

CORRECTED COPY

HOUSE BILL NO. HB0094

Criminal justice reform.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to criminal justice; amending and creating
2 provisions relating to sentencing, probation and parole;
3 specifying conditions for probation or suspension of
4 sentence; creating procedures for addressing parole,
5 probation and suspension of sentence violations; amending
6 provisions relating to rewards and sanctions; amending
7 criteria and procedures related to adult community
8 correctional facilities or programs; repealing a provision
9 related to discharge and dismissal; providing
10 appropriations; and providing for an effective date.

11

12 **Section 1.** W.S. 7-13-308 is created to read:

13

14 **7-13-308. Additional revocation of probation option;**
15 **placement in a treatment program.**

16

1 (a) In addition to any other sentencing or treatment
2 option available to the court, upon the revocation of
3 probation or suspension of sentence under W.S. 7-13-302 by
4 a district judge for a felony conviction, the court may
5 order treatment under subsection (b) of this section or a
6 term of confinement and treatment at a substance abuse
7 treatment unit operated by or under contract with the
8 department of corrections, subject to the following:

9
10 (i) A term of confinement and treatment imposed
11 under this subsection shall be for a term of not less than
12 ninety (90) days or more than one hundred eighty (180)
13 days;

14
15 (ii) The court may impose the condition
16 authorized under this subsection if:

17
18 (A) The defendant has one hundred eighty
19 (180) days or more remaining on his term of probation or
20 suspended sentence;

21
22 (B) The defendant is a qualified offender
23 as defined by W.S. 7-13-1301(a)(iv);

1

2 (C) The defendant is recommended for
3 substance abuse treatment as a result of a substance abuse
4 assessment as defined by W.S. 7-13-1301(a)(v). The cost of
5 the substance abuse assessment shall be assessed to and
6 paid by the defendant; and

7

8 (D) The court makes an affirmative finding
9 that drug or alcohol abuse significantly contributed to the
10 commission of the crime or has been a contributing factor
11 in recurring criminal behavior or violations of conditions
12 of probation or suspension of sentence.

13

14 (b) The court may order a defendant to complete a
15 court supervised treatment program qualified under W.S.
16 7-13-1601 through 7-13-1615.

17

18 (c) Upon notification to the court by the department
19 of corrections that the defendant has successfully
20 completed a court supervised treatment program or a term of
21 confinement and treatment in a substance abuse treatment
22 unit, the court shall:

23

1 (i) Order a reduction in the defendant's
2 sentence and place the defendant on probation or suspension
3 of sentence for a term and under conditions permitted by
4 law;

5
6 (ii) Credit the time served during the term of
7 confinement and treatment under this section towards the
8 defendant's sentence on a day for day basis. Good time
9 allowances pursuant to W.S. 7-13-420(a) shall not be
10 authorized.

11
12 **Section 2.** W.S. 7-13-301(a)(intro), (b) and (c),
13 7-13-305(a) through (c), 7-13-403(b) and by creating a new
14 subsection (c), 7-13-404, 7-13-408(e), 7-13-420(a) and (c),
15 7-13-1107(a), (b)(iii) by creating a new subparagraph (A),
16 by renumbering (A) and (B) as (B) and (C) and by creating
17 new subparagraphs (D) and (E), 7-18-102(a)(iii)(C),
18 7-18-106(a)(iii) and 7-18-109(b)(iii) are amended to read:

19
20 **7-13-301. Placing person charged with or found**
21 **guilty, but not convicted, on probation.**

22

1 (a) If a person who has not previously been convicted
2 of any felony is charged with or is found guilty of or
3 pleads guilty or no contest to any misdemeanor except any
4 second or subsequent violation of W.S. 31-5-233 or any
5 similar provision of law, or any second or subsequent
6 violation of W.S. 6-2-510(a) or 6-2-511(a) or any similar
7 provision of law, or any felony except murder, sexual
8 assault in the first or second degree, aggravated assault
9 and battery or arson in the first or second degree, the
10 court may, with the consent of the defendant ~~and the state~~
11 and without entering a judgment of guilt or conviction,
12 defer further proceedings and place the person on probation
13 for a term not to exceed three (3) years for misdemeanor
14 charges or five (5) years ~~upon~~ for felony charges. The
15 terms and conditions shall be set by the court. The terms
16 of probation shall include that he:

17

18 (b) If the court finds the person has fulfilled the
19 terms of probation and that his rehabilitation has been
20 attained to the satisfaction of the court, the court may,
21 ~~at the end of five (5) years, or~~ at any time after the
22 expiration of one (1) year from the date of the original
23 probation for felony charges or after the expiration of six

1 (6) months for misdemeanor charges, discharge the person
2 and dismiss the proceedings against him.

3

4 (c) If after hearing, the court determines the
5 defendant ~~violates~~violated a term or condition of
6 probation at any time before final discharge, the court
7 may:

8

9 (i) Enter an adjudication of guilt and
10 conviction and proceed to impose sentence upon the
11 defendant if he previously pled guilty to or was found
12 guilty of the original charge for which probation was
13 granted under this section;~~or~~

14

15 (ii) Order that the trial of the original charge
16 proceed if the defendant has not previously pled or been
17 found guilty;~~or~~

18

19 (iii) Credit any amount of time already served
20 on probation towards any sentence imposed for the original
21 charge for which probation was granted under this section;
22 or

23

1 (iv) Continue or modify the term and conditions
2 of probation.

3
4 **7-13-305. Determination, continuance or extension;**
5 **discharge order; revocation proceedings.**

6
7 (a) The period of probation or suspension of sentence
8 under W.S. 7-13-302 shall be upon terms and conditions set
9 by the court. The term shall not exceed five (5) years
10 unless otherwise determined by the court. ~~and may be~~
11 ~~continued or extended.~~ At any time during the period of
12 probation or suspension of sentence under W.S. 7-13-302,
13 the court may:

14
15 (i) Continue or extend the period of probation
16 or suspension;

17
18 (ii) Modify the conditions of probation or
19 suspension of sentence or remove conditions previously
20 imposed;

21

1 (iii) Add new probation or suspension of
2 sentence conditions if the defendant violates a term or
3 condition of probation.

4
5 (b) Upon the satisfactory fulfillment of the
6 conditions of suspension of sentence or probation under
7 W.S. 7-13-302 the court shall enter an order discharging
8 the defendant. If the court finds that the defendant's
9 rehabilitation has been attained to the satisfaction of the
10 court, the court may, at any time after the expiration of
11 one (1) year from the date of the original probation or
12 suspension of sentence, enter an order discharging the
13 defendant.

14
15 (c) For a violation of a condition of probation
16 occurring during the probationary period, revocation
17 proceedings may be commenced at any time during the period
18 of suspension of sentence or probation under W.S. 7-13-302,
19 or within thirty (30) days thereafter, in which case the
20 court may issue a warrant and cause the defendant to be
21 arrested. If after hearing the court determines that the
22 defendant violated any of the terms of probation or
23 suspension of sentence, the court may:

1

2 (i) Proceed to ~~deal with the case~~ impose a
3 sentence as if no suspension of sentence or probation had
4 been ordered;;

5

6 (ii) Credit any amount of time already served on
7 probation or suspension of sentence towards the sentence of
8 the original charge;

9

10 (iii) Continue the term and modify the
11 conditions of probation or suspension of sentence,
12 including to require a defendant to complete successfully a
13 court supervised treatment program qualified under W.S.
14 7-13-1601 through 7-13-1615; or

15

16 (iv) Order the revocation of probation or
17 suspension of sentence for a felony conviction and order a
18 term of confinement and treatment at a substance abuse
19 treatment unit under W.S. 7-13-308.

20

21 **7-13-403. Custody of parolee; return upon violation.**

22

1 (b) Unless otherwise ordered by the board, a parole
2 violator shall be returned to the custody of the department
3 to serve the remainder of the original sentence, reduced in
4 accordance with W.S. 7-13-404.

5
6 (c) Unless otherwise ordered by the board, a parole
7 violator who is returned to the custody of the department
8 for a violation of the terms and conditions of parole based
9 on conduct which does not constitute a separate felony
10 conviction and which does not constitute absconding while
11 on parole shall be returned for a period of incarceration
12 not to exceed one hundred twenty (120) days for a first
13 violation that leads to revocation of parole and a period
14 of incarceration not to exceed one hundred eighty (180)
15 days for a second violation that leads to revocation of
16 parole.

17
18 **7-13-404. Computing remainder of sentence for parole**
19 **violator.**

20
21 Unless otherwise ordered by the board, in computing the
22 remainder of the sentence to be served by a parole
23 violator, ~~no~~ credit shall be ~~given~~ granted for each day

1 served on parole against ~~his~~ a parole violator's original
2 sentence for ~~any portion of~~ the time between his most
3 recent release on parole and his return to the institution,
4 ~~unless the board directs otherwise~~ except that no credit
5 shall be given if a parole violator is returned to prison
6 for conduct which constitutes a separate felony conviction
7 or absconding while on parole.

8
9 **7-13-408. Probation, parole and conditional release**
10 **administrative jail or adult community correction program**
11 **sanction and revocation hearing procedures.**

12
13 (e) The department may establish by rule and
14 regulation a system of imposing the administrative
15 sanctions specified in W.S. 7-13-1107(b) as an alternative
16 to revocation of the parole of any parolee who has violated
17 a condition of his parole or as an alternative to
18 revocation of the probation of any probationer who has
19 violated a condition of his probation. Parolees and
20 probationers committed to the county jail or a residential
21 community correctional program pursuant to this subsection
22 shall be housed in accordance with W.S. 7-13-1107(c) or
23 7-18-115(b).

1

2 **7-13-420. Good time allowances.**

3

4 (a) The governor, after consultation with the board
5 and the department, shall adopt rules and regulations to
6 establish a system of good time and special good time
7 allowances for inmates of and parolees from any state penal
8 institution, any institution which houses Wyoming inmates
9 pursuant to W.S. 7-3-401 or any correctional facility
10 operated pursuant to a contract with the state under W.S.
11 7-22-102 or inmates or parolees transferred to a community
12 correctional facility pursuant to W.S. 7-18-109 or
13 7-18-115. The rules may provide:

14

15 (i) Either for good time to be deducted from the
16 maximum sentence or for good time to be deducted from the
17 minimum sentence imposed by the sentencing court, or both;
18 ~~and may provide~~

19

20 (ii) For the removal of previously earned good
21 time allowances and the withholding of future good time
22 allowances;

23

1 (iii) For additional good time to be awarded to
2 an inmate. Additional good time awarded under this
3 paragraph and rules adopted pursuant to this paragraph
4 shall not be removed and may be deducted from the maximum
5 sentence and minimum sentence imposed by the sentencing
6 court. Additional good time under this paragraph shall
7 only be awarded to an inmate who:

8
9 (A) Has no prior conviction for a felony in
10 any state;

11
12 (B) Is not serving a sentence as a result
13 of a conviction of a violent felony as defined in W.S.
14 6-1-104(a)(xii);

15
16 (C) Is in compliance with his
17 individualized case plan, including any requirements for
18 education, programming, treatment and work;

19
20 (D) Has served at least one-half (1/2) of
21 the maximum sentence imposed by the sentencing court; and

22

1 (E) Has no institutional disciplinary rule
2 infractions that resulted in placement into disciplinary
3 segregation or the withholding or removal of good time.

4
5 (iv) For additional good time to be awarded to a
6 parolee. Additional good time awarded under this paragraph
7 and rules adopted pursuant to this paragraph may be
8 deducted from the maximum sentence and minimum sentence
9 imposed by the sentencing court. Additional good time
10 under this paragraph shall only be awarded to a parolee
11 who:

12
13 (A) Has received a written recommendation
14 for additional good time to be awarded from the supervising
15 parole agent and that agent's supervisor, which is based on
16 the parolee's reduced level of community risk and his
17 compliance with his individualized parole case plan and
18 conditions, including any requirements for education,
19 programming, treatment, court ordered restitution and work;
20 and

21
22 (B) Has satisfactorily completed at least
23 one-half (1/2) of his period of supervised parole from the

1 date of release from prison to his projected date of
2 discharge.

3
4 (c) The court may ~~adjust~~modify the period of a
5 probationer's supervised probation as an incentive for
6 reaching specified goals on the recommendation of the
7 probation and parole agent, which shall be based on the
8 probationer's positive progression towards the goals of the
9 case plan, including successful completion of a
10 rehabilitative program or completion of a defined increment
11 of time without a serious violation of probation
12 conditions, as well as the overall compliance with the
13 conditions imposed by the court.

14
15 **7-13-1107. Administrative sanctions for program**
16 **violations.**

17
18 (a) The department is authorized to establish by rule
19 and regulation a system of administrative rewards and
20 sanctions as an alternative to probation or parole
21 revocation for probationers and parolees who violate the
22 rules and restrictions of an intensive supervision program
23 established under this article.

1

2 (b) Authorized sanctions may include:

3

4 (iii) Restrictions on personal liberty
5 including:

6

7 (A) Immediate confinement in a county jail,
8 to be imposed as a two (2) day or three (3) day consecutive
9 period by the probation and parole agent with approval of
10 the field services administrator. The total of all
11 sanctions under this subparagraph shall not exceed eighteen
12 (18) days during the term of supervision and shall not
13 require a hearing held in accordance with W.S. 7-13-408(b);

14

15 ~~(A)~~(B) Detention in county jail for a
16 period not exceeding thirty (30) days;

17

18 ~~(B)~~(C) Placement in a residential community
19 correctional program for a period not to exceed sixty (60)
20 days;~~;~~

21

22 (D) Detention in a consenting county jail
23 coupled with substance abuse treatment contracted with and

1 paid by the department for a period not exceeding ninety
2 (90) days. Detention under this subparagraph shall only be
3 imposed for repeated substance abuse violations during the
4 period of probation or parole and shall be credited to the
5 sentence;

6
7 (E) Cumulative custodial sanctions imposed
8 under subparagraphs (B) and (C) of this paragraph shall not
9 exceed ninety (90) days per probation sentence or period of
10 parole supervision prior to revocation and shall be
11 credited to the sentence. Custodial sanctions imposed
12 under subparagraphs (B) through (D) of this paragraph shall
13 require a hearing held in accordance with W.S. 7-13-408(b).
14 A custodial sanction under subparagraph (D) of this
15 paragraph shall only be available one (1) time to any one
16 (1) person.

17
18 **7-18-102. Definitions.**

19
20 (a) As used in this act:

21
22 (iii) "Inmate" means an adult serving a felony
23 sentence in any state penal institution or any correctional

1 facility operated pursuant to a contract under W.S.
2 7-22-102, excluding any inmate who:

3

4 (C) Is serving a term of ~~life~~-imprisonment
5 not subject to parole; or

6

7 **7-18-106. Powers and duties of boards.**

8

9 (a) Subject to this act, a corrections board may:

10

11 (iii) Accept, reject or reject after acceptance
12 the placement pursuant to a contract with the department,
13 of any offender, parolee or inmate in an adult community
14 correctional facility or program. Acceptance or rejection
15 shall be determined by a majority vote of those present at
16 a meeting of a corrections board where a quorum is present.
17 The reason for rejection shall be provided in writing to
18 the referring agency and the offender, parolee or inmate.
19 An action by a corrections board under this paragraph is
20 not subject to appeal or judicial review. If an offender,
21 parolee or inmate is rejected by the corrections board
22 after initial acceptance, the offender, parolee or inmate
23 shall be placed in the custody of a sheriff of a county

1 served by the corrections board for a reasonable period of
2 time pending receipt of appropriate orders for the transfer
3 of the offender, parolee or inmate.

4

5 **7-18-109. Transfer of inmate to facility by**
6 **department.**

7

8 (b) A transfer of an inmate to a residential adult
9 community correctional facility under this section may be
10 made only if:

11

12 (iii) The inmate is within at least ~~twenty-four~~
13 ~~(24)~~ thirty-six (36) months of his parole eligibility date
14 and his conduct during his confinement has been such that
15 he is appropriate for placement;

16

17 **Section 3.**

18

19 (a) For the period beginning July 1, 2017 and ending
20 June 30, 2018, there is appropriated from the general fund
21 to the department of corrections:

22

1 (i) One million three hundred forty-one thousand
2 seven hundred thirty-five dollars (\$1,341,735.00) for the
3 purpose of providing substance abuse treatment under this
4 act. To the extent funds are available, the department of
5 corrections shall reimburse the Wyoming department of
6 health the costs of a court supervised treatment program
7 qualified under W.S. 7-13-1601 through 7-13-1615 and
8 ordered under this act;

9
10 (ii) Eighty-six thousand four hundred dollars
11 (\$86,400.00) to implement administrative sanctions of
12 immediate confinement in a county jail for probationers and
13 parolees as an alternative to probation or parole
14 revocation;

15
16 (iii) Five hundred ninety-four thousand dollars
17 (\$594,000.00) to implement administrative sanctions of
18 detention in a consenting county jail and substance abuse
19 treatment for probationers and parolees as an alternative
20 to probation or parole revocation.

21
22 (b) Notwithstanding any other provision of law, funds
23 appropriated under this section shall not be transferred or

1 expended for any other purpose and any unexpended,
2 unobligated funds remaining from this appropriation shall
3 revert as provided by law on June 30, 2018. Funds
4 appropriated under this section shall be included in the
5 department of corrections' 2019-2020 standard biennial
6 budget request.

7

8 **Section 4.** This act is effective July 1, 2017.

9

10

(END)