

ENROLLED ACT NO. 77, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2009 GENERAL SESSION

AN ACT relating to a Court Supervised Treatment Programs Act; creating a Court Supervised Treatment Programs Act; authorizing judges to participate in court supervised treatment programs as specified; authorizing rulemaking; providing for judicial immunity; providing definitions; repealing the existing drug court program; providing purposes; specifying requirements and procedures for creation and operation of court supervised treatment programs; specifying conditions for participation in court supervised treatment programs; requiring parents or guardians to participate in court supervised treatment programs under specified conditions; authorizing municipal courts to impose probation; increasing maximum extended probation period for participants in court supervised treatment programs; providing for confidentiality and release of records; specifying applicability of the act; providing for transition of programs and related funding; and providing for effective dates.

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

**Section 1.** W.S. 5-12-101 through 5-12-103 and 7-13-1601 through 7-13-1615 are created to read:

CHAPTER 12  
COURT SUPERVISED TREATMENT PROGRAMS

**5-12-101. Court supervised treatment.**

Any district, juvenile, circuit, municipal or tribal court judge or circuit court magistrate may act as a participating judge in a court supervised treatment program established pursuant to W.S. 7-13-1601 through 7-13-1615.

**5-12-102. Rules.**

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The Wyoming supreme court may promulgate rules of practice for the participation of judges in court supervised treatment programs.

**5-12-103. Judicial immunity.**

A judge participating in a court supervised treatment program shall be entitled to immunity for actions taken in a court supervised treatment program to the same extent the judge would be entitled to immunity for other actions performed in accordance with law.

ARTICLE 16  
COURT SUPERVISED TREATMENT PROGRAMS ACT

**7-13-1601. Short title.**

This act shall be known and may be cited as the "Court Supervised Treatment Programs Act."

**7-13-1602. Definitions.**

(a) As used in this act:

(i) "Account" means the court supervised treatment account created by W.S. 7-13-1605(a);

(ii) "Applicant" means the governing body of a city, town or county, a tribal government of either the Northern Arapaho or Eastern Shoshone tribes of the Wind River Indian Reservation or a nonprofit organization recognized under 26 U.S.C. 501(c)(3);

(iii) "Continuum of care" means a seamless and coordinated course of substance abuse education and

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treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency;

(iv) "Department" means the Wyoming department of health;

(v) "Dual diagnosis" means substance abuse and a co-occurring mental health disorder;

(vi) "Participant" means a substance offender or any other person as provided in title 14 of the Wyoming statutes who has been referred to and accepted into a program;

(vii) "Participating judge" means the district, juvenile, circuit, municipal or tribal court judge or magistrate acting as part of a program team;

(viii) "Program" or "court supervised treatment program" means a local court supervised treatment program that complies with rules and regulations adopted by the department;

(ix) "Program coordinator" means the person responsible for coordinating the establishment, operation, evaluation and integrity of a program;

(x) "Program team" means the team created pursuant to W.S. 7-13-1609(a);

(xi) "Recidivism" means any subsequent criminal charge;

(xii) "Referring judge" means the district, juvenile, circuit, municipal or tribal court judge or

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magistrate who refers a substance offender or any other person as provided in title 14 of the Wyoming statutes to a program;

(xiii) "Staffing" means the meeting of a program team before a participant's entry into the program, and during the participant's participation in the program, to plan a coordinated response to the participant's behaviors and needs;

(xiv) "Substance" means alcohol, any controlled substance as defined in W.S. 35-7-1002(a)(iv), any substance used for mind altering purpose or over-the-counter medications and inhalants which are used in a manner not intended by the manufacturer;

(xv) "Substance abuse assessment" means as defined in W.S. 7-13-1301(a)(v);

(xvi) "Substance abuse treatment" means treatment designed to provide education and therapy directed toward ending substance abuse and preventing its return;

(xvii) "Substance offender" means a person charged with a substance related offense or an offense in which substance abuse is determined from the evidence to have been a significant factor in the commission of the offense;

(xviii) "This act" means W.S. 7-13-1601 through 7-13-1615.

**7-13-1603. Purposes and goals.**

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(a) The legislature recognizes the critical need in this state for treatment programs to break the cycle of substance abuse and the crimes committed as a result thereof. Court supervised treatment programs shall be facilitated for the purpose of providing sentencing options for the judicial system in cases stemming from substance abuse, by combining judicial supervision, probation, substance abuse assessment, substance abuse testing, monitoring, treatment, and aftercare for substance offenders.

(b) The goals of the programs funded under this act shall be:

(i) To reduce recidivism by participants;

(ii) To strive for program retention and graduation of participants;

(iii) To strive for sobriety of participants;  
and

(iv) To monitor the services provided to participants.

**7-13-1604. Standards for attorneys and judges.**

(a) Attorneys, participating judges and referring judges shall adhere to the standards set forth in the Wyoming Rules of Professional Conduct for Attorneys at Law, the Wyoming Code of Judicial Conduct and any rules adopted by the supreme court governing program practices.

(b) The referring judge in a particular case may be the participating judge in that participant's treatment program, provided the participating judge shall not act

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upon any motion to revoke probation that may be filed in the original criminal or juvenile case, nor in sentencing or disposition.

**7-13-1605. Establishment of court supervised program account; rules and regulations; panel created; program funding.**

(a) There is created a court supervised treatment program account. All interest earned on funds within this account shall be deposited in the account. The department shall oversee and provide funding for programs from the court supervised treatment program account. Funds within the account shall be expended by the department for the purposes of this act upon legislative appropriation. Any expenses incurred by the department in implementing this act shall be paid from the account and shall not exceed ten percent (10%) of the amounts appropriated to the department for purposes of this act.

(b) The department shall determine whether an application for a program meets the qualifications specified in W.S. 7-13-1606(b) and the rules and regulations promulgated by the department pursuant to subsection (c) of this section.

(c) The department shall promulgate rules and regulations necessary to implement this act, including establishing standards consistent with the key components of drug courts defined by the United States department of justice or such similar rules as may be adopted by the department. The rules shall:

(i) Specify funding formulas for funding from the account which formula shall include provisions requiring local contribution to the cost of a program;

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(ii) Require participants to contribute financially to their own program;

(iii) Establish program requirements, operational standards and protocols for programs, program team and staff training requirements, program data collection and maintenance, certification requirements for treatment personnel, and incentive and sanction limitations.

(d) A panel, consisting of the attorney general, the directors of the department of health, department of family services and department of corrections, the chairman of the governor's advisory board on substance abuse and violent crimes and the state public defender, or their designees, shall make the final determination whether an application for a court supervised treatment program meets the qualifications of this act and shall determine the funding amount for each successful applicant. The panel may deny an application for a new program if the funding for the new program would substantially affect funding levels for existing programs.

(e) In addition to those funds deposited in the account created by this section, the department may accept, and shall deposit to the account, any gifts, contributions, donations, grants or federal funds specifically given to the department for the benefit of programs in Wyoming.

(f) Nothing in this act shall prohibit a program from obtaining or providing supplemental funding. All supplemental funds received by a program shall be reported to the department.

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**7-13-1606. Establishment of court supervised treatment programs.**

(a) Any court supervised treatment program that meets the qualifications specified in this section and the department's rules and regulations may apply for funding from the account on a form developed by the department.

(b) The applicant shall be the contracting agent for all its program contracts. All program employees of a program shall be employees of the applicant that was awarded a grant under this section, but referring judges, participating judges, other judicial branch personnel and department of corrections personnel shall not be program employees. All program funds and grants shall be managed by the applicant to whom a grant is awarded pursuant to the provisions of a contract between the department and the applicant.

(c) All program billing shall be the responsibility of the applicant.

(d) The application shall identify participating judges and contain a plan for the participation of judges. The plan shall be consistent with rules adopted by the department and the supreme court.

(e) The application shall specify the treatment services to be provided by the program and shall identify the treatment providers.

(f) The application shall include other information that may be required by the department.

**7-13-1607. Participation in court supervised treatment program; conditions; extended probation.**

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(a) No substance offender may participate in a program unless the substance offender, in a Wyoming district, juvenile, circuit, municipal or tribal court, has been charged with an offense; and:

(i) Has entered an admission, or a guilty or nolo contendere plea;

(ii) Has entered a guilty plea pursuant to W.S. 7-13-301;

(iii) Has signed a consent decree under title 14 of the Wyoming statutes; or

(iv) Is on parole under the provisions of W.S. 7-13-401 et seq.

(b) Any district, juvenile, circuit, municipal or tribal court judge, or magistrate, may refer substance offenders for participation in a program. The referring judge may act as a participating judge in a program as authorized by this act and by rules adopted by the supreme court. A substance offender who is a defendant in a criminal action or a respondent in a juvenile court action may be referred for participation in a program if:

(i) A substance abuse assessment reveals that the person is in need of treatment;

(ii) The referring judge has reason to believe that participation in a program will benefit the person by addressing his substance abuse;

(iii) In a juvenile court case, the referring judge has reason to believe that participation by the

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child's parent or guardian will be in the best interest of the child; or

(iv) The person's case is processed pursuant to subsection (a) of this section.

(c) Participation in a program shall only be with the consent of the referring judge, the participant and the prosecuting attorney, and acceptance of the participant by the program team in accordance with a written agreement between the participant and the program team. The agreement shall include the participant's consent to release of medical and other records relevant to his treatment history and assessment that meets the requirements of 42 U.S.C. 290dd-2(b), 42 C.F.R. part 2.31 or W.S. 35-2-607(c), as applicable. Prior to a participant's entry into a written agreement, the participating judge shall inform the participant that he may be subject to a term of probation that exceeds the maximum term of imprisonment established for the particular offense charged, as provided in W.S. 5-9-134 and 7-13-1614.

(d) Nothing in this act shall confer a right or an expectation of a right to participate in a program, nor does this act obligate a program team to accept any proposed participant. Neither the establishment of a program nor anything herein contained shall be construed as limiting the discretion of a prosecuting attorney in regard to the prosecution of any criminal or juvenile case.

**7-13-1608. Incentives and sanctions; extended probation.**

(a) The participating judge may grant reasonable incentives under the written agreement under W.S.

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7-13-1607(c) if he finds that since the last staffing, the participant:

- (i) Is performing satisfactorily in the program;
- (ii) Is benefiting from the program; and
- (iii) Has not violated any term or condition of the agreement.

(b) The participating judge may impose reasonable sanctions under the written agreement, including but not limited to, expulsion from the program, incarceration for a period not to exceed thirty (30) days if the participant is an adult, or detention for a period not to exceed thirty (30) days if the participant is a juvenile, if the participating judge finds that since the last staffing the participant:

- (i) Is not performing satisfactorily in the program;
- (ii) Is not benefiting from the program;
- (iii) Has engaged in conduct rendering the participant unsuitable for the program;
- (iv) Has otherwise violated any term or condition of the written agreement; or
- (v) Is unable to participate in the program.

(c) To ensure due process of law, expulsion from the program shall be at the discretion of the participating judge, following a hearing, based on the recommendation of the program team. Expulsion shall not occur without the

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participant first being notified of the reasons for the proposed expulsion and given an opportunity to be heard by the program team and the participating judge.

**7-13-1609. Program team to be created; duties; program coordinator.**

(a) Each applicant seeking to establish a program shall create a program team, consisting of the following members, all of whom shall be appointed by the governing body of the applicant, subject to the individual consent of each appointee:

- (i) A participating judge;
- (ii) A prosecuting attorney;
- (iii) An attorney who practices criminal defense or serves as a guardian ad litem;
- (iv) A representative of the treatment providers;
- (v) The probation officer or other person who supervises participants;
- (vi) The program coordinator; and
- (vii) Other persons determined necessary and helpful by the participating judge.

(b) The program team shall, when practicable, conduct a staffing prior to each program session to discuss and provide updated information regarding participants scheduled to appear during the session. After determining the progress or lack thereof for each participant, the

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program team shall agree on the appropriate incentives or sanctions to be applied. If the program team cannot unanimously agree on the appropriate action to be taken, the participating judge shall make a decision based upon the information presented during the staffing.

(c) Each program shall have a program coordinator who shall be responsible for the general administration of the program.

**7-13-1610. Confidentiality of treatment records.**

Program staff shall be provided with access to all records of any state or local government relevant to the participant's treatment. The records and reports shall be maintained in a confidential file not available to the public and the contents thereof shall not be disclosed to any person outside the program without a court order. Program staff shall comply with the confidentiality rules contained in 42 U.S.C. 290dd-2, 42 C.F.R. part 2 and W.S. 35-2-606, as applicable.

**7-13-1611. Treatment and support services.**

(a) Each program shall strive to establish a system to ensure that participants are provided treatment services that have been certified by the department. Each program team shall strive to determine the type and duration of treatment service appropriate for the participant's individualized needs, based upon objective medical diagnostic criteria.

(b) The program team shall strive to establish an adequate continuum of care for each participant, including adequate support services and aftercare.

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(c) The program team shall strive to provide appropriate treatment to participants who have a dual diagnosis.

(d) The relationship between each treatment provider and the program shall be governed by a memorandum of understanding, which shall include a requirement for the timely reporting of the participant's progress or lack thereof in treatment.

**7-13-1612. Substance abuse testing.**

(a) The program team shall require accurate and reliable substance use testing of participants.

(b) Participants shall be required to submit to frequent, random and observed substance use testing.

(c) The results of all substance use tests shall be provided to the program team as soon as practicable.

**7-13-1613. Participant information and progress statistics.**

(a) Participants may be required to provide access to the following information, the collection and maintenance of which by the program team shall be in a standardized format pursuant to department rules and regulations:

(i) Gender, race, ethnicity, marital status and child custody and support obligations;

(ii) Criminal history;

(iii) Substance abuse history, including substances of choice and prior treatment;

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(iv) Employment, education and income history;

(v) Number and health of children born to female participants;

(vi) Incidents of recidivism occurring before, during and after successful completion of a program, or failed participation in a program.

(b) Programs shall maintain and report to the department the following information pursuant to department rules and regulations, none of which shall identify the participants:

(i) The number of participants screened for eligibility, the number of eligible persons who were, and who were not, admitted to the program and their case dispositions;

(ii) The costs of operation and sources of funding of the program.

**7-13-1614. Municipal courts.**

A municipal judge may place a criminal defendant on probation pursuant to W.S. 7-13-301 through 7-13-307 and require the defendant as a probationary condition to participate in a program under this act. Notwithstanding any other provision of law, the probation period for a defendant whose disposition includes participation in a program or a court supervised treatment program may exceed the maximum term of imprisonment established for the offense, but shall not exceed thirty-six (36) months.

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**7-13-1615. Program participation as a condition of parole.**

(a) The state board of parole may, as a condition of parole, require a parolee to participate in a program established under this act, provided:

(i) The program team accepts the parolee for participation in the program; and

(ii) The parolee is subject to the rules and sanctioning powers of the program but remains under the authority of the board for all other matters related to the parole.

**Section 2.** W.S. 5-9-134, 7-13-304 by creating a new subsection (d), 7-19-106(a)(ix), 14-3-429(d) by creating a new paragraph (iv), 14-6-247(a) by creating a new paragraph (xiv) and 14-6-429(d) by creating a new paragraph (viii) are amended to read:

**5-9-134. Probation; correction and reduction of sentence.**

The circuit court may place a criminal defendant on probation pursuant to W.S. 7-13-301 through 7-13-307. Notwithstanding any other provision of law, the probation period for a defendant whose disposition includes participation in a substance abuse treatment program or a ~~drug~~-court supervised treatment program may exceed the maximum term of imprisonment established for the offense, but shall not exceed ~~two (2)~~-three (3) years. The court shall conduct, on at least a monthly basis, a review on the progress of a defendant sentenced to treatment under this section. The review may be conducted in a manner the court

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deems appropriate, but shall include receiving regular progress reports from the treatment provider.

**7-13-304. Imposition or modification of conditions; performance of work by defendant.**

(d) As a condition of probation or suspension of sentence, the court may require a defendant to complete successfully a court supervised treatment program qualified under W.S. 7-13-1601 through 7-13-1615.

**7-19-106. Access to, and dissemination of, information.**

(a) Criminal history record information shall be disseminated by criminal justice agencies in this state, whether directly or through any intermediary, only to:

(ix) Drug—Court supervised treatment program staff solely for the purposes of utilizing the information pursuant to the ~~drug court act in title 5, chapter 10~~ Court Supervised Treatment Programs Act in title 7, chapter 13, article 6;

**14-3-429. Decree where child adjudged neglected; dispositions; terms and conditions; legal custody.**

(d) As a part of any order of disposition and the terms and conditions thereof, the court may:

(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.

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**14-6-247. Sanctions common to all levels.**

(a) For a child at any sanction level, the juvenile court may:

(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.

**14-6-429. Decree where child adjudged in need of supervision; dispositions; terms and conditions; legal custody.**

(d) As a part of any order of disposition and the terms and conditions thereof, the court may:

(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.

**Section 3.** W.S. 5-10-101 through 5-10-107 are repealed.

**Section 4.**

(a) Effective July 1, 2009, any funds remaining in the drug court account created by W.S. 5-10-103 shall be transferred to the court supervised treatment program account created by W.S. 7-13-1605.

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(b) Any drug court program in existence and receiving funding from the department of health for its operations may continue to operate until the funding authorized for the drug court program prior to July 1, 2009, is exhausted, or until the end of the fiscal year ending June 30, 2009, whichever occurs earlier. Thereafter, the program may receive funding under this act only upon compliance with the requirements specified in W.S. 7-13-1605.

**Section 5.**

(a) W.S. 7-13-1605(c), created in section 1 of this act and the repeal of W.S. 5-10-102(b) in section 3 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, section 8 of the Wyoming Constitution.

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(b) Except as provided in subsection (a) of this section, this act is effective July 1, 2009.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk