

75 LSO - 541

HOUSE BILL 296

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Title: AN ACT to create W.S. 14-28.14; and to amend W.S. 14-28.7 through 14-28.13 relating to child abuse and neglect; requiring the appointment of an attorney for the abused child; defining terms; requiring reports and investigations of child abuse; providing immunity for reporters of child abuse; providing for waivers of privileges; and establishing a central registry for records of child abuse and neglect.

Sponsored by: Fayaz Ahmad Durrani
Rizvi Ahmed Steve Campbell

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INTRODUCED

1975

STATE OF WYOMING

75LSO-541.01

HOUSE BILL NO. 296

Child abuse and neglect.

Sponsored by: Representative DOWNING

Ferguson Downing
Rep. Downing
A BILL
for

1 AN ACT to create W.S. 14-28.14; and to amend W.S. 14-28.7
2 through 14-28.13 relating to child abuse and neglect;
3 requiring the appointment of an attorney for the abused
4 child; defining terms; requiring reports and investi-
5 gations of child abuse; providing immunity for reporters
6 of child abuse; providing for waivers of privileges; and
7 establishing a central registry for records of child abuse
8 and neglect.

9 Be It Enacted by the Legislature of the State of Wyoming:

10 Section 1. W.S. 14-28.14 is created to read:

11 14-28.14. Appointment of attorney for child. In
12 child abuse and child neglect litigation, the court shall
13 appoint an attorney to represent the rights and interests
14 of the child if he does not have an attorney of his
15 choice, and also a guardian if it appears that the child
16 has no legally appointed guardian to represent his inter-

1 ests.

2 Section 2. W.S. 14-28.7 through 14-28.13 are amended
3 to read:

4 14-28.7. "Child abuse" and "child neglect" defined.

5 As used in this act:

6 (a) "Child abuse" means ~~any-case-in-which~~ INFLECTING
7 UPON a child ~~exhibits-evidence-of-skin-bruising, bleeding,~~
8 ~~malnutrition, sexual-molestation, burns, fracture--of--any~~
9 ~~bone,--subdural-hematoma, soft-tissue-swelling, failure-to~~
10 ~~thrive, or-any-case-in-which-death-occurs, and-such-condi-~~
11 ~~tion-or-death-is-not-justifiably-explained, or--where--the~~
12 ~~history--given--concerning--such--condition-or-death-is-at~~
13 ~~variance-with-the-degree-or--type--of--such--condition--or~~
14 ~~death,--or--circumstances--indicate-that-such-condition-or~~
15 ~~death-may-not-be-the-product-of-an-accidental--occurrence,~~
16 PHYSICAL OR MENTAL INJURY OR CAUSING DETERIORATION OF A
17 CHILD AND INCLUDES FAILURE TO MAINTAIN REASONABLE CARE AND
18 TREATMENT OF THE CHILD AND EXPLOITING A CHILD TO SUCH AN
19 EXTENT THAT HIS HEALTH, MORALS OR EMOTIONAL WELL-BEING IS
20 ENDANGERED;

21 (b) "CHILD NEGLECT" MEANS:

22 (i) THE MISTREATMENT OF A CHILD IN A MANNER OR
23 TO AN EXTENT WHICH IS UNREASONABLE OR IN EXCESS OF ORDI-

1 NARY PARENTAL OR CUSTODIAL AUTHORITY;

2 (ii) THE ABANDONMENT OF A CHILD BY HIS PAR-
3 ENTS, GUARDIAN OR CUSTODIAN;

4 (iii) THE FAILURE TO PROVIDE PROPER CARE, CON-
5 TROL, SUBSISTENCE, EDUCATION, MEDICAL CARE OR TREATMENT,
6 OR SUPERVISION NECESSARY FOR THE CHILD'S PHYSICAL AND
7 MENTAL HEALTH AND WELFARE. TREATMENT GIVEN IN GOOD FAITH
8 BY SPIRITUAL MEANS ALONE, THROUGH PRAYER, BY A DULY
9 ACCREDITED PRACTITIONER IN ACCORDANCE WITH THE TENETS AND
10 PRACTICES OF A RECOGNIZED CHURCH OR RELIGIOUS DENOMINATION
11 IS NOT CHILD NEGLECT FOR THAT REASON ALONE;

12 (iv) THE INABILITY OF THE CHILD'S PARENTS,
13 GUARDIAN OR CUSTODIAN TO DISCHARGE THEIR RESPONSIBILITIES
14 TO THE CHILD BECAUSE OF IMPRISONMENT, HOSPITALIZATION OR
15 PHYSICAL OR MENTAL INCAPACITY.

16 14-28.8. Persons required to report child abuse or
17 neglect; report by member of hospital staff. Any physi-
18 cian, surgeon, dentist, osteopath, chiropractor, podia-
19 trist, intern, resident, nurse, druggist, pharmacist, lab-
20 oratory technician, school teacher, ~~or~~ SCHOOL administra-
21 tor, social worker, or any other person having reasonable
22 cause to believe that a child under the age of eighteen
23 (18) years ~~brought-to-him-or-coming-before-him-for--exami-~~

1 ~~nation, care, treatment, aid or assistance,~~ is or has been
2 ~~the--subject--of-child-abuse-as-defined-in-this-act~~ ABUSED
3 OR NEGLECTED, shall report ~~that-fact~~ SUCH ABUSE OR NEGLECT
4 in accordance with ~~the--provisions--of--this--act~~ W.S.
5 14-28.9. When the ~~attendance-of-the-person-reporting-with~~
6 ~~respect--to--a-child~~ OBSERVATION OF CHILD ABUSE OR NEGLECT
7 is ~~pursuant-to-the-performance-of-services-as~~ MADE BY a
8 member of the staff of a hospital or ~~similar~~ OTHER insti-
9 tution he shall ~~notify~~ REPORT THE SUSPECTED ABUSE OR
10 NEGLECT TO the person in charge of the HOSPITAL or insti-
11 tution or his designated delegate ~~of-the-suspected--abuse,~~
12 ~~and--the--person--so-notified~~ WHO shall THEREUPON MAKE THE
13 report ~~in-accordance--with--the--provisions--of--this--act~~
14 REQUIRED IN W.S. 14-28.9.

15 14-28.9. Method of making and contents of report.
16 ~~An-oral~~ THE report of the suspected CHILD abuse OR NEGLECT
17 shall be made immediately ~~by-telephone-or--otherwise,~~ and
18 ~~followed--by--a--report--in--writing--if-requested,~~ to the
19 department of health and social services, division of
20 public assistance and social services, AND TO THE POLICE
21 DEPARTMENT OR SHERIFF'S OFFICE in the county where the
22 ~~examination--was--conducted--or-the~~ child ABUSE OR NEGLECT
23 was observed. THE INITIAL REPORT SHALL BE MADE ORALLY
24 AND, IF REQUESTED, IT MAY BE FOLLOWED BY A WRITTEN REPORT.

1 The report shall contain the names and addresses of the
2 child and his parents, GUARDIANS or caretakers, CUSTO-
3 DIANS, if known, the child's age, the nature and extent of
4 the child's injuries, ABUSE OR NEGLECT, including any evi-
5 dence of previous injuries, ABUSE OR NEGLECT, and any ALL
6 other information ~~that-might-be--helpful--in--establishing~~
7 PERTINENT TO THE DETERMINATION OF the cause of or nature
8 of the CHILD'S abuse OR NEGLECT and the identity of the
9 perpetrator.

10 14-28.10. Investigation by division of public assis-
11 tance and social services and police department or
12 sheriff's office; coordination with child protection
13 teams; legal action required. The-office-of UPON RECEIPT
14 OF THE REPORT the division of public assistance and social
15 services ~~receiving-the-report~~ AND THE POLICE DEPARTMENT OR
16 SHERIFF'S OFFICE shall ~~immediately~~ COORDINATE THEIR
17 EFFORTS AND UTILIZE AVAILABLE LOCAL CHILD PROTECTION TEAMS
18 OR COUNCILS TO INVESTIGATE OR cause an investigation TO BE
19 MADE into the CHILD'S home and the circumstances surround-
20 ing the ~~child-and-the~~ suspected CHILD abuse OR NEGLECT. 7
21 and THEY shall ALSO take such action and provide such
22 services ~~as--may--be~~ necessary ~~under-the-circumstances~~ to
23 protect the child. If ~~after-investigation~~ the division of
24 public assistance and social services OR THE POLICE

1 DEPARTMENT OR SHERIFF'S OFFICE deems legal action neces-
2 sary to protect the child, ~~it--shall--advise~~ the county
3 attorney of the county ~~in-which~~ WHERE the child resides or
4 ~~may--be~~ IS found ~~and--request-such~~ SHALL INITIATE legal
5 action ~~as-may-be-appropriate~~ FOR THE MENTAL AND PHYSICAL
6 HEALTH AND WELFARE OF THE CHILD.

7 14-28.11. Persons making reports immune from liabil-
8 ity. ~~Anyone~~ PERSONS, OFFICERS OR AGENCIES acting AND RE-
9 PORTING in good faith ~~in-the-making-of-a-report--pursuant~~
10 ~~to-the-requirements-of~~ UNDER this act, or performing ~~their~~
11 official duties in response to such report, or participa-
12 ting in a judicial proceeding resulting therefrom, shall
13 ~~in--so--doing~~ BE PRESUMED TO BE ACTING IN GOOD FAITH AND
14 SHALL be immune from any liability, civil or criminal,
15 that ~~might~~ MAY otherwise be incurred or imposed.

16 14-28.12. Waiver of privileges. The
17 physician-patient privilege or the husband-wife privilege
18 OR ANY PRIVILEGE EXCEPT THE ATTORNEY-CLIENT PRIVILEGE,
19 PROVIDED FOR BY PROFESSIONS SUCH AS THE PRACTICE OF SOCIAL
20 WORK OR NURSING COVERED BY LAW OR A CODE OF ETHICS REGARD-
21 ING PRACTITIONER-CLIENT CONFIDENCES, BOTH AS THEY RELATE
22 TO THE COMPETENCY OF THE WITNESSES AND TO THE EXCLUSION OF
23 CONFIDENTIAL COMMUNICATIONS, shall not ~~be-a-ground-for~~
24 ~~excluding-evidence-regarding-a-child~~ PERTAIN in any judi-

1 ~~et al--proceedings~~ CIVIL OR CRIMINAL LITIGATION IN WHICH A
2 CHILD'S ABUSE OR NEGLECT IS IN ISSUE NOR IN ANY JUDICIAL
3 PROCEEDING resulting from a report made pursuant to the
4 requirements of this act.

5 14-28.13. Establishment of central registry for
6 records of child abuse or child neglect reports; preser-
7 vation of records and reports subject to W.S. 42-19.
8 ~~There--shall--be--established--in~~ The state department of
9 health and social services, SHALL ESTABLISH IN THE divi-
10 sion of public assistance and social services, a central
11 registry ~~for-maintaining-a-record-of-each--case--of--child~~
12 ~~abuse--reported-under-the-provisions-of-this-act,--Each~~ IN
13 WHICH ALL CHILD ABUSE AND CHILD NEGLECT REPORTS SHALL BE
14 FILED BY EACH county office of the department. ~~shall~~
15 ~~report-all-cases-of-child-abuse-to-the-central-registry-in~~
16 ~~such-manner-and-form-as--may--be--required--by--the--state~~
17 ~~department.~~ THE CENTRAL REGISTRY SHALL PRESCRIBE THE
18 FORMS TO BE USED BY THE COUNTY OFFICES AND SHALL MAINTAIN
19 A RECORD OF EVERY CHILD ABUSE AND CHILD NEGLECT REPORT AND
20 COMPILE DETAILED AND COMPREHENSIVE STATISTICS THEREOF.
21 All ~~such~~ records and reports IN THE CENTRAL REGISTRY ~~shall~~
22 ~~be~~ ARE subject to the provisions of ~~section~~ W.S. 42-19,
23 ~~Wyoming--Statutes--1957,--as-amended-by-section-37--Chapter~~
24 ~~131,--Session--laws--of--Wyoming--1969,~~ concerning their

1 preservation, use and production for judicial proceedings.

2 Section 3. This act is effective ninety (90) days
3 after adjournment of the session of the legislature at
4 which it was enacted.

5 (END)