

2011

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 document is offered as a summary of legislative activity, it is not legal advice and is the sole opinion of the author, not the legislators or sponsors of the bills. Summaries of each bill can be found on the Wyoming State Legislature website at <http://legisweb.state.wy.us/>. Some of the language included in this document was taken directly from the Wyoming State Legislature bill summaries.

The 2011 Wyoming Legislative Session convened on Tuesday, January 11, 2011 and adjourned on Thursday, March 5, 2011. Information on bills that were introduced, including bills that failed and passed can be found at <http://legisweb.state.wy.us/LSOWEB/Session/BillsInfo.aspx?Year=2011>. Archived audio recordings of the house and senate deliberations during the 2011 session can be found at <http://legisweb.state.wy.us/2011/audio/AudioMenu/AudioMenu.aspx>.

This summary includes six (6) 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 requiring certain juveniles to register as sex offenders and amending the information provided to the public on said juvenile sex offenders; (2) a house bill eliminating the opportunity for a respondent in a child protection case to admit or deny the allegations at the shelter care hearing; (3) a senate file authorizing a change in placement for the respondent child in a child in need of supervision (CHINS) proceeding without a court hearing; (4) a senate file requiring the state superintendent to adopt rules, and the school district boards to adopt policies regarding seclusion and restraint in school; (5) a senate file amending the controlled substances to include synthetic cannabinoids (also known as Spice); and (6) a senate file amending the first ground for termination of parental rights to specify the effect of custody and support orders.

(1) HB0023	Sex offender registration amendments	Sponsor: Judiciary	Chapter 0179	Date Signed by Governor: 3/3/11	Effective Date: 7/1/11
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This act expanded the definitions of those required to register as a sex offender under § 7-9-301. In the expanded definition, juveniles adjudicated as delinquent for offenses specified in W.S. § 7-19-302(j) must now register as a sex offender. These juveniles must now provide the required information to the sheriff's department, including the new addition of internet identifiers, such as an offender's e-mail and screen name(s). The statute specifies that the juvenile's information will not be available on the public sex offender registry pursuant to W.S. § 7-19-303, but the juvenile will still need to comply with the other provisions such as registering with the county sheriff in any county in which the person resides, works or attends school and must notify the county sheriff before any foreign travel.

The statute also states that juveniles adjudicated under this statute as a sex offender can petition the court, after ten years of a clean record, to have their name removed from the registry. Finally, this registration requirement for juveniles applies retroactively to any adjudications after July 1, 2001.

The enrolled act can be found at: <http://legisweb.state.wy.us/2011/Enroll/HB0023.pdf>.

(2) HB0028	Child protection shelter care and initial hearings	Sponsor: Judiciary	Chapter 0079	Date Signed by Governor: 2/24/11	Effective Date: 7/1/11
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This act amends W.S. § 14-3-409 and 14-3-410, removing the opportunity for the respondents in a child protection case to admit or deny the allegations in the petition at the shelter care hearing. The act also clarifies that the parties must be advised at the initial hearing of their rights, including the right to a jury trial and that the party demanding a jury trial has ten (10) days from the advisement of rights at the initial hearing to do so. Finally, the act allows an initial hearing to be conducted by a district court commissioner, if the judge is absent or incapacitated. However, the court commissioner may not proceed to disposition of the case.

The enrolled act can be found at: <http://legisweb.state.wy.us/2011/Enroll/HB0028.pdf>.

(3) SF0011	CHINS – administrative change of placement	Sponsor: Judiciary	Chapter 0012	Date Signed by Governor: 2/15/11	Effective Date: 7/1/11
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This act amended W.S. § 14-6-429, which authorized changes in placement of children in need of supervision (CHINS) who are in the custody of the state to a similar or less restrictive confinement without the need for prior court approval or court hearing. The language removed gave the Judge the option to create an order that would require court approval before the child's placement can be changed - an option which is no longer available.

The enrolled act can be found at: <http://legisweb.state.wy.us/2011/Enroll/SF0011.pdf>.

(4) SF0036	Seclusion and restraint in schools	Sponsor: Case	Chapter 0067	Date Signed by Governor: 2/24/11	Effective Date: 2/24/11
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This act requires the state superintendent to implement rules and regulations regarding seclusion and restraint in public schools pursuant to W.S. § 21-2-202. Public school district boards must also establish policies and training procedures regarding restraint and seclusion of students which the state superintendent must review for compliance with the state implemented rules and regulations. These policies must include, pursuant to W.S. §21-3-110, that the parent or guardian of the student must be notified each time seclusion or restraint is used; no locked seclusion techniques shall be allowed; and the seclusion and restraint policy must apply equally to every student, not just specific groups.

This act also provides definitions. The definition of restraint includes the use of physical force, with or without a physical device, to restrain the free movement of the student. Restraint does not include comforting or calming a student, or breaking up a fight; or escorting a student by the arm or

hand. Seclusion is defined as removing a student from the classroom or school activity and isolating the student in a separate area. Seclusion does not include in-school suspension or detention.

The enrolled act can be found at: <http://legisweb.state.wy.us/2011/Enroll/SF0036.pdf>.

(5) SF0059	Spice drugs	Sponsor: Esquibel, F	Chapter 0137	Date Signed by Governor: 3/3/11	Effective Date: 3/3/11
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This act amended W.S. § 35-7-1014(d) to include various substances known as Spice as schedule one controlled substances. These substances are synthetic cannabinoids. This act also authorizes the attorney general's office an additional forensic analyst position and an additional appropriation to implement the act.

The enrolled act can be found at: <http://legisweb.state.wy.us/2011/Enroll/SF0059.pdf>.

(6) SF0138	Child custody – orders – abandonment	Sponsor: Perkins	Chapter 0131	Date Signed by Governor: 3/2/11	Effective Date: 3/2/11
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This act amended W.S. 14-2-309(a)(i) to include the language “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.” This additional language is in response to the Wyoming Supreme Court case In the Interest of ANO, 2006 WY 74; 136 P3d 797 (Wyo. 2006), where the Supreme Court held, based on strictly construing the language of the statute, that a custody and support order would meet the statutory requirement of leaving the child in the care of another with provision for support. This made it impossible to terminate a parent's rights even if they had not paid support or exercised their visitation rights and was an incentive to avoid the court system for custody and support determinations.

The enrolled act can be found at: <http://legisweb.state.wy.us/2011/Enroll/SF0138.pdf>.