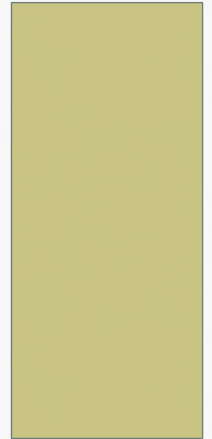


BY: AARON S. HOCKMAN  
CHIEF TRIAL AND APPELLATE COUNSEL  
WYOMING GUARDIAN AD LITEM PROGRAM  
A DIVISION OF THE OFFICE OF THE  
STATE PUBLIC DEFENDER

# DISPOSITIONAL HEARINGS 101

Wyoming Children's Justice Project  
Training Series

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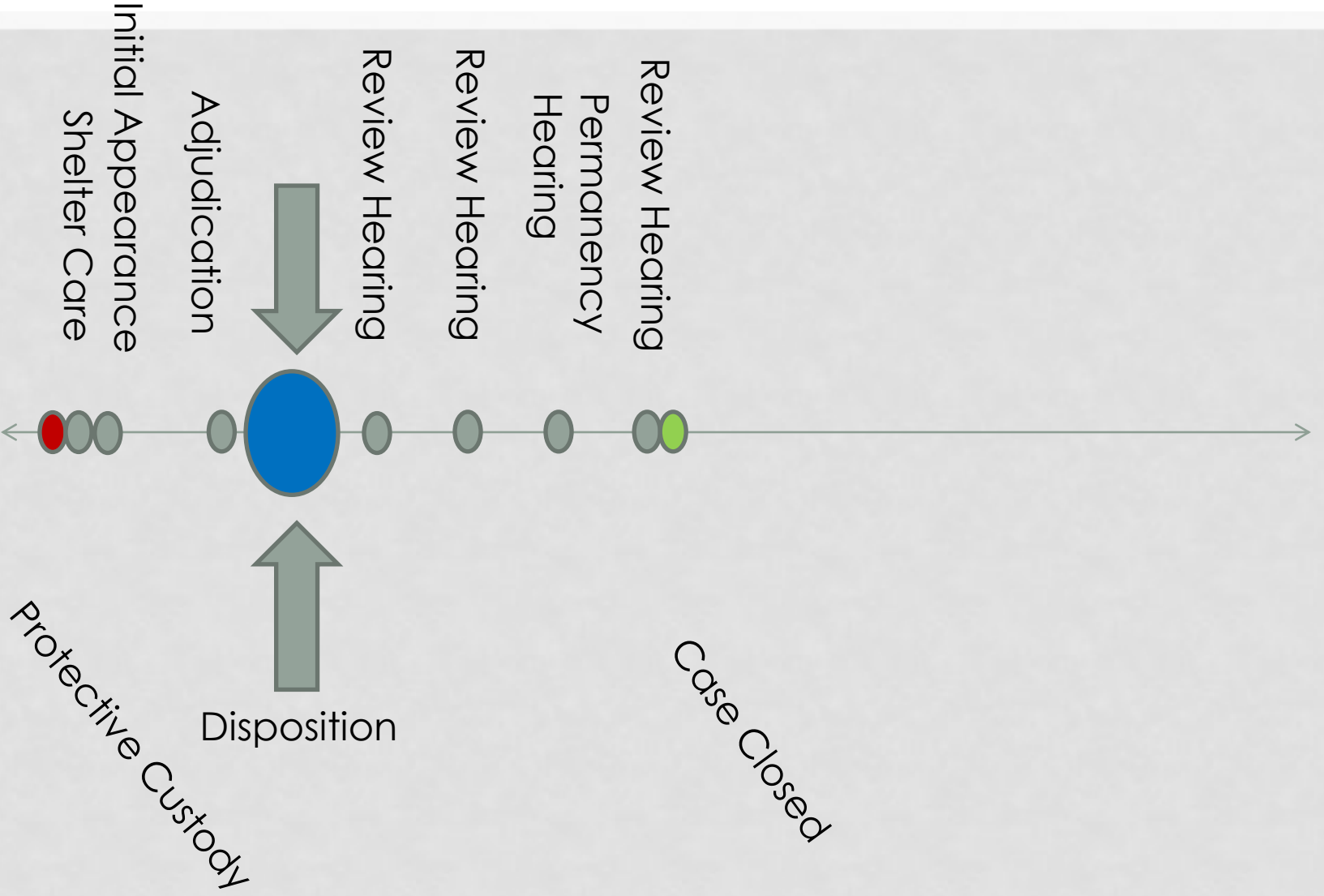
# OVERVIEW

- What is a Disposition Hearing?
- Why do we have it?
- How is it different than other juvenile court hearings?
- Differences between Disposition Hearing in Abuse/Neglect, CHINS, and Delinquency cases.

Child Protection Act  
Wyoming Statutes §§ 14-3-401 – 14-3-440

# ABUSE/NEGLECT

# TIMELINE



## WYO. STAT. § 14-3-426(C)

- (c) If after an adjudicatory hearing or a valid admission or confession the court or jury finds that a child is neglected, it shall enter a decree to that effect stating the jurisdictional facts upon which the decree is based. It may then proceed immediately or at a postponed hearing within sixty (60) days to make proper disposition of the child.

# WYO. STATS. §§ 14-3-426(D) – (F)

- (d) In ... disposition hearings, all material and relevant evidence helpful in determining questions may be received by the court and relied upon for probative value. The parties or their counsel may examine and controvert written reports received as evidence and cross-examine persons making the reports.
- (e) On motion of any party or on its own motion, the court may continue a disposition hearing for a reasonable time not to exceed sixty (60) days to receive reports and other evidence bearing on the disposition to be made. The court shall make an appropriate order for shelter care of the child or for his release from shelter care subject to any terms and conditions the court deems necessary during the period of continuance.
- (f) At any time prior to disposition under W.S. 14-3-429, the court, on motion of any party or on its own motion, may reconsider its order regarding shelter care or conditions of release made under W.S. 14-3-409 or 14-3-414.

# SUMMARY - WYO. STAT. § 14-3-426

- The Court can move straight from adjudication to disposition.
  - Rarely occurs.
- Continued disposition must be within 60 days.
  - For the Court to receive reports helpful to disposition.
- The Court may reconsider/modify order on shelter care.

# REPORTS

- Predisposition Report
  - MDT Reports
  - Case Plan
  - Substance Abuse/Mental Health Evaluations
  - Placement Evaluations
- W.S. § 14-3-427(a)
  - W.S. § 14-3-427(n)
  - W.S. § 14-3-427(k)



# WYO. STAT. § 14-3-429(A)

- (a) In determining the disposition to be made under this act in regard to any child:
  - (i) The court shall review the predisposition report, the recommendations, if any, of the multidisciplinary team, the case plan and other reports or evaluations ordered by the court and indicate on the record what materials were considered in reaching the disposition;
  - (ii) If the court does not place the child in accordance with the recommendations of the predisposition report or multidisciplinary team, the court shall enter on the record specific findings of fact relied upon to support its decision to deviate from the recommended disposition;

# WYO. STAT. § 14-3-429(A), CONT.

- (a) In determining the disposition to be made under this act in regard to any child:
  - (iii) When a child is adjudged by the court to be neglected the court shall enter its decree to that effect and make a disposition as provided in this section that places the child in the least restrictive environment consistent with what is best suited to the public interest of preserving families and the physical, mental and moral welfare of the child;
  - (iv) When a child is adjudged to be neglected the court shall ensure that reasonable efforts were made by the department of family services to prevent or eliminate the need for removal of the child from the child's home or to make it possible for the child to return to the child's home. Before placing a child outside of the home, the court shall find by clear and convincing evidence that to return the child to the child's home would not be in the best interest of the child despite efforts that have been made;

# WYO. STAT. § 14-3-429(A), CONT.

- (a) In determining the disposition to be made under this act in regard to any child:
  - (v) The court shall not order an out-of-state placement unless:
    - (A) Evidence has been presented to the court regarding the costs of the out-of-state placement being ordered together with evidence of the comparative costs of any suitable alternative in-state treatment program or facility, as determined by the department of family services pursuant to W.S. 21-13-315(d)(vii), whether or not placement in the in-state program or facility is currently available;
    - (B) The court makes an affirmative finding on the record that no placement can be made in a Wyoming institution or in a private residential treatment facility or group home located in Wyoming that can provide adequate treatment or services for the child; and
    - (C) The court states on the record why no in-state placement is available.

# SUMMARY - WYO. STAT. § 14-3-429(A)

- In making dispositional findings, the Court **must**:
  - Review the PDR, MDT Reports, case plan, and other reports ordered.
  - Identify reports it is considering.
  - Identify facts if deviating from recommendations.
  - Place child in least restrictive environment.
  - Reasonable efforts have been made to prevent/eliminate need for removal.
  - Clear and Convincing Evidence if it is not in the child's best interest to return home.
  - Follow procedures for out-of-state placements.

## WYO. STAT. § 14-3-429(B)

- (b) If the child is found to be neglected the court may:
  - (i) Permit the child to remain in the legal custody of his parents, guardian or custodian without protective supervision, subject to terms and conditions prescribed by the court;
  - (ii) Place the child under protective supervision;
  - (iii) Transfer temporary legal custody to a relative or other suitable adult the court finds qualified to receive and care for the child, with or without supervision, subject to terms and conditions prescribed by the court;
  - (iv) Transfer temporary legal custody to the department of family services or a state or local public agency responsible for the care and placement of neglected children, provided the child shall not be committed to the Wyoming boys' school, the Wyoming girls' school or the Wyoming state hospital.

# WYO. STAT. § 14-3-429(D)

- (d) As a part of any order of disposition and the terms and conditions thereof, the court may:
  - (i) Impose any demands, requirements, limitations, restrictions or restraints on the child, and do all things with regard to the child that his parents might reasonably and lawfully do under similar circumstances;
  - (ii) Order the child, or his parents, or both, to undergo evaluation and indicated treatment or another program designed to address problems which contributed to the adjudication. ...
  - (iii) Require the child's parents or guardian to attend a parenting class or other appropriate education or treatment designed to address problems which contributed to the adjudication and to pay all or part of the cost of the class, education or treatment in accordance with the court's determination of their ability to pay;
  - (iv) Require the child's parents or guardian and the child to participate in a court supervised treatment program qualified under W.S. 7-13-1601 through 7-13-1615, provided the court supervised treatment program accepts the child's parents or guardian and the child for participation in its program.

# SUMMARY - WYO. STATS. §§ 14-3-429(B) AND (D)

- The Court may place the child.
  - Great discretion.
- Order the parents, guardians, custodians, to parenting, educational, treatment, or rehabilitative treatments.
  - Again great discretion.



# WYO. STAT. §§ 14-3-431(A) AND (B)

- (a) An order of disposition shall remain in force for an indefinite period until terminated by the court whenever it appears the purpose of the order has been achieved and it is in the child's best interest that he be discharged from further court jurisdiction.
- (b) Unless sooner terminated by court order, all orders issued under this act shall terminate with respect to a child adjudicated neglected, when he reaches eighteen (18) years of age unless the court has ordered care or services to continue beyond that time.



# SUMMARY - WYO. STATS. §§ 14-3-431(A) AND (B)

- Dispositional Orders are of indefinite duration.
- Though no later than the child's 18<sup>th</sup> birthday;
  - Unless the Court has extended jurisdiction; with hearing 6 months BEFORE the child turns 18;
  - No extension beyond child's 21<sup>st</sup> birthday.

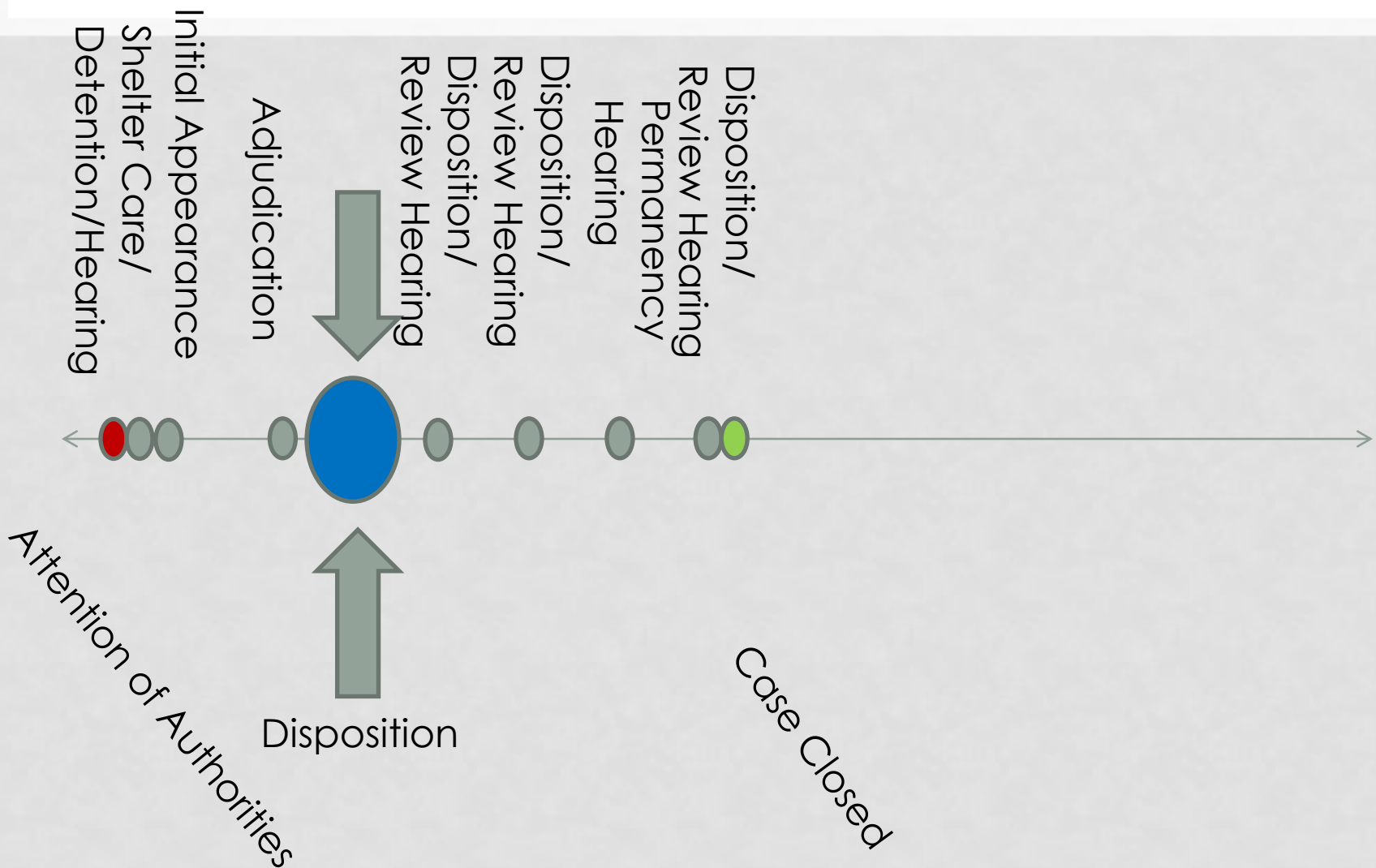
# WHY HAVE A DISPOSITION HEARING?

- Ends the shelter care and pre-adjudication periods of the case.
- Child has been adjudicated neglected by the parent(s).
  - Due Process underpinnings. See *In re "H" Children*, 2003 WY 155, 79 P.3d 997 (Wyo. 2003).
- Sets baseline goals for resolution of case to be measured against in subsequent hearings.

Child in Need of Supervision  
Wyoming Statutes §§ 14-6-401 – 14-6-440

CHINS

# TIMELINE



# WYO. STATS. §§ 14-6-426(C) – (F)

- (c) If after an adjudicatory hearing or a valid admission or confession the court or jury finds that a child is in need of supervision, it shall enter a decree to that effect stating the jurisdictional facts upon which the decree is based. It may then proceed immediately or at a postponed hearing within sixty (60) days to make proper disposition of the child, unless the court finds good cause to delay or postpone the hearing.
- (d) In detention or shelter care hearings or disposition hearings, all material and relevant evidence helpful in determining questions may be received by the court and relied upon for probative value. The parties or their counsel may examine and controvert written reports received as evidence and cross-examine persons making the reports.
- (e) On motion of any party or on its own motion, the court may continue a disposition hearing for a reasonable time not to exceed sixty (60) days to receive reports and other evidence bearing on the disposition to be made. The court shall make an appropriate order for detention or shelter care of the child or for his release from detention or shelter care subject to any terms and conditions the court deems necessary during the period of continuance.
- (f) At any time prior to disposition under W.S. 14-6-429, the court, on motion of any party or on its own motion, may reconsider its order regarding detention or shelter care or conditions of release made under W.S. 14-6-409 or 14-6-414.

# SUMMARY - WYO. STATS.

## §§ 14-6-426 (C) - (F)

- Very similar to Abuse/Neglect Statutes.
- Court has the option to hold disposition immediately after adjudication, or continue it within 60 days, or more than 60 days with good cause.
- Good cause does not include waiting on reports or evaluations.

# SUMMARY - WYO. STAT. § 14-6-429(A)

- In making dispositional findings, the Court **must**:
  - Review the PDR, MDT Reports, case plan, and other reports ordered.
  - Identify reports it is considering.
  - Identify facts if deviating from recommendations.
  - Place child in least restrictive environment;
    - Cannot be sent to the Boy's or Girl's School.
  - Reasonable efforts have been made to prevent/eliminate need for removal.
  - Clear and Convincing Evidence if it is not in the child's best interest to return home.
  - Follow procedures for out-of-state placements.

# WYO. STAT. § 14-6-429(D)

- As a part of any order of disposition and the terms and conditions thereof, the court may:
  - (i) Require a child to perform a designated number of hours of community service, or to participate in a work program or to perform labor or services under the supervision of a responsible adult designated by the court and within the limits of applicable laws and regulations governing child labor, to enable the child to meet the obligations imposed pursuant to this act or for the purpose of discipline and rehabilitation when deemed necessary or desirable by the court;
  - (ii) Order the child to be examined or treated by a physician, surgeon, psychiatrist or psychologist or to obtain other specialized treatment, care, counseling or training, and place the child in a hospital or medical facility, youth camp, school or other suitable facility for treatment;
  - (iii) Restrict or restrain the child's driving privileges for a period of time the court deems appropriate, and if necessary to enforce the restrictions the court may take possession of the child's driver's license;
  - (iv) Impose any demands, requirements, limitations, restrictions or restraints on the child, and do all things with regard to the child that his parents might reasonably and lawfully do under similar circumstances;
  - (v) Order the child, or his parents, or both, to undergo evaluation and indicated treatment or another program designed to address problems which contributed to the adjudication.
  - (vi) After notice to appear, order the child's custodial and noncustodial parent or guardian to participate in the child's treatment or plan of supervision or probation, or otherwise order the performance of any acts which are reasonably necessary to aid the juvenile in completion of court ordered obligations;
  - (vii) Require the child's parents or guardian to attend a parenting class or other appropriate education or treatment and to pay all or part of the cost of the class, education or treatment in accordance with the court's determination of their ability to pay;
  - (viii) Require the child's parents or guardian and the child to participate in a court supervised treatment program qualified under W.S. 7-13-1601 through 7-13-1615, provided the court supervised treatment program accepts the child's parents or guardian and the child for participation in its program.



# SUMMARY - WYO. STAT. § 14-6-429(D)

- The Court may place the child.
  - Great discretion.
- Order the child to community service, work, education, treatment, counseling, or any other activity a parent could require.
- Restrain driver's license privileges.
- Order the parents, guardians, custodians, to parenting, educational, treatment, or rehabilitative treatments.

## WYO. STAT. § 14-6-429(H)

- (h) Any disposition order for a child in need of supervision continues in force for not more than one (1) year, as ordered by the court. A hearing shall be held before the expiration of the disposition order to determine the appropriateness of continuing the order including but not limited to whether the child should be returned to the parent's custody, remain under custody as ordered or have the custody order amended. The court shall enter an appropriate disposition order after each hearing under this subsection.

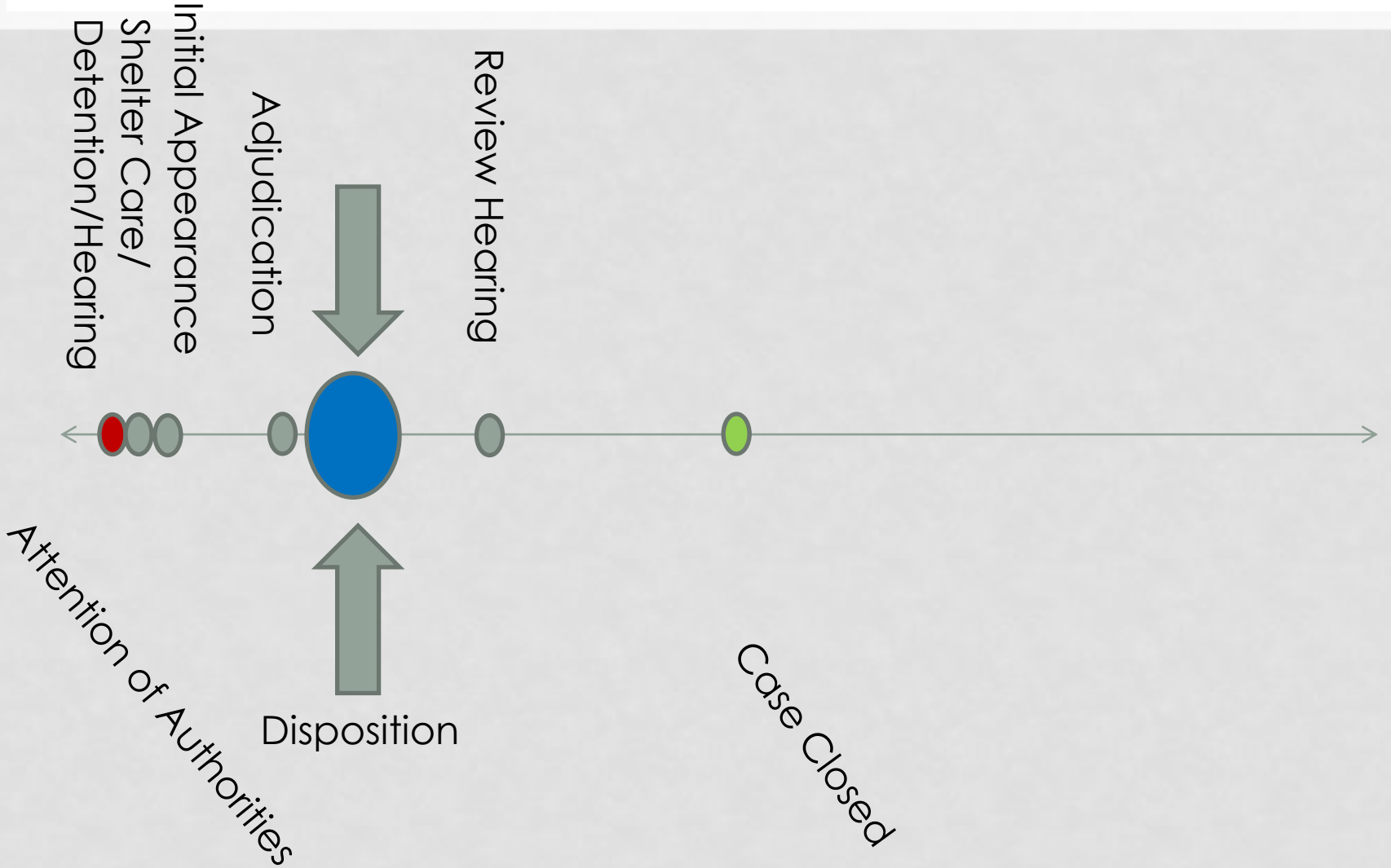
# SUMMARY - WYO. STAT. § 14-6-429(H)

- Each subsequent hearing is a dispositional hearing.
- Each order continues in effect for a period of 1 year (unless otherwise modified by the court).
  - Compare W.S. § 14-6-431 (a).
- There shall be a dispositional hearing before the expiration of the current order.
- The Court has no jurisdiction over a child adjudicated a CHINS past their 18<sup>th</sup> birthday. W.S. § 14-6-431 (b); *MF v. State*, 2013 WY 104, 308 P.3d 854.

Juvenile Justice Act  
Wyoming Statutes §§ 14-6-201 – 14-6-252

# DELINQUENCY

# TIMELINE



# WYO. STATS. §§ 14-6-226(C) – (F)

- (c) If after an adjudicatory hearing or a valid admission or confession the court or jury finds that a child committed the acts alleging him delinquent, it shall enter a decree to that effect stating the jurisdictional facts upon which the decree is based. It may then proceed immediately or at a postponed hearing within sixty (60) days to make proper disposition of the child, unless the court finds good cause to delay or postpone the hearing.
- (d) In detention or shelter care hearings, disposition hearings or transfer hearings, all material and relevant evidence helpful in determining questions may be received by the court and relied upon for probative value. The parties or their counsel may examine and controvert written reports received as evidence and cross-examine persons making the reports.
- (e) On motion of any party or on its own motion, the court may continue a disposition hearing for a reasonable time not to exceed sixty (60) days to receive reports and other evidence bearing on the disposition to be made. The court shall make an appropriate order for detention or shelter care of the child or for his release from detention or shelter care subject to any terms and conditions the court deems necessary during the period of continuance.
- (f) At any time prior to disposition under W.S. 14-6-229, the court, on motion of any party or on its own motion, may reconsider its order regarding detention, shelter care or conditions of release made under W.S. 14-6-209(d) or 14-6-214(e).

# SUMMARY - WYO. STATS. §§ 14-6-226(C) – (F)

- Very similar to Abuse/Neglect Statutes.
- Court has the option to hold disposition immediately after adjudication, or continue it within 60 days, or more than 60 days with good cause.
- Good cause does not include waiting on reports or evaluations.

# WYO. STAT. § 14-6-220(A)

- (a) In determining the disposition to be made under this act in regard to any child:
  - (i) The court shall review the predisposition report, the recommendations, if any, of the multidisciplinary team, the case plan and other reports or evaluations ordered by the court and indicate on the record what materials were considered in reaching the disposition;
  - (ii) If the court does not place the child in accordance with the recommendations of the predisposition report or multidisciplinary team, the court shall enter on the record specific findings of fact relied upon to support its decision to deviate from the recommended disposition;
  - (iii) When a child is adjudged by the court to be delinquent, the court shall enter its decree to that effect and make a disposition consistent with the purposes of this act;
  - (v) The court shall not order an out-of-state placement unless:
    - (A) Evidence has been presented to the court regarding the costs of the out-of-state placement being ordered together with evidence of the comparative costs of any suitable alternative in-state treatment program or facility, as determined by the department pursuant to W.S. 21-13-315(d)(vii), whether or not placement in the in-state program or facility is currently available;
    - (B) The court makes an affirmative finding on the record that no placement can be made in a Wyoming institution or in a private residential treatment facility or group home located in Wyoming that can provide adequate treatment or services for the child; and
    - (C) The court states on the record why no in-state placement is available.



# SUMMARY - WYO. STAT. § 14-6-220(A)

- The Court must review the PDR before disposition.
  - *In re CT*, 2006 WY 101, ¶ 13, 140 P.3d 643 (Wyo. 2006).
- Must place reason for deviation from recommendations on the record.

# WYO. STAT. § 14-6-226(D)

- (d) If the child is found to be delinquent the court may impose any sanction authorized by W.S. 14-6-245 through 14-6-252.
- The court does not have to assign a sanction level, but if it does not, it is, in essence, a deviation from the sanction guidelines and requires reasons stated on the record.
- While we previously have held that the Juvenile Justice Act does not require absolutely strict compliance, we have also said that it cannot be “ignored with impunity.” *KP v. State*, 2004 WY 165, ¶ 30, 102 P.3d 217, 226 (Wyo.2004) (MDT report does not equal predisposition report, and the court must review both and follow recommendations thereof unless supporting on the record its decision to deviate therefrom); and *WJH*, ¶ 24, 24 P.3d at 1155 (sanction level must be assigned and any deviation therefrom must be explained on the record).

*In re CT*,, ¶¶ 12-14, 648.

# WYO. STATS. §§ 14-6-231(B) AND (C)

- (b) An order of disposition shall remain in force for an indefinite period until terminated by the court whenever it appears the purpose of the order has been achieved and it is in the child's best interest that he be discharged from further court jurisdiction.
- (c) Unless sooner terminated by court order, all orders issued under this act shall terminate with respect to a child adjudicated:
  - (ii) Delinquent, when he reaches twenty-one (21) years of age;
- In essence, this provision is modified by the assignment of a sanction level.

## WYO. STAT. § 14-6-232(C)

- (c) If a child is found to have violated the terms of the child's probation, the court may amend the terms and conditions of the probation order, extend the period of probation or make any other order of disposition specified in W.S. 14-6-229(d).
- Due Process requires a probation revocation hearing in order to trigger subsequent dispositions.

# WYO. STATS. §§ 14-6-246(A) AND (C)

- (a) Subject to subsection (c) of this section, when a child is adjudicated as a delinquent the juvenile court may, in a disposition hearing, assign the child one (1) of the following sanction levels according to the child's conduct[...]
- (c) If the court determines that a child assigned a sanction level of one through four has violated a condition imposed under that sanction level, the court shall conduct a new disposition hearing and may assign the child a sanction level that is one (1) level higher than the previously assigned sanction level.

# WYO. STATS. §§ 14-6-247(A) AND (D)

- (a) For a child at any sanction level, the juvenile court may:
  - (i) Transfer temporary legal custody to a relative, other suitable adult, state agency or local public agency the court finds qualified to receive and care for the child, subject to terms and conditions prescribed by the court;
  - (ii) Commit the child to a suitable certified hospital willing to accept the child for not more than ninety (90) days for treatment for substance abuse or for specialized treatment and rehabilitation programs conducted especially for juveniles;
  - (iii) Commit the child to a juvenile detention facility for not more than six (6) months, if the adjudicated delinquent has attained the age of twelve (12) years;
  - (iv) Require the delinquent to participate in a teen court program pursuant to W.S. 7-13-1205;
  - (v) Require the child and his parents or guardian to make restitution for any damage or loss caused by the child's wrongful act, except that the liability of the parent or guardian shall not exceed the limit established by W.S. 14-2-203;
  - (vi) Impose a fine within the limits of law for an offense or misconduct by the child where a fine might be imposed by another court in this state having jurisdiction thereof. Fines shall be paid to the clerk of court for deposit to the public school fund of the county in which the fine was assessed as provided by law;
  - (vii) Require a child, within the limits of applicable laws and regulations governing child labor, to perform a designated number of hours of community service, to participate in a work program or to perform labor or services under the supervision of a responsible adult designated by the court. Any order shall enable the child to meet the obligations imposed pursuant to this act or for the purpose of discipline and rehabilitation when deemed necessary or desirable by the court;
  - (viii) Order the child to be examined or treated by a physician, surgeon, psychiatrist or psychologist or to obtain other specialized treatment, care, counseling or training, and place the child in a hospital or medical facility, youth camp, school or other suitable facility for treatment;
  - (ix) Restrict or restrain the child's driving privileges for a period of time the court deems appropriate. If necessary to enforce the restrictions, the court may take possession of the child's driver's license;
  - (x) Impose any demands, requirements, limitations, restrictions or restraints on the child, and do all things with regard to the child that his parents might reasonably and lawfully do under similar circumstances;
  - (xi) Order the child, his parents, or the guardian, to undergo evaluation and indicated treatment or another program designed to address problems which contributed to the adjudication. A parent or guardian who willfully violates or neglects or refuses to comply with any order of the court may be found in contempt and punished as provided by W.S. 14-6-242;
  - (xii) After notice to appear, order the child's custodial and noncustodial parent or guardian to participate in the child's treatment or plan of supervision or probation, or otherwise order the performance of any acts which are reasonably necessary to aid the juvenile in completion of court ordered obligations;
  - (xiii) Subject to subsection (b) of this section, impose any one (1) or more of the following requirements upon the child's parents or guardian if the court, after hearing, finds that the child's act was proximately caused by the failure or neglect of the parent or guardian to subject the child to reasonable parental control and authority:
  - (xiv) Require the child or the child's parents or guardian and the child to participate in a court supervised treatment program qualified under W.S. 7-13-1601 through 7-13-1615, provided the court supervised treatment program accepts the child's parents or guardian and the child for participation in its program.
- (d) If the juvenile court places the child on probation at any sanction level, the juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's twenty-first birthday, whichever is earlier.

# SUMMARY - WYO. STATS. §§ 14-6-247(A) AND (D)

- Court has wide discretion and ability to tailor sanctions.
- School includes the Wyoming Boy's or Girl's School at any sanction level. *K.C. v. State*, 2011 WY 108, 257 P.3d 23 (Wyo. 2011).
- The Court loses jurisdiction upon the child's 21<sup>st</sup> birthday.

# DUE PROCESS

- “[T]he Court in *In re Gault* declared, however, that “we [do not] here rule upon the question whether ordinary due process requirements must be observed with respect to hearings to determine the disposition of the delinquent child.” *In re Gault*, 387 U.S. at 27, 87 S.Ct. at 1443.”

*In re CT*, ¶ 9, 646.

- No right against self-incrimination in dispositional phase. *K.C. v. State*, ¶ 13, 27.



# PROBATION

- Individualized probation terms may be appropriate. *In re CT* at ¶11, 647.
- Some discretion afforded to the juvenile probation officer without the need for subsequent disposition hearings.

QUESTIONS?