

Substitute No. 1

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; authorizing a
9 position; repealing a provision related to discharge and
10 dismissal; providing appropriations; and providing for an
11 effective date.

12

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

14

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

16

1 7-13-308. Revocation of probation; placement in a
2 department of corrections treatment program.

3
4 (a) Upon the revocation of probation or suspension of
5 sentence under W.S. 7-13-302 by a district judge for a
6 felony conviction, the court may order a term of
7 confinement and treatment at a substance abuse treatment
8 unit operated by or under contract with the department of
9 corrections, subject to the following:

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

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

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

22

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

3

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

9

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

15

16 (b) Upon notification to the court by the department
17 of corrections that the defendant has successfully
18 completed the term of confinement and treatment in a
19 substance abuse treatment unit, the court shall:

20

21 (i) Order a reduction in the defendant's
22 sentence and place the defendant on probation or suspension

1 of sentence for a term and under conditions permitted by
2 law;

3

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

9

10 **Section 2.** W.S. 7-13-301(a)(intro), (b) and
11 (c)(intro), (i) and by creating new paragraphs (iii) and
12 (iv), 7-13-305(a) through (c), 7-13-403(b) and by creating
13 a new subsection (c), 7-13-404, 7-13-408(e), 7-13-420(a)
14 and (c), 7-13-1107(a), (b)(iii) by creating a new
15 subparagraph (A), by renumbering (A) and (B) as (B) and (C)
16 and by creating new subparagraphs (D) and (E),
17 7-18-102(a)(iii)(C), 7-18-106(a)(iii) and 7-18-109(b)(iii)
18 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 court shall require the defendant to enter a plea of guilty
16 or no contest and take testimony to establish a factual
17 basis for the plea. The terms and conditions of probation
18 shall be set by the court. The terms of probation shall
19 include that he:

20

21 (b) If the court finds the person has fulfilled the
22 terms of probation and that his rehabilitation has been
23 attained to the satisfaction of the court, the court

1 may, ~~at the end of five (5) years, or~~ at any time after the
2 expiration of one (1) year from the date of the original
3 probation for felony charges or after the expiration of six
4 (6) months for misdemeanor charges, discharge the person
5 and dismiss the proceedings against him.

6

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

11

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

17

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

22

1 (iv) With the consent of the state, continue or
2 modify the term and conditions 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; or

12

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

17

18 **7-13-403. Custody of parolee; return upon violation.**

19

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

1

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

13

14 **7-13-404. Computing remainder of sentence for parole**
15 **violation.**

16

17 Unless otherwise ordered by the board, in computing the
18 remainder of the sentence to be served by a parole
19 violator, ~~no~~ credit shall be ~~given~~ granted for each day
20 served on parole against ~~his~~ a parole violator's original
21 sentence for ~~any portion of~~ the time between his most
22 recent release on parole and his return to the
23 institution, ~~unless the board directs otherwise~~ except that

1 no credit shall be given if a parole violator is returned
2 to prison for conduct which constitutes a separate felony
3 conviction or absconding while on parole.

4
5 **7-13-408. Probation, parole and conditional release**
6 **administrative jail or adult community correction program**
7 **sanction and revocation hearing procedures.**

8
9 (e) The department may establish by rule and
10 regulation a system of imposing the administrative
11 sanctions specified in W.S. 7-13-1107(b) as an alternative
12 to revocation of the parole of any parolee who has violated
13 a condition of his parole or as an alternative to
14 revocation of the probation of any probationer who has
15 violated a condition of his probation. Parolees and
16 probationers committed to the county jail or a residential
17 community correctional program pursuant to this subsection
18 shall be housed in accordance with W.S. 7-13-1107(c) or
19 7-18-115(b).

20
21 **7-13-420. Good time allowances.**

22

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

11

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

16

17 (ii) For the removal of previously earned good
18 time allowances and the withholding of future good time
19 allowances;

20

21 (iii) For additional good time to be awarded to
22 an inmate. Additional good time awarded under this
23 paragraph and rules adopted pursuant to this paragraph

1 shall not be removed and may be deducted from the maximum
2 sentence and minimum sentence imposed by the sentencing
3 court. Additional good time under this paragraph shall
4 only be awarded to an inmate who:

5
6 (A) Has no prior conviction for a felony in
7 any state;

8
9 (B) Is not serving a sentence as a result
10 of a conviction of a violent felony as defined in W.S.
11 6-1-104(a)(xii);

12
13 (C) Is in compliance with his
14 individualized case plan, including any requirements for
15 education, programming, treatment and work;

16
17 (D) Has served at least one-half (1/2) of
18 the maximum sentence imposed by the sentencing court; and

19
20 (E) Has no institutional disciplinary rule
21 infractions that resulted in placement into disciplinary
22 segregation or the withholding or removal of good time.

23

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

8
9 (A) Has received a written recommendation
10 for additional good time to be awarded from the supervising
11 parole agent and that agent's supervisor, which is based on
12 the parolee's reduced level of community risk and his
13 compliance with his individualized parole case plan and
14 conditions, including any requirements for education,
15 programming, treatment, court ordered restitution and work;
16 and

17
18 (B) Has satisfactorily completed at least
19 one-half (1/2) of his period of supervised parole from the
20 date of release from prison to his projected date of
21 discharge.

22

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

11

12 **7-13-1107. Administrative sanctions for program**
13 **violations.**

14

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

21

22 (b) Authorized sanctions may include:

23

1 (iii) Restrictions on personal liberty
2 including:

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

11
12 ~~(A)~~(B) Detention in county jail for a
13 period not exceeding thirty (30) days;

14
15 ~~(B)~~(C) Placement in a residential community
16 correctional program for a period not to exceed sixty (60)
17 days;-

18
19 (D) Detention in a consenting county jail
20 coupled with substance abuse treatment contracted with and
21 paid by the department for a period not exceeding ninety
22 (90) days. Detention under this subparagraph shall only be
23 imposed for repeated substance abuse violations during the

1 period of probation or parole and shall be credited to the
2 sentence;

3
4 (E) Cumulative custodial sanctions imposed
5 under subparagraphs (B) and (C) of this paragraph shall not
6 exceed ninety (90) days per probation sentence or period of
7 parole supervision prior to revocation and shall be
8 credited to the sentence. Custodial sanctions imposed
9 under subparagraphs (B) through (D) of this paragraph shall
10 require a hearing held in accordance with W.S. 7-13-408(b).
11 A custodial sanction under subparagraph (D) of this
12 paragraph shall only be available one (1) time to any one
13 (1) person.

14
15 **7-18-102. Definitions.**

16
17 (a) As used in this act:

18
19 (iii) "Inmate" means an adult serving a felony
20 sentence in any state penal institution or any correctional
21 facility operated pursuant to a contract under W.S.
22 7-22-102, excluding any inmate who:

23

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

3

4 **7-18-106. Powers and duties of boards.**

5

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

7

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

1

2 **7-18-109. Transfer of inmate to facility by**
3 **department.**

4

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

8

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

13

14 **Section 3.** The department of corrections is
15 authorized one (1) additional full-time permanent position
16 for the purposes of this act. The department of corrections
17 shall include this position in its 2019-2020 standard
18 biennial budget request.

19

20 **Section 4.** W.S. 7-13-301(c)(ii) is repealed.

21

22 **Section 5.**

23

1 (a) For the period beginning July 1, 2017 and ending
2 June 30, 2018, there is appropriated from the general fund
3 to the department of corrections:
4

5 (i) One million three hundred forty-one thousand
6 seven hundred thirty-five dollars (\$1,341,735.00) for the
7 purpose of providing substance abuse treatment to
8 probationers as a condition of probation or suspension of
9 sentence;
10

11 (ii) Eighty-six thousand four hundred dollars
12 (\$86,400.00) to implement administrative sanctions of
13 immediate confinement in a county jail for probationers and
14 parolees as an alternative to probation or parole
15 revocation;
16

17 (iii) Five hundred ninety-four thousand dollars
18 (\$594,000.00) to implement administrative sanctions of
19 detention in a consenting county jail and substance abuse
20 treatment for probationers and parolees as an alternative
21 to probation or parole revocation.
22

1 (b) For the period beginning July 1, 2017 and ending
2 June 30, 2018, there is appropriated from the general fund
3 to the department of corrections sixty-six thousand eight
4 hundred forty dollars (\$66,840.00) to fund the full-time
5 permanent position authorized in section 3 of this act.

6

7 (c) Notwithstanding any other provision of law, funds
8 appropriated under this section shall not be transferred or
9 expended for any other purpose and any unexpended,
10 unobligated funds remaining from this appropriation shall
11 revert as provided by law on June 30, 2018. Funds
12 appropriated under this section shall be included in the
13 department of corrections' 2019-2020 standard biennial
14 budget request.

15

16 **Section 6.** This act is effective July 1, 2017.

17

18

(END)