

DELINQUENCY PROCEEDINGS

Training for HFWA Providers Working in
Wyoming's Juvenile Courts

Version 1

Module # 4



**CHILDREN'S
JUSTICE PROJECT**
A Project of the Wyoming Supreme Court



Wyoming
Department
of Health

Delinquency Proceedings

MODULE # 4

DELINQUENCY CASES

Title 14 of the Wyoming Statutes covers Children. Chapter 6 is specific to juveniles and Article 2 covers the Juvenile Justice Act while Article 3 covers the Juvenile Probation Act.

CHINS V. DELINQUENCY CASES

Child in Need of Supervision (CHINS) and Delinquency cases have many similarities including:

- Right to public defender (direct counsel), may also have a guardian ad litem.
- Right to jury trial.
- Federal and constitutional protections.
- Court has authority in both CHINS and delinquency cases to require parents to meet certain requirements.

A difference, however, is that a delinquency petition includes “counts” like a criminal proceeding whereas CHINS does not.

DFS’S CHILD PROTECTIVE SERVICES (CPS) PROCESS

DFS caseworkers communicate, provide, and coordinate services for families involved in juvenile court. The caseworker will make recommendations to the court regarding services and visitation. DFS probation officers are responsible for supervising youth involved in CHINS cases and delinquent cases. DFS’ policies are located at <http://dfsweb.wyo.gov/social-services/policy>. The process consists of Probation Intake, PACT Assessments, Intensive Supervision Program (ISP), Shelter Care/Initial Hearing Report, Predisposition Report, Family Service Plan, and Youth Empowered Success (YES) Case Plan.

Probation Intake, Positive Achievement Change Tool (PACT) Assessments, and Intensive Supervision Program (ISP)

When DFS is notified of the filing of a CHINS or delinquency petition, the caseworker conducts an intake and gathers information to enter into the DFS system within seven (7) days of receipt.

Delinquency Proceedings

Within seven (7) days of the court order ordering DFS involvement the caseworker contacts the youth and family and explains the allegations in the complaint and offers non-mandatory services.

The caseworker uses the gathered information to complete the PACT, which assesses risk and needs with the objective of increasing the youth's personal accountability and making positive behavioral changes. The results of the PACT are used to assess a youths eligibility for an ISP. ISPs provide courts with an alternative to out-of-home placements or incarceration; however, a youth must be classified by the PACT as high risk and/or high need.

Detention/Initial Hearing Report

The purpose of the Detention/Initial Hearing Report is to provide necessary information on abuse and or neglect cases, CHINS, and juvenile delinquency cases to the juvenile court. The report shall list the following:

- Identifying information regarding the children/youth, family, household members, and other important people;
- Physical and mailing address of the family;
- Presenting situation;
- If continuation in the home would be contrary to the welfare of the children/youth and if removal from the home is in the best interest of the children/youth;
- Reasonable efforts that have been made to prevent the removal of the children/youth;
- Efforts made to contact the absent parent(s) and/or relatives;
- Indian Child Welfare Act (ICWA);
- Recommendations; and
- Placement.

Role of the Public Defender

A public defender defends indigent persons charged with and/or convicted of a crime or delinquent act in both CHINS and delinquency cases. The court determines whether a person's financial situation requires the appointment of a public defender. The public defender reacts once a person has been cited or charged with a crime and represents what the child wants.

Predisposition Report

By order of the court, or within 30 days of a petition being filed, a PDR shall be completed prior to the disposition hearing. The DFS caseworker shall complete the PDR by summarizing the significant findings of the investigation and the report shall include recommendations for a Family Service Plan.

Family Service Plan

Both the Family Service Plan establish measurable goals and steps that specifically address the needs of the entire family while incorporating the safety, well-being, and permanency of the child(ren)/youth. Both plans are family centered, strengths based, individualized, culturally competent, comprehensive, reflective of community partnership, and outcome based. The difference is a Family Service Plan is required for all open cases.

YES Plan

The YES Case Plan has the same purpose as the Family Service Plan, but it is a requirement for all open probation cases. The YES Case must be completed within 30 days of adjudication and is reviewed every 90 days thereafter.

COURT PROCESS

CHINS proceedings start with the filing of a verified petition. Based off of the petition, the district or county attorney may choose to file an action and provide the parties with notice.

Detention Hearing

The shelter care hearing must be held within forty-eight (48) hours of a youth entering Temporary Protective Custody (TPC). Prior to the hearing, the child, parents, guardian, or custodian must receive written notice. At the hearing the court shall determine if full-time shelter care is necessary.

Initial Appearance

The shelter care hearing and initial appearance may be conducted simultaneously. The purpose of the initial appearance is to advise the respondent of his or her rights, the specific allegations, any possible liability for costs of treatment and services, and give the respondent the opportunity to admit or deny. If the respondent admits, a dispositional hearing is held; if the respondent denies, an adjudication hearing is held.

Adjudication

Adjudication is the court's formal ruling on a disputed matter through either a bench or jury trial. Adjudication must be set within 60 days after removal of the child or within 90 days for good cause shown. If the respondent is adjudicated (found guilty), the case proceeds to a dispositional hearing. If the respondent is not adjudicated, the case is dismissed.

Consent Decree

An alternative to adjudication and disposition hearings is a consent decree whereby all parties sign an agreement to resolve the dispute with an admission of guilt or liability. However, the parties are generally under an obligation to comply with a DFS Family Service Plan and, if the parties fail to comply, the consent decree may be revoked.

Dispositional Hearing

The dispositional hearing decides question such as the child's current living situation, who has legal custody, and what services the child or family needs. The hearing may be held immediately after adjudication or within 60 days. Before the court orders placement outside the home, the court shall find that returning the child to the home is not in the child's best interest. Disposition orders are in effect for not more than one (1) year and must have an additional hearing before the order expires to determine the need for another order. Dispositional orders also terminate upon a youth reaching the age of eighteen (18).

Sanctions

Wyoming statute 14-6-246 lists sanctions levels for delinquency cases as follows:

- Level one: Misdemeanor punishable by not more than 6 months imprisonment.
- Level two: Misdemeanor punishable by not more than 1 year imprisonment.
- Level three: Felony, other than violent felony.
- Level four: Violent felony, other than felony punishable by life, life without parole or death.
- Level five: Felony punishable by life, life without parole or death.

However, a judge can always deviate from sanction level and use his or her judicial discretion.

Review Hearings

Review hearings are required every 6 months and every 6 months thereafter. The court shall review the case plan and determine the following:

- The health and safety of the child;
- Continuing necessity for placement;
- Appropriateness of placement;
- Recommendations made by DFS;
- Appropriateness of case plan and compliance with case plan;
- Extent of progress towards alleviating or mitigating causes necessitating placement; and
- Date child is expected to be returned to the home or achieve permanency.

Permanency Hearings

Permanency hearing must take place no later than 12 months from the date of the child's removal and every 12 months thereafter. The purpose is to determine whether DFS made reasonable efforts to reunify the family and whether a different permanency plan is in the best interest of the child. At the hearing, DFS shall present to the court the efforts made to effectuate the permanency plan for the child, address the permanency options, examine the reasons for excluding certain options, and set forth the proposed plan to carry out the placement decision, including the specific timeline. The hierarchy of permanency is reunification, adoption, guardianship, placement with a fit and willing relative, and, finally, another planned permanent living arrangement.

Appeal

Parties have the right to appeal unfavorable outcomes to the Wyoming Supreme Court within 30 days of the final action, with a few limited exceptions.

HFWA PROVIDERS

A family care coordinator (FCC) may be appointed to the multidisciplinary team (MDT) by the court. If appointed, the FCC must have a complete understanding of non-negotiable items that may be presented to the wraparound team and the implications of sharing confidential information that must not be shared with the wraparound team.