

ENROLLED ACT NO. 90, SENATE

SIXTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2025 GENERAL SESSION

AN ACT relating to courts; amending the Court Supervised Treatment Program Act to include mental health treatment; authorizing court supervised treatment programs to accept participants from any other jurisdiction in this state; amending the Public Defender Act to allow the public defender to participate as a team member in court supervised treatment programs and represent participants in those programs; changing the term "substance abuse" to "substance use"; amending definitions; creating definitions; making conforming amendments; authorizing rulemaking; repealing provisions; and providing for an effective date.

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

Section 1. W.S. 5-12-104(a)(ii), (iii), (v) through (viii), (xii), (xv) through (xvii), by creating new paragraphs (xviii) through (xx) and by renumbering (xviii) as (xxi), 5-12-105(a), (b)(iii), by creating a new paragraph (iv) and by renumbering (iv) as (v), 5-12-106(b), 5-12-109(b)(intro), (c), (d) and by creating a new subsection (e), 5-12-110(b)(intro), 5-12-111(a)(intro), 5-12-115(a)(iii), (v) and by creating a new paragraph (vii), 7-6-104(d) and by creating a new subsection (e), 7-13-1301(a)(v), 7-13-1302, 7-13-1303(a), 7-13-1708(c), 14-6-219(a), 14-6-402(a)(xxii), 14-6-419(a), 31-5-233(e), 31-5-234(e) and 35-7-1033(b)(i), (ii) and (iv) are amended to read:

5-12-104. Definitions.

(a) As used in this act:

(ii) "Applicant" means ~~the~~ one (1) or more governing ~~body~~ bodies of a city, town or county, a tribal

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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~~use disorder education and treatment, mental health treatment or any combination thereof designed to meet the needs of ~~drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency~~participants;

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

(vi) "Participant" means a person with a mental illness or a dual diagnosis who committed or is alleged to have committed an offense, including those who have had law enforcement contact for such offenses with or without arrest, or 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, chancery, municipal or tribal court judge or magistrate or retired district, circuit or chancery court judge acting as part of a program team;

(viii) "Program" ~~or "court supervised treatment program"~~ means a one (1) or more local court supervised treatment ~~program~~or mental health programs that ~~complies~~comply with rules and regulations adopted by the Wyoming supreme court;

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

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

(xvi) "Substance ~~abuse~~ use disorder treatment" means treatment designed to provide education, ~~and~~ therapy and medication, as appropriate, directed toward ending a substance ~~abuse~~ use disorder and preventing its return;

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

(xviii) "Mental health treatment" means medication, therapy and prescribed care designed to address disturbances in behavior, emotions, thoughts or judgment after an evaluation and mental health diagnosis or diagnostic impression has occurred;

(xix) For purposes of W.S. 5-12-101 through 5-12-118, "mental illness" means schizophrenia, schizoaffective disorder, major depressive disorder, post-traumatic stress disorder or bipolar disorder, as diagnosed by a mental health professional;

(xx) "Substance use disorder" means as defined by W.S. 35-1-613(a)(viii);

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~~(xviii)~~(xxi) "This act" means W.S. 5-12-101 through 5-12-118.

5-12-105. Purposes and goals.

(a) The legislature recognizes the critical need in this state for treatment programs to break the cycle of substance ~~abuse~~use disorders, unmet mental health needs 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~~use disorder assessment, mental health screening, substance ~~abuse~~use disorder testing, monitoring, treatment, ~~and or~~ aftercare for ~~substance offenders~~participants.

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

(iii) To strive for ~~sobriety~~recovery and mental wellness of participants; ~~and~~

(iv) To reduce the number of people with mental illness in jail, criminal court proceedings and the state hospital; and

~~(iv)~~(v) To monitor the services provided to participants.

5-12-106. Standards for attorneys and judges.

(b) ~~The~~Referring judge~~judges~~ in a particular case may be ~~the~~a participating judge in that participant's treatment program, provided the participating judge shall

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not act upon any motion to revoke probation that may be filed in the original criminal or juvenile case, nor in sentencing or disposition.

5-12-109. Participation in programs; conditions; extended probation.

(b) Any district, juvenile, circuit, municipal or tribal court judge, or magistrate, may refer ~~substance offenders for participation in~~ a participant to 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:~~

(c) Referral and participation in a program ~~shall only be with the~~ and consent ~~of the referring judge and the participant, and acceptance of the participant by the program team to participate shall be governed by the rules adopted by the supreme court and title 14 for juvenile participants. Consent shall also be~~ 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) or 42 C.F.R. part 2.31, as applicable. Prior to a participant's entry into a written agreement, the ~~participating judge~~ participant shall ~~inform the participant~~ be informed 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 5-12-116.

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(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. ~~Consent to participation in a program under subsection (c) of this section shall only be required from the referring judge and participant.~~

(e) A program may accept participants from any other jurisdiction in the state.

5-12-110. Incentives and sanctions; extended probation.

(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 participating in a program post-adjudication, or detention for a period not to exceed thirty (30) days if the participant is a juvenile participating in a program post-adjudication, if the participating judge finds that since the last staffing the participant:

5-12-111. 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:

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5-12-115. 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 rules and regulations of the supreme court:

(iii) Substance ~~abuse~~ use disorder history, including ~~substances of choice~~ medical records and prior treatment;

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

(vii) Mental illness history, including medical records and prior treatment.

7-6-104. Representation of needy persons.

(d) A needy person's right to a benefit under subsection (a), ~~or~~ (c) or (e) of this section is not affected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

(e) The public defender shall be authorized to serve on court supervised treatment program teams pursuant to W.S. 5-12-101 through 5-12-118 and may represent participants in court supervised treatment program proceedings, including sanction and expulsion proceedings.

7-13-1301. Definitions.

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(a) As used in W.S. 7-13-1301 through 7-13-1304:

(v) "Substance ~~abuse~~use disorder assessment" means an evaluation conducted by a qualified person using practices and procedures approved by the department of health to determine whether a person has a need for alcohol or other drug treatment and the level of treatment services required to treat that person;

7-13-1302. Substance use disorder assessment required.

All persons convicted of a third misdemeanor under W.S. 31-5-233(e) or a felony shall receive a substance ~~abuse~~use disorder assessment. The substance ~~abuse~~use disorder assessment shall be part of a presentence report if prepared. The cost of the substance ~~abuse~~use disorder assessment shall be assessed to and paid by the offender. A person who has undergone a substance ~~abuse~~use disorder assessment pursuant to W.S. 31-5-233(e) may receive a second assessment under this section if the court finds that enough time has passed to make the first assessment inaccurate.

7-13-1303. Suspended sentence for qualified offenders.

(a) Except as provided in subsection (c) of this section, notwithstanding any other provision of law, qualified offenders may be placed on probation under W.S. 7-13-301, receive a suspended sentence under W.S. 7-13-302(a) or placed on probation under W.S. 35-7-1037. The sentence or probation order shall set forth the terms of a treatment program based upon the substance ~~abuse~~use

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disorder assessment and any other terms and conditions as the court may deem appropriate under the circumstances, and require the offender to satisfactorily complete the treatment program. The court shall include in the sentence or probation order any provisions necessary to reasonably protect the health of the offender.

7-13-1708. Authority of court to order participation in program.

(c) Before ordering participation in the program, a court may require the person to undergo a substance abuse use disorder assessment. The cost of the substance abuse use disorder assessment shall be paid by the offender.

14-6-219. Physical and mental examinations; involuntary commitment of incompetents; subsequent proceedings.

(a) Any time after the filing of a petition, on motion of the district attorney or the child's parents, guardian, custodian or attorney or on motion of the court, the court may order the child to be examined by a licensed and qualified physician, surgeon, psychiatrist or psychologist designated by the court to aid in determining the physical and mental condition of the child. The examination shall be conducted on an outpatient basis, but the court may commit the child to a suitable medical facility or institution for examination if deemed necessary. Commitment for examination shall not exceed fifteen (15) days. Any time after the filing of a petition, the court on its own motion or motion of the district attorney or the child's parents, guardian, custodian or attorney, may order the child's parents, guardians or other custodial members of the child's family to undergo a

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substance ~~abuse~~-use disorder assessment at the expense of the child's parents, guardians or other custodial members of the child's family and to fully comply with all findings and recommendations set forth in the assessment. Failure to comply may result in contempt proceedings as set forth in W.S. 14-6-242.

14-6-402. Definitions.

(a) As used in this act:

(xxii) "Substance ~~abuse~~-use disorder assessment" means an evaluation conducted by a qualified person using practices and procedures approved by the department of health to determine whether a person has a need for alcohol or other drug treatment and the level of treatment services required to treat that person;

14-6-419. Physical and mental examinations.

(a) Any time after the filing of a petition, on motion of the district attorney or the child's parents, guardian, custodian or attorney or on motion of the court, the court may order the child to be examined by a licensed and qualified physician, surgeon, psychiatrist, psychologist or licensed mental health professional designated by the court to aid in determining the physical and mental condition of the child. The examination shall be conducted on an outpatient basis, but the court may commit the child to a suitable medical facility or institution for examination if deemed necessary. Commitment for examination shall not exceed fifteen (15) days. Any time after the filing of a petition, the court on its own motion or on motion of the district attorney or the child's parents, guardian, custodian or attorney, may order the child's

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parents, guardians or other custodial members of the child's family to undergo a substance ~~abuse~~use disorder assessment at the expense of the child's parents, guardians or other custodial members of the child's family and to fully comply with all findings and recommendations set forth in the assessment. Failure to comply may result in contempt proceedings as set forth in W.S. 14-6-438.

31-5-233. Driving or having control of vehicle while under influence of intoxicating liquor or controlled substances; penalties.

(e) Except as otherwise provided, a person convicted of violating this section shall be ordered to or shall receive a substance ~~abuse~~use disorder assessment conducted by a substance ~~abuse~~use disorder provider certified by the department of health pursuant to W.S. 9-2-2701(c) at or before sentencing. Notwithstanding any other provision of this subsection, a nonresident may receive a substance ~~abuse~~use disorder assessment from a provider certified by that person's state of residence. The cost of the substance ~~abuse~~use disorder assessment shall be assessed to and paid by the offender. Except as otherwise provided in this subsection or subsection (h) or (m) of this section, a person convicted of violating this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both. On a second offense resulting in a conviction within ten (10) years after a conviction for a violation of this section or other law prohibiting driving while under the influence, he shall be punished by imprisonment for not less than seven (7) days nor more than six (6) months, he shall be ordered to or shall receive a substance ~~abuse~~use disorder assessment conducted by a substance ~~abuse~~use disorder provider certified by the

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department of health pursuant to W.S. 9-2-2701(c) before sentencing and shall not be eligible for probation or suspension of sentence or release on any other basis until he has served at least seven (7) days in jail. In addition, the person may be fined not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00). On a third offense resulting in a conviction within ten (10) years after a conviction for a violation of this section or other law prohibiting driving while under the influence, he shall be punished by imprisonment for not less than thirty (30) days nor more than six (6) months, shall receive a substance ~~abuse~~use disorder assessment pursuant to W.S. 7-13-1302 and shall not be eligible for probation or suspension of sentence or release on any other basis until he has served at least thirty (30) days in jail except that the court shall consider the substance ~~abuse~~use disorder assessment and may order the person to undergo outpatient alcohol or substance ~~abuse~~use disorder treatment during any mandatory period of incarceration. The minimum period of imprisonment for a third violation shall be mandatory, but the court, having considered the substance ~~abuse~~use disorder assessment and the availability of public and private resources, may suspend up to fifteen (15) days of the mandatory period of imprisonment if, subsequent to the date of the current violation, the offender completes an inpatient treatment program approved by the court. In addition, the person may be fined not less than seven hundred fifty dollars (\$750.00) nor more than three thousand dollars (\$3,000.00). The judge may suspend part or all of the discretionary portion of an imprisonment sentence under this subsection and place the defendant on probation on condition that the defendant pursues and completes an alcohol education or treatment program as prescribed by the judge. Notwithstanding any other provision of law, the term of

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probation imposed by a judge under this section may exceed the maximum term of imprisonment established for the offense under this subsection provided the term of probation together with any extension thereof, shall not exceed three (3) years for up to and including a third conviction. On a fourth offense resulting in a conviction or subsequent conviction within ten (10) years for a violation of this section or other law prohibiting driving while under the influence, he shall be guilty of a felony and fined not more than ten thousand dollars (\$10,000.00), punished by imprisonment for not more than seven (7) years, or both.

31-5-234. Unlawful operation of vehicle by youthful driver with detectable alcohol concentration; penalty.

(e) A person convicted of violating this section shall be guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00). A person convicted of violating this section a second time within one (1) year of the first conviction is guilty of a misdemeanor punishable by imprisonment for not more than one (1) month, a fine of not more than seven hundred fifty dollars (\$750.00), or both. A person convicted of a third or subsequent conviction under this section within two (2) years shall be guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both. The court may order the person to undergo a substance ~~abuse~~use disorder assessment and complete any recommended treatment for any conviction under this section as a condition of probation. Notwithstanding any other provision of law, the term of probation imposed by a judge under this section may exceed the maximum term of imprisonment established for the offense under this subsection provided

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the term of probation together with any extension thereof, shall in no case exceed three (3) years.

35-7-1033. Unlawful acts; distribution; registration; possession; records; counterfeiting; punishment.

(b) Except for a violation of subparagraph (a)(iii)(B) of this section and except as otherwise provided:

(i) A person who is convicted upon a plea of guilty or no contest or found guilty of violating paragraph (a)(iii) of this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both, and the person may be ordered to receive a substance ~~abuse~~-use disorder assessment conducted by a substance ~~abuse~~-use disorder provider certified by the department of health pursuant to W.S. 9-2-2701(c) before sentencing;

(ii) A person convicted upon a plea of guilty or no contest or found guilty of a second offense of violating paragraph (a)(iii) of this section is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both, and the person shall be ordered to receive a substance ~~abuse~~-use disorder assessment conducted by a substance ~~abuse~~-use disorder provider certified by the department of health pursuant to W.S. 9-2-2701(c) before sentencing;

(iv) In the event a substance ~~abuse~~-use disorder assessment ordered pursuant to this section is provided by an entity with whom the department of health contracts for

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treatment services, the costs of the assessment shall be paid by the offender subject to the payment policies adopted pursuant to W.S. 35-1-620; provided however, if the assessment is ordered as a result of a felony conviction under this section, the assessment shall be conducted and costs assessed pursuant to W.S. 7-13-1301, et seq.;

Section 2. W.S. 5-12-107(c)(ii) and 5-12-109(a) and (b)(i) through (iv) are repealed.

Section 3. The supreme court may promulgate additional rules necessary to implement this act. It is the intent of the legislature that the supreme court make any necessary requests to support court supervised treatment programs as provided by this act in its biennial budget request.

ORIGINAL SENATE
FILE NO. SF0160

ENGROSSED

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Section 4. This act is 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.

(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