

## HOUSE BILL NO. HB0094

Criminal justice reform.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

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

11

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

13

14 **Section 1.** W.S. 7-13-301(a)(intro), (b) and (c),  
15 7-13-304 by creating a new subsection (e), 7-13-305(a)  
16 through (c), 7-13-403(b) and by creating a new subsection

1 (c), 7-13-404, 7-13-408(e), 7-13-420(a) and (c),  
2 7-13-1107(a), (b)(iii) by creating a new subparagraph (A),  
3 by renumbering (A) and (B) as (B) and (C) and by creating  
4 new subparagraphs (D) and (E), 7-18-102(a)(iii)(C),  
5 7-18-106(a)(iii) and 7-18-109(b)(iii) are amended to read:

6

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

9

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

1 terms and conditions of probation shall be set by the court  
2 and the court may amend or remove conditions previously  
3 imposed at any time. The terms of probation shall include  
4 that he:

5  
6 (b) If the court finds the person has fulfilled the  
7 terms of probation and that his rehabilitation has been  
8 attained to the satisfaction of the court, the court may,  
9 ~~at the end of five (5) years, or~~ at any time after the  
10 expiration of one (1) year from the date of the original  
11 probation for felony charges or after the expiration of six  
12 (6) months for misdemeanor charges, discharge the person  
13 and dismiss the proceedings against him.

14  
15 (c) If after hearing, the court determines the  
16 defendant ~~violates~~ violated a term or condition of  
17 probation at any time before final discharge, the court may  
18 do any of the following:

19  
20 (i) Enter an adjudication of guilt and  
21 conviction and proceed to impose sentence upon the  
22 defendant if he previously pled guilty to or was found

1 guilty of the original charge for which probation was  
2 granted under this section;~~or~~

3

4 (ii) Order that the trial of the original charge  
5 proceed if the defendant has not previously pled or been  
6 found guilty;~~or~~

7

8 (iii) Proceed under paragraph (i) or (ii) of  
9 this subsection and credit time already served on probation  
10 towards any sentence imposed for the original charge for  
11 which probation was granted under this section;

12

13 (iv) With the consent of the state, continue the  
14 term and conditions of probation or continue the term of  
15 probation and increase the severity of conditions of  
16 probation to include any or all of the following  
17 conditions:

18

19 (A) A period of incarceration not to exceed  
20 ninety (90) days for a first violation and a period of  
21 incarceration not to exceed one hundred twenty (120) days  
22 for a second violation of the terms and conditions of

1 probation not involving a new conviction for a criminal  
2 offense;

3  
4 (B) Completion of a rehabilitative program  
5 that addresses the risks or needs presented by the  
6 defendant;

7  
8 (C) Technological monitoring of the  
9 defendant's location through the global positioning system  
10 or by other means;

11  
12 (D) Establishing a curfew requiring the  
13 defendant to be home during established hours;

14  
15 (E) Establishing a period of home detention  
16 requiring the defendant to remain at home except during  
17 periods of work, study or other permitted absences;

18  
19 (F) Intermittent confinement in a jail,  
20 residential treatment center or adult community corrections  
21 center, not to exceed a total of ninety (90) days.

22

1           7-13-304. Imposition or modification of conditions;  
2 performance of work by defendant; juvenile service program;  
3 treatment program; term of confinement and treatment.  
4

5           (e) Notwithstanding any other provision of law, the  
6 court may require as a condition or as a modification of  
7 conditions of probation or suspension of sentence that a  
8 defendant successfully complete a term of confinement and  
9 treatment in a substance abuse treatment unit operated by  
10 or under contract with the department of corrections as  
11 follows:  
12

13           (i) A term of confinement and treatment imposed  
14 under this subsection shall be for a term of not less than  
15 ninety (90) days or more than one hundred eighty (180)  
16 days;  
17

18           (ii) A court may impose the condition authorized  
19 under this subsection if:  
20

21           (A) The defendant has one hundred eighty  
22 (180) days or more remaining on his term of probation or  
23 suspended sentence;

1

2

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

4

5

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

10

11

(D) The court makes an affirmative finding that drug or alcohol abuse significantly contributed to the commission of the crime or violation of probation or conditions of the suspended sentence.

15

16

(iii) The court shall order the release of the defendant from his term of confinement and treatment under this subsection upon notification to the court by the department of corrections that the defendant has successfully completed treatment in a substance abuse treatment unit;

22

1           (iv) The department of corrections shall notify  
2 the court if removal of the defendant from the term of  
3 confinement and treatment in a substance abuse treatment  
4 unit is recommended due to the defendant's refusal to  
5 participate or other reasons. Upon notification, the court  
6 may release the defendant from his indeterminate term of  
7 confinement and treatment under this subsection and  
8 reinstate the remaining term of the defendant's probation  
9 or suspended sentence or proceed with revocation  
10 proceedings;

11  
12           (v) The court shall credit the time served  
13 during the term of confinement and treatment under this  
14 subsection towards the sentence of the original charge on a  
15 day for day basis. Good time allowances pursuant to W.S.  
16 7-13-420(a) shall not be authorized.

17  
18           **7-13-305. Determination, continuance or extension;**  
19 **discharge order; revocation proceedings.**

20  
21           (a) The period of probation or suspension of sentence  
22 under W.S. 7-13-302 shall be upon terms and conditions set  
23 by the court. The term shall not exceed five (5) years



1 unless otherwise determined by the court. ~~and may be~~  
2 ~~continued or extended.~~ At any time during the period of  
3 probation or suspension of sentence under W.S. 7-13-302,  
4 the court may:

5  
6 (i) Continue or extend the period of probation  
7 or suspension;

8  
9 (ii) Reduce the severity of probation conditions  
10 or remove conditions previously imposed;

11  
12 (iii) Add new probation conditions or increase  
13 the severity of probation conditions if the defendant  
14 violates a term or condition of probation.

15  
16 (b) Upon the satisfactory fulfillment of the  
17 conditions of suspension of sentence or probation under  
18 W.S. 7-13-302 the court shall enter an order discharging  
19 the defendant. During the probationary period, if the court  
20 finds the defendant has fulfilled the terms and conditions  
21 of probation or suspension of sentence under W.S. 7-13-302  
22 and that the defendant's rehabilitation has been attained  
23 to the satisfaction of the court, the court may, at any

1 time after the expiration of one (1) year from the date of  
2 the original probation or suspension of sentence, enter an  
3 order discharging the defendant.

4  
5 (c) For a violation of a condition of probation  
6 occurring during the probationary period, revocation  
7 proceedings may be commenced at any time during the period  
8 of suspension of sentence or probation under W.S. 7-13-302,  
9 or within thirty (30) days thereafter, in which case the  
10 court may issue a warrant and cause the defendant to be  
11 arrested. If after hearing the court determines that the  
12 defendant violated any of the terms of probation or  
13 suspension of sentence, the court may:

14  
15 (i) Proceed to deal with the case as if no  
16 suspension of sentence or probation had been ordered;

17  
18 (ii) Proceed under paragraph (i) of this  
19 subsection and credit time already served on probation or  
20 suspension of sentence towards the sentence of the original  
21 charge; or

22

1           (iii) Continue the term and conditions of  
2 probation or suspension of sentence and increase the  
3 severity of conditions to include any or all of the  
4 conditions specified under W.S. 7-13-301(c)(iv)(A) through  
5 (F) or a term of confinement and treatment in a substance  
6 abuse treatment unit under W.S. 7-13-304(e).

7  
8           **7-13-403. Custody of parolee; return upon violation.**

9  
10           (b) Unless otherwise ordered by the board, a parole  
11 violator shall be returned to the custody of the department  
12 to serve the remainder of the original sentence, reduced in  
13 accordance with W.S. 7-13-404.

14  
15           (c) Unless otherwise ordered by the board, a parole  
16 violator who is returned to the custody of the department  
17 for a violation of the terms and conditions of parole based  
18 on conduct which does not constitute a separate felony  
19 conviction and which does not constitute absconding while  
20 on parole shall be returned for a period of incarceration  
21 not to exceed one hundred twenty (120) days for a first  
22 violation that leads to revocation of parole and a period  
23 of incarceration not to exceed one hundred eighty (180)

1 days for a second violation that leads to revocation of  
2 parole.

3  
4 **7-13-404. Computing remainder of sentence for parole**  
5 **violator.**

6  
7 Unless otherwise ordered by the board, in computing the  
8 remainder of the sentence to be served by a parole  
9 violator, ~~no credit shall be given~~ there shall be a  
10 presumption in favor of granting credit for each day served  
11 on parole against ~~his a parole violator's~~ original sentence  
12 for ~~any portion of~~ the time between his most recent release  
13 on parole and his return to the institution, ~~unless the~~  
14 ~~board directs otherwise~~ except that no credit shall be  
15 given if a parole violator is returned to prison for  
16 conduct which constitutes a separate felony conviction or  
17 absconding while on parole.

18  
19 **7-13-408. Probation, parole and conditional release**  
20 **administrative jail or adult community correction program**  
21 **sanction and revocation hearing procedures.**

22

1           (e) The department may establish by rule and  
2 regulation a system of imposing the administrative  
3 sanctions specified in W.S. 7-13-1107(b) as an alternative  
4 to revocation of the parole of any parolee who has violated  
5 a condition of his parole or as an alternative to  
6 revocation of the probation of any probationer who has  
7 violated a condition of his probation. Parolees and  
8 probationers committed to the county jail or a residential  
9 community correctional program pursuant to this subsection  
10 shall be housed in accordance with W.S. 7-13-1107(c) or  
11 7-18-115(b).

12

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

14

15           (a) The governor, after consultation with the board  
16 and the department, shall adopt rules and regulations to  
17 establish a system of good time and special good time  
18 allowances for inmates of and parolees from any state penal  
19 institution, any institution which houses Wyoming inmates  
20 pursuant to W.S. 7-3-401 or any correctional facility  
21 operated pursuant to a contract with the state under W.S.  
22 7-22-102 or inmates or parolees transferred to a community

1 correctional facility pursuant to W.S. 7-18-109 or  
2 7-18-115. The rules may provide:

3  
4 (i) Either for good time to be deducted from the  
5 maximum sentence or for good time to be deducted from the  
6 minimum sentence imposed by the sentencing court, or both;  
7 ~~and may provide~~

8  
9 (ii) For the removal of previously earned good  
10 time allowances other than additional good time awarded  
11 pursuant to paragraph (iii) or (iv) of this subsection, and  
12 the withholding of future good time allowances;

13  
14 (iii) For additional good time to be awarded to  
15 an inmate. Additional good time awarded under this  
16 paragraph and rules adopted pursuant to this paragraph  
17 shall not be removed and may be deducted from the maximum  
18 sentence and minimum sentence imposed by the sentencing  
19 court. Additional good time under this paragraph shall  
20 only be awarded to an inmate who:

21  
22 (A) Has no prior conviction for a felony in  
23 any state;

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

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

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

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

(iv) For additional good time to be awarded to a parolee. Additional good time awarded under this paragraph and rules adopted pursuant to this paragraph shall not be removed and may be deducted from the maximum sentence and minimum sentence imposed by the sentencing court. Additional good time under this paragraph shall only be awarded to a parolee who:

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

(B) Has satisfactorily completed at least one-half (1/2) of his period of supervised parole from the date of release from prison to his projected date of discharge.

(c) The court may ~~adjust~~ decrease the period of a probationer's supervised probation as an incentive for reaching specified goals on the recommendation of the probation and parole agent, which shall be based on the probationer's positive progression towards the goals of the case plan, including successful completion of a rehabilitative program or completion of a defined increment of time without a serious violation of probation



1 conditions, as well as the overall compliance with the  
2 conditions imposed by the court.

3

4 **7-13-1107. Administrative sanctions for program**  
5 **violations.**

6

7 (a) The department is authorized to establish by rule  
8 and regulation a system of administrative rewards and  
9 sanctions as an alternative to probation or parole  
10 revocation for probationers and parolees who violate the  
11 rules and restrictions of an intensive supervision program  
12 established under this article.

13

14 (b) Authorized sanctions may include:

15

16 (iii) Restrictions on personal liberty  
17 including:

18

19 (A) Immediate confinement in a county jail,  
20 to be imposed as a two (2) day or three (3) day consecutive  
21 period by the probation and parole agent with approval of  
22 the field services administrator and the consent of the  
23 probationer or parolee. The total of all sanctions under

1 this subparagraph shall not exceed eighteen (18) days  
2 during the term of supervision and shall not require a  
3 hearing held in accordance with W.S. 7-13-408(b);

4  
5 ~~(A)~~(B) Detention in county jail for a  
6 period not exceeding thirty (30) days;

7  
8 ~~(B)~~(C) Placement in a residential community  
9 correctional program for a period not to exceed sixty (60)  
10 days;;

11  
12 (D) Detention in a consenting county jail  
13 coupled with substance abuse treatment contracted with and  
14 paid by the department for a period not exceeding ninety  
15 (90) days. Detention under this subparagraph shall only be  
16 imposed for repeated substance abuse violations during the  
17 period of probation or parole and shall be credited to the  
18 sentence;

19  
20 (E) Cumulative custodial sanctions imposed  
21 under subparagraphs (A) and (B) of this paragraph shall not  
22 exceed ninety (90) days per probation sentence or period of  
23 parole supervision prior to revocation and shall be

1 credited to the sentence. Custodial sanctions imposed  
2 under subparagraphs (B) through (D) of this paragraph shall  
3 require a hearing held in accordance with W.S. 7-13-408(b).  
4

5 **7-18-102. Definitions.**

6  
7 (a) As used in this act:

8  
9 (iii) "Inmate" means an adult serving a felony  
10 sentence in any state penal institution or any correctional  
11 facility operated pursuant to a contract under W.S.  
12 7-22-102, excluding any inmate who:

13  
14 (C) Is serving a term of ~~life~~-imprisonment  
15 not subject to parole; or

16  
17 **7-18-106. Powers and duties of boards.**

18  
19 (a) Subject to this act, a corrections board may:

20  
21 (iii) Accept, reject or reject after acceptance  
22 the placement pursuant to a contract with the department,  
23 of any offender, parolee or inmate in an adult community

1 correctional facility or program. Acceptance, rejection or  
2 rejection after acceptance shall be determined by a  
3 majority vote of those present at a meeting of a  
4 corrections board where a quorum is present. The reason  
5 for rejection or rejection after acceptance shall be  
6 provided in writing to the referring agency and the  
7 offender, parolee or inmate. An action by a corrections  
8 board under this paragraph is not subject to appeal or  
9 judicial review. If an offender, parolee or inmate is  
10 rejected by the corrections board after initial acceptance,  
11 the offender, parolee or inmate shall be placed in the  
12 custody of a sheriff of a county served by the corrections  
13 board for a reasonable period of time pending receipt of  
14 appropriate orders for the transfer of the offender,  
15 parolee or inmate.

16

17 **7-18-109. Transfer of inmate to facility by**  
18 **department.**

19

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

23

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

5

6           **Section 2.** The department of corrections is  
7 authorized two (2) additional full-time permanent positions  
8 for the purposes of this act. The department of corrections  
9 shall include these positions in its 2019-2020 standard  
10 biennial budget request.

11

12           **Section 3.**

13

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

17

18           (i) One million seven hundred eighty-eight  
19 thousand five hundred dollars (\$1,788,500.00) for the  
20 purpose of providing substance abuse treatment to  
21 probationers as a condition of probation or suspension of  
22 sentence;

23

1           (ii) Eighty-six thousand four hundred dollars  
2 (\$86,400.00) to implement administrative sanctions of  
3 immediate confinement in a county jail for probationers and  
4 parolees as an alternative to probation or parole  
5 revocation;

6

7           (iii) Five hundred ninety-four thousand dollars  
8 (\$594,000.00) to implement administrative sanctions of  
9 detention in a consenting county jail and substance abuse  
10 treatment for probationers and parolees as an alternative  
11 to probation or parole revocation.

12

13           (b) For the period beginning July 1, 2017 and ending  
14 June 30, 2018, there is appropriated from the general fund  
15 to the department of corrections three hundred sixty-five  
16 thousand four hundred ninety-six dollars (\$365,496.00) to  
17 fund the full-time permanent positions authorized in  
18 section 2 of this act.

19

20           (c) Notwithstanding any other provision of law, funds  
21 appropriated under this section shall not be transferred or  
22 expended for any other purpose and any unexpended,

1 unobligated funds remaining from this appropriation shall  
2 revert as provided by law on June 30, 2018.

3

4 (d) Funds appropriated under subsection (a) of this  
5 section shall not be included in the department of  
6 corrections' 2019-2020 standard biennial budget request.

7

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

9

10

(END)