

SENATE FILE NO. SF0023

Treatment courts-transfer to judicial branch.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to courts; transferring responsibility and
 2 oversight of the court supervised treatment programs from
 3 the department of health to the Wyoming supreme court;
 4 specifying terms and conditions of the transfer; amending
 5 application approval and expense requirements for treatment
 6 programs; making conforming amendments; renumbering
 7 provisions; requiring reports; providing for rulemaking;
 8 and providing for effective dates.

9

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

11

12 **Section** 1. W.S. 5-12-101, 7-13-304(d),
 13 7-13-407(a)(i), 7-13-421(h)(ii), 7-16-205(a)(v),
 14 7-18-114(a)(iv), 7-19-106(a)(ix), 9-2-102(a)(iii),
 15 14-3-429(d)(iv), 14-6-247(a)(xiv) and 14-6-429(d)(viii) are
 16 amended to read:

1

2 **5-12-101. Short title; court supervised treatment.**

3

4 (a) This act shall be known as and may be cited as
5 the "Court Supervised Treatment Programs Act."

6

7 (b) Any district, juvenile, circuit, municipal or
8 tribal court judge or circuit court magistrate may act as a
9 participating judge in a court supervised treatment program
10 established pursuant to ~~W.S. 7-13-1601 through 7-13-1615~~
11 this act.

12

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

15

16 (d) As a condition of probation or suspension of
17 sentence, the court may require a defendant to complete
18 successfully a court supervised treatment program qualified
19 under W.S. ~~7-13-1601 through 7-13-1615~~ 5-12-101 through
20 5-12-118, a 24/7 sobriety program under W.S. 7-13-1701
21 through 7-13-1710, or both.

22

23 **7-13-407. Duties of probation and parole agents.**

1

2 (a) Under direction and supervision of the director,
3 probation and parole agents shall:

4

5 (i) Except as otherwise directed by the
6 director, devote full time to the performance of their
7 duties in carrying out the provisions of W.S. 5-12-101
8 through 5-12-118, 7-9-104, 7-9-107, 7-13-303, 7-13-401
9 through 7-13-424, 7-13-1101 through 7-13-1105, ~~7-13-1601~~
10 ~~through 7-13-1615~~, 7-13-1801 through 7-13-1803 and
11 35-7-1043;

12

13 **7-13-421. Restitution as condition of parole.**

14

15 (h) The board may require payment of the following
16 obligations as conditions of parole if it finds the parolee
17 is reasonably capable of making the payments, taking into
18 account the factors enumerated in W.S. 7-9-106(a)(iii):

19

20 (ii) Court ordered fines, reimbursement for the
21 services of the public defender or court appointed counsel,
22 the surcharge imposed under W.S. 1-40-119 and the surcharge
23 imposed under W.S. ~~7-13-1616~~ 5-12-118;

1

2 **7-16-205. Disposition of earnings; confidentiality of**
3 **amount.**

4

5 (a) Payment for services performed by any prisoner
6 under W.S. 7-16-202 shall be deposited in the trust and
7 agency account at the institution and shall be disbursed
8 for the purposes provided in this subsection and in the
9 order specified:

10

11 (v) Court ordered restitution, fines, sanctions
12 and reimbursement for the services of public defender or
13 court appointed counsel, the surcharge imposed under W.S.
14 1-40-119, victims compensation obligations under W.S.
15 1-40-112(g) and the surcharge imposed under W.S. ~~7-13-1616~~
16 5-12-118;

17

18 **7-18-114. Record and disbursement of wages; exemption**
19 **from process; confidentiality of amount.**

20

21 (a) Wages earned by an inmate, parolee or offender
22 while in an adult community corrections program shall be
23 retained and accounted for by the program operator and

1 shall be disbursed for the purposes provided in this
2 subsection and in the order specified:

3

4 (iv) Court ordered restitution, fines, sanctions
5 and reimbursement for the services of public defender or
6 court appointed counsel, the surcharge imposed under W.S.
7 1-40-119, victims compensation obligations under W.S.
8 1-40-112(g) and the surcharge imposed under W.S. ~~7-13-1616~~
9 5-12-118;

10

11 **7-19-106. Access to, and dissemination of,**
12 **information.**

13

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

17

18 (ix) Court supervised treatment program staff
19 solely for the purposes of utilizing the information
20 pursuant to the Court Supervised Treatment Programs Act in
21 ~~title 7, chapter 13, article 6~~ title 5, chapter 12 of the
22 Wyoming statutes;

23

1 **9-2-102. Department of health; duties and**
2 **responsibilities; state grants.**

3

4 (a) The department of health is the state mental
5 health authority, the developmental disabilities authority
6 and the substance abuse authority. The department through
7 its divisions has the following duties and responsibilities
8 to:

9

10 (iii) Establish minimum standards and approve
11 policies and procedures for the establishment and operation
12 of community-based mental health, substance abuse and
13 developmental disabilities programs receiving state
14 support. The department through its mental health division
15 and its substance abuse division shall annually withhold
16 not less than five percent (5%) of all amounts provided in
17 each contract with a community-based mental health, or
18 substance abuse ~~or drug court~~ program or provider and shall
19 not release the funds withheld to the individual program or
20 provider until the respective division and the individual
21 program or provider enter into a written agreement that
22 provides for performance and outcome measures. If the
23 respective division and an individual program or provider

1 do not enter into a mutually agreed upon set of performance
2 and outcome measures, the funds withheld under this
3 paragraph shall revert to the budget reserve account at the
4 end of the biennium in which the funds were withheld;

5

6 **14-3-429. Decree where child adjudged neglected;**
7 **dispositions; terms and conditions; legal custody.**

8

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

11

12 (iv) Require the child's parents or guardian and
13 the child to participate in a court supervised treatment
14 program qualified under W.S. ~~7-13-1601 through 7-13-1615~~
15 5-12-101 through 5-12-118, provided the court supervised
16 treatment program accepts the child's parents or guardian
17 and the child for participation in its program.

18

19 **14-6-247. Sanctions common to all levels.**

20

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

23

1 (xiv) Require the child or the child's parents
2 or guardian and the child to participate in a court
3 supervised treatment program qualified under W.S. ~~7-13-1601~~
4 ~~through 7-13-1615~~ 5-12-101 through 5-12-118, provided the
5 court supervised treatment program accepts the child's
6 parents or guardian and the child for participation in its
7 program.

8
9 **14-6-429. Decree where child adjudged in need of**
10 **supervision; dispositions; terms and conditions; legal**
11 **custody.**

12
13 (d) As a part of any order of disposition and the
14 terms and conditions thereof, the court may:

15
16 (viii) Require the child's parents or guardian
17 and the child to participate in a court supervised
18 treatment program qualified under W.S. ~~7-13-1601 through~~
19 ~~7-13-1615~~ 5-12-101 through 5-12-118, provided the court
20 supervised treatment program accepts the child's parents or
21 guardian and the child for participation in its program.

22

1 **Section 2.** W.S. 7-13-1602 as 5-12-104, 7-13-1605 as
2 5-12-107, 7-13-1606 through 7-13-1608 as 5-12-108 through
3 5-12-110, 7-13-1613 as 5-12-115 and 7-13-1616 as 5-12-118
4 are amended and renumbered to read:

5

6 ~~7-13-1602~~ 5-12-104. **Definitions.**

7

8 (a) As used in this act:

9

10 (i) "Account" means the court supervised
11 treatment account created by W.S. ~~7-13-1605(a)~~ 5-12-107(a);

12

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

18

19 (iii) "Continuum of care" means a seamless and
20 coordinated course of substance abuse education and
21 treatment designed to meet the needs of drug offenders as
22 they move through the criminal justice system and beyond,
23 maximizing self-sufficiency;

1

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

4

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

7

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

12

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

16

17 (viii) "Program" or "court supervised treatment
18 program" means a local court supervised treatment program
19 that complies with rules and regulations adopted by the
20 ~~department~~ Wyoming supreme court;

21

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

4

5 (x) "Program team" means the team created
6 pursuant to W.S. ~~7-13-1609(a)~~ 5-12-111(a);

7

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

10

11 (xii) "Referring judge" means the district,
12 juvenile, circuit, municipal or tribal court judge or
13 magistrate who refers a substance offender or any other
14 person as provided in title 14 of the Wyoming statutes to a
15 program;

16

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

22

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

6

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

9

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

14

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

20

21 (xviii) "This act" means W.S. ~~7-13-1601 through~~
22 ~~7-13-1616~~ 5-12-101 through 5-12-118.

23

1 ~~7-13-1605~~5-12-107. Establishment of court supervised
2 program account; rules and regulations; panel created;
3 program funding.

4
5 (a) There is created a court supervised treatment
6 program account. All interest earned on funds within this
7 account shall be deposited in the account. The ~~department~~
8 supreme court shall oversee and provide funding for
9 programs from the court supervised treatment program
10 account. Funds within the account shall be expended by the
11 ~~department~~supreme court for the purposes of this act upon
12 legislative appropriation provided, however, that
13 surcharges deposited in the account pursuant to W.S.
14 ~~7-13-1616(e)~~5-12-118(e) shall be distributed to programs
15 by the ~~department~~supreme court semiannually.~~Department~~
16 ~~expenses under this act shall not exceed ten percent (10%)~~
17 ~~of the total amount of funding provided by the department~~
18 ~~for programs in any fiscal biennium.~~

19
20 (b) The ~~department~~supreme court shall determine
21 whether an application for a program meets the
22 qualifications specified in W.S. ~~7-13-1606(b)~~5-12-118(b)

1 and the rules and regulations promulgated by the ~~department~~
2 supreme court pursuant to subsection (c) of this section.

3
4 (c) Except as otherwise provided in this subsection,
5 the ~~department~~ supreme court shall promulgate rules and
6 regulations necessary to implement this act, including
7 establishing standards consistent with the key components
8 of drug courts defined by the United States department of
9 justice or such similar rules as may be adopted by the
10 ~~department~~ supreme court. The department of health, in
11 consultation with the supreme court, shall promulgate rules
12 for certification requirements for treatment personnel.
13 The rules promulgated by the supreme court shall:

14
15 (i) Specify funding formulas for funding from
16 the account which formula shall include provisions
17 requiring local contribution to the cost of a program;

18
19 (ii) Require participants to contribute
20 financially to their own program;

21
22 (iii) Establish program requirements,
23 operational standards and protocols for programs, program

1 team and staff training requirements, program data
2 collection and maintenance, ~~certification requirements for~~
3 ~~treatment personnel,~~ and incentive and sanction
4 limitations.

5
6 (d) ~~A panel, consisting of the attorney general, the~~
7 ~~directors of the department of health, department of family~~
8 ~~services and department of corrections, the chairman of the~~
9 ~~governor's advisory board on substance abuse and violent~~
10 ~~crimes and the state public defender, or their designees,~~
11 The supreme court shall make the final determination
12 whether an application for a court supervised treatment
13 program meets the qualifications of this act and shall
14 determine the funding amount for each successful applicant.
15 The ~~panel~~ supreme court may deny an application for a new
16 program if the funding for the new program would
17 substantially affect funding levels for existing programs.

18
19 (e) In addition to those funds deposited in the
20 account created by this section, the ~~department~~ supreme
21 court may accept, and shall deposit to the account, any
22 gifts, contributions, donations, grants or federal funds

1 specifically given to the ~~department~~ supreme court for the
2 benefit of programs in Wyoming.

3

4 (f) Nothing in this act shall prohibit a program from
5 obtaining or providing supplemental funding. All
6 supplemental funds received by a program shall be reported
7 to the ~~department~~ supreme court.

8

9 ~~7-13-1606~~ 5-12-108. **Establishment of court supervised**
10 **treatment programs.**

11

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

17

18 (b) The applicant shall be the contracting agent for
19 all its program contracts. All program employees of a
20 program shall be employees of the applicant that was
21 awarded a grant under this section, but referring judges,
22 participating judges, other judicial branch personnel and
23 department of corrections personnel shall not be program

1 employees. All program funds and grants shall be managed
2 by the applicant to whom a grant is awarded pursuant to the
3 provisions of a contract between the ~~department~~supreme
4 court and the applicant.

5

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

8

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

13

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

17

18 (f) The application shall include other information
19 that may be required by the ~~department~~supreme court.

20

21 ~~7-13-1607~~5-12-109. Participation in court supervised
22 treatment program; conditions; extended probation.

23

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

5

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

8

9 (ii) Has entered a guilty plea pursuant to W.S.
10 7-13-301;

11

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

14

15 (iv) Is on parole under the provisions of W.S.
16 7-13-401 et seq.

17

18 (b) Any district, juvenile, circuit, municipal or
19 tribal court judge, or magistrate, may refer substance
20 offenders for participation in a program. The referring
21 judge may act as a participating judge in a program as
22 authorized by this act and by rules adopted by the supreme
23 court. A substance offender who is a defendant in a

1 criminal action or a respondent in a juvenile court action
2 may be referred for participation in a program if:

3

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

6

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

10

11 (iii) In a juvenile court case, the referring
12 judge has reason to believe that participation by the
13 child's parent or guardian will be in the best interest of
14 the child; or

15

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

18

19 (c) Participation in a program shall only be with the
20 consent of the referring judge and the participant, and
21 acceptance of the participant by the program team in
22 accordance with a written agreement between the participant
23 and the program team. The agreement shall include the

1 participant's consent to release of medical and other
2 records relevant to his treatment history and assessment
3 that meets the requirements of 42 U.S.C. 290dd-2(b) or 42
4 C.F.R. part 2.31, as applicable. Prior to a participant's
5 entry into a written agreement, the participating judge
6 shall inform the participant that he may be subject to a
7 term of probation that exceeds the maximum term of
8 imprisonment established for the particular offense
9 charged, as provided in W.S. 5-9-134 and ~~7-13-1614~~
10 5-12-116.

11

12 (d) Nothing in this act shall confer a right or an
13 expectation of a right to participate in a program, nor
14 does this act obligate a program team to accept any
15 proposed participant. Neither the establishment of a
16 program nor anything herein contained shall be construed as
17 limiting the discretion of a prosecuting attorney in regard
18 to the prosecution of any criminal or juvenile case.
19 Consent to participation in a program under subsection (c)
20 of this section shall only be required from the referring
21 judge and participant.

22

1 ~~7-13-1608~~ 5-12-110. Incentives and sanctions;
2 extended probation.

3

4 (a) The participating judge may grant reasonable
5 incentives under the written agreement under W.S.
6 ~~7-13-1607(c)~~ 5-12-109(c) if he finds that since the last
7 staffing, the participant:

8

9 (i) Is performing satisfactorily in the program;

10

11 (ii) Is benefiting from the program; and

12

13 (iii) Has not violated any term or condition of
14 the agreement.

15

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

1

2 (i) Is not performing satisfactorily in the
3 program;

4

5 (ii) Is not benefiting from the program;

6

7 (iii) Has engaged in conduct rendering the
8 participant unsuitable for the program;

9

10 (iv) Has otherwise violated any term or
11 condition of the written agreement; or

12

13 (v) Is unable to participate in the program.

14

15 (c) To ensure due process of law, expulsion from the
16 program shall be at the discretion of the participating
17 judge, following a hearing, based on the recommendation of
18 the program team. Expulsion shall not occur without the
19 participant first being notified of the reasons for the
20 proposed expulsion and given an opportunity to be heard by
21 the program team and the participating judge.

22

1 ~~7-13-1613~~ 5-12-115. Participant information and
2 progress statistics.

3

4 (a) Participants may be required to provide access to
5 the following information, the collection and maintenance
6 of which by the program team shall be in a standardized
7 format pursuant to ~~department~~ rules and regulations of the
8 supreme court:

9

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

12

13 (ii) Criminal history;

14

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

17

18 (iv) Employment, education and income history;

19

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

22

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

4

5 (b) Programs shall maintain and report to the
6 ~~department~~supreme court the following information pursuant
7 to ~~department~~supreme court rules and regulations, none of
8 which shall identify the participants:

9

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

14

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

17

18 ~~7-13-1616~~5-12-118. **Surcharge to be assessed in**
19 **certain criminal cases; paid to account.**

20

21 (a) In addition to any fine or other penalty
22 prescribed by law, a defendant who pleads guilty or nolo
23 contendere to, or is convicted of, any offense under W.S.

1 31-5-233 or 35-7-1001 through 35-7-1057 may be assessed a
2 surcharge of not more than fifty dollars (\$50.00).

3

4 (b) The surcharge may be imposed upon any defendant
5 for whom prosecution, trial or sentence is deferred under
6 W.S. 7-13-301 and 7-13-302 or 35-7-1037 or who participates
7 in any other diversion agreement for an offense specified
8 in subsection (a) of this section.

9

10 (c) The court may waive the surcharge if the person
11 is unable to pay the surcharge or for any other good cause
12 shown. The court shall consider all other financial
13 obligations imposed on the defendant and set the surcharge
14 so as not to create an undue financial burden on the
15 defendant.

16

17 (d) The surcharge shall be paid within ten (10) days
18 of imposition. Failure to comply with the provisions for
19 payment of the surcharge is punishable as contempt of
20 court. Contempt or other proceedings, including proceedings
21 under W.S. 6-10-105, if applicable, to collect the
22 surcharge may be initiated by the district attorney or by
23 the court on its own motion.

1

2 (e) The proceeds from the surcharge imposed by this
3 section shall be remitted promptly by the clerk of the
4 court to the ~~department~~supreme court for deposit in the
5 account.

6

7 **Section 3.** W.S. 7-13-1603, 7-13-1604, 7-13-1609,
8 7-13-1610, 7-13-1611, 7-13-1612, 7-13-1614 and 7-13-1615
9 are renumbered as 5-12-105, 5-12-106, 5-12-111, 5-12-112,
10 5-12-113, 5-12-114, 5-12-116 and 5-12-117.

11

12 **Section 4.** W.S. 7-13-1601 is repealed.

13

14 **Section 5.**

15

16 (a) The court supervised treatment program
17 established in title 7, chapter 13, article 16 of the
18 Wyoming statutes, as renumbered by this act, shall be
19 transferred from the department of health to the supreme
20 court on July 1, 2024. All property, equipment, obligations
21 and unexpended funds of the court supervised treatment unit
22 (unit 2503) of the department of health shall be

1 transferred to the supreme court on July 1, 2024, except as
2 otherwise provided in this section.

3

4 (b) Nothing in this act shall be construed to impair
5 existing contracts, agreements or other obligations of the
6 court supervised treatment program that the department of
7 health entered into on the program's behalf before July 1,
8 2024. The supreme court shall, to the greatest extent
9 authorized by law and upon assuming responsibility for the
10 court supervised treatment program, fulfill existing
11 agreements, contracts and other obligations of the court
12 supervised treatment program entered into before July 1,
13 2024. For any existing agreement, contract or other
14 obligation that the supreme court cannot assume lawfully,
15 the department of health shall retain those agreements,
16 contracts and other obligations.

17

18 (c) Any unexpended, unobligated funds appropriated
19 and any positions allocated to the court supervised
20 treatment unit of the department of health as of July 1,
21 2024 shall be transferred to the supreme court on July 1,
22 2024. For purposes of this subsection, any funds
23 appropriated and any positions allocated to the court

1 supervised treatment unit of the department of health
2 during the 2024 budget session of the legislature shall be
3 transferred to the supreme court on July 1, 2024.

4

5 **Section 6.**

6

7 (a) The supreme court shall promulgate all rules
8 necessary to implement and manage the court supervised
9 treatment program.

10

11 (b) Beginning with the effective date of this section
12 until July 1, 2024, the department of health shall consult
13 with the supreme court regarding any agreement, contract or
14 other obligation the department of health seeks to enter
15 into on behalf of the court supervised treatment program.

16

17 (c) Not later than August 1, 2023, the supreme court
18 and the department of health shall report to the joint
19 judiciary committee on a plan for transferring the court
20 supervised treatment program and its functions and
21 responsibilities to the supreme court. The report shall
22 include any recommendations for legislation the supreme
23 court or the department of health determine is necessary to

1 effectuate the transfer of the court supervised treatment
2 program to the supreme court. The committee shall sponsor
3 any necessary legislation to correct or improve the outcome
4 of any issue identified in the report submitted under this
5 subsection.

6

7 **Section 7.**

8

9 (a) Except as provided in subsection (b) of this
10 section, this act is effective July 1, 2024.

11

12 (b) Sections 6 and 7 of this act are effective
13 immediately upon completion of all acts necessary for a
14 bill to become law as provided by Article 4, Section 8 of
15 the Wyoming Constitution.

16

17 (END)