyoming.</p> | | | |
| <p>3. This Motion is supported by the undersigned's <i>Affidavit</i>, attached hereto and made a part hereof by this reference, establishing probable cause based upon information received from the (Agency Information Received From).</p> | | | |
| <p>WHEREFORE Petitioner requests that the Court enter an order directing the accused, (Defendant Name) to appear at a hearing then set before this Court and show cause why he or she ought not be held in contempt of court.</p> | | | |
| <p>DATED this _____ day of (Month, Year).</p> | | | |
| <p style="text-align: right;">_____</p> | | | |

11.28 ORDER TO SHOW CAUSE AND ORDER TO APPEAR

| | | |
|-------------------------|---|---|
| <u>State of Wyoming</u> | | <u>In the (Juvenile/District) Court</u> |
| <u>County of _____</u> | | <u>_____ Judicial District</u> |
| STATE OF WYOMING | } | (Criminal/Juvenile) Case No. |
| vs. | | |
| (Defendant) | | |

ORDER TO SHOW CAUSE AND ORDER TO APPEAR

THE COURT having reviewed the *Motion for Order to Show Cause Why Defendant Ought Not be Held in Criminal Contempt of Court*, the attached Affidavit, and affiliated paper filed herein, finds:

1. Good cause exists to believe that the Defendant, (Defendant Name) has failed to comply with the (Order Name) issued by this Court on (Date of Order), in Juvenile Case No. (Case Number) in that, specifically, the Defendant has:
 - a. (Grounds for Contempt);
 - b. (Grounds for Contempt).
2. The Defendant should be required to appear before this Court to answer the allegation that he or she is in contempt of this Court pursuant to Wyoming Rules of Criminal Procedure Rule 42 and Wyoming Statutes Title 14, Juvenile Code.

| <u>NAME</u> | <u>ADDRESS</u> | <u>RELATIONSHIP</u> |
|-------------|----------------|---------------------|
| | | Defendant |

IT IS THEREFORE ORDERED THAT:

1. (Defendant Name) shall appear before this Court at the (County Name) Courthouse, Gillette, Wyoming on the _____ day of _____, (Year) at the hour of _____ o'clock _____ M. for hearing to answer the allegation that he or she is in contempt of this Court for reasons stated in the *Motion for Order to Show Cause Why Defendant Ought Not be Held in Criminal Contempt of Court*.

IT IS FURTHER ORDERED that the Defendant report to the District Court Office upon arrival and then remain in the hallway until the case is called.

IT IS FURTHER ORDERED that a copy of this *Order*, as well as the *Motion* and *Affidavit* incident hereto, be served on the Defendant at least five (5) days prior to the date set.

DEFENDANT IS HEREBY NOTIFIED:

1. If it is determined that you willfully violated the Court's order, you could be fined in an amount not more than Five Hundred Dollars (\$500.00) or incarcerated in the (County Name) County Detention Center for a period of not more than ninety (90) days, or both.

2. You have the right to hire an attorney of your choice to assist you at the hearing, if you are indigent (without funds) and deny the allegations in the petition, a lawyer will be appointed to represent you. If you request an appointed lawyer, you must make your request in writing and complete an affidavit of indigence (available in the office of the District Judges) and deliver the same to the Court's administrative assistant at least three (3) days prior to the hearing. The hearing will not be postponed to enable you to obtain counsel; you must make those arrangements in advance.

3. If you do not receive these papers five (5) days prior to the schedule of the hearing, you may obtain a postponement by making a written request to the Court.

4. The hearing can be cancelled or postponed only by a District Judge. Unless you speak personally with the District Judge or receive written notice from the Court changing your appearance date, you must appear as scheduled.

5. **IF YOU FAIL TO APPEAR AT THE HEARING AS ORDERED YOU WILL BE ARRESTED.**

DATED this _____ day of (Month, Year).

BY THE COURT:

HONORABLE (Judge Name)

11.29 ORDER ON INITIAL APPEARANCE ON REVOKING PROBATION

| | | | |
|--|---|---|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the (Juvenile/District) Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | | |
| vs. | | (Criminal/Juvenile) Case No. | |
| (Defendant) | | | |
| <hr/> | | | |
| ORDER ON INITIAL APPEARANCE ON REVOKING PROBATION ON CRIMINAL CONTEMPT OF COURT | | | |
| <hr/> | | | |
| <p>THIS MATTER came before the Court on (Date of Hearing), for a hearing on the Petition to Revoke Probation on an underlying probation of Criminal Contempt of Court. The State of Wyoming was represented by (Prosecutor Name), Deputy County and Prosecuting Attorney, and the Defendant was present and represented by (Name of Defense Counsel).</p> | | | |
| <p>The Court addressed the Defendant, and:</p> | | | |
| <ol style="list-style-type: none">1. Determined that the Defendant was the same person as named in the Petition.2. Explained the nature and purpose of the proceedings.3. Read the Petition to the Defendant.4. Explained the rights guaranteed to the Defendant by the Constitution of the United States and the State of Wyoming.5. Explained the possible pleas the Defendant could enter.6. Explained the consequences of an admission.7. Explained that an admission would waive any possible defenses and the constitutional rights previously explained.8. Determined the Defendant was not under the influence of any drug or intoxicant nor suffering from any mental illness or deficiency. | | | |
| <p>The Defendant, (Defendant Name), then denied the allegations contained in his Petition to Revoke Probation on his or her Criminal Contempt of Court.</p> | | | |

IT IS HEREBY ORDERED that a bond shall not be set in this matter and that the Defendant shall be held at the Campbell County Detention Center pending hearing in this matter.

DATED this _____ day of (Month, Year).

BY THE COURT:

HONORABLE (Judge Name)

11.30 PETITION TO REVOKE PROBATION

| | | | |
|---|---|---|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the (Juvenile/District) Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | | |
| vs. | | (Criminal/Juvenile) Case No. | |
| (Defendant) | | | |
| <hr/> | | | |
| PETITION TO REVOKE PROBATION (CRIMINAL CONTEMPT OF COURT) | | | |
| <hr/> | | | |
| <p>COMES NOW (Prosecutor Name), Deputy County and Prosecuting Attorney, and petitions the Court to revoke probation in the criminal contempt of court matter, upon the following grounds:</p> | | | |
| <p>1. The above named Defendant pled guilty to criminal contempt of Court on (Date of Contempt Conviction) As a result, the Defendant was sentenced to (Terms of Sentence and Probation) The Defendant has failed to abide by those terms and conditions in that she has failed to:</p> | | | |
| <p>a. (Grounds for Probation Revocation).</p> | | | |
| <p>2. FOR PROBABLE CAUSE: (Outline of Violations) The above events occurred in (County Name) County, Wyoming.</p> | | | |
| <p>WHEREFORE Petitioner requests that the Court revoke the Defendant's probation and re-impose the underlying sentence.</p> | | | |
| <p>DATED this ____ day of (Month, Year).</p> | | | |
| <hr/> | | | |
| (Signature Block) | | | |
| <p>I, (Prosecutor Name), Deputy County and Prosecuting Attorney, being first duly sworn</p> | | | |

that I am the petitioner in the foregoing matter; that I have read the foregoing petition, and upon information and belief state that the contents and the statements made therein are true.

(Prosecutor Name)

STATE OF WYOMING }
 } ss
COUNTY OF CAMPBELL }

SUBSCRIBED and sworn to before me, a Notarial Officer, this _____ day of (Month, Year), by (Prosecutor Name).

NOTARIAL OFFICER

My Commission Expires:

11.31 ORDER REVOKING PROBATION

| | |
|--|---|
| <i>State of Wyoming</i> | <i>In the (Juvenile/District) Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| STATE OF WYOMING | } (Criminal/Juvenile) Case No. |
| vs. | |
| (Defendant) | |
| <hr/> ORDER REVOKING PROBATION ON CRIMINAL CONTEMPT OF COURT <hr/> | |
| <p>THIS MATTER came before the Court on (Hearing Date), for a hearing upon a Petition to Revoke Probation on an underlying probation Criminal Contempt of Court. The State of Wyoming was represented by (Prosecutor Name), Deputy County and Prosecuting Attorney, and the defendant was present and was represented by (Defense Counsel).</p> | |
| The Court addressed the defendant, and: | |
| <ol style="list-style-type: none">1. Determined that the Defendant was the same person as named in the Petition.2. Explained the nature and purpose of the proceedings.3. Read the Petition to the Defendant.4. Explained the rights guaranteed to the Defendant by the Constitution of the United States and the State of Wyoming.5. Explained the possible pleas the Defendant could enter.6. Explained the consequences of an admission.7. Explained that an admission would waive any possible defenses and the constitutional rights previously explained.8. Determined that the Defendant was satisfied with her attorney.9. Inquired of the defendant regarding any threats, pressures, promises or inducements surrounding her plea.10. Determined the defendant was not under the influence of any drug or intoxicant nor suffering from any mental illness or deficiency. | |

The Defendant, (Defendant Name), then admitted the allegations contained in the Petition, in that he or she failed to:

- a. (Grounds for Contempt);
- b. (Grounds for Contempt).

THE COURT FINDS AND CONCLUDES:

1. The defendant's admission is made freely and voluntarily of the defendant's free will and accord, without any coercion of any kind and without any improper inducements.
2. The defendant's admission is made after consultation with competent counsel with whom he or she is satisfied.
3. There is a factual basis for the admission.
4. The defendant is competent to enter a plea.
5. The Court accepts the defendant's admission.

THE COURT ADJUDGES (Defendant Name) to be in violation of his or her Error! Reference source not found. Court Order and his or her probation is revoked.

The Court then inquired of the parties, those present and counsel regarding the Defendant's current circumstances and their recommendations, and the Court being otherwise fully advised;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Defendant (Sentence Imposed).

DATED this _____ day of (Month, Year).

BY THE COURT:

HONORABLE (Judge Name)

11.32 MOTION FOR BENCH WARRANT

| | |
|--|---|
| <i>State of Wyoming</i> | <i>In the (Juvenile/District) Court</i> |
| <i>County of _____</i> | <i>_____ Judicial District</i> |
| STATE OF WYOMING | } (Criminal/Juvenile) Case No. |
| vs. | |
| (Defendant) | |
| <hr/> STATE'S MOTION FOR BENCH WARRANT PETITION TO REVOKE PROBATION <hr/> | |
| <p>COMES NOW (Prosecutor Name), Deputy County and Prosecuting Attorney, and hereby moves the Court to issue a Bench Warrant for the arrest of (Defendant Name), Defendant in the above-captioned matter, on the grounds and for the reasons that:</p> | |
| <p>1. See Petition to Revoke Probation attached hereto and incorporated herein. The Defendant's whereabouts are currently unknown.</p> | |
| <p>2. A Bench Warrant should be issued requiring the Defendant be arrested and brought before this Court as soon as possible for further proceedings as may be deemed necessary and proper.</p> | |
| <p>DATED this ____ day of (Month, Year).</p> | |
| <hr/> <p>(Signature Block)</p> | |

11.33 BENCH WARRANT

| | | | |
|--|---|---|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <hr/> <i>In the (Juvenile/District) Court</i> <hr/> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | | |
| vs. | | | |
| (Defendant) | | (Criminal/Juvenile) Case No. | |
| <hr/> | | | |
| BENCH WARRANT | | | |
| <hr/> | | | |
| TO THE SHERIFF IN THE STATE OF WYOMING, GREETING: | | | |
| WHEREAS , a Motion for Bench Warrant was filed by the State on the _____ day of (Month, Year), in the District Court, (Judicial District) Judicial District, County of (County Name), State of Wyoming and the Court finding cause for the issuance of a Bench Warrant; | | | |
| IT IS HEREBY ORDERED that the Defendant shall be arrested and brought before the Court for further proceedings as may be deemed necessary and proper. The Sheriff shall immediately notify the undersigned when he or she is taken into custody. | | | |
| YOU ARE HEREBY COMMANDED forthwith to arrest the above named Defendant and bring him or her before this Court for further proceedings. | | | |
| BY ORDER OF THE COURT. | | | |
| DATED this _____ day of (Month, Year). | | | |
| BY THE COURT: | | | |
| _____ HONORABLE (Judge Name) | | | |

11.34 JUDGEMENT AND SENTENCE

| | | | |
|---|---|---|--|
| <hr/> <i>State of Wyoming</i> <hr/> | | <i>In the (Juvenile/District) Court</i> | |
| <i>County of _____</i> | | <i>_____ Judicial District</i> | |
| <hr/> | | <hr/> | |
| STATE OF WYOMING | } | | |
| vs. | | (Criminal/Juvenile) Case No. | |
| (Defendant) | | | |
| <hr/> | | <hr/> | |
| JUDGMENT AND SENTENCE (CRIMINAL CONTEMPT OF COURT) | | | |
| <hr/> | | | |
| <p>THIS MATTER came before the Court on (Date), for a Contempt Hearing for the above-named Defendant. The State of Wyoming was represented by (Prosecutor Name), Deputy County and Prosecuting Attorney, and the Defendant was present and was represented by (his/her) attorney, (Defense Attorney Name).</p> | | | |
| <p>The Court addressed the Defendant, and:</p> | | | |
| <ol style="list-style-type: none">1. Inquired as to whether the Defendant was under the influence of alcohol or drugs, any medication, or had any mental defects which would affect his or her ability of understand the proceedings.2. Explained the nature and purpose of the proceedings.3. Read and explained the Motion and Affidavit (Criminal Contempt of Court).4. Explained the rights guaranteed by the Constitution of the United States, the State of Wyoming and Rule 11 of the W.R. Cr. P., and determined that he or she understood those rights.5. Explained the possible plea the Defendant could enter.6. Explained the consequences of a guilty plea.7. Explained that a guilty plea would waive any possible defenses and the constitutional rights previously explained.8. Determined he or she was represented by competent counsel and was satisfied with the representation afforded by (Defense Attorney Name).9. Inquired of the Defendant regarding any threats, pressures, promises or inducements surrounding his or her plea. | | | |

10. Determined the Defendant was not under the influence of any drug or intoxicant nor suffering from any mental illness or deficiency.

The Defendant, (Defendant Name), then plead guilty to the allegations contained in the Information (Criminal Contempt of Court).

THE COURT FINDS AND CONCLUDES:

1. The Defendant's plea is made freely and voluntarily of the defendant's free will and accord, without any coercion of any kind and without any improper inducements.

2. The Defendant's plea was made freely and voluntarily, without any coercions of any kind, without any improper inducements and after consultation with competent counsel with whom he or she is satisfied.

3. There is a factual basis for the plea.

4. The Defendant is competent to enter a plea.

5. The Court accepts the Defendant's plea.

THE COURT ADJUDGES (Defendant Name) to be in contempt of Court for (Reasons in Contempt).

IT IS THEREFORE ORDERED that the Defendant shall be (Terms of Sentence).

DATED this ____ day of (Month, Year).

BY THE COURT:

HONORABLE (Judge Name)
District Court Judge

APPROVED AS TO FORM:

(Prosecutor Name), WSB No. (Bar Number)
Deputy County and Prosecuting Attorney

(Defense Counsel Name), WSB No. (Bar Number)
Attorney for the Defendant