

HOUSE BILL NO. HB0049

Treatment courts-amendments.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

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

13

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

15

1 **Section 1.** W.S. 5-12-104(a)(ii), (iii), (v) through
2 (viii), (xii), (xv) through (xvii), by creating new
3 paragraphs (xviii) through (xx) and by renumbering (xviii)
4 as (xxi), 5-12-105(a), (b)(iii), by creating a new
5 paragraph (iv) and by renumbering (iv) as (v), 5-12-106(b),
6 5-12-109(b)(intro), (c), (d) and by creating a new
7 subsection (e), 5-12-110(b)(intro), 5-12-111(a)(intro),
8 5-12-115(a)(iii), (v) and by creating a new paragraph
9 (vii), 7-6-104(d) and by creating a new subsection (e),
10 7-13-1301(a)(v), 7-13-1302, 7-13-1303(a), 7-13-1708(c),
11 14-6-219(a), 14-6-402(a)(xxii), 14-6-419(a), 31-5-233(e),
12 31-5-234(e) and 35-7-1033(b)(i), (ii) and (iv) are amended
13 to read:

14

15 **5-12-104. Definitions.**

16

17 (a) As used in this act:

18

19 (ii) "Applicant" means ~~the~~ one (1) or more
20 governing ~~body~~ bodies of a city, town or county, a tribal
21 government of either the Northern Arapaho or Eastern
22 Shoshone tribes of the Wind River Indian Reservation or a

1 nonprofit organization recognized under 26 U.S.C.
2 501(c)(3);

3

4 (iii) "Continuum of care" means a seamless and
5 coordinated course of substance ~~abuse~~use disorder
6 education and treatment, mental health treatment or any
7 combination thereof designed to meet the needs of ~~drug~~
8 ~~offenders as they move through the criminal justice system~~
9 ~~and beyond, maximizing self-sufficiency~~ participants;

10

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

13

14 (vi) "Participant" means a person with a mental
15 illness or a dual diagnosis who committed or is alleged to
16 have committed an offense, including those who have had law
17 enforcement contact for such offenses with or without
18 arrest, or a substance offender or any other person as
19 provided in title 14 of the Wyoming statutes who has been
20 referred to and accepted into a program;

21

22 (vii) "Participating judge" means the district,
23 juvenile, circuit, chancery, municipal or tribal court

1 judge or magistrate or retired district, circuit or
2 chancery court judge acting as part of a program team;

3

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

9

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

15

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

18

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

23

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

6

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

12

13 (xix) "Mental illness" means as defined by W.S.
14 35-1-613(a)(v);

15

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

18

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

21

22 **5-12-105. Purposes and goals.**

23

1 (a) The legislature recognizes the critical need in
2 this state for treatment programs to break the cycle of
3 substance ~~abuse~~ use disorders, unmet mental health needs
4 and the crimes committed as a result thereof. ~~Court~~
5 ~~supervised treatment~~ Programs shall be facilitated ~~for the~~
6 ~~purpose of providing sentencing options for the judicial~~
7 ~~system in cases stemming from substance abuse,~~ by combining
8 judicial supervision, probation, substance ~~abuse~~ use
9 disorder assessment, mental health screening, substance
10 ~~abuse~~ use disorder testing, monitoring, treatment, ~~and or~~
11 aftercare for ~~substance offenders~~ participants.

12
13 (b) The goals of the programs funded under this act
14 shall be:

15
16 (iii) To strive for ~~sobriety~~ recovery and mental
17 wellness of participants; ~~and~~

18
19 (iv) To reduce the number of people with mental
20 illness in jail, criminal court proceedings and the state
21 hospital; and

22

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

3
4 **5-12-106. Standards for attorneys and judges.**

5
6 (b) ~~The~~ Referring ~~judge~~judges in a particular case
7 may be ~~the~~a participating judge in that participant's
8 treatment program, provided the participating judge shall
9 not act upon any motion to revoke probation that may be
10 filed in the original criminal or juvenile case, nor in
11 sentencing or disposition.

12
13 **5-12-109. Participation in programs; conditions;
14 extended probation.**

15
16 (b) Any district, juvenile, circuit, municipal or
17 tribal court judge, or magistrate, may refer ~~substance~~
18 ~~offenders for participation in~~a participant to a program.
19 ~~The referring judge may act as a participating judge in a~~
20 ~~program as authorized by this act and by rules adopted by~~
21 ~~the supreme court. A substance offender who is a defendant~~
22 ~~in a criminal action or a respondent in a juvenile court~~
23 ~~action may be referred for participation in a program if:~~

1

2 (c) Referral and participation in a program shall
3 ~~only be with the~~ and consent ~~of the referring judge and the~~
4 ~~participant, and acceptance of the participant by the~~
5 ~~program team~~ to participate shall be governed by the rules
6 adopted by the supreme court and Title 14 for juvenile
7 participants. Consent shall also be in accordance with a
8 written agreement between the participant and the program
9 team. The agreement shall include the participant's consent
10 to release of medical and other records relevant to his
11 treatment history and assessment that meets the
12 requirements of 42 U.S.C. 290dd-2(b) or 42 C.F.R. part
13 2.31, as applicable. Prior to a participant's entry into a
14 written agreement, the ~~participating judge~~ participant
15 shall ~~inform the participant~~ be informed that he may be
16 subject to a term of probation that exceeds the maximum
17 term of imprisonment established for the particular offense
18 charged, as provided in W.S. 5-9-134 and 5-12-116.

19

20 (d) Nothing in this act shall confer a right or an
21 expectation of a right to participate in a program, nor
22 does this act obligate a program team to accept any
23 proposed participant. Neither the establishment of a

1 program nor anything herein contained shall be construed as
2 limiting the discretion of a prosecuting attorney in regard
3 to the prosecution of any criminal or juvenile case.
4 ~~Consent to participation in a program under subsection (c)~~
5 ~~of this section shall only be required from the referring~~
6 ~~judge and participant.~~

7

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

10

11 **5-12-110. Incentives and sanctions; extended**
12 **probation.**

13

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

23

1 **5-12-111. Program team to be created; duties; program**
2 **coordinator.**

3

4 (a) Each applicant seeking to establish a program
5 shall create a program team, consisting of the following
6 members, all of whom shall be appointed by ~~the governing~~
7 ~~body of~~ the applicant, subject to the individual consent of
8 each appointee:

9

10 **5-12-115. Participant information and progress**
11 **statistics.**

12

13 (a) Participants may be required to provide access to
14 the following information, the collection and maintenance
15 of which by the program team shall be in a standardized
16 format pursuant to rules and regulations of the supreme
17 court:

18

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

22

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

3
4 (vii) Mental illness history, including medical
5 records and prior treatment.

6

7 **7-6-104. Representation of needy persons.**

8

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

14

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

20

21 **7-13-1301. Definitions.**

22

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

1

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

8

9 **7-13-1302. Substance use disorder assessment**
10 **required.**

11

12 All persons convicted of a third misdemeanor under W.S.
13 31-5-233(e) or a felony shall receive a substance ~~abuse~~use
14 disorder assessment. The substance ~~abuse~~use disorder
15 assessment shall be part of a presentence report if
16 prepared. The cost of the substance ~~abuse~~use disorder
17 assessment shall be assessed to and paid by the offender. A
18 person who has undergone a substance ~~abuse~~use disorder
19 assessment pursuant to W.S. 31-5-233(e) may receive a
20 second assessment under this section if the court finds
21 that enough time has passed to make the first assessment
22 inaccurate.

23

1 **7-13-1303. Suspended sentence for qualified**
2 **offenders.**

3
4 (a) Except as provided in subsection (c) of this
5 section, notwithstanding any other provision of law,
6 qualified offenders may be placed on probation under W.S.
7 7-13-301, receive a suspended sentence under W.S.
8 7-13-302(a) or placed on probation under W.S. 35-7-1037.
9 The sentence or probation order shall set forth the terms
10 of a treatment program based upon the substance ~~abuse~~use
11 disorder assessment and any other terms and conditions as
12 the court may deem appropriate under the circumstances, and
13 require the offender to satisfactorily complete the
14 treatment program. The court shall include in the sentence
15 or probation order any provisions necessary to reasonably
16 protect the health of the offender.

17

18 **7-13-1708. Authority of court to order participation**
19 **in program.**

20

21 (c) Before ordering participation in the program, a
22 court may require the person to undergo a substance ~~abuse~~

1 use disorder assessment. The cost of the substance abuse
2 use disorder assessment shall be paid by the offender.

3

4 **14-6-219. Physical and mental examinations;**
5 **involuntary commitment of incompetents; subsequent**
6 **proceedings.**

7

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

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

7

8 **14-6-402. Definitions.**

9

10 (a) As used in this act:

11

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

18

19 **14-6-419. Physical and mental examinations.**

20

21 (a) Any time after the filing of a petition, on
22 motion of the district attorney or the child's parents,
23 guardian, custodian or attorney or on motion of the court,

1 the court may order the child to be examined by a licensed
2 and qualified physician, surgeon, psychiatrist,
3 psychologist or licensed mental health professional
4 designated by the court to aid in determining the physical
5 and mental condition of the child. The examination shall be
6 conducted on an outpatient basis, but the court may commit
7 the child to a suitable medical facility or institution for
8 examination if deemed necessary. Commitment for examination
9 shall not exceed fifteen (15) days. Any time after the
10 filing of a petition, the court on its own motion or on
11 motion of the district attorney or the child's parents,
12 guardian, custodian or attorney, may order the child's
13 parents, guardians or other custodial members of the
14 child's family to undergo a substance ~~abuse~~use disorder
15 assessment at the expense of the child's parents, guardians
16 or other custodial members of the child's family and to
17 fully comply with all findings and recommendations set
18 forth in the assessment. Failure to comply may result in
19 contempt proceedings as set forth in W.S. 14-6-438.

20

21 **31-5-233. Driving or having control of vehicle while**
22 **under influence of intoxicating liquor or controlled**
23 **substances; penalties.**

1

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

1 substance ~~abuse~~use disorder provider certified by the
2 department of health pursuant to W.S. 9-2-2701(c) before
3 sentencing and shall not be eligible for probation or
4 suspension of sentence or release on any other basis until
5 he has served at least seven (7) days in jail. In
6 addition, the person may be fined not less than two hundred
7 dollars (\$200.00) nor more than seven hundred fifty dollars
8 (\$750.00). On a third offense resulting in a conviction
9 within ten (10) years after a conviction for a violation of
10 this section or other law prohibiting driving while under
11 the influence, he shall be punished by imprisonment for not
12 less than thirty (30) days nor more than six (6) months,
13 shall receive a substance ~~abuse~~use disorder assessment
14 pursuant to W.S. 7-13-1302 and shall not be eligible for
15 probation or suspension of sentence or release on any other
16 basis until he has served at least thirty (30) days in jail
17 except that the court shall consider the substance ~~abuse~~
18 use disorder assessment and may order the person to undergo
19 outpatient alcohol or substance ~~abuse~~use disorder
20 treatment during any mandatory period of incarceration. The
21 minimum period of imprisonment for a third violation shall
22 be mandatory, but the court, having considered the
23 substance ~~abuse~~use disorder assessment and the

1 availability of public and private resources, may suspend
2 up to fifteen (15) days of the mandatory period of
3 imprisonment if, subsequent to the date of the current
4 violation, the offender completes an inpatient treatment
5 program approved by the court. In addition, the person may
6 be fined not less than seven hundred fifty dollars
7 (\$750.00) nor more than three thousand dollars (\$3,000.00).
8 The judge may suspend part or all of the discretionary
9 portion of an imprisonment sentence under this subsection
10 and place the defendant on probation on condition that the
11 defendant pursues and completes an alcohol education or
12 treatment program as prescribed by the judge.
13 Notwithstanding any other provision of law, the term of
14 probation imposed by a judge under this section may exceed
15 the maximum term of imprisonment established for the
16 offense under this subsection provided the term of
17 probation together with any extension thereof, shall not
18 exceed three (3) years for up to and including a third
19 conviction. On a fourth offense resulting in a conviction
20 or subsequent conviction within ten (10) years for a
21 violation of this section or other law prohibiting driving
22 while under the influence, he shall be guilty of a felony
23 and fined not more than ten thousand dollars (\$10,000.00),

1 punished by imprisonment for not more than seven (7) years,
2 or both.

3

4 **31-5-234. Unlawful operation of vehicle by youthful**
5 **driver with detectable alcohol concentration; penalty.**

6

7 (e) A person convicted of violating this section
8 shall be guilty of a misdemeanor punishable by a fine of
9 not more than seven hundred fifty dollars (\$750.00). A
10 person convicted of violating this section a second time
11 within one (1) year of the first conviction is guilty of a
12 misdemeanor punishable by imprisonment for not more than
13 one (1) month, a fine of not more than seven hundred fifty
14 dollars (\$750.00), or both. A person convicted of a third
15 or subsequent conviction under this section within two (2)
16 years shall be guilty of a misdemeanor punishable by
17 imprisonment for not more than six (6) months, a fine of
18 not more than seven hundred fifty dollars (\$750.00), or
19 both. The court may order the person to undergo a substance
20 ~~abuse~~use disorder assessment and complete any recommended
21 treatment for any conviction under this section as a
22 condition of probation. Notwithstanding any other provision
23 of law, the term of probation imposed by a judge under this

1 section may exceed the maximum term of imprisonment
2 established for the offense under this subsection provided
3 the term of probation together with any extension thereof,
4 shall in no case exceed three (3) years.

5

6 **35-7-1033. Unlawful acts; distribution; registration;**
7 **possession; records; counterfeiting; punishment.**

8

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

12

13 (i) A person who is convicted upon a plea of
14 guilty or no contest or found guilty of violating paragraph
15 (a)(iii) of this section is guilty of a misdemeanor
16 punishable by imprisonment for not more than six (6)
17 months, a fine of not more than seven hundred fifty dollars
18 (\$750.00), or both, and the person may be ordered to
19 receive a substance ~~abuse~~use disorder assessment conducted
20 by a substance ~~abuse~~use disorder provider certified by the
21 department of health pursuant to W.S. 9-2-2701(c) before
22 sentencing;

23

1 (ii) A person convicted upon a plea of guilty or
2 no contest or found guilty of a second offense of violating
3 paragraph (a)(iii) of this section is guilty of a
4 misdemeanor punishable by imprisonment for not more than
5 one (1) year, a fine of not more than one thousand dollars
6 (\$1,000.00), or both, and the person shall be ordered to
7 receive a substance ~~abuse~~use disorder assessment conducted
8 by a substance ~~abuse~~use disorder provider certified by the
9 department of health pursuant to W.S. 9-2-2701(c) before
10 sentencing;

11

12 (iv) In the event a substance ~~abuse~~use disorder
13 assessment ordered pursuant to this section is provided by
14 an entity with whom the department of health contracts for
15 treatment services, the costs of the assessment shall be
16 paid by the offender subject to the payment policies
17 adopted pursuant to W.S. 35-1-620; provided however, if the
18 assessment is ordered as a result of a felony conviction
19 under this section, the assessment shall be conducted and
20 costs assessed pursuant to W.S. 7-13-1301, et seq.;

21

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

1

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

8

9 **Section 4.** This act is effective immediately upon
10 completion of all acts necessary for a bill to become law
11 as provided by Article 4, Section 8 of the Wyoming
12 Constitution.

13

14

(END)