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Preface

Important Information to Read Before Using This Directory

The ABA Directory of Law Governing Appointment of Counsel in State Civil Proceedings (Directory) is a compilation of existing statutory provisions, case law, and court rules requiring or permitting judges to appoint counsel for civil litigants. The Directory consists of 51 detailed research reports—one for each state plus D.C.—that present information organized by types of civil proceedings. Prior to using the Directory, please read the Introduction, at the Directory’s home page, for the reasons behind the development of the Directory, the various sources of authority from which judicial powers to appoint counsel in civil proceedings may derive, and the structure used to organize information within each of the research reports.

Terms of Use/Disclaimers

This Directory should not be construed as providing legal advice and the ABA makes no warranties concerning the information contained therein, which has been updated to reflect the law through early 2012. The Directory does not seek to address all conceivable subsidiary issues in each jurisdiction, but some such issues were researched and addressed, including: notification of right to counsel; standards for waiver of right to counsel; standard of review on appeal for improper denial of counsel at trial; whether “counsel” for a child means a client-directed attorney or a “best interests” attorney/attorney ad litem; and federal court decisions finding a right to counsel. Similarly, the research did not exhaustively identify all law regarding the issue of compensation of appointed counsel in each jurisdiction, though discussion of such law does appear within some of the reports.

The Directory attempts to identify as “unpublished” any court decisions not published within an official or unofficial case reporter. Discussion of unpublished cases appears only for those jurisdictions where court rules currently permit their citation in briefs or opinions. Limitations on the use of unpublished opinions vary by jurisdiction (e.g., whether unpublished cases have value as precedent), and such limits were not exhaustively researched. Users should conduct independent, jurisdiction-specific research both to confirm whether a case is published and to familiarize themselves with all rules relating to the citation and use of unpublished or unreported cases.

Acknowledgments

This Directory was a multi-year project of the ABA’s Standing Committee on Legal Aid and Indigent Defendants (SCLAID). We are indebted to our partner in this project, the National Coalition for a Civil Right to Counsel (NCCRC), for sharing the body of research that was adapted to form the Directory’s reports. The Acknowledgments, at the Directory’s home page, details additional specific contributions of the many individuals involved in this project.
Law Addressing Authorization or Requirement to Appoint Counsel in Specific Types of Civil Proceedings

1. SHELTER

Federal Statutes and Court Decisions Interpreting Statutes

The federal Fair Housing Act, contained within Title VIII of the Civil Rights Act of 1968, provides that “[a]n aggrieved person may commence a civil action in an appropriate United States district court or State court...” 42 U.S.C. § 3613 (a)(1)(A). Further, “[u]pon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may-- (1) appoint an attorney for such person....” 42 U.S.C. § 3613(b).

2. SUSTENANCE

State Statutes and Court Decisions Interpreting Statutes

In contested worker’s compensation cases, the hearing examiner has a permissive, but not mandatory, power to appoint an attorney to represent the claimant. Wyo. Stat. Ann. § 27-14-602(d) (2008) (“Upon request, the hearing examiner may appoint an attorney to represent the employee or claimants and may allow the appointed attorney a reasonable fee for his services at the conclusion of the proceeding. An appointed attorney shall be paid according to the order of the hearing examiner either from the worker’s compensation account, from amounts awarded to the employee or claimants or from the employer. In any contested case where the issue is the compensability of an injury, a prevailing employer's attorney fees shall also be paid according to the order of the hearing examiner from the worker’s compensation account, not to affect the employer's experience rating.”); see also Wyo. Stat. Ann. § 27-14-615 (West 2013) (“The district court may appoint an attorney to represent the employee during proceedings in the district court and appeal to the supreme court. The district court may allow the attorney a reasonable fee for his services at the conclusion of the proceedings in district court and the supreme court may allow for reasonable fees for services at the conclusion of the proceedings in the supreme court.”)

Although both of these statutes also state that “An award of attorney's fees ... shall not exceed the benefits at issue in the appeal”, the Supreme Court of Wyoming determined that this limiting phrase applied only to a prevailing employer’s attorneys fees, based on a contextual analysis of the statute. State ex rel. Wyo. Workers’ Safety & Comp. Div. v. Smith (In Re Worker’s Compensation Claim of Timothy Smith, 121 P.3d 150, 158 (Wyo. 2005). The
Wyoming Supreme Court interpreted the predecessor statute, § 27-12-604, as authorizing the court to pay appointed counsel for appellate work. *Graves v. Utah Power & Light Co.*, 713 P.2d 187, 195 (Wyo. 1986), *superseded by statute*, Wyo. Stat. Ann. § 27-14-102 (a)(xi)(J) (“We think that the word ‘proceeding’ should be interpreted broadly to authorize the award of appellate fees in worker’s compensation cases”). The *Graves* court’s rationale was very protective of the workers and recognized the risks of a power imbalance if only one side is represented in the appeal:

If we were to hold that we could not order payment of appellate fees under § 27-12-604(c), then no attorney could be legally paid for representing a worker on appeal. As a result, few, if any, lawyers would voluntarily take such appeals. The worker's only choice would be to find an attorney willing to take his appeal pro bono, or to appeal pro se. The worker would be opposed by an employer represented by a paid attorney. Section 27-12-609(a) only prohibits the unauthorized payment of attorneys who procure “any benefit” under the act. It does not prevent an employer from hiring a lawyer to contest benefits ...We do not think that the legislature could have intended a system in which the deck is stacked so heavily against the workers.

*Id.*

**Federal Statutes and Court Decisions Interpreting Statutes**

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination. While nearly all Title VII claims are brought in federal court, the U.S. Supreme Court has specified that state courts have concurrent jurisdiction with federal courts for Title VII claims. *Yellow Freight System Inc. v. Donnelly*, 494 U.S. 820, 826 (1990).

Title VII provides that “[u]pon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant....” 42 U.S.C. 2000e-5(f)(1). In *Poindexter v. FBI*, the D.C. Court of Appeals observed:

Title VII’s provision for attorney appointment was not included simply as an afterthought; it is an important part of Title VII’s remedial scheme, and therefore courts have an obligation to consider requests for appointment with care. In acting on such requests, courts must remain mindful that appointment of an attorney may be essential for a plaintiff to fulfill “the role of ‘a private attorney general,’ vindicating a policy ‘of the highest priority.’ ... Once the plaintiff has triggered the attorney appointment provision, “courts must give serious consideration” to the plaintiff’s request ... such discretionary choices are not left to a court's ‘inclination, but to its judgment; and its judgment is to be guided by sound legal principles.’... Furthermore, in exercising this discretion, the
court should clearly indicate its disposition of the request for appointment and its basis for that disposition.


3. SAFETY AND/OR HEALTH

A. Domestic Violence Protection Order Proceedings

State Statutes and Court Decisions Interpreting Statutes

Wyoming courts may appoint counsel to represent indigent victims of stalking in hearings for orders of protection, where the petition is not filed by the district attorney. Wyo. Stat. Ann. § 7-3-507(d) (2008). The court also has the permissive authority to appoint counsel to “assist and advise” the petitioner in a hearing for an order of protection due to domestic abuse. Wyo. Stat. Ann. § 35-21-103(e) (2008). In such cases, “[t]he court may require the respondent to pay... reasonable attorney’s fees whether the attorney is court appointed or retained by petitioner.” Wyo. Stat. Ann. § 35-21-103(h) (West 2013).

B. Conservatorship, Adult Guardianship, or Adult Protective Proceedings

State Statutes and Court Decisions Interpreting Statutes

Wyoming courts must appoint counsel in guardianship proceedings for an “incompetent person” or “mentally incompetent person”. Wyo. Stat. Ann. §§ 3-2-101(a)(ii) (describing requirement that petition state “the status of the proposed ward as ... an incompetent person or a mentally incompetent person”), 3-1-205(a) (“The proposed ward of any involuntary petition for guardianship or conservatorship shall have the right to: (iv) ... have counsel appointed upon order of the court ...”)

C. Civil Commitment Proceedings

State Statutes and Court Decisions Interpreting Statutes

In proceedings which may culminate with a party being involuntarily admitted to a hospital or institution for mentally incompetent people, or detained, Wyoming statutes instruct the court to appoint counsel to represent said person. Wyo. Stat. Ann. § 25-5-119(b) (2008) (involuntary admissions to a “Life Resource Center.” “When an application for involuntary admission is filed, the court shall appoint an attorney to represent the proposed client unless he retains counsel of his own choice. An attorney shall represent the proposed client at all hearings. The county shall compensate an appointed attorney in an amount fixed by the court...
as a reasonable fee.”); Wyo. Stat. Ann. § 25-10-110(b) (2008) (involuntary hospitalizations: “Unless the proposed patient is represented by counsel, the court shall appoint an attorney to represent him.”); Wyo. Stat. Ann. § 25-10-109(a), (g), (h) (West 2013) (emergency detentions: “When a law enforcement officer or examiner has reasonable cause to believe a person is mentally ill pursuant to W.S. 25-10-101, the person may be detained... At the time of emergency detention the person shall be informed ... of his right to appointed counsel if he is indigent...When a person is detained in emergency detention and an application for involuntary hospitalization is filed, the court shall appoint an attorney to represent the detained person unless he has his own attorney[
]

Federal Court Decisions Addressing Constitutional Due Process or Equal Protection

In Heryford v. Parker, 396 F.2d 393, 396 (10th Cir. 1968), a federal appellate court relied on Application of Gault, 387 U.S. 1 (1967) to find a federal constitutional right to counsel in Wyoming civil commitment proceedings, and brushed aside the discretionary Wyoming appointment statute existing at the time as insufficient.

D. Sex Offender Proceedings

No law could be located regarding the appointment of counsel for indigent civil litigants in sex offender proceedings. However, this jurisdiction might not have a mechanism for confining sexually dangerous/violent persons.

E. Involuntary Quarantine, Inoculation, or Sterilization Proceedings

No law could be located regarding the appointment of counsel for indigent litigants in civil proceedings involving involuntary quarantine, inoculation, or sterilization.

4. CHILD CUSTODY

A. Appointment of Counsel for Parent—State-Initiated Proceedings

State Statutes and Court Decisions Interpreting Statutes

In proceedings under the Child Protection Act (which governs abuse/neglect proceedings), “the child's parents, guardian or custodian shall be advised by the court of their right to be represented by counsel at every stage of the proceedings including appeal, and to employ counsel of their own choice.” Wyo. Stat. Ann. § 14-3-422(a) (West 2013). After advising them of their right to be represented by counsel, “[t]he court shall upon request appoint counsel to represent the child's parents, guardian or custodian if the child's parents,

In termination of parental rights proceedings, the court “may appoint counsel for any party who is indigent,” Wyo. Stat. Ann. § 14-2-318(a) (2009) (emphasis added). Pursuant to Wyo. Stat. Ann. § 14-2-318(d)(ii), if the petitioner is an authorized agency, then the agency is obligated to pay the reasonable attorney’s fees and expenses for an indigent party incurred in his defense.

**Federal Statutes and Court Decisions Interpreting Statutes**

The federal Indian Child Welfare Act (ICWA), which governs child welfare proceedings in state court, provides:

In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding....Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to section 13 of this title.”


**State Court Decisions Addressing Constitutional Due Process or Equal Protection**

The Wyoming Supreme Court has cited *Lassiter v. Dep’t of Social Services*, 452 U.S. 18, 25 (1981) mainly for what the federal Due Process Clause requires in termination hearings. The court has cited *Lassiter* for the proposition that the federal constitution does not require

1 The court has held that the right to counsel in § 14-6-222 of the Juvenile Justice Act does not apply to termination proceedings, but rather just to delinquency proceedings, even though the rest of the Juvenile Justice Act does touch on dependency at times. *PL v. Johnson Cnty. Dep’t of Pub. Assistance and Soc. Servs. (In re Interest of JL)*, 761 P.2d 985, 992 (Wyo. 1988).

2 While the ICWA does not appear to have a definitive statement about jurisdiction, 25 U.S.C. § 1912(b) refers to state law not providing for appointment of counsel. Additionally, 25 U.S.C. § 1912(b) states: “In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child’s tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention.” These provisions, plus the fact that child welfare proceedings typically occur in state court, suggest that ICWA applies in state law proceedings.
counsel to be appointed “for an indigent parent in every termination proceeding.” RHF v. RMC (In re Adoption of JLP), 774 P.2d 624, 628 (Wyo. 1989). In another case, the court noted in a footnote that Lassiter “left it to the states to be more liberal in providing such appointment if desired,” In Re JL, 761 P.2d at 992 n.10, but the court found that the parent was appointed counsel before the initiation of termination proceedings (just not before the dependency hearings), and therefore did not reach the question of whether counsel should be appointed to all indigent parents in termination proceedings. Id. at 992. See also LP v. Natrona Cnty. Dep’t of Pub. Assistance and Soc. Servs. (In re Parental Rights of GP, JP, and SP), 679 P.2d 976, 997 (Wyo. 1984) (parent “was afforded all of the safeguards provided by Wyoming’s parental-rights-termination statutes. These safeguards meet or exceed those mandated by [federal] constitutional due process”).

Wyoming courts have held that “whether an indigent parent is entitled to appointed counsel should be made on a case-by-case basis,” BSC v. Natrona Cnty. Dep’t of Family Servs. (In re Interest of CC), 102 P.3d 890, 896 (Wyo. 2004), and applied the three factors (personal interest at stake, risk of error, and state’s interest) from Mathews v. Eldridge, 424 U.S. 319 (1976). Id. at 895. However, they have never explicitly said that this analysis is required under the state constitution’s due process clause. The court has acknowledged that the “right to associate with one’s children is a fundamental right protected by the Wyoming and United States Constitutions.” TF v. State, Dep’t of Family Servs. (In re Adoption of CF), 120 P.3d 992, 999 (Wyo. 2005). See also, RS v. Dep’t of Family Servs., 94 P.3d 1025, 1027-1028 (Wyo. 2004); Lassiter, 452 U.S. at 27.

In In re Interest of CC, 102 P.3d at 896-97 (Wyo. 2004), the Wyoming Supreme Court utilized the balancing test set forth in Lassiter to determine that the trial court did not abuse its discretion under either the Fourteenth Amendment or the Wyoming Constitution by denying an indigent father’s request for a court appointed attorney in a termination proceeding. The court noted that since the father’s “personal liberty was not threatened, he did not have an automatic right to counsel at the termination hearing.” Id. at 896. In determining that a court appointed attorney was not necessary, the court reasoned as follows:

The matters for deliberation at the parental termination proceeding were not complex. No expert testimony was offered at the hearing. The issues relied upon by the State to justify termination of parental rights were fairly simple. They included the amount of time CC had been in foster care, the length of the period of non-communication between BSC and CC, and BSC’s failure to provide financial support for CC. The other issue considered at the termination hearing was BSC’s fitness as a parent in light of his past treatment of CC and his criminal conviction for having sexual contact with a minor. Obviously, an attorney may have addressed some of the more technical aspects of the evidence better than BSC did. Nevertheless, considering the relative simplicity of the issues at the hearing, we believe that the issues were adequately addressed at the
hearing, even though BSC was not represented by counsel. Weighing all of the factors together, we conclude that BSC’s due process rights were not violated when the district court refused to appoint counsel to represent him at the termination proceeding.

Id. at 896-97.

In *MN v. State, Dep’t of Family Services (In re Interest of MN)*, 78 P.3d 232, 240, 2003 WY 135, at ¶37 (Wyo. 2003), the court held that a failure to appoint counsel for a parent during the dependency proceeding did not make the subsequent termination proceeding a violation of due process, at least where the parent is appointed counsel for the termination proceeding and the parent failed to show how the failure to appoint her counsel within the juvenile proceeding violated her due process rights. The court’s holding was based in part on its perception that “termination proceedings are entirely separate and distinct from neglect proceedings, deriving their respective genesis from separate statutes and requiring different burdens of proof. In particular, a neglect action is not a mandatory prerequisite to termination of parental rights.” *Id.* at 240, 2003 WY at ¶37.

**B. Appointment of Counsel for Parent—Privately Initiated Proceedings**

No law could be located regarding the appointment of counsel for indigent parents in privately initiated child custody proceedings.

**C. Appointment of Counsel for Child—State-Initiated Proceedings**

*State Statutes and Court Decisions Interpreting Statutes*

In proceedings under the Child Protection Act (which governs abuse/neglect proceedings), “[t]he court shall appoint counsel to represent any child in a court proceeding in which the child is alleged to be abused or neglected. Any attorney representing a child under this section shall also serve as the child’s guardian ad litem unless a guardian ad litem has been appointed by the court.” Wyo. Stat. Ann. § 14-3-211 (2009) (emphasis added). *See DB v. MM (In re Parental Rights to Child X)*, 617 P.2d 1078, 1079 (Wyo. 1980) (if child not appointed attorney to represent child’s best interests in abuse/neglect court proceedings, then proceedings are fatally defective and substantive issues must be remanded to repair error).

Wyoming courts must appoint counsel in guardianship proceedings for a minor. Wyo. Stat. Ann. §§ 3-2-101(a)(ii) (describing requirement that petition state “the status of the proposed ward as a minor”), 3-1-205(a) (“The proposed ward of any involuntary petition for guardianship or conservatorship shall have the right to: (iv) … have counsel appointed upon order of the court ...”)
Federal Statutes and Court Decisions Interpreting Statutes

The Indian Child Welfare Act (ICWA), which governs child welfare proceedings in state court, provides the following with regard to any removal, placement, or termination of parental rights proceeding:

The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to section 13 of this title.”


The federal Child Abuse Prevention and Treatment Act (CAPTA) provides:

A State plan submitted under paragraph (1) shall contain a description of the activities that the State will carry out using amounts received under the grant to achieve the objectives of this subchapter, including— ...(B) an assurance in the form of a certification by the Governor of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a statewide program, relating to child abuse and neglect that includes— ... (xiii) provisions and procedures requiring that in every case involving a victim of child abuse or neglect which results in a judicial proceeding, a guardian ad litem, who has received training appropriate to the role, including training in early childhood, child, and adolescent development, and who may be an attorney or a court appointed special advocate who has received training appropriate to that role (or both), shall be appointed to represent the child in such proceedings.”

42 U.S.C. § 5106a(b)(2).

D. Appointment of Counsel for Child—Privately Initiated Proceedings

While the ICWA does not appear to have a definitive statement about jurisdiction, 25 U.S.C. § 1912(b) refers to state law not providing for appointment of counsel. Additionally, 25 U.S.C. § 1912(b) states: “In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child’s tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention.” These provisions, plus the fact that child welfare proceedings typically occur in state court, suggest that ICWA applies in state law proceedings.
No law could be located regarding the appointment of counsel for children in privately initiated child custody proceedings.

5. MISCELLANEOUS

A. Civil Contempt Proceedings

State Court Decisions Addressing Constitutional Due Process or Equal Protection

In State, Dep’t of Family Services v. Currier, 295 P.3d 837, 843, 2013 WY 16, ¶24 (Wyo. 2013), the Wyoming Supreme Court declared there is no federal constitutional right to counsel in civil contempt proceedings even when they are initiated by the state, answering a question left open by Turner v. Rogers, 131 S.Ct. 2507 (2011) (finding no right to counsel in contempt proceeding initiated by unrepresented private individual but reserving question of right to counsel where petition filed by the state or a party represented by counsel). The trial court had appointed counsel, citing Turner and the imbalance of power caused by the state bringing the contempt action, State, Dep’t of Family Servs. v. Currier, No. 17-445, 2012 WL 4490627, at 5 (D. Wyo. 2012), rev’d, 295 P.3d 837, 2013 WY 16 (Wyo. 2013), and the Wyoming Department of Family Services appealed. Currier, 295 P.3d at 839, 2013 WY at ¶1-2. The Wyoming Supreme Court commented: "We agree that an asymmetry exists when DFS is represented and the obligor is not; however, Turner and Mathews envision a balancing of the opposing interests and procedural safeguards. Consequently, the fact that DFS was represented is not dispositive. We must consider what procedures are in place or may be put in place to offset the lack of symmetry occasioned by DFS being represented while the obligor is not to determine the comparative risk of erroneous incarceration." Id. at 842-843, 2013 WY at ¶22. The court then noted Turner’s acceptance of "procedural safeguards" as an alternative to counsel, and said that the following was sufficient to protect due process:

The Respondent in this and all Child Support Enforcement matters are informed in the Petition, and by the Court, of the burden on the State to show a failure to pay court ordered child support is willful. Respondents are provided forms upon which they can set forth current income, asset and liability information and are given opportunity to explain any reasons they may have for failure to pay.

Id. at 842-843, 2013 WY at ¶22 (citing Currier, 2012 WL 4490627, at 2).

The Currier court concluded that "[t]hese procedures meet the notice and opportunity to be heard requirements set out in Turner. Given those procedures, it is hard to imagine what more appointed counsel could bring to the dialogue." Id. at 843, 2013 WY at ¶22. The court
added that the district court could use "less formal procedures" to further help the defendant present his/her case. *Id.* at 843, 2013 WY at ¶22. Finally, the court said that as to the state's interest, "[t]he provision of counsel in every case involving the state and an indigent obligor would result in delay, as counsel would have to be located, appointed and consult with the obligor. Such delay would slow payments to needy families and undermine the ultimate fairness of the proceedings without, as we have said, any apparent significant benefits." *Id.* at 843, 2013 WY at ¶23. The court closed by noting that indigent parents could file for a modification of child support if they truly are unable to comply with the child support order, and that "[t]his Court has approved forms for pro se litigants to use in seeking modification of child support." *Id.* at 844, 2013 WY at ¶25.

**B. Paternity Proceedings**

*State Statutes and Court Decisions Interpreting Statutes*

Unlike some states that provide counsel for indigent putative fathers in paternity cases, Wyoming only addresses counsel for the minor children in such cases. In proceedings to adjudicate parentage, the court “shall appoint an attorney to represent the best interest of a minor or incapacitated child if the child is a party or the court finds that the interests of the child are not adequately represented.” Wyo. Stat. Ann. § 14-2-812(b) (2008). If the proceeding “concern[s] an adjudication of paternity pursuant to [a proceeding to dissolve a marriage], the court shall appoint an attorney to represent the best interests of the child.” Wyo. Stat. Ann. § 14-2-823(g) (2008).

**C. Proceedings for Judicial Bypass of Parental Consent for a Minor to Obtain an Abortion**

*State Statutes and Court Decisions Interpreting Statutes*

Wyoming judges have discretionary authority to appoint counsel for a minor seeking to judicially bypass the consent and notice requirements for an abortion. Wyo. Stat. Ann. § 35-6-118(b)(iii) (2008) (“The court may appoint a guardian ad litem of the minor and may appoint legal counsel for the minor.”).

**D. Probate Proceedings**

*State Statutes and Court Decisions Interpreting Statutes*

Wyoming courts have the permissive authority to appoint attorneys in probate proceedings for “the devisees, legatees, heirs or creditors of the decedent who are minors and have no general guardian in the county, or who are nonresidents of the state, and those
interested who, though they are neither minors or nonresidents, are unrepresented.” Wyo. Stat. Ann. § 2-2-310 (2008). The attorney “may receive a fee, to be fixed by the court, for his services, which shall be paid out of the funds of the estate as necessary expenses of administration, and upon distribution may be charged to the party represented by the attorney,” but “failure to appoint an attorney will not affect the validity of any of the proceedings.” Id.

E. Juvenile Delinquency or Child in Need of Supervision Proceedings

State Statutes and Court Decisions Interpreting Statutes

Judges in Wyoming must appoint counsel pursuant to § 14-6-422(b) for “children in need of supervision” (which includes habitual truancy, as per the definition of “children in need of supervision” in § 14-6-402(a)(iv)). Pursuant to Wyo. Stat. Ann. § 14-6-422(b) (West 2013), if the child requests counsel and his parents, guardian, custodian or other person responsible for the child’s support is able but unwilling to obtain counsel for the child, the court shall appoint counsel to represent the child and may direct reimbursement of counsel fees under Wyo. Stat. Ann. § 14-6-434(b)(v) (which in turn specifies that appointed counsel fees “shall be a charge upon the funds of the county where the proceedings are held and shall be paid by the board of county commissioners of that county”).

When a child is taken into temporary protective custody, placed into detention, or placed into shelter care, a shelter care or informal detention hearing must be held as soon as reasonably possible. Wyo. Stat. Ann. §§ 14-3-409(a), 14-6-409(a), 14-6-209(a) (West 2013). In said hearings, the judge must advise the child and the child’s parents, guardian, or custodian of their right to counsel. Wyo. Stat. Ann. §§ 14-3-409(b)(ii), 14-6-409(b)(ii), 14-6-209(b)(ii) (West 2013).
Law Addressing Authorization or Requirement to Appoint Counsel in Civil Proceedings Generally

Federal Statutes and Court Decisions Interpreting Statutes

The federal Servicemembers Civil Relief Act (SCRA), which applies to each state\(^4\) and to all civil proceedings (including custody),\(^5\) provides:

If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.


Additionally, 50 App. U.S.C. § 522(d)(1), which also applies to all civil proceedings (including custody),\(^6\) specifies that a service member previously granted a stay may apply for an additional stay based on a continuing inability to appear, while § 522(d)(2) states: “If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.”

\(^4\) 50 App. U.S.C.A. § 512(a) states, “This Act [sections 501 to 515 and 516 to 597b of this Appendix] applies to-- ... (2) each of the States, including the political subdivisions thereof...”

\(^5\) 50 App. U.S.C. § 521(a) states, “This section applies to any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance.”

\(^6\) 50 App. U.S.C. § 522(a) applies to “any civil action or proceeding, including any child custody proceeding, in which the plaintiff or defendant at the time of filing an application under this section-- (1) is in military service or is within 90 days after termination of or release from military service; and (2) has received notice of the action or proceeding.”