

# 2009

## GAL Program Post-Session Summary



A summary of bills passed by the Wyoming Legislature that affect children and families in Juvenile Court.

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NOTE: This is offered as a summary, not legal advice, and is the opinion of the authors, not the legislators or sponsors of the bills.

The 2009 Wyoming Legislative Session convened on Tuesday, January 13, 2009 and adjourned on Thursday, March 5, 2009. Information on Bills that were introduced, including bills that failed and passed can be found at <http://legisweb.state.wy.us/2009/Bills.htm>. Archived audio recordings of the house and senate deliberations during the 2009 session can be found at <http://legisweb.state.wy.us/2009/audio/AudioMenu/AudioMenu.aspx>.

This summary includes twelve (12) bills that passed both houses, were signed into law by the Governor, and may be of interest to guardians *ad litem* in Wyoming Juvenile Court. These include: (1) a house bill regarding criminal procedure and the types of cases where a minor's taped deposition can be used; (2) a house bill that limits adult adoptions; (3) a house bill that changes the law on suspending a drivers license of someone who owes child support; (4) a house bill that changes the three multidisciplinary team statutes in Title 14; (5) a house bill that requires each school district to have at least one full-day kindergarten class; (6) a house bill that changes the requirements of the Office of Administrative Hearings (OAH) in child protection substantiations and allows the agency to appeal OAH decisions; (7) a senate file that provides certain information relating to a sexual offense cannot be release prior to the filing of an information or indictment and allows the district court to release minor victim's information in certain circumstances in a sexual offense case; (8) a senate file that allows a youth to consent to health care for tobacco cessation; (9) a senate file that makes amendments to Title 14 including allowing the district court to transfer a guardianship or adoption to juvenile court and allowing the state to give an absent parents notice by publication; (10) a senate file that replaces the drug court statutes, renames them as Court Supervised Treatment Programs and provides different requirements; (11) a senate file that makes amendments to the juvenile delinquency statutes, including establishing objective criteria for which court a juvenile goes into and amending the confidentiality provision; and (12) a senate file that changes the penalties for child abuse.

(1) HB0137	Videotape depositions-minors.	Sponsor: Mercer	Chapter 0068	Date Signed by Governor: 2/26/09	Effective Date: 7/1/09
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This bill adds to the list of sexual assault offenses for which a child under twelve (12) years of age may be allowed to testify by videotape deposition, instead of in-person testimony. As the law will read, effective July 1, 2009, this applies in the following cases: incest (Wyo. Stat. § 6-4-402(a)), sexual assault in the first degree (Wyo. Stat. § 6-2-302), sexual assault in the second degree (Wyo. Stat. § 6-2-303), sexual assault in the third degree (Wyo. Stat. § 6-2-304), sexual abuse of a minor in the first degree (Wyo. Stat. § 6-2-314), sexual abuse of a minor in the second degree (Wyo. Stat. § 6-2-315), sexual abuse of a minor in the third degree (Wyo. Stat. § 6-2-316), and sexual abuse of a minor in the fourth degree (Wyo. Stat. § 6-2-317).

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/HB0137.pdf>.

(2) HB0165	Adult adoption.	Sponsor: Lubnau	Chapter 0065	Date Signed by Governor: 2/26/09	Effective Date: 7/1/09
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This bill changes the language of the adoption statute, Wyo. Stat. § 1-22-102, to limit which adults may be adopted. There are two requirements for determining if the adult is subject to the adoption: (1) "The adopting parent was a stepparent, grandparent or other blood relative, foster parent or legal guardian who participated in the raising of the adult when the adult was a child..." and (2) "The adult files a consent to the adoption with the court."

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/HB0165.pdf>.

(3) HB0190	Driver's license suspensions-child support.	Sponsor: Throne	Chapter 00155	Date Signed by Governor: 3/5/09	Effective Date: 7/1/09
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This bill (1) allows the Department of Transportation to do an administrative driver's license suspension, without a court order, if the obligor owes more than \$5,000 in child support and has not made a payment for ninety days; (2) gives the person sixty (60) days (used to be thirty) to appeal the suspension; and (3) allows an appeal from any administrative suspension to the district court on only three issues, the amount of current child support owed or arrearages, the identity of the obligor, or the willfulness of any action or inaction of the obligor that contributed to the nonpayment of child support.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/HB0190.pdf>.

(4) HB0235	Child protection-case planning.	Sponsor: Mercer	Chapter 0070	Date Signed by Governor: 2/26/09	Effective Date: 7/1/09
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This bill changes the multidisciplinary team (MDT) meeting statute in abuse/neglect, CHINS and delinquency proceedings (Wyo. Stat. §§ 14-3-427, 14-6-227, 14-6-427). First, it adds the requirement that DFS provide each MDT member with "a brief summary of the case detailing the allegations in the petition that have been adjudicated" before the first MDT meeting. Second, it requires the MDT team "to formulate reasonable and attainable recommendations for the court outlining the goals or objectives the parents should be required to meet for the child to be returned to the home or for the case to be closed," at the first MDT meeting. Third, it requires the MDT team, at each MDT meeting, to review the progress of the parents and child on the case plan and reevaluate the case plan. In reevaluating the case plan, the team can adjust its recommendations only with cause, "which shall be set forth with specificity." Fourth, it requires the MDT coordinator to prepare a summary of the MDT meeting for each member of the team, set for the recommendations, changes, if any, and reasons for the changes.

Finally, this bill adds language in the decree statute, Wyo. Stat. § 14-3-429, that limits what the court can order the parents or guardians to do, by adding in the italicized language in the following

sentence: "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....*"

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/HB0235.pdf>.

(5) HB0255	School districts- kindergarten programs.	Sponsor: Harshman	Chapter 00136	Date Signed by Governor: 3/4/09	Effective Date: 7/1/09
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This bill requires each school district to have at least one full-day kindergarten program available.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/HB0255.pdf>.

(6) HB0289	Child protection hearings.	Sponsor: Mercer	Chapter 00127	Date Signed by Governor: 3/3/09	Effective Date: 7/1/09
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This bill requires DFS to send the notice of right to hearing, to persons whom the agency substantiates abuse or neglect on, by first class mail. It also allows DFS to appeal an adverse determination from the Office of Administrative Hearings (OAH) on its substantiation decisions.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/HB0289.pdf>.

(7) SF0025	District courts – release of information.	Sponsor: Judiciary	Chapter 0018	Date Signed by Governor: 2/24/09	Effective Date: 7/1/09
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This bill allows minor victims of sexual assault, or another acting on behalf of a minor victim of sexual assault, to request the district court release their identity to the public, which is otherwise required to be kept confidential by the district court and any other public employee.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/SF0025.pdf>.

(8) SF0035	Youth access to tobacco cessation programs.	Sponsor: Sessions	Chapter 0198	Date Signed by Governor: 3/12/09	Effective Date: 7/1/09
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This bill adds a third situation to Wyo. Stat. § 14-1-101 in which a minor can consent to health care treatment as if he/she were an adult. The situation is if the minor is twelve years of age or older,

used tobacco products and is consenting to a tobacco cessation program approved by the Department of Health.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/SF0035.pdf>.

(9) SF0103	Child abuse and neglect amendments.	Sponsor: Ross	Chapter 0196	Date Signed by Governor: 3/12/09	Effective Date: 7/1/09
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This bill makes several amendments to Title 14 that affect a GAL in juvenile court. First, the amendments allow an adoption or guardianship proceeding to be filed in juvenile court, instead of district court, if the child is the subject of a juvenile proceeding. Second, it allows a district court to certify a question of custody to the juvenile court if the child is the subject of a juvenile proceeding and a custody proceeding in district court. Third, it allows the district court to request the juvenile court to make recommendations about a guardianship or legal custody.

Fourth, this bill adds significant language to the end of Wyo. Stat. § 14-3-413 regarding notice to a noncustodial or putative parent; their responsibilities; and states if a noncustodial or putative parent fails to respond to this notice, they cannot “assert parental rights in contravention of any permanency plan for the child...unless good cause can be shown for [the] failure to respond.”

Fifth, these amendments allow a person in juvenile court to be served by publication if the person’s residence is unknown. Sixth, it now states in Wyo. Stat. § 14-3-427, “If a parent chooses not to comply with or participate in the case plan developed by the department, that parent is prohibited from later objecting to or complaining about the services that were provided to the child and family.”

Finally, the bill adds the same language from Wyo. Stat. § 14-3-431 to Wyo. Stat. § 14-3-440. So, both statutes now say the court must have a permanency hearing within thirty (30) days of a determination that reasonable efforts to preserve and reunify the family are no longer required.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/SF0103.pdf>.

(10) SF0107	Court Supervised Treatment Programs Act.	Sponsor: Ross	Chapter 00145	Date Signed by Governor: 3/5/09	Effective Date: 7/1/09
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This bill makes significant changes to Wyo. Stat. §§ 5-10-101 through 107. First, this bill replaces the drug court program with a court supervised treatment program and moves the statutory authority for the program from Title 5 to Title 7. The goals of the Court Supervised Treatment Programs are listed in the statute as follows: 1) to reduce recidivism by participants; 2) to ensure program retention and graduation of participants; 3) to ensure sobriety of participants; and 4) to monitor the services provided to participants. Currently, there are twenty-three (23) state funded drug courts in Wyoming (13 adult drug courts; 9 juvenile or family drug courts; and 1 DWUI drug court) and three (3) non-state funded Wyoming courts utilizing a drug court model.

Second, this bill authorizes and provides judicial immunity to district, circuit, municipal and tribal judges participating in court supervised treatment programs. The bill provides that the Wyoming Supreme Court may promulgate rules of practice for the participation of judges in programs. Third, the bill established funding protocols for the operation of the program, specifically creating a court supervised treatment program account and panel to oversee the program and establish a process for funding local courts. Fourth, this bill specifies that all local program employees shall be employees of a governmental entity, joint powers board, or nonprofit organization.

Fifth, the bill outlines the conditions required for client participation in a local program, which incorporate the national drug court components, and authorizes incentives and sanctions for participants. This bill authorizes parolees to participate in these programs and authorizes judges to place a participant on probation longer than the maximum possible term of imprisonment if the participant participates in a program.

Sixth, the bill requires a program to create a local program team which includes six (6) statutorily required members and describes the duties of the team and program coordinator.

Seventh, the bill amends sections in Title 14 and authorizes a court to require a child’s parent or guardian to participate in a court supervised treatment program under specific provisions of Title 14.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/SF0107.pdf>.

(11) SF0129	Juvenile justice amendments.	Sponsor: Sessions	Chapter 00146	Date Signed by Governor: 3/5/09	Effective Date: 7/1/09
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This bill creates a single point of entry for juveniles in the juvenile justice system. The statute requires all citations, charges, or reports involving the allegation of a minor committing a crime be forwarded to the district attorney before the case is brought in municipal or circuit court. The district attorney, in coordination with each municipality in the jurisdiction, must establish objective criteria, screening and assessment procedures to determine the appropriate court (municipal, circuit, juvenile or district) the juvenile’s case should be filed in.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/SF0129.pdf>.

(12) SF0130	Child abuse penalties	Sponsor: Ross	Chapter 0041	Date Signed by Governor: 2/25/09	Effective Date: 7/1/09
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This bill creates an enhanced penalty for “aggravated child abuse.” Aggravated child abuse is defined as “if in the course of committing the crime of child abuse,...the person intentionally or recklessly inflicts serious bodily injury upon the victim.” If a person is found guilty of aggravated child abuse, they are subject to imprisonment for not more than twenty-five years.

The enrolled act can be found at: <http://legisweb.state.wy.us/2009/Enroll/SF0130.pdf>.