

**DRAFT REVISED JUVENILE CODE OF WYOMING:
GUIDE TO SIGNIFICANT PROPOSED CHANGES**

Section 14-6-201: Statement of Purpose/ Definitions

- Statement of Purpose moved forward to the beginning of the Act
- Preamble added to reflect main goals of the Act
- Additions/ Edits to public purposes
 - Compare former § 14-6-201(c)(i)-(vi) with draft § 14-6-201(b)
 - Added language re: providing continuum of services for children and families that emphasizes prevention of further criminal activity through use of graduated responses, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior

Definitions Section:

- Changes in definitions of “Adult” and “Child” to specify 18 as age of majority
- Added Child’s attorney—specifies duties owed to child as well and that attorney represents stated interests of the child.
- “Commissioner” now includes “qualified and trained in adolescent development and juvenile law”
- Added definitions for “Diversion”, “Graduated responses,” “Guardian ad litem,” and “Minor traffic offenses”
- “Judge” now includes “qualified and trained in adolescent development and juvenile law”
- “Juvenile offense” substituted for “delinquent act” and redefined to exclude contempt and probation violations
- “Juvenile offender” substituted for “delinquent child”
- “Minor” redefined to include youth up to age 21 if offense committed before age 18
- Removed sentence related to violation of probation from definition of “Probation”
- “Hardware” and “staff secure” detention added
- “Juvenile detention facility”—last sentence permitting JDC in adult facility

Section 14-6-203: Jurisdiction/ Confidentiality of Records

Jurisdiction:

- This revised section provides exclusive original jurisdiction in juvenile court for all alleged juvenile offenses and violations of municipal ordinances
- It also provides for transfer to another court with jurisdiction only if *Kent* criteria are met pursuant to the process set forth in W.S. 14-6-237 (also modified in draft revised code).
- The District Attorney filing discretion and single point of entry section is eliminated
- New subsection (c)(ii) added giving jurisdiction when a child violated terms of a diversion order

- Added language regarding addressing underlying causes of minor’s law violations to Subsection (c)(iv)
- Added language regarding addressing underlying causes of minor’s law violations to Subsection (c)(v)
- New Subsection (c)(vi) giving jurisdiction to order the child removed from home provided that all less restrictive alternatives and interventions have been attempted and failed.

Confidentiality of Records

- Subsection (iv) rewritten to exclude permissible disclosures by District Attorney during the single point of entry determination because the SPE determination is eliminated by exclusive, original jurisdiction
- Former subsections (h) and (j) eliminated
- New subsection (e) added regarding termination of jurisdiction and that court may not exercise jurisdiction to order out of home placement for any conduct that is not a crime if committed by an adult.

Section 14-6-204: Venue

- Subsection (b) added to reflect best practices (Language taken from Alabama Code)
- Subsection (c) added stating all pending delinquency cases should be heard by a single judge when possible

Section 14-6-205: Taking Child Into Custody

- Moved language for bail to Section 14-6-209(h)(iii)
- New draft sections require “probable cause” instead of “reasonable grounds: to believe the child violated an order and specifies additional explicit criteria that must be met before taking child into custody without a warrant
- Notification to parents required
- Required notice to child of rights in language or form understandable to the child, including right to communicate with parents and counsel

Section 14-6-206: Pre-Adjudication Detention

- New draft requires risk assessment showing substantial risk of harm to self or others or risk of flight as prerequisite for detention
- Eliminated detention to protect property and detention of children with no parents/ guardians to return him to court
- New provision allowing transfer to a medical facility if detention criteria and met and child is suffering from serious physical or mental condition requiring prompt diagnosis or treatment
- New subsection (c) prohibits detention of minors under the age of 12
- New subsection (d) requires notification of parents and release to parents unless meets criteria in (a)
- New subsection (e) requiring law enforcement to use a uniform detention risk assessment to determine if child need to be detained.

Section 14-6-207: Detention Criteria

- New subsection (a) with language stating that detention is not mandatory and that forms of control or interventions short of detention shall be given preference in every case where secure detention is to be considered.
- Language is added in subsection (b) of the draft revised code to minimize and restrict the use of secure detention pre-adjudication
- New subsection (c) stating secure detention cannot be used when a child cannot be released solely because there is no parent/ guardian

Section 14-6-208: Notice of Detention

- Changed subsection (b) to reflect new requirement for detention risk assessment.

Section 14-6-209: Taking of Child into Custody, Detention Hearing Where No Court Order

- The existing code requires an “informal” detention or shelter care hearing. “Informal” is removed from the draft revised code.
- Removed language from subsection (a) related to child being interviewed by department designee prior to detention and report being submitted to court.
- A sentence is added to subsection (a) requiring DFS to give preference to non-secure placement alternatives.
- Added subsection (b) requiring access to counsel prior to detention/ shelter care hearing or no later than 24 hours after child is taken into custody.
- Added subsection (c) requiring petition be filed and presented to court no later than 72 hours after detention/ shelter care hearing if child is held in detention after hearing.
 - Removed language re: petition from subsection (a).
- Added subsection (c) changed to (e).
 - Added language regarding opportunity to consult with counsel and that no child permitted to waive right to counsel without having been provided advice of counsel.
- Moved language re: if allegations are admitted from original statute’s subsection (e) to new subsection (f).
 - Added language requiring advice of counsel. Added language allowing commissioner acting in absence of judge to establish factual basis and accept admission, but prohibiting him/ her from proceeding to detention
- Moved language re: if allegations are denied from original statute’s subsection (e) to new subsection (g).
 - Added 30 day time limit for out of custody children and 10 days for in-custody children for an adjudicatory or transfer hearing to be held.
 - Removed 90 day time limit from original code.
 - Added language about detention risk assessment
- Added subsection (h)(iii) to reflect language related to Bail from Section 14-6-205. Opportunity to post bond provided

- Added subsection (j) requiring preference be given to keeping child at home or in least restrictive placement possible

Section 14-6-210: Hearing Conducted by Commissioner; Authority & Duty

- No proposed changes

Section 14-6-211: Complaints Alleging Juvenile Offense

- Added language requiring exhaustion of community based diversion alternatives prior to filing petition.
- Added subsection (b) allowing for diversion agreement
 - Added subsections (c)-(f) relating to diversion
- Added subsection (g) requiring fines imposed under this section be paid into county general fund and used only for juvenile services

Section 14-6-212: Commencement of Proceedings; Contents of Petition

- Added language creating timelines filing petition depending on whether minor is in or out of custody

Section 14-6-213: Order to Appear

- Removed subsection (b)

Section 14-6-214: Service of Process; Order of Custody or Detention

- No proposed changes

Section 14-6-215: Presence of Parent, Custodian or Guardian at Hearing

- Parental liability for contempt for failure to appear removed

Section 14-6-216: Appointment of a Guardian Ad Litem

- Added sentence stating guardian ad litem shall not be a substitute for the child's attorney.

Section 14-6-217: Subpoenas for Witnesses and Evidence

- No proposed changes

Section 14-6-218: Search Warrants

- "Delinquent act" replaced by "unlawful act"

Section 14-6-219: Physical and Mental Examinations

- Divided original subsection (a) into two more sections ((b) & (c)).
- New subsection (a): Added "developmental" condition.
 - Added "to determine if he or she is competent to understand the delinquency proceedings and to aid the defense" to sentence about examination by doctor or mental health clinician
- New subsection (a): The existing code allows the court to commit a child to a suitable medical facility or institution for examination "if deemed necessary."

“If the court finds that child is a danger to himself or others” replaces “if deemed necessary” in draft revised code.

- Added requirement to meet Title 25 conditions for commitment
- Provision for assessment of ability to pay for parent, guardian or custodian’s substance abuse treatment added.
- New subsection (e) (subsection (c) in original code): removed life resource centers
 - Added language that the court shall hold further proceedings in abeyance if the child does not have the developmental capacity to understand the nature of the proceedings and assist in defense.
 - Removed language allowing DA to commence proceedings in district court
- New subsection (f) (Subsection (d) in original code): changed section to prohibit retaining jurisdiction over the petition if child is not likely to regain competency in the reasonably foreseeable future or if involuntary commitment proceedings conducted pursuant to Title 25 result in the commitment of the child to a state hospital or facility for treatment of mental illness.

Section 14-6-220: Emergency Medical, Surgical or Dental Examination or Treatment

- Removed this section

Section 14-6-221: Reports of Medical or Mental Examinations

- Subsection (a): Copies of examinations limited to the child’s attorney
 - Added evaluations pursuant to WS 14-6-219
- Subsection (b) added ensuring that no statement, admission or confession or incriminating information obtained by child or parent in the course of any risk assessment or medical or mental examination can be used in evidence against the child or parent in any proceeding, including future adjudication and disposition hearings

Section 14-6-222: Advising of Right to Counsel

- Replaced original code section with new draft

Appointment of Counsel

- Requirement for appointment of counsel added to draft revised code to reflect best practices (Language taken from Mississippi Code)
- Added right to representation including appeal
- Added right to appointment of necessary experts
- Permits court to order parents to pay some or all of the costs of child’s representation provided the child is adjudicated a juvenile offender

Duties of Child’s Attorney

- Clear duties for child’s attorney described in draft revised code to reflect best practices (Language taken from Alabama Code)

Section 14-6-223: Privilege against self incrimination

- Subsection (b) added to require advisement of rights before the child is questioned to reflect best practices (Language taken from Alabama Code)
- Subsection (c): language added to prohibit any admission, confession or statement made by child to a police officer or court official from being used against the child in any court proceedings unless made in the presence of a parent, guardian and after the child and guardian have been advised of rights in subsection (a) to reflect best practices. (Language taken from Connecticut Code).

Section 14-6-224: Conduct of Hearings

- Subsection (a): Requirement for hearing to be conducted “informal but orderly manner” changed to “orderly manner”
- Subsection (b): Requirement for exclusion for all hearings under Act added
 - Discretion to temporary exclude child from hearings removed

Section 14-6-225: Burden of Proof

- “Unlawful act” replaces “delinquent act”

Section 14-6-226: Initial Appearance; Adjudicatory or Transfer Hearing...

- Subsection (a): Draft revised code adds reference to W.S. 14-6-237 for transfer hearings (this section has also been revised)
 - Removed sentence stating that District Attorney does not need to establish probable cause at initial appearance to believe allegations in the petition are true
- Subsection (b): Added language re: opportunity to consult with counsel
 - Changed time limits for adjudicatory/ transfer hearing of 30 days for out of custody children and 10 days for in custody children.
 - Moved section re: admissibility of evidence and dismissal of petition if allegations not established to subsection (c)
- New Subsection (d): Made requirement for disposition to be made immediately or within 30 days of adjudicatory hearing mandatory. (changed time limit from 60 days in original code to 30 days in revised draft)
- New subsection (f): changed time limit for continuance of disposition from 60 days in original code to 30 days in revised draft

Section 14-6-228: Consent Decrees

- Moved section
- Conformed consent decree process (holding guilty plea in abeyance) with process under Wyoming Code 7-13-301.

Section 14-6-227: Predisposition Studies and Reports

- Changed requirement of predisposition report from “after a petition is filed” to “after a finding is made”
- Added requirement for predisposition report to be developed in consultation with MDT team, if one appointed

- Added deadline of 30 days after a finding for completion of predisposition report if the child is in detention.
- Subsections pertaining to multidisciplinary team removed (MDT provisions moved to W.S. 14-6-229(d)). The intent is to require the convening of an MDT only for purposes of disposition, not pre-adjudication as required under the current code.

Section 14-6-229: Decree Where Child Adjudged Juvenile Offender

- “Juvenile Delinquent” replaced by “juvenile offender” and “juvenile offense”
- Subsection (a)(ii): changed “If the court does not place the child in accordance with the recommendations...” to “ If the court does not actu in accordanve with the recommendation...”
- Subsection (a)(iii): removed progressive sanctions language
- Subsection (a)(iv)(A): comparison of cost of out-of-state placement removed.
 - Requirement for affirmative finding that no placement can be made in WY institution, or private facility or group home in WY that can provide adequate treatment or services for child.
- Added subsection (b), which prohibits removal from the home unless all available appropriate and less restrictive alternatives and intercentions have been considered.
 - Prohibits detention for conduct that is not a crime if committed by an adult (status offense)
- Removed subsection (d) allowing for any sanction under code to be imposed if child is found delinquent
- Subsection (e) in existing code moved to subsection (c) in draft revised code
- Added subsection (d) regarding presumptive period that disposition shall remain in force, including when presumptive period can and cannot be extended.
- Added subsections (e)-(u) regarding **Multidisciplinary Teams (also added to header)**
 - (e): Added language re: developing disposition recommendation hat serves best interest of the child and requirement to create individual case plan
 - Limited appointment of MDT team to cases where i) minor is found to have committed a felony or misdemeanor punishable by imprisonment for over 6 months if the court determines child should be placed out of home, or ii) child suffers from mental illness, substance abuse problem of developmental disability and would be released if appropriate services were available to keep child safe in a non-residential placement
 - Removed requirement for appointment to 10 days after finding that child has committed a juvenile offense
 - (f): Added “the child” to required MDT team members
 - Removed “The district attorney or his designee” and “the child’s attorney” from required MDT team members

- (h): Changed “Before first MDT meeting” to ““Before the post-adjudication, pre-disposition MDT meeting”
 - Added language requiring MDT to determine strengths and needs of the family and to create and individualized service plan with the goal of preventing out of home placement and maintaining the child in the home. (also in (j))
- (i): Added 14 day time limit for reviewing personal/ family history and records after adjudicatory hearing
 - Added requirement to include child in development of sanction recommendation
 - Added language that neither prosecutor or child’s attorney will be a part of MDT
- (k): Requirement for all recommendations of MDT to be provided to child, parent, prosecutor, and child’s attorney at least 10 days prior to court proceeding at which they will be considered
- (l): Time limit of 30 days for disposition hearing where recommendations will be heard after a finding if child is in detention
- (m): Added requirement of MDT to meet periodically if child is ordered out of home
 - Language added requiring MDT to write recommendation regarding incentive, interventions and services child and family need to allow child to remain safely in home
 - Added language requiring safety planning for children in out-of-home placement, determining needed supports and services to return child home, and creating a plan to connect child and family to services
 - Establish requirement of necessity by court to make any changes in disposition of case or case plan
- (n): was part of previous code section
 - Added language requiring case plans to be narrowly tailored to address behaviors underlying finding of delinquency
- (q): Changed language to require development of case plan for adjudicated juveniles that is based on the recommendations of the MDT.
 - Added requirement for case plan to specify which alternative non-residential placement services and interventions were considered and implemented and why they were found to be inadequate when recommending out-of-home-placement
- Added (r), which requires department to develop a case plan specifying the supports and services needed if the child is allowed to remain at home.
- (u): Changed requirement for filing of MDT report from 5 days to 10 days
 - Added requirement to serve on all parties.

- Removed section on court’s ability to review reports and recommendations prior to adjudication, as draft revised code requires a finding to appoint MDT
- Subsections (q)-(x) in draft revised code replace subsections (g)-(r) in existing code
- Subsection (v)(i): Added language requiring notice to child’s attorney for any change in placements

Section 14-6-230: Orders of Protection

- No proposed changes

Section 14-6-231: Release of Child from Institution; Duration/ Termination of Orders of Disposition

- Replaced “child found to be delinquent” with “ child adjudicated a juvenile offender”
- Combined subsections (a) and (b).
- Removed “indefinite period of time” for length of time that order of disposition shall remain in force until terminated by court
- Added subsections related to re-entry plans

Section 14-6-232: Probation Revocation Hearing

- “Delinquency” and “delinquent” replaced with “juvenile offense” and “unlawful act”
- New (b)(ii): new language related to petition containing graduated responses that have been used and why no other less restrictive responsive are appropriate.
- (b)(iii): Added 7 day time limit prior to hearing for service of petition and order to appear
- (c): Added language requiring the court to review graduated responses employed prior to amending or revoking probation. Set requirement of employing graduated sanctions as a prerequisite to a recommendation of revocation.

Section 14-6-233: Appeals

- No proposed changes

Section 14-6-234: Stay of Orders Pending Appeal; Securing of Payment.; Staying Transfer of Legal Custody

- No proposed changes

Section 14-6-235: Fees; Costs; and Expenses

- No proposed changes

Section 14-6-236: Payment for the Support of a Child

- Added section waiving costs and fees if a determination of inability to pay is made

Section 14-6-237: Transfer Hearing

- Subsection (a): Added language limiting transfer to youth who are 16 or 17 years of age or who have committed a felony punishable by life without parole or death.
 - “Delinquent act” replaced with “juvenile offense”
 - Changed to number of days notice prior to hearing from 3 to 10 days
- Subsection (b): Removed mandatory language for transfer if the court finds appropriate reason after a transfer hearing
 - Determinative factors to be considered by judge changed to reflect best practices and legal precedent(Language used from *Kent v. United States*)
- Subsection (ix): Added requirement that court set forth in writing its finding , supported by relevant facts and opinions produced at the hearing if matter is transferred

Section 14-6-238: Proceedings Deemed in Equity

- No proposed changes

Section 14-6-239: Records and Reports Confidential

- Removed provisions allowing for release of records if there has been an adjudication of a delinquent act or to the extent necessary to meet the inquiries listed in subsections (a)(i)-(iv) in existing code and (b)

Section 14-6-240: Fingerprinting or Photographing of child; Disclosure of Child's Records

- (a): removed circumstances under which a child can be fingerprinted.
- Removed references to allowable releases of information under W.S. 14-6-203(g)
- Removed subsection (f) from existing code allowing for release of records to deter the minor or others similarly situated from committing similar offenses.

Section 14-6-241: Expungement of Records

- Redrafted section. New draft requires an order of expungement upon dismissal of a petition where there is no finding of delinquency or upon completion of diversion or any other non-adjudicatory procedure
- Requires automatic expungement upon reaching age of majority for all juveniles, except those specified in §14-6-241(c)
- Allows juveniles adjudicated delinquent for having committed a homicide or felony sexual assault to petition for expungement upon reaching majority. Describes circumstances under which court must order expungement
- Requires sealing of all information related to any delinquency case in state's juvenile justice information data system.

Section 14-6-242: Liability for Contempt

- Added subsection requiring a hearing on contempt and notice of at least 7 days prior to the hearing.
- Added subsection requiring a child’s right to an jury trial if alleged to be in criminal contempt

Section 14-6-243: Separate Docket for Juvenile Cases; Availability of Records for Statistics

- Removed sentence allowing for release of names if the child was adjudicated delinquent for commission of a violent felony

Section 14-6-244: Parental Liability for Failure to Exercise Reasonable Control and Authority

- Changed all references to exercising “reasonable parental control and authority” to “participate in court proceedings and related programming”
- Subsection (a): added requirement for participation in MDT, if appointed, as well as services
- Subsection (b): changed “at the hearing of a juvenile petition” to “At any pint during the juvenile case”
 - Added provision requiring determination of parents’ ability to pay cash deposit or bond
- Removed subsection (c)(i)

Section 14-6-245: Progressive Sanctions

- New Title: “Graduated Responses Guidelines”
- Redrafted and replaces Progressive Sanctions section in original code
- Requires Department of Family Services to develop an array of graduated sanctions that ensure the use of incentives, that fit the seriousness of offending behavior, and that take into account the risk of the youthful offender

Section 14-6-246: Sanction Levels

- Removed this section

Section 14-6-247: Sanctions Common to All Levels

- Removed this section

Section 14-6-248: Sanction Level One

- Removed this section

Section 14-6-249: Sanction Level Two

- Removed this section

Section 14-6-250: Sanction Level Three

- Removed this section

Section 14-6-251: Sanction Level Four

- Removed this section

Section 14-6-252: Sanction Level Five

- Removed this section

NEW SECTION: Access to Health, Mental Health, and Substance Abuse Treatment & Education Access

- Language used from ABA Proposed Model State Statutes for Runaway and Homeless Youth

NEW SECTION: Juvenile Detention Standards Board; Detention Standards

- Requires compliance with minimum standards and creates detention standards board to monitor compliance. Modeled after Nebraska statute and to reflect best practices.

NEW SECTION: Incentives to Reduce State Commitments and the Use of Incarceration

- Language modeled after Redeploy Illinois and to reflect best practices

ARTICLE 5 – JUVENILE JUSTICE INFORMATION SYSTEM

Section 7-19-501: Definitions

- Changed definition of “Adjudicated” or “adjudication”
- Removed definitions for “Adult,” “Delinquent Child,” and “Qualifying Offense”
- Changed definition of disposition
- Added definitions for “Juvenile Justice Information System,” “Juvenile offender,” “Juvenile offense,” “Re-offending Rate,” “Status offender,” and “Status offense”

Section 7-19-502: Record system created

- Added (a)(i) which requires creation of database for JIS in consultation with SACJJ; representatives from law enforcement and DA’s office; operators of juvenile detention facilities; Supreme Court data division and representatives from the various courts; departments of family services, education, health and corrections; and any state entities collecting juvenile justice information under state and federal grants
- (b): added language that database is a management information system containing juvenile justice information
 - States purpose of the management information system
- (c): changed reporting requirement to January 1st of each year

- (d) New subsection (d) related to coordinating juvenile justice data through state and federal grants.

Section 7-19-503: Collection of juvenile justice information

- Subsections (a)-(c) replaced with new draft language regarding what data will be collected by management information system

Section 7-19-504: Electronic Records (Renamed and renumbered)

- New language related to control methods to ensure security and confidentiality
- Requirement that juvenile justice information be maintained separately from adult offender information
- Requirement for physical sealing of records upon reaching 18 or when extended supervision ends (also requires destroying hard-copy information and disassociating name of youth from any electronic information)
 - Requirement that electronic records only be used for research and program evaluation authorized by the division

Section 7-19-505: Access to and dissemination of information (Renumbered)

- (a)(iii): changed department of family services to “state agencies with statutory responsibility for a particular youth”
- (b): changed “deleted” to “sealed.” Added language that electronic records must disassociate the information from the name of the youth
 - Requirement that electronic records only be used for research and program evaluation authorized by the division

Section 7-19-506: Inspection of Information (Renumbered)