



**CHILDREN'S
JUSTICE PROJECT**

A Project of the Wyoming Supreme Court

Juvenile Court Law Update 2004-2014



Children's Justice Project

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Table of Contents

Introduction	2
2004 Legislation & Case Law	2
2005 Legislation & Case Law	4
2006 Legislation & Case Law	7
2007 Legislation & Case Law	8
2008 Legislation & Case Law	9
2009 Legislation & Case Law	10
2010 Legislation & Case Law	13
2011 Legislation & Case Law	14
2012 Legislation & Case Law	15
2013 Legislation & Case Law	17
2014 Legislation & Case Law	19

Introduction

This document provides an update on juvenile court legislation and case law for the time period of 2004 to 2014. Each section begins with an update of legislative action followed by a section on case law. The abbreviated information in this document may not be sufficient in dealing with a particular legal problem. Lawyers or others using this information should do so with the understanding that the information should not be relied upon as a substitute for independent legal research to original sources of authority, the advices of a lawyer, or both.

2004 Legislation & Case Law

Legislation

- SF0005 – Interstate Compact for Juveniles: Repeals the Interstate Compact on Juveniles and enacts a new version of the Interstate Compact for Juveniles. The Act creates and specifies the powers and duties of the Interstate Commission for Juveniles and specifies obligations and duties of compacting states. It also provides procedures for dispute resolution, withdrawal, and re-entry of a compacting state for the dissolution of the Company.¹
- SF0008 – Title 14 Revisions: The Act amends various provision relating to child protection, the Juvenile Court Act, and the Children in Need of Supervision Act. Specifically, it authorized an intensive supervision program for juveniles; amends timelines for temporary protective custody, detention and adjudicatory hearings; clarifies procedures for consent decrees; clarifies rights of juveniles and families and duties of the state; grants rulemaking authority; and confirms provisions.
- HB0116 – Execution of Acknowledgment of Paternity: Provides for notice to be provided prior to the signing of an acknowledgment of paternity affidavit. Per this Act, before the mother and alleged father may sign an acknowledgment of paternity affidavit, they must be provided with oral and written notice of the legal consequences that will arise from signing.
- HB0033 – Children and Family Initiatives: Authorizes a study and development of a plan to address the needs of children and families. The Act authorizes the Department of Family Services (DFS) to develop a comprehensive plan to improve the lives and futures of children and families. It also requires DFS to collaborate with a wide variety of public and private entities in developing the plan; specifies what the plan shall include; requires DFS to widely disseminate requests for public participation in development of the plan; requires DFS to submit a plan with recommendations for

¹ All Act summaries were taken from the Wyoming Legislative Service Office's website located at <http://legisweb.state.wy.us/LSOWEB/SessionArchives.aspx>

legislation to the Joint Labor, Health, and Social Services Interim Committee by November 1, 2004 and a final plan by October 1, 2005; and provides an appropriate of \$200,000 to DFS for the study and plan.

Case Law

- *In the Interest of HP and NP, minor children*, 93 P.3d 982 (Wyo. 2004). The Court held there was sufficient evidence for the juvenile court to find by a preponderance of the evidence that the children were neglected inasmuch as Mother failed to provide adequate care. The Court also determined there was sufficient evidence for the district court to order DFS to begin termination proceedings and the mother's fundamental rights were not violated by the MDT's decision to recommend terminating her parental rights.
- *In the Matter of the Parental Rights of KLS, Minor Child: RS, Appellant v. Department of Family Services, Sheridan County, Wyoming, Appellee*, 94 P.3d 1025 (Wyo. 2004). The district court fully considered all of the evidence and provided detailed and thorough findings on each of the elements required by the statute for termination of Father's parental rights. Clear and convincing evidence proved Father subjected KLS to continuing abuse and neglect, and her safety and well-being requires permanent removal.

2005 Legislation & Case Law

Legislation

- SF0039 – Child Protection Amendments: The Act amends provision relating to child protection, Juvenile Court Act, and Children in Need of Supervision. Specifically, the Act establishes an interagency children’s collaborative comprised of officials in the major state agencies dealing with juveniles and a Governor’s appointee to provide a general review of cases and review statewide availability of resources for children in state custody. In addition, the Act requires DFS to adopt rules, with advise from the Departments of Health (DOH), Education and Workforce Services. It amends the composition and duties of multi-disciplinary teams (MDTs) and requires child protection teams to identify and develop community resources; requires DFS to ensure caseworks are properly trained; requires social workers to advise individuals subject to allegations of child abuse or neglect of the allegation and their rights; requires DFS to refer a child under six (6) years of age who is alleged to be abused to the DOE for developmental screening and assessment; requires that reports of suspected abuse or neglect are immediately reported; limits who may take a child into temporary protective custody and amends notification procedures; authorizes a child to be placed with the noncustodial parent or the child’s extended family when it is in the best interest of the child, or to be kept in a hospital if necessary; allows the district attorney to file emergency petitions; authorizes a court to enter a protective order upon a finding that reasonable cause exists that a child has been abused or neglected; limits temporary protective custody to 48 hours, exclusive of weekends and holidays; and establishes timelines for MDTs and child protective teams to provide reports to courts.
- SF0050 – Soliciting Minors: Amends elements of the crime of soliciting minors to engage in illicit sexual relations. An adult who solicits, procures or knowingly encourages any person under the age of 16 to engage in illicit sexual penetration or sexual intrusion, or encourages someone else, is guilty of a felony. The Act also amends the definition of child pornography to include a visual depiction of explicit sexual conduct involving a child or an individual virtually indistinguishable from a child, or a visual depiction that has been created, adapted, or modified to depict such conduct involving a child or an individual virtually indistinguishable from a child.
- SF0137 – Disestablishment of paternity: The Act allows a challenge to an adjudication of paternity if no genetic testing was performed at the time of an adjudication and the petition is filed within 2 years of adjudication or acknowledgement or after the petitioner knew or should have known that the paternity of the child is at issue. The Act also specifies that a paternity determination in a foreign jurisdiction, or where genetic testing was done and the results do not exclude the alleged father, may not be challenged. The

Act also gives specifies procedures for a petition for disestablishment of paternity and for payment of related costs; requires the court to appoint a guardian ad litem and specifies the factors the court shall consider in determining the best interests of the child in the matter; allows the court to dismiss the action even if the genetic testing excludes the adjudicated father as the biological father if dismissal of the action is in the best interests of the child and if other specified conditions are present; allows the court to order genetic testing and to grant relief upon a finding that the relief is in the best interests of the child, the genetic testing upon which the relief is granted was properly conducted, the adjudicated father has not adopted the child, the child is not a child whose paternity is a result of assisted reproduction and the adjudicated father did not act to prevent the biological father from asserting his paternal rights; allows the court to enter an order providing that the adjudicated father is not the biological father, terminating his paternal responsibilities, requiring that the birth certificate of the child be amended, providing that the adjudicated father is still responsible for child support due or owing prior to the entry of the order, and providing that the adjudicated father has no right of reimbursement of past child support paid by him; limits the participation of DFS; and allows a man presumed to be the father without adjudication of paternity to petition for an adjudication of paternity.

- HB0120 – Repealed Section 5 of the CHINS Act: The Act repeals the sunset provision for CHINS, thereby allowing the Act to continue until the legislature acts affirmatively to repeal the Act.
- HB0314 – Guardians ad litem: Creates a program to reimburse guardians ad litem. The Act authorizes a program under the Wyoming Supreme Court to reimburse guardians ad litem for the legal representation of children; requires rulemaking to establish reimbursement methods and establish standards for the legal representation of juveniles by guardians ad litem; establishes a process whereby counties opt into a program that provides funding for the legal representation of children by guardians ad litem; requires counties to provide matching funds as a condition of participation in the program; requires the Supreme Court to report annually by November 1 on the results of the program; and appropriates \$2.1 million to the Supreme Court and authorizes 1 additional position to assist in the implementation of the reimbursement program.
- HB0076 – Central Registry of Child Protection Cases: Amends requirements for the operation of the central registry of child protection cases; establishes a crime for sanctioning an employee for reporting child abuse or neglect (a misdemeanor punishable by up to six months in jail and \$750 fine); establishes a crime for filing false reports (a misdemeanor punishable by up to six months in jail and \$750 fine); amends definitions for the types of reports maintained by DFS; and authorizes access to records in the central

- registry to educational or mental health professionals if necessary for the provision of services as specified.
- HB0237 – Child Protection: Modifies the review hearing dates and requirements for permanency hearings regarding permanent placement of the child outside the home. Requires the court to conduct a permanency hearing no later than 12 months from the date the child is removed from the home and not less than once every 12 months after that. The Act also requires the court to conduct a permanency hearing within 30 days of a determination that reasonable efforts to preserve and reunify the family are not required; allows the court to combine a permanency hearing with any other hearing; requires the court to determine if the permanency plan is in the best interest of the child and whether DFS has made reasonable efforts to finalize the plan; and relocates a provision of current law requiring a petition to terminate parental rights to be filed within 60 days of the judicial determination that reasonable efforts to reunify the child and parent are not required. With the relocation, the old provision, W.S. 14-3-440(h), is repealed.
 - HB0060 – Minor victims-release of names: This Act requires a court to restrict the disclosure or publication of information that is reasonably likely to identify the minor victim, if an information or indictment has been filed in a criminal matter, unless the minor victim or another acting on behalf of the minor request the release of the identifying information.

Case Law

- *In the Interest of SIJ and ERJ, II, minor children: SLJ, Appellant v. The State of Wyoming, Department of Family Services, Albany County Field Office*, 104 P.3d 74 (Wyo. 2005). The district court correctly concluded that SLJ had limited, sporadic contact with the children and this was supported by sufficient evidence. The Court also held that DFS was not required under the circumstances of this case to make reasonable efforts to reunify the family prior to terminating SLJ's parental rights. Finally, the Court held that the use of juvenile court records in the termination proceedings was entirely appropriate.

2006 Legislation & Case Law

Legislation

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Case Law

- *In the Matter of the Guardianship of MEO: KO v. LDH and BJH and The State of Wyoming*, 2006 WY 87, 138 P.3d 1145 (Wyo. 2006). In an involuntary guardianship proceeding, a finding of parental unfitness shall be made prior to determining the child's best interests.
- *In the Matter of the Termination of Parental Rights to CS: LS aka LA v. Johnson County Department of Family Services, In the Matter of the Termination of Parental Rights to TS: LS aka LA v. Johnson County Department of Family Services*, 2006 WY 130, 143 P.3d 918 (Wyo. 2006). Abuse and neglect established by clear and convincing evidence of mother's conduct; DFS is not required to provide transportation to a parent after the termination phase of the proceeding has commenced.

2007 Legislation & Case Law

Legislation

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Case Law

- *In the Interest of MN, S(e)N, S(h)N v. Laramie County DFS*, 171 P.3d 1077 (Wyo. 2007). A mother's parental rights were terminated without the appointment of a guardian ad litem and the mother appealed arguing Wyo. Stat. Ann. 14-2-312 was violated. The Court found Wyo. Stat. Ann. 14-3-312 is an unambiguous mandatory statute that requires the district court in a parental rights termination action to either appoint a guardian ad litem or make a finding that no guardian ad litem (GAL) is necessary because the petitioner or another party to the action will adequately represent the interest of the child or children, and the interest of the child or children are not adverse to that party.
- *In the Matter of the Parental Rights to DH, AP, and JK: KH v. Wyoming Department of Family Services*, 2007 WY 196, 173 P.3d 365 (Wyo. 2007). DFS's decision to not place children with grandmother was not in violation of the Family Service Manual and DFS took reasonable steps to institute family placement.
- *In the Interest of FM: BA v. Laramie County Department of Family Services*, 2007 WY 128, 163 P.3d 844 (Wyo. 2007). State failed to meet its burden of proving by clear and convincing evidence that DFS made reasonable efforts toward reunification and that mother was unfit for custody.
- *In the Interest of LL, AL, ML and NC: ML v. Laramie County Department of Family Services*, 2007 WY 92, 159 P.3d 499 (Wyo. 2007). A GAL may be permitted to testify as a lay witness at the termination of parental rights hearings if the GAL is not testifying in a representative capacity.
- *In the Matter of the Parental Rights to: AD, DD, and KD, CL v. Wyoming Department of Family Services*, 2007 WY 23, 151 P.3d 1102 (Wyo. 2007). Termination of a mother's parental rights was supported by clear and convincing evidence and the parental rights were outweighed by the children's right to permanency.

2008 Legislation & Case Law

Legislation

- SF0064 – Valid Court Orders: The Act clarifies conditions that may apply to a child who is returned to court for violations of a court order as specified. Wyoming has not adopted all provisions of the federal Juvenile Justice and Delinquency Prevention Act (JJDP). One requirement of the JJDP not completely adopted in Wyoming law is that certain procedures must be followed, including procedures for a "valid court order," before a juvenile may be detained for violation of such order. Most of the valid court order procedures are already present in Wyoming law. This bill further amends Wyoming law to incorporate other procedures necessary for a valid court order by: requiring the court, in child protection, juvenile delinquency and child in need of supervision (CHINS) actions, to explain the terms of a court order to the child, his parents, guardian or other necessary persons; requiring an interview of the child by the Department of Family Services or its designee within 24 hours, along with a report to the court containing an assessment of the immediate needs of the child and recommendations for placement pending disposition of the violation; amending definitions to include status offenders within provisions providing due process to juveniles; and clarifying the prohibition against placing a child in need of supervision in a jail facility.

Case Law

- *In the Interest of MM: MM v. The State of Wyoming, Department of Family Services*, 2009 WY 28, 202 P.3d 409 (Wyo. 2008). The district court did not abuse its discretion in ordering the production of exculpatory evidence one (1) day before trial and did not violate Father's due process in refusing to dismiss the case.
- *In the Interest of NDP v. State of Wyoming Department of Family Services*, 2009 WY 28, 2009 WL 15131560 (Wyo. 2009). DFS may discontinue reunification efforts so long as the state proves by a preponderance of the evidence that such efforts would be futile.
- *In the Matter of the Termination of Parental Rights to CW and CW: LJC v. HMW and In the Matter of the Adoption of CW and CW: TLC and LJC v. HMW*, 2008 WY 50, 182 P.3d 501 (Wyo. 2008). When considering a petition for adoption, the district court may find that the best interests of the child are valid grounds for denial, even if the statutory factors have been met.
- *In the Interest of DSB: JA v. State of Wyoming Department of Family Services*, 2008 WY 15, 176 P.3d 633 (Wyo. 2008). The 90-day statutory requirement for an adjudicatory hearing does not result in the termination of subject matter jurisdiction by the juvenile court.

2009 Legislation & Case Law

Legislation

- HB0235 – Child Protection Case Planning: The Act specifies new duties of MDTs in child protection and delinquency cases. The Act requires that members of the MDT in a child protection or a delinquency case receive a summary with specified information from DFS before the first MDT meeting; requires the MDT to formulate reasonable and attainable goals and objectives for parents to meet to effect the return of the child to the home or to close the case; requires the submission of a summary to MDT members and the court after each MDT meeting describing the recommendations of the goals and objectives decided upon at the meeting and a detailed explanation of any changes to the goals and objectives previously established; and authorizes the court to require the parents or guardian to attend classes designed to address problems that contributed to the adjudication.
- SF0107 – Court Supervised Treatment Program Act: This Act authorizes a court to require a child’s parents or guardian to participate in a court supervised treatment program under specified provision of Title 14 under certain condition.
- SF0129 – Juvenile Justice Amendments: Authorizes a district attorney to establish objective criteria, screening and assessment procedures for determining which court is appropriate for disposition of a juvenile matter. The Act establishes the district attorney as the single point of entry for all minors alleged to have committed a crime; authorizes a district attorney to establish objective criteria, screening and assessment procedures for determining which court is appropriate for disposition of a juvenile matter; requires that all charging documents, reports or citations be forwarded to the district attorney prior to the filing of the charge, report or citation in municipal or city court; and prohibits the disclosure of information, reports or records or contents thereof in juvenile matters except to specified persons, including a person designated by the district attorney in determining the appropriate court pursuant to a single point of entry assessment under W.S. 14-6-203.
- SF0103 – Child Abuse and Neglect Amendments: The Act authorizes the transfer of jurisdiction from district court to juvenile court in specified actions. The Act authorizes a transfer of specified actions from district court relating to custody, adoption or appointment of a guardian to juvenile court when both courts have jurisdictions over the same parties for different matters; authorizes a party to a proceeding to file a petition for adoption or appointment of a guardian in an underlying juvenile court action, rather than file a petition with a district court. The Act also amends the definition of "neglect" for purposes of child protection statutes to include a failure to comply with or refusal to participate in a case plan developed by DFS; provides for service of

process in a child protective proceeding to a noncustodial parent or putative father who has not had custody of a child removed by a court and who is not alleged to have abused or neglected the child; requires the noncustodial parent or putative father who has been served to respond and appear before the court, to cooperate with DFS, provide information required by the court and pay all child support that may be ordered by the court; a parent or putative father who fails to respond to the court as required may not thereafter assert parental rights as specified; authorizes constructive service or service by publication if a person is a nonresident in a child abuse or neglect case; provides that if a parent chooses not to comply with or participate in a case plan, the parent is prohibited from later objecting about services that were provided to the child and family; and provides that, if a court determines that reasonable efforts to preserve and reunify the family are not required, a permanency hearing may be held within 30 days.

Case Law

- *In the Matter of the Termination of Parental Rights to L.A.: RLA v. Dep't of Family Services*, 2009 WY 109, 215 P.3d 266 (Wyo. 2009). State shall prove by clear and convincing evidence that parent was unfit for custody and control of child.
- *In the Matter of the Termination of Parental Rights to AE and DE, Minor Children: JD and SE v. State of Wyoming, Dep't of Family Servs.*, 2009 WY 78, 208 P.3d 1323 (Wyo. 2009). Evidence of past behavior is relevant in determining current parental fitness.
- *In the Matter of the Termination of Parental Rights to: ATE, KOE, ETE, ME, FTE, Dep't of Family Services v. TWE, III*, 2009 WY 155, 222 P.3d 142, 215 P.3d 266 (Wyo. 2009). The district court's findings, if supported by evidence in the record, are subject to strict scrutiny when considering a petition to terminate parental rights. The State shall prove by clear and convincing evidence that returning children to the parent would be a risk to their health or safety, or that the parent is unfit.
- *In the Interest of: JW and BJ, Jr., Minor Children: LW v. The State of Wyoming, Dep't of Family Services*, 2010 WY 28; 226 P.3d 873 (Wyo. 2010). There is a compelling preference that what is "best" for a child in a permanency hearing is placement with nuclear or extended family members.
- *In the Interest of DMW and ALW, minors: AW and LW v. TLW*, 2009 WY 106, 214 P.3d 996 (Wyo. 2009). Guardianship statutes mandate that the district court protect the children's best interests.
- *In the Interest of NDP, JAP, ANP and ICP, Minor Children, CP v. The State of Wyoming, Dep't of Family Services*, 2009 WY 73, 208 P.3d 614 (Wyo. 2009). In neglect proceedings, the State has the burden of proving the allegations by a preponderance of the evidence; the preponderance of the evidence standard



also applies to the juvenile court's determination that reunification efforts have not been successful.

2010 Legislation & Case Law

Legislation

- HB0012 – Juvenile detention facilities-admissions criteria: The Act requires a risk assessment for alleged delinquent minors to determine the level of detention that should be imposed until the minor is required to appear before a court. The Act requires the person taking an alleged delinquent minor into custody to conduct a risk assessment to determine placement of the child pending an appearance before a court, unless the minor will be released to the custody of the minor's parents, guardian or custodian; requires sheriffs to develop a uniform risk assessment instrument that shall be used when taking a minor into custody; and defines "hardware secure facility," "staff secure facility" and "shelter care" for purposes of detaining a minor who is not released to the custody of the minor's parents, guardian or custodian. The Act also prohibits a minor under age 11 years to be held in a hardware secure facility and requires the person taking the minor into custody to inform the minor's parents, guardian or custodian within 24 hours of taking the minor into custody.
- HB0075 – Loss of parental rights: The Act provides for termination of the parent-child relationship if the parent is convicted of murder or homicide in the first or second degree of the other parent of the child.

Case Law

- *In the Matter of Termination of Parental Rights to WDW, a minor child: JLW v. CAB*, 2010 WY 9, 224 P.3d 14 (Wyo. 2010). When considering a petition for termination of parental rights, a court may take into consideration respondent's voluntarily waiver of object to the timeliness of statutory requirements and respondent's pattern of behavior over time.
- *In the Interest of DRT, a Minor. Jet v. The State of Wyoming, Department of Family Services*, 2010 WY 137, 241 P.3d 489 (Wyo. 2010). Juvenile court is vested with discretion when considering whether to grant a motion to withdraw a voluntary admission of neglect, even if respondent suffers from a mental illness.
- *In the Matter of the Termination of Parental Rights to KMJ and JDAJ, Minor Children, AJJ v. The State of Wyoming, Department of Family Services*, 2010 WY 142, 242 P.3d 968 (Wyo. 2010). Court can examine relevant factors in parent's history when determining current parental fitness.

2011 Legislation & Case Law

Legislation

- HB0028 – Child Protection Shelter Care and Initial Hearing: Advisements given by a court at a hearing when a child is taken into protective custody. The Act deals with shelter care hearings. Shelter care hearings must be provided within 48 hours of taking a child who may have been abused or neglected into temporary protective custody. Under current law, the court is required to advise parents at the shelter care hearing that they could admit or deny allegations of abuse or neglect. This Act clarifies that the court may give this advisement at a later initial hearing. The court has the option, however, of holding a shelter care hearing in conjunction with an initial hearing where allegations of neglect are admitted or denied.
- SF0011 – CHINS – Administrative Change of Placement: The Act changes the law to allow DFS, without court order, to change the placement of a child. DFS can move the child to a similar or less restrictive placement.
- SF0138 – Child Custody Orders-Abandonment: This Act is intended to respond to the Wyoming Supreme Court's decision in *In the Interest of ANO: SLB, 2006 WY 74; 136 P3d 797 (Wyo. 2006)*. In that case, the Supreme Court held that custody orders assigning custody to one parent preclude a finding of abandonment by the non-custodial parent. The holding was relevant under W.S. 14-2-309 which allows parental-child relationships to be terminated where a child has been left in the care of another person for a period of at least one year. This Act adds language to W.S. 14-2-309 stating that, "a court order of custody shall not preclude a finding that a child has been left in the care of another person."

Case Law

- *In the Interest of DRS, NJL and KDL, Minor Children. RH, Appellant v. The State of Wyoming, Department of Family Services, Appellee, 261 P.3d 697, 2011 WY 128 (Wyo. 2011)*. The Court found no abuse of discretion in the juvenile court's order temporarily maintaining the placement of the children with their grandparents and father, respectively. Wyo. Stat. Ann. 14-3-429(a)(iv) provides the correct framework for the court, as it designates the structure for disposition of children who are adjudicated as neglected. The Court concluded that the statutory requirements were met for children to be placed outside the home.

2012 Legislation & Case Law

Legislation

- SF0099 – Guardian ad litem Program: Establishing the guardian ad litem program within Wyoming statutes. The guardian ad litem program was initially authorized by 2005 Wyoming Session laws, Chapter 237 and placed with the Supreme Court. The program was transferred from the Supreme Court to the state public defender's office by the budget bill in 2008. This Act establishes the program in Wyoming statutes within the public defender's office. The Act also provides for appointment of an administrator of the program by the state public defender; specifies that the program is to provide legal representation as guardians ad litem in cases and appeals involving child protection, children in need of supervision, delinquency cases and termination of parental rights actions; provides for appointment of and reimbursement of attorneys to act as guardians ad litem through contracts with the state public defender's office or directly with counties. Further provides that the court shall appoint the program to provide services when appointing a guardian ad litem in all participating counties; and provides that participating counties in the guardian ad litem program shall reimburse the program for not less than 25% of the costs for expenses incurred in the operation of the program in the county. Nonparticipating counties are responsible for the full cost of all guardian ad litem legal fees. In addition, the Act provides that all guardians ad litem shall be paid fees as provided by the program except that counties may compensate guardians ad litem at a higher rate; requires that the counties provide office space or a monthly stipend for guardians ad litem under contract or assigned to the county; and provides that guardians ad litem shall be considered state employees for purposes of the Governmental Claims Act and the State Self-Insurance Program.

Case Law

- *In the matter of the Termination of Parental Rights to KMO, DMO, CMO, AKO, DKO, MTO, ABO, EEO and JBO, Minor Children*, 280 P.3d 1203 (Wyo. 2012). Mother appeals the district court's order terminating her parental rights based on the sufficiency of the evidence, the appropriateness of the special verdict and the constitutionality of the termination statute. The Court affirmed and found the evidence supported that the mother was unfit to have custody and control of her children and the special verdict form did not mislead or confuse the jury. Finally, the mother argued the "clear and convincing" standard set forth in 14-2-309 violated her due process and

equal protection rights and a “beyond a reasonable doubt” is the appropriate standard. The Court disagreed.

- *In the Matter of the Termination of Parental Rights to KAT, SAT, and JGS, Minor Children, NLT, Appellant v. The State of Wyoming, Department of Family Service, Appellee*, 288 P.3d 1217 (Wyo. 2012). The Court found there was clear and convincing evidence to terminate parental rights.
- *In the Matter of the Termination of Parental Rights to SMH, KDH, MJH and APH, Minor Children. HMH, aka HM and HB, Appellant v. State of Wyoming, Department of Family Services, Appellee*, 290 P.3d 1104 (Wyo. 2012). There was sufficient clear and convincing evidence to terminate Appellant’s parental rights pursuant to Wyo. Stat. Ann. 14-2-309(a)(iii) and (a)(v).

2013 Legislation & Case Law

Legislation

- HB0119 – Department of Family Services Programs: The Act provides miscellaneous updates to the DFS statutes. The Act replaces “food stamp” with “Supplemental Nutrition Assistance Program”. It also provides in the Juvenile Justice Act and in state institutions statutes that children be placed in a suitable certified hospital or appropriate acute placement facility rather than specifying referral to the Wyoming State Hospital.
- HB0153 – Representation of Children in Company Proceedings: Authorizing public defenders and guardians ad litem representation of fugitive juveniles. The Act entitles fugitive juveniles to be represented by a public defender in a proceeding under the Interstate Compact for Juveniles if the juvenile requests the representation. This Act also authorizes the office of public defender to appoint a guardian ad litem in proceedings under the Interstate Compact for Juveniles if the juvenile requests the representation.
- HB0175 – Juvenile Citations-Notification by Law Enforcement: The Act provides that notice shall be provided to parents when citations are issued to a child. The Act requires that parents be notified when a child receives a citation for violating the law. Notice must be given if a fine or jail may be imposed. The law enforcement agency must take reasonable action to notify the child’s parent or guardian.
- HB0086 – Child Placement Orders: Prohibits referral to a specific psychiatric residential treatment facility in a judges’ child placement order. Under the Medicaid program, if a child is placed in a specific psychiatric residential treatment facility (PRTF) by a judge’s order, the placement is presumed to be punitive, not medically necessary, and therefore, not reimbursable by Medicaid. Placements made by a medical provider or MDTs are reimbursable by Medicaid. This Act provides that placement orders of children under the Child Protection Act, the Children in Need of Supervision Act and the Juvenile Justice Act shall not specify a PRTF or level of care.
- SF0146 – Termination of Parental rights: Reunification of child with family in child protection proceedings. In general when a child is removed from a home in a child protection proceeding, attempts must be made to reunify the child with his family. This Act expands the exceptions to this general rule. Under this Act, the State of Wyoming, through DFS, is not required to attempt reunification efforts when the parent: has been convicted of specified sexual crimes involving the child or another child of the parent and/or is required to register as a sex offender because the parent committed an offense involving the child or another child of the parent.
- SF0117 – Confidentiality of Domestic Abuse Victim Information: Court orders allowing for nondisclosure of information relating to victims of domestic

- abuse. This Act creates a procedure to allow for an order in any court proceeding in the State of Wyoming to keep the address, city and state of residence or any other information identifying the residence of a victim of domestic abuse confidential during the court proceedings. The order shall be issued if: the victim of domestic abuse has been granted a protective order against a household member; or the court finds by a preponderance of the evidence that the person is a victim of domestic abuse and without the confidentiality order the person may be subject to additional acts of domestic abuse. The Act allows DFS, Child Support Enforcement Division, to disseminate information protected by a confidentiality order to comply with federal law including the Child Support Enforcement Act and the Uniform Interstate Family Support Act in limited circumstances as specified in the Act. The Act further makes conforming amendments to statutes currently providing for confidentiality in court proceedings or requiring disclosure of information identifying a domestic victim's residence. A confidentiality order issued under this Act applies only to the court action in which it is granted and for additional purposes specified by law.
- SF0115 – Protective Services Investigation Amendments: Investigating reports regarding child and adult protective services. The legislation changes the language used to describe the investigations required after a report is made to a local child or adult protective service. The new language requires an investigation or assessment “to verify” every report and requires that agencies cooperate during the “assessment or” investigation. The legislation also changes the definition of “substantiated report.” The old definition defined a substantiated report as a report that was determined upon investigation to *establish the existence of credible evidence* of the alleged conduct. Under this legislation, a substantiated report is a report that is determined upon investigation to *establish the alleged conduct by a preponderance of the evidence*.

Case Law

- *In the Interest of MC, HC and CC, Minor Children. DL, Appellant v. State of Wyoming, Department of Family Services, Appellee*, 299 P.3d 75 (Wyo. 2013). Appellant was found to have neglected her three children and the Court did not abuse its discretion in dealing with the claimed discovery violations, that Appellant received due process, and that the evidence was sufficient to support a finding of neglect.

2014 Legislation & Case Law

Legislation

- HB0033 - Jury Pool Selection-Archaic Language: Jury Selection Process: This Act updates and amends archaic provisions relating to the selection of juries. The bill provides that the Supreme Court will compile a base jury list for each county; the base jury lists will be compiled from voter lists and may include names from Wyoming driver's license lists; and district courts and circuit courts will select jury panels from the base jury list using a random method of selection.
- HB0043 – Children In Need of Supervision Age: CHINS applicability. Under current law, a juvenile court has jurisdiction to do the following: determine questions concerning the right to legal custody of a minor in need of supervision; order any party to the proceedings to perform any acts, duties and responsibilities the court deems necessary; and 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 made by the court. Under current law, the juvenile court may exercise jurisdiction over children in need of supervision until the child has reached the age of seventeen. This Act extends that jurisdiction until a child has reached the age of eighteen.
- HB0128 – Juvenile Courts-Sanctions. Juvenile Court Authority. Current law provides that conditions of release from Wyoming boys' school and Wyoming girls' school are imposed by Wyoming DFS. This Act clarifies that those conditions of release are imposed by the juvenile court.

Case Law

- *In the Interest of LB, BO, KO, Minors, State of Wyoming, Department of Family Services v. DH and CB, Appellees and State of Wyoming*, 2014 WY 10, No. S-13-0095. Regardless of whether DFS has actual custody of a child, it has the authority to file a petition to terminate parental rights per Wyo. Stat. Ann. 14-2-310(a)(iii).