

SENATE FILE NO. SF0160

Treatment courts-amendments-2.

Sponsored by: Senator(s) Olsen, Barlow, Crago and  
Nethercott and Representative(s) Filer,  
Singh and Washut

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)