

SENATE FILE NO. SF0047

Wyoming state training school amendments.

Sponsored by: Select Committee on Developmental Programs

A BILL

for

1 AN ACT relating to state institutions; amending provisions
2 related to the Wyoming state training school by removing
3 archaic language; changing the name of the Wyoming state
4 training school; authorizing placements for temporary
5 services; amending admission and screening criteria;
6 prohibiting isolation of residents; amending resident
7 rights; providing for payment of employed residents, as
8 specified; providing definitions; repealing duplicative
9 provisions; providing for a report; requiring rulemaking;
10 and providing for effective dates.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 3-3-501(a), 3-3-504, 9-2-106(d),
15 9-2-2005(c)(iv)(B), 14-6-219(b) through (d),
16 23-2-207(a)(ii), 25-1-201(a)(iv), 25-5-101, 25-5-102 by
17 creating a new subsection (b), 25-5-103, 25-5-104,

1 25-5-105(a)(intro), (i) through (iv), by creating a new
2 paragraph (vi) and by creating a new subsection (b),
3 25-5-106 through 25-5-108, 25-5-109(c) and (d),
4 25-5-110(c), 25-5-114(a), 25-5-115, 25-5-116, 25-5-117(a)
5 and (c), 25-5-118, 25-5-119, 25-5-120(b)(ii) through (iv)
6 and (d), 25-5-121, 25-5-124, 25-5-125, 25-5-126(a)(i), (ii)
7 and (b), 25-5-129, 25-5-130(a)(intro) and (i), 25-5-131(a),
8 (b)(intro), (i) through (iii), (v) and by creating a new
9 paragraph (vi), 25-5-132(a), (b), (c)(intro), (i), (ii),
10 (v), (vii) and by creating new paragraphs (ix) through
11 (xv), (d)(intro), (ii) and (iii) and 25-5-133 through
12 25-5-135 are amended to read:

13

14 **3-3-501. Designation of conservators; exception.**

15

16 (a) The ~~superintendent~~administrator of the Wyoming
17 ~~state training school~~disability resource center is
18 appointed conservator of the estate of:

19

20 (i) Each adult admitted to the Wyoming ~~state~~
21 ~~training school~~disability resource center unless a
22 conservator or other duly authorized agent has already been
23 appointed for the person; and

24

1 (ii) Each minor with an estate of more than five
2 thousand dollars (\$5,000.00) admitted to the ~~institution~~
3 center unless a conservator has already been appointed for
4 the minor.

5
6 **3-3-504. Transfer of funds to court appointed**
7 **conservator.**

8
9 If a conservator for a minor or incompetent person is
10 appointed by a court of this state after the person has
11 been admitted to the Wyoming ~~state training school~~
12 disability resource center or the Wyoming state hospital,
13 the conservatorship created for the ward under this article
14 shall terminate and all money and property of the ward in
15 the possession of the conservator appointed under this
16 article shall be delivered to the court appointed
17 conservator upon proof of his appointment and
18 qualification.

19
20 **9-2-106. Duties and powers of director of department.**

21
22 (d) The director may authorize the Wyoming ~~state~~
23 ~~training school~~ disability resource center, the Wyoming
24 state hospital, the Wyoming pioneer home, the veterans'

1 home of Wyoming and the Wyoming retirement center to
2 provide services to persons with conditions other than
3 those specified in the provisions governing those state
4 institutions in title 25 of the Wyoming statutes when the
5 director determines that there is a need for such services,
6 that the services can be provided effectively by the
7 institution, that the services will be delivered in a
8 manner that assures the safety of all individuals served by
9 the institution and the services provided are statutorily
10 authorized for any of these institutions, the service needs
11 are similar to those authorized for any of these
12 institutions or the services are necessary to protect the
13 public health and safety. The director ~~may~~shall promulgate
14 rules and regulations and policies and procedures necessary
15 to implement this subsection. Nothing in this subsection
16 shall be construed to authorize the director to eliminate
17 services that are otherwise required by statute. The
18 director shall report to the joint labor, health and social
19 services interim committee no later than October 1 of odd
20 numbered years with respect to the status of any actions
21 taken under this subsection and the results of those
22 actions.

23

1 **9-2-2005. Department of health created; director**
2 **appointed; structure.**

3
4 (c) The following agencies are assigned to the
5 department of health under a Type 1 transfer:

6
7 (iv) The following state institutions:

8
9 (B) Wyoming ~~state training school~~
10 disability resource center;

11
12 **14-6-219. Physical and mental examinations;**
13 **involuntary commitment of incompetents; subsequent**
14 **proceedings.**

15
16 (b) If a child has been committed to a medical
17 facility or institution for mental examination prior to
18 adjudication of the petition and if it appears to the court
19 from the mental examination that the child is competent to
20 participate in further proceedings and is not suffering
21 from mental illness or mental retardation to a degree
22 rendering the child subject to involuntary commitment to
23 the Wyoming state hospital or the Wyoming ~~state training~~

1 ~~school~~ disability resource center, the court shall order
2 the child returned to the court without delay.

3

4 (c) If it appears to the court by mental examination
5 conducted before adjudication of the petition that a child
6 alleged to be delinquent is incompetent to participate in
7 further proceedings by reason of mental illness or mental
8 retardation to a degree rendering the child subject to
9 involuntary commitment to the Wyoming state hospital or the
10 Wyoming ~~state training school~~ disability resource center,
11 the court shall hold further proceedings under this act in
12 abeyance. The district attorney shall then commence
13 proceedings in the district court for commitment of the
14 child to the appropriate institution as provided by law.

15

16 (d) The juvenile court shall retain jurisdiction of
17 the child on the petition pending final determination of
18 the commitment proceedings in the district court. If
19 proceedings in the district court commit the child to the
20 Wyoming state hospital, the Wyoming ~~state training school~~
21 disability resource center or any other facility or
22 institution for treatment and care of ~~the mentally ill or~~
23 ~~the mentally retarded~~ persons with mental illness or a
24 developmental disability, the petition shall be dismissed

1 and further proceedings under this act terminate. If
2 proceedings in the district court determine the child ~~is~~
3 ~~not mentally ill or mentally retarded~~ does not have a
4 mental illness or developmental disability to a degree
5 rendering him subject to involuntary commitment, the court
6 shall proceed to a final adjudication of the petition and
7 disposition of the child under the provisions of this act.

8
9 **23-2-207. Special limited fishing permit for**
10 **hospitalized veterans, residents of state institutions,**
11 **court placed children and residents of licensed nursing**
12 **care facilities.**

13
14 (a) Upon an appropriate form furnished by the
15 appropriate institution or facility as prescribed by rule
16 and regulation of the commission, a special limited fishing
17 permit may be issued without charge by:

18
19 (ii) The department of health or the department
20 of family services to any resident in the veterans' home of
21 Wyoming, Wyoming state hospital, Wyoming ~~state training~~
22 ~~school~~ disability resource center, Wyoming boys' school and
23 the Wyoming girls' school, which entitles the

1 institutionalized resident to fish while under the direct
2 ~~control~~supervision of the appropriate institution;

3

4 **25-1-201. Establishment of state institutions.**

5

6 (a) The following state institutions are established:

7

8 (iv) The Wyoming ~~state training school~~
9 disability resource center at Lander, Wyoming;

10

11 **25-5-101. Short title.**

12

13 This act may be cited as the "~~Training School Act of 1981~~
14 Disability Resource Center Act".

15

16 **25-5-102. Definitions.**

17

18 (b) As used in this act:

19

20 (i) "Acquired brain injury" means any
21 combination of focal and diffuse central nervous system
22 dysfunction, at the brain stem level and above, acquired
23 after birth through the interaction of any external forces

1 and the body, oxygen deprivation, infection, toxicity,
2 surgery or vascular disorders not associated with aging;
3

4 (ii) "Active treatment" means a program which
5 includes aggressive, consistent implementation of a program
6 of specialized and generic training, treatment, health
7 services and related services that is directed toward:
8

9 (A) The acquisition of the behaviors
10 necessary for the client to function with as much self
11 determination and independence as possible; and
12

13 (B) The prevention or deceleration of
14 regression or loss of current optimal functional status.
15

16 (iii) "Adaptive behavior" means the collection
17 of conceptual, social and practical skills that have been
18 learned by people in order to function in their everyday
19 lives;
20

21 (iv) "Administrator" means the administrator of
22 the division;
23

1 (v) "Assistive technology device" and "assistive
2 technology service" mean as defined in 42 U.S.C. 15002;

3
4 (vi) "Center" means the Wyoming disability
5 resource center at Lander, Wyoming;

6
7 (vii) "Child" means any person under the age of
8 eighteen (18);

9
10 (viii) "Client" means a person who has a
11 disability and has been determined eligible, pursuant to
12 department rules and regulation, and is receiving services
13 from one (1) of the center's programs;

14
15 (ix) "Client services" means diagnosis,
16 education, training and care of persons who have been
17 admitted to the center;

18
19 (x) "Conservator" means as defined in W.S.
20 3-1-101(a)(iii);

21
22 (xi) "Department" means the state department of
23 health;

24

1 (xii) "Director" means the director of the
2 department of health;

3

4 (xiii) "Disability" means a developmental
5 disability as defined in 42 U.S.C. 15002 or a disability
6 resulting from an acquired brain injury;

7

8 (xiv) "Division" means the developmental
9 disabilities division of the department of health;

10

11 (xv) "Guardian" means as defined in W.S.
12 3-1-101(a)(v);

13

14 (xvi) "Guardian ad litem" means as defined in
15 W.S. 3-1-101(a)(vi);

16

17 (xvii) "Incompetent person" means adjudicated as
18 meeting the definition in W.S. 3-1-101(a)(ix);

19

20 (xviii) "Individual program plan" means a
21 written statement of long-term and short-term goals and
22 strategies for providing specially designed services to
23 meet each client's individual educational, physical,
24 emotional and training needs;

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(xix) "Interdisciplinary team" means a group that represents the professions, disciplines or service areas that are relevant to identifying the client's needs, as described in the comprehensive functional assessments and program design. The department shall provide by rule and regulation for the composition of interdisciplinary teams;

(xx) "Least restrictive environment" means the program, service and location which least inhibits a person's freedom of movement, informed decision making and participation in community life while achieving the purposes of habilitation and treatment which best meet the needs of the person. The determination of least restrictive environment shall be individualized and based on a person's need for medical, therapeutic, rehabilitative and developmental services;

(xxi) "Mental retardation" means significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

1 (xxii) "Most appropriate" means an
2 individualized determination of a person's need for
3 medical, therapeutic, rehabilitative and developmental
4 services, based upon professional assessment and the
5 informed choice of the person or, if the person is a minor
6 or ward, his parent or guardian;

7
8 (xxiii) "Most integrated" means the setting that
9 enables a person with a disability to have access to the
10 same opportunities as a person without a disability to the
11 fullest extent possible, including opportunities to live,
12 learn, work, recreate and participate in family and
13 community activities. Determinations of most integrated
14 shall be individualized and based upon professional
15 assessment and the informed choice of the person or, if the
16 person is a minor or ward, his parent or guardian;

17
18 (xxiv) "Program manager" means the on-site
19 supervisor and manager of the center;

20
21 (xxv) "Respite care" means short term care of a
22 person who is unable to care for himself without assistance
23 and whose primary caregiver is absent or in need of short
24 term assistance in providing care to the person;

1

2 (xxvi) "Screening team" means a group of
3 appropriate professionals, appointed by the director
4 pursuant to rules and regulations of the department, and
5 assigned by the administrator to perform preliminary
6 testing and assessment of persons for purposes of
7 determining eligibility for services at the center;

8

9 (xxvii) "Ward" means as defined in W.S.
10 3-1-101(a)(xv);

11

12 (xxviii) "This act" means W.S. 25-5-101 through
13 25-5-135.

14

15 **25-5-103. Wyoming disability resource center**
16 **established; purpose.**

17

18 (a) Except as otherwise authorized by rules and
19 regulations promulgated in accordance with W.S. 9-2-106(d),
20 the Wyoming ~~state training school~~ disability resource
21 center is established ~~for the diagnosis, evaluation,~~
22 ~~education, training, custody and care of mentally retarded~~
23 ~~persons.~~ to provide the following residential, active

1 treatment and medical and therapy services to individuals
2 with a disability:

3

4 (i) Intermediate care facilities for people with
5 mental retardation in accordance with federal Medicare and
6 Medicaid regulations;

7

8 (ii) Services to persons with acquired brain
9 injuries;

10

11 (iii) Disability, therapeutic and assistive
12 technology services for persons with a disability;

13

14 (iv) Training for state employees, other service
15 providers and caregivers on disability, medical,
16 developmental and therapy services.

17

18 **25-5-104. Administration and management of center.**

19

20 The administration and management of the ~~training school~~
21 center is vested in the department.

22

23 **25-5-105. Rules and regulations; reports.**

24

1 (a) ~~Within two (2) years after the effective date of~~
2 ~~this act~~ The department shall adopt rules and regulations
3 which are in compliance with federal regulations for
4 intermediate care facilities for persons with mental
5 retardation and which:

6
7 (i) Establish standards for admission for
8 residential services and ~~release~~ discharge of ~~residents~~
9 ~~admitted for services~~ clients receiving services in all
10 programs administered by the center;

11
12 (ii) Establish standards for ~~resident~~ client
13 services; ~~and temporary services;~~

14
15 (iii) Provide for the administration of the
16 ~~training school~~ center under the management of the
17 division;

18
19 (iv) Prescribe professional standards for
20 personnel employed at the ~~training school~~ center; ~~and~~

21
22 (vi) Establish data reporting processes and
23 report monthly to the director the number of persons served

1 by the center, identified by service category, and the
2 services provided to those persons.

3
4 (b) By October 1 of each year, the director shall
5 report to the joint labor, health and social services
6 interim committee and the joint appropriations interim
7 committee regarding the number of clients served by the
8 center, the reason for provision of services to each client
9 at the center rather than in a community program, the staff
10 to client ratio and the total state and federal cost of all
11 services provided to clients, including the current
12 Medicaid reimbursement rate for intermediate care
13 facilities for people with mental retardation.

14
15 **25-5-106. Donations for benefit of center; control**
16 **and disposition thereof.**

17
18 Money, personal property or real estate donated for the
19 benefit of the ~~training school~~ center shall be held,
20 controlled and distributed by the department according to
21 the conditions of the donation. If there are no conditions
22 of the donation, it shall be disposed of as provided in
23 W.S. 25-5-107.

24

1 **25-5-107. Disposition of monies received from sale of**
2 **products or as compensation.**

3
4 Except as provided by W.S. 25-5-106, all monies received by
5 the department for the ~~residents~~clients in the ~~training~~
6 ~~school~~center from the sale of products produced or grown
7 by the ~~training school~~center or as compensation from any
8 source shall be deposited in the state treasury and
9 credited to the general fund.

10
11 **25-5-108. Appointment of program manager; duties;**
12 **removal.**

13
14 (a) The director shall appoint a ~~superintendent~~
15 program manager of the ~~training school~~center.

16
17 (b) The ~~superintendent~~program manager shall
18 administer the ~~training school~~center as directed by the
19 ~~director~~administrator.

20
21 (c) The director may remove the ~~superintendent~~
22 program manager in his discretion.

23
24 **25-5-109. Inability or refusal to pay for services.**

1

2 (c) No person shall be denied admission to or
3 services by the ~~training school~~ center because of the
4 inability of the person, his parent or guardian to pay the
5 cost of the services received.

6

7 (d) Clients of the center who are not eligible under
8 the Wyoming Medical Assistance and Services Act shall be
9 responsible for the cost of services and treatment as
10 provided in title 25, chapter 11, article 1. However, no
11 person who was a client of the center as of June 30, 2007
12 shall be denied admission to or services by the training
13 school because of the refusal of the ~~resident's~~ client's
14 parent or guardian to pay the cost of the services
15 received.

16

17 **25-5-110. Special education for minors and costs**
18 **thereof.**

19

20 (c) ~~Residents~~ Clients who are between the ages of
21 five (5) and twenty-one (21) years of age shall be provided
22 special education and related services ~~at no cost to their~~
23 ~~parents or estates~~ through the Wyoming department of
24 education. This subsection does not relieve an insurer or

1 similar third party from an otherwise valid obligation to
2 pay for services provided to the ~~resident~~client.

3
4 **25-5-114. Eligibility for admission; appropriateness**
5 **of services.**

6
7 (a) Except as otherwise authorized by rules and
8 regulations promulgated in accordance with W.S. 9-2-106(d),
9 a person shall not be admitted to the ~~training school~~
10 center if his preadmission evaluation ~~indicates~~and
11 screening indicate that he would be more appropriately
12 served by the Wyoming state hospital, a community program
13 or a public school program.

14
15 **25-5-115. Preadmission screening for residential**
16 **services; preparation and supervision thereof; disposition**
17 **of findings.**

18
19 (a) Admission to the ~~training school~~center shall be
20 upon written application to the division pursuant to W.S.
21 25-5-117(b) and shall be based upon the preadmission
22 ~~evaluation~~screening and assessment:

1 (i) The preadmission ~~evaluation~~ screening and
2 assessment shall be made by ~~an interdisciplinary a~~
3 screening team under the supervision of the ~~superintendent~~
4 administrator or his designee, using appropriate
5 professionals and screening and assessment methods as
6 provided in department rules and regulations;

7
8 (ii) The preadmission ~~evaluation~~ screening and
9 assessment shall be completed ~~in not less than forty eight~~
10 ~~(48) hours and~~ not more than thirty (30) days after an
11 application for admission; ~~has been made to the training~~
12 ~~school;~~

13
14 (iii) No person shall be admitted unless an
15 interdisciplinary team has determined that ~~a less~~
16 ~~restrictive alternative environment is inappropriate or~~
17 ~~unavailable to meet the proposed resident's diagnosed~~
18 ~~needs.~~ the center offers the recommended and most
19 appropriate services in a least restrictive and most
20 integrated environment;

21
22 (iv) As part of the application process,
23 division staff shall provide prospective clients and their
24 families or guardians information about center services and

1 similar services available in the client's community or
2 elsewhere in the state.

3
4 (b) Within ten (10) days of completion of the
5 preadmission ~~evaluation~~screening and assessment, the
6 findings shall be given to the applicant. If ordered by the
7 court, the preadmission ~~evaluation~~screening and assessment
8 shall also be filed with the court.

9
10 **25-5-116. Individual program plan; preparation and**
11 **supervision thereof; review.**

12
13 Each ~~resident~~client admitted to the ~~training school after~~
14 ~~July 1, 1981,~~center shall have on file at the ~~training~~
15 ~~school~~center an individual program plan. ~~Each resident~~
16 ~~admitted prior to July 1, 1981, shall have an individual~~
17 ~~program plan on file within two (2) years of the effective~~
18 ~~date of this act.~~ The individual program plans shall be
19 prepared by an interdisciplinary team within thirty (30)
20 days of admission for residential services under the
21 supervision of the ~~superintendent~~program manager. The plan
22 shall be reviewed ~~at least annually~~ by the
23 interdisciplinary team for appropriateness and feasibility
24 of discharge or transition to another level of service

1 thirty (30) days after implementation of the plan, at the
2 end of each quarter for the first year and annually
3 thereafter.

4
5 **25-5-117. Admission for residential services;**
6 **application and contents thereof; written copy of rights;**
7 **appeal of denied admissions.**

8
9 (a) A person determined by the preadmission
10 ~~evaluation~~screening and assessment to be eligible for
11 admission to the ~~training school~~center for residential
12 services may be admitted as a ~~voluntary resident~~client
13 under one (1) of the following procedures:

14
15 (i) An adult who has sufficient insight or
16 capacity to make responsible application for admission for
17 residential services may be admitted on his own
18 application;

19
20 (ii) A minor or ~~incompetent~~ward may be admitted
21 upon application of his parent or guardian.

22
23 (c) At the time of admission for residential
24 services, the ~~superintendent~~program manager shall give a

1 written copy of the rights provided in W.S. 25-5-133 to the
2 ~~resident-client~~, his parent or guardian.

3
4 **25-5-118. Release of voluntary client upon request;**
5 **exceptions.**

6
7 (a) A voluntary ~~resident-client~~ may be ~~released~~
8 discharged by the administrator at any time within twenty
9 (20) days of receipt ~~by the superintendent~~ of a written
10 request for the release by the ~~resident-client~~, his parent
11 or guardian, and the administrator shall arrange for
12 appropriate transition services, except:

13
14 (i) If the ~~resident-client~~ was admitted on his
15 own application and the request for ~~release-discharge~~ is
16 made by a person other than the ~~resident-client~~, release
17 shall be conditioned upon the ~~resident's-client's~~ consent;

18
19 (ii) If the ~~resident-client~~ is a minor or
20 ~~incompetent-ward~~, his ~~release-discharge~~ shall be
21 conditioned upon the consent of his parent, or guardian; ~~or~~
22 ~~guardian ad litem~~;

1 (iii) If the ~~superintendent~~administrator has
2 probable cause to believe release of the ~~resident~~client
3 will endanger the life, health or safety of the ~~resident~~
4 client or others and he incorporates a written statement of
5 the facts supporting his belief in the ~~resident's~~client's
6 file, he may apply for involuntary admission pursuant to
7 W.S. 25-5-119. ~~Release shall be postponed pending the~~
8 ~~court's decision~~The administrator, as a mandatory
9 reporter, shall contact adult protective services for
10 appropriate proceedings.

11

12 **25-5-119. Involuntary admissions; application to**
13 **district court; representation of proposed client;**
14 **preadmission screening; notice; hearing; independent**
15 **screening; admissibility.**

16

17 (a) A person may be an involuntary ~~resident~~client of
18 the ~~training school~~center if admitted pursuant to this
19 section. Application for involuntary admission may be made
20 by a parent, a guardian, the ~~superintendent~~administrator
21 or a social service agency. The application shall be filed
22 with the district court in the county where the proposed
23 ~~resident~~client, his parent or his guardian resides.

24

1 (b) When an application for involuntary admission is
2 filed, the court shall appoint an attorney to represent the
3 proposed ~~resident~~client unless he retains counsel of his
4 own choice. An attorney shall represent the proposed
5 ~~resident~~client at all hearings. The county shall
6 compensate an appointed attorney in an amount fixed by the
7 court as a reasonable fee.

8
9 (c) The court shall order the ~~training school~~center
10 to conduct a preadmission ~~evaluation~~screening and
11 assessment of the proposed ~~resident~~client. Notice of the
12 order shall be served on the proposed ~~resident~~client, his
13 attorney and his parent or guardian. The order and the
14 application for admission shall be served on the ~~training~~
15 ~~school~~center and the department. If the preadmission
16 ~~evaluation~~screening and assessment report finds the
17 ~~training school~~center would be an appropriate placement,
18 the court shall order a hearing. The proposed ~~resident~~
19 client shall have a right to seek an independent ~~evaluation~~
20 screening and assessment of his eligibility for admission
21 at the state's expense. The ~~evaluation~~screening and
22 assessment shall be admissible as evidence at the hearing
23 as provided by W.S. 25-5-121(d).

24

1 **25-5-120. Court order setting hearing on involuntary**
2 **application; service of notice; waiver.**

3
4 (b) The order setting the hearing shall contain:

5
6 (ii) The name and address of the applicant, the
7 proposed ~~resident's~~ client's parent or guardian, and the
8 attorney retained by the proposed ~~resident~~ client or
9 appointed by the court;

10
11 (iii) The grounds alleged for the commitment of
12 the proposed ~~resident~~ client;

13
14 (iv) The consequences of a finding that a person
15 shall be admitted to the ~~training school~~ center for
16 ~~resident~~ client services.

17
18 (d) The court may order that notice be given to other
19 persons. Notice may be waived in writing by any party
20 except the proposed ~~resident's~~ client's attorney.

21
22 **25-5-121. Rights of proposed client and notified**
23 **persons; confidentiality of hearing; admissibility of**

1 **screening reports; findings by court or jury; amendment of**
2 **admission order.**

3
4 (a) The proposed ~~resident~~client has the right to
5 appear, to be heard and to participate in every stage of
6 the hearing unless the court finds that it would not be in
7 the best interests of the proposed ~~resident~~client. The
8 court shall not exclude the proposed ~~resident~~client from
9 the hearing unless the application is accompanied by a
10 written statement from a licensed physician and a court
11 designated examiner, appointed at the time of the
12 application, who is in no other manner involved in the
13 proceedings, that attendance at the hearing would injure
14 the proposed ~~resident's~~client's health and well-being and
15 describing his medical condition.

16
17 (b) The proposed ~~resident~~client is entitled, upon
18 request, to a jury trial on the issue of his admission. The
19 jury shall be selected pursuant to W.S. 1-11-101 through
20 ~~1-11-128~~1-11-129.

21
22 (c) The court shall exclude all persons not having an
23 interest in the application. Unless the court orders an
24 open hearing or the proposed ~~resident~~client requests a

1 jury trial, the hearing is confidential and shall be held
2 in closed court.

3

4 (d) Any person to whom notice is required to be given
5 by W.S. 25-5-120 may testify and may present and
6 cross-examine witnesses. The court may receive the
7 testimony of other persons in its discretion. The
8 ~~evaluation~~screening and assessment report required by W.S.
9 25-5-115, and any independent ~~evaluation~~screening and
10 assessment made under W.S. 25-5-119, may be admitted as
11 evidence and shall not be excluded on the ground of hearsay
12 alone.

13

14 (e) If the court or jury finds that specific care,
15 treatment and service alternatives are available which are
16 more appropriate than the ~~training school~~center for the
17 proposed ~~resident~~client, the application shall be denied.
18 If the court or jury finds by clear and convincing evidence
19 that admission to the ~~training school~~center would provide
20 the most appropriate services for the proposed ~~resident~~
21 client, the court shall order the admission. In case of a
22 nonjury hearing, the court shall enter findings of fact
23 with the order of admission.

24

1 (f) The proposed ~~resident~~client or if a minor or
2 ~~incompetent~~ward, his parents, or guardian ~~or guardian ad~~
3 ~~litem~~ or the ~~training school~~center may petition the court
4 to amend its order of admission on the grounds that
5 appropriate and necessary services to the proposed ~~resident~~
6 client are available in a less restrictive environment than
7 the ~~training school~~center. The court may amend its order
8 after notice and hearing pursuant to this act.

9
10 **25-5-124. Discharge of clients by administrator or by**
11 **court; appeals to department.**

12
13 (a) An interdisciplinary team may recommend to the
14 ~~superintendent~~administrator discharge of a ~~resident~~client
15 with an appropriate transition plan from the ~~training~~
16 ~~school~~center when placement ~~in a less restrictive and more~~
17 ~~therapeutic environment~~ at home, with another service
18 provider or another program is appropriate for the
19 ~~resident's~~client's needs and abilities. The transition
20 plan shall identify any recommended discharge conditions in
21 the client's best interest, including type of residence
22 facility, supervision and any continuing medical,
23 therapeutic, rehabilitative or developmental services.
24 Based on the recommendations of the team, and with the

1 consent of the ~~resident~~client, or his parent or guardian
2 if he is a minor or ~~incompetent~~ward, the ~~superintendent~~
3 ~~administrator~~ shall place the ~~resident in the least~~
4 ~~restrictive alternative environment~~client in the
5 alternative setting. The ~~superintendent may~~administrator
6 shall discharge the ~~resident~~client when the ~~resident~~
7 client has been appropriately placed in an alternative
8 program. If the ~~resident~~client was admitted under a court
9 order, the ~~superintendent~~administrator shall petition the
10 court, pursuant to W.S. 25-5-121(f).

11

12 (b) If the ~~resident~~client, or his parent or guardian
13 if he is a minor or incompetent, disagrees with the
14 decision of the ~~superintendent~~administrator and the
15 interdisciplinary team, the ~~resident~~client, parent or
16 guardian may appeal the decision to the ~~department~~director
17 in writing. The department shall provide the ~~resident~~
18 client, parent or guardian with a decision in writing
19 within thirty (30) days.

20

21 **25-5-125. Transfer of clients for temporary care and**
22 **treatment; consent; costs to be paid by center; third-party**
23 **obligations not limited.**

24

1 If the ~~superintendent~~program manager determines it is
2 appropriate for the welfare of a ~~resident~~client, the
3 ~~resident~~client may be placed for temporary care and
4 treatment in any public or private hospital, institution or
5 residence in the state which provides services which will
6 benefit the ~~resident~~client. The transfer shall not be made
7 without the consent of the ~~resident~~client and his parents
8 or guardian, or in the case of an involuntary ~~resident~~
9 client, without leave of the court, except in cases of
10 medical emergency. During and after the transfer, the
11 ~~resident~~client remains a ~~resident~~client of the ~~training~~
12 ~~school~~center. The cost of the transfer and of the
13 temporary treatment, care and training provided shall be
14 borne by the ~~training school~~center. This section does not
15 limit the responsibility of third parties to pay for
16 medical and other expenses incurred by contract or law.

17

18 **25-5-126. Contracts with other states for interstate**
19 **transfer of clients; payment of expenses therefor.**

20

21 (a) The department may enter into contracts with
22 other states to provide for:

23

1 (i) The admission to ~~institutions~~facilities,
2 schools or hospitals in other states of persons admitted to
3 or entitled to admission for residential services in the
4 ~~training school~~center, when it can be shown that admission
5 to a facility in another state is in the best interests of
6 the person and the state of Wyoming;

7
8 (ii) The admission to the ~~training school~~center
9 of residents of other states when it can be shown that
10 admission to the ~~training school~~center for residential
11 services is in the best interests of the person and the
12 state of Wyoming, and that the person's need for ~~resident~~
13 services has been determined in accordance with this act.

14
15 (b) The expense of transferring persons from the
16 ~~training school~~center to other states shall be paid by the
17 ~~training school~~center. The expense of transferring persons
18 from other states to the ~~training school~~center shall be
19 paid by the state making the transfer to the ~~training~~
20 ~~school~~center.

21
22 **25-5-129. Admittance for temporary services; excepted**
23 **provisions; limited duration.**

1 The ~~superintendent~~administrator may admit individuals for
2 ~~temporary~~ services temporarily pursuant to rules
3 promulgated under W.S. 25-5-105(a) if the administrator
4 determines a less restrictive environment is appropriate
5 but unavailable. A ~~resident~~client admitted for ~~temporary~~
6 services temporarily is not subject to W.S. 25-5-114,
7 25-5-115, ~~25-5-117(b)~~, and 25-5-121(e) . ~~and 25-5-127.~~ No
8 individual shall be admitted temporarily for ~~temporary~~
9 services for more than ~~ninety (90) consecutive days nor~~
10 ~~more than one hundred twenty (120)~~ seventy-five (75) days.
11 ~~in a calendar year.~~

12

13 **25-5-130. Consent and notice required before major**
14 **surgery; exceptions.**

15

16 (a) Except as provided in subsection (b) of this
17 section, no ~~resident~~client shall undergo major surgery
18 until the superintendent:

19

20 (i) Obtains the prior consent of the ~~resident~~
21 client, or if his consent cannot be given knowingly, he
22 shall obtain the prior consent of the resident's parent or
23 guardian; and

24

1

2 **25-5-131. Confidentiality of records; exceptions;**
3 **penalties for violations.**

4

5 (a) All records of ~~residents~~clients, former
6 ~~residents~~clients and proposed ~~residents~~clients of the
7 ~~training school~~center are confidential except as provided
8 by subsection (b) of this section, when disclosure is
9 required by state or federal law or when disclosure is
10 necessary to prevent imminent risk of harm to the person
11 who is the subject of the records or others.

12

13 (b) The ~~superintendent~~administrator may provide
14 access to the records of a ~~resident~~client, former ~~resident~~
15 client or proposed ~~resident~~client by:

16

17 (i) The person who is the subject of the records
18 or his guardian, guardian ad litem or attorney;

19

20 (ii) The ~~subject's~~ physician or surgeon for the
21 person who is the subject of the records;

22

23 (iii) A person authorized by the person who is
24 the subject of the records, or by his parent or guardian if

1 he is a minor or ~~incompetent~~ ward, to evaluate the
2 ~~subject's~~ person's eligibility for admission to the
3 ~~training school~~ center for residential services or to
4 determine whether his residence is the most appropriate and
5 ~~least restrictive,~~ therapeutic environment for the ~~subject~~
6 person;

7
8 (v) Qualified employees of the department and
9 the ~~state training school~~ center and professional persons
10 while in the performance of their official duties; ~~:-~~

11
12 (vi) To a person as required by law, including
13 the Health Insurance Portability and Accountability Act and
14 the Medicaid program.

15
16 **25-5-132. No determination of incompetency;**
17 **notification of rights; deniable rights and conditions**
18 **therefor; undeniable rights.**

19
20 (a) The determination that a person is eligible for
21 admission to the ~~training school~~ center is not a
22 determination or adjudication that the person is
23 incompetent.

1 (b) Upon admission to the ~~training school~~ center for
2 residential services, a ~~resident~~ client shall be informed
3 orally and in writing of his rights under this section. If
4 the ~~resident~~ client is a minor, or ~~incompetent~~ ward, his
5 parents, guardian or guardian ad litem shall be informed
6 orally and in writing of his rights under this section.

7
8 (c) ~~A resident may be denied~~ The following rights of
9 a client may be denied or limited only as a part of his
10 individual program plan for purposes of safety and health.
11 The ~~resident~~ client or if the ~~resident~~ client is a minor or
12 ~~incompetent~~ ward, his parents, guardian or guardian ad
13 litem shall be informed in writing and orally of the
14 grounds for the denial or limitation. The grounds for
15 denial or limitation shall be entered in the individual
16 program plan:

17
18 (i) The right to send and receive unopened mail;
19 ~~except as provided in paragraph (d)(v) of this section;~~

20
21 (ii) The right to choose and wear his own
22 clothing;

23

1 (v) The right to be free from physical
2 restraints and ~~isolation~~ chemical restraints that
3 substitute for active treatment or behavior medication
4 programs, except in emergency situations as necessary to
5 protect the ~~resident~~ client or others;

6

7 (vii) The right to make and receive telephone
8 calls; ~~and~~

9

10 (ix) The right to an appropriate personal space
11 that provides privacy and personal safety;

12

13 (x) The right to be free from abuse;

14

15 (xi) The right to vote;

16

17 (xii) The right to choose where and with whom to
18 live;

19

20 (xiii) The right to present grievances and
21 complaints or to request changes in policies and services
22 without restraint, interference, coercion, discrimination
23 or reprisal;

24

1 (xiv) The right to participate or refuse to
2 participate in religious worship;

3
4 (xv) The right to the least restrictive
5 environment.

6
7 (d) A ~~resident~~client may not be denied the following
8 rights unless authorized by a court, ~~or his guardian,~~
9 ~~parent or guardian ad litem~~ the client or, if the client is
10 a minor or ward, his parent or guardian:

11
12 (ii) The right to refuse to be subjected to
13 experimental medical or psychological research without the
14 express and informed consent of the ~~resident~~client or his
15 parent or guardian if he is a minor or ward. The ~~resident~~
16 client or his parent or guardian may consult with
17 independent medical or psychological specialists and his
18 attorney before consenting or refusing;

19
20 (iii) The right to refuse to be subjected to
21 ~~treatment procedures such as psychosurgery or other~~ drastic
22 treatment procedures without the express and informed
23 consent of the ~~resident~~client and his parent or guardian
24 if he is a minor or ~~adjudicated incompetent,~~ ward.

1
2 **25-5-133. Restraint; conditions for use; strict**
3 **administration of medication; prohibited uses.**

4
5 (a) Isolation or seclusion procedures in which a
6 person is placed alone in a locked room or in an area from
7 which the person is physically prevented from leaving are
8 prohibited. Restraint of a ~~resident~~ client shall be used
9 only when less restrictive measures are ineffective for the
10 welfare of the ~~resident or other residents~~ client or others
11 and only when necessary to ensure the immediate physical
12 safety of the client or others. Restraint ~~or isolation~~
13 shall be used in a manner which ensures that the dignity
14 and safety of the ~~individual~~ person restrained are
15 protected and shall be regularly monitored by trained
16 staff. The reason for restrictive measures shall be
17 reported in the ~~resident's~~ client's records and shall be
18 reviewed by the interdisciplinary team and program manager.
19 In addition, the client's individual program plan shall
20 address active treatment or less restrictive measures to
21 manage or eliminate the behaviors for which restraint was
22 used.

23

1 (b) Medication shall be administered to a ~~resident~~
2 ~~client~~ only pursuant to the order of a ~~physician~~ medical
3 professional acting within the scope of his license. A
4 record of the medication, the dosage administered, the date
5 and the person administering the medication to each
6 ~~resident~~ client shall be kept in each ~~resident's~~ client's
7 treatment record. Medication shall not be used as
8 punishment, for the convenience of staff or in quantities
9 that interfere with a ~~resident's~~ client's treatment
10 program.

11
12 **25-5-134. Employment of clients within institution;**
13 **wages; duties; discharge for cause.**

14
15 ~~Residents~~ Clients who are employed within the ~~institution~~
16 ~~center~~ shall be paid a reasonable wage based upon ~~the~~
17 ~~nature of the employment and the productivity of the~~
18 ~~resident~~ commensurate wages under special certificate as
19 authorized by the federal Fair Labor Standards Act at 21
20 U.S.C. 214(c). The ~~superintendent~~ program manager shall
21 prescribe ~~the duties and assignment of the resident~~
22 ~~employee and may discharge the resident from employment for~~
23 ~~cause~~ for each position a written job description with
24 wages, benefits and job duties clearly defined. The

1 employment relationship pursuant to this section shall be
2 at will.

3
4 **25-5-135. Medications aides.**

5
6 Any person trained and qualified as a medication aide may
7 administer medications in basic ~~resident~~client care
8 situations at the ~~training school~~center. The ~~training~~
9 ~~school~~center shall develop curricula, certification
10 criteria and protocols concerning administration of
11 medications and use of medication aides. Every medication
12 aide shall perform the duties authorized under this
13 section under the direction of a person licensed by the
14 laws of this state to administer medications. The direction
15 of medication aides shall not constitute an unlawful
16 delegation of professional duties by the licensed nurse or
17 other professional licensed to administer medications.

18
19 **Section 2.** W.S. 25-5-102(a), 25-5-114(b),
20 25-5-117(b), 25-5-123, 25-5-127, 25-5-128, 25-5-131(c) and
21 25-5-132(d)(iv) and (v) are repealed.

22
23 **Section 3.** The department of health may commence
24 rulemaking to implement the provisions of this act

1 immediately upon the effective date of this section. No
2 appropriation for the fiscal year commencing July 1, 2009
3 shall be effective until the promulgation of final rules
4 implementing this act.

5

6 **Section 4.**

7

8 (a) Section 3 of this act is effective immediately
9 upon completion of all acts necessary for a bill to become
10 law as provided by Article 4, Section 8 of the Wyoming
11 Constitution.

12

13 (b) Except as provided in subsection (a) of this
14 section, this act is effective July 1, 2008.

15

16 (END)