

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Treatment courts-amendments.

Sponsored by: Representative(s) Larsen, L

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; amending definitions; creating definitions;
9 making conforming amendments; authorizing rulemaking;
10 repealing provisions; and providing for an effective date.

11

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

13

1 *****
 2 *****
 3 STAFF COMMENT
 4
 5 Changes made to the court supervised treatment program
 6 statutes in 25LSO-0029 have been incorporated into this
 7 bill draft. Those changes include allowing the public
 8 defender to represent program participants, amending the
 9 definition of "applicant" and allowing programs to accept
 10 participants from any other jurisdiction in the state.
 11

12 *****
 13 *****
 14

15 Section 1. W.S. 5-12-104(a)(ii), (iii), (v), (vi),
 16 (viii), (xii), (xvi), (xvii), by creating new paragraphs
 17 (xviii) and (xix) and renumbering paragraph (xviii) as
 18 (xx), 5-12-105(a), (b)(iii), by creating a new paragraph
 19 (iv) and renumbering paragraph (iv) as (v), 5-12-106(b), 5-
 20 12-107(c)(ii), 5-12-109(b)(intro), (i) through (iii), (c),
 21 (d) and by creating a new subsection (e), 5-12-
 22 110(b)(intro), 5-12-111(a)(intro), 5-12-115(a)(iii), (v)
 23 and by creating a new paragraph (vii) and 7-6-104(d) and by
 24 creating a new subsection (e) are amended to read:

25
 26 **5-12-104. Definitions.**

27
 28 (a) As used in this act:
 29

1 (ii) "Applicant" means ~~the~~ one (1) or more
2 governing ~~body~~ bodies of a city, town or county, a tribal
3 government of either the Northern Arapaho or Eastern
4 Shoshone tribes of the Wind River Indian Reservation or a
5 nonprofit organization recognized under 26 U.S.C.
6 501(c)(3);

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

14
15 (v) "Dual diagnosis" means substance ~~abuse~~ use
16 and a co-occurring mental health disorder;

17
18 (vi) "Participant" means a person with a mental
19 illness or a dual diagnosis who committed or is alleged to
20 have committed an offense, including those who have had law
21 enforcement contact for such offenses with or without
22 arrest, or a substance offender or any other person as

1 provided in title 14 of the Wyoming statutes who has been
2 referred to and accepted into a program;

3

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

9

10 *****
11 *****

12 STAFF COMMENT

13
14 The phrase "court supervised treatment program" is stricken
15 in the definition above. The Task Force may wish to
16 consider if the phrase needs to be stricken elsewhere in
17 the court supervised treatment program statutes.

18
19 *****
20 *****

21
22 (xii) "Referring judge" means the district,
23 juvenile, circuit, municipal or tribal court judge or
24 magistrate who refers a ~~substance offender or any other~~
25 ~~person as provided in title 14 of the Wyoming statutes to a~~
26 program participant to a program;

27

1 (xvi) "Substance ~~abuse~~use treatment" means
2 treatment designed to provide education and therapy
3 directed toward ending substance ~~abuse~~use and preventing
4 its return;

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

11
12 (xviii) "Mental health treatment" means
13 medication, therapy and prescribed care designed to address
14 disturbances in behavior, emotions, thoughts or judgment
15 after an evaluation and mental health diagnosis or
16 diagnostic impression has occurred;

17
18 (xix) "Mental illness" means as defined by W.S.
19 35-1-613(a)(v) and that prevents a person from meeting
20 basic needs for food, shelter and medical care without
21 regular mental health treatment or case management;

22

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

3
4 **5-12-105. Purposes and goals.**

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

17
18 (b) The goals of the programs funded under this act
19 shall be:

20
21 (iii) To strive for ~~sobriety~~ recovery and mental
22 wellness of participants; ~~and~~

23

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

4
5 ~~(iv)~~ (v) To monitor the services provided to
6 participants.

7
8 **5-12-106. Standards for attorneys and judges.**

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

16
17 **5-12-107. Establishment of court supervised program**
18 **account; rules and regulations; panel created; program**
19 **funding.**

20
21 (c) Except as otherwise provided in this subsection,
22 the supreme court shall promulgate rules and regulations
23 necessary to implement this act, including establishing

1 standards consistent with the key components of drug courts
2 defined by the United States department of justice or such
3 similar rules as may be adopted by the supreme court. The
4 department of health, in consultation with the supreme
5 court, shall promulgate rules for certification and
6 accreditation requirements for treatment personnel. The
7 rules promulgated by the supreme court shall:

8

9 (ii) Require participants to contribute
10 financially to their own program where advisable;

11

12 **5-12-109. Participation in court supervised treatment**
13 **program; conditions; extended probation.**

14

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

1

2 (i) A substance abuse assessment or mental
3 health screening reveals that the person is in need of
4 treatment;

5

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

9

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

14

15 ~~(c) Participation in a program shall only be with the~~
16 ~~consent of the referring judge and the participant, and~~
17 ~~acceptance of the participant by the program team~~ Referral
18 and participation in a program and consent to participate,
19 when required, shall be governed by the rules adopted by
20 the supreme court. Consent shall also be in accordance with
21 a written agreement between the participant and the program
22 team. The agreement shall include the participant's consent
23 to release of medical and other records relevant to his

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

9

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

20

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

23

1 **5-12-110. Incentives and sanctions; extended**
2 **probation.**

3
4 (b) The participating judge may impose reasonable
5 sanctions under the written agreement, including but not
6 limited to, expulsion from the program, incarceration for a
7 period not to exceed thirty (30) days if the participant is
8 an adult participating in a program post-adjudication, or
9 detention for a period not to exceed thirty (30) days if
10 the participant is a juvenile participating in a program
11 post-adjudication, if the participating judge finds that
12 since the last staffing the participant:

13
14 **5-12-111. Program team to be created; duties; program**
15 **coordinator.**

16
17 (a) Each applicant seeking to establish a program
18 shall create a program team, consisting of the following
19 members, all of whom shall be appointed by ~~the governing~~
20 ~~body of~~ the applicant, subject to the individual consent of
21 each appointee:

22

1 5-12-115. Participant information and progress
2 **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 rules and regulations of the supreme
8 court:

9
10 (iii) Substance ~~abuse~~use history, including
11 substances of choice and prior treatment;

12
13 (v) Number and health of children born to ~~female~~
14 participants;

15
16 (vii) Mental illness history, including medical
17 records and prior treatment.

18
19 **7-6-104. Representation of needy persons.**

20
21 (d) A needy person's right to a benefit under
22 subsection (a), ~~or~~ (c) or (e) of this section is not
23 affected by his having provided a similar benefit at his

1 own expense, or by his having waived it, at an earlier
2 stage.

3
4 (e) The public defender shall be authorized to serve
5 on court supervised treatment program teams pursuant to
6 W.S. 5-12-101 through 5-12-118 and may represent
7 participants in court supervised treatment program
8 proceedings, including sanction and expulsion proceedings.

9
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11 *****

12 STAFF COMMENT

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14 The Task Force may wish to consider including an
15 appropriation to the Court Supervised Treatment Program
16 account.

17
18 *****
19 *****

20
21 Section 2. W.S. 5-12-109(a) and (b)(iv) is repealed.

22
23 *****
24 *****

25 STAFF COMMENT

26
27 The repealed language reads as follows:

28
29 5-12-109. Participation in court supervised treatment
30 program; conditions; extended probation.

31
32 ~~(a) No substance offender may participate in a~~
33 ~~program unless the substance offender, in a Wyoming~~

1 ~~district, juvenile, circuit, municipal or tribal court, has~~
2 ~~been charged with an offense; and:~~

3
4 ~~(i) Has entered an admission, or a guilty or~~
5 ~~nolo contendere plea;~~

6
7 ~~(ii) Has entered a guilty plea pursuant to W.S.~~
8 ~~7-13-301;~~

9
10 ~~(iii) Has signed a consent decree under title 14~~
11 ~~of the Wyoming statutes; or~~

12
13 ~~(iv) Is on parole under the provisions of W.S.~~
14 ~~7-13-401 et seq.~~

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

24
25 ~~(iv) The person's case is processed pursuant to~~
26 ~~subsection (a) of this section.~~

27
28 *****
29 *****
30

31 **Section 3.** The supreme court may promulgate
32 additional rules necessary to implement this act. The
33 supreme court shall also make any necessary requests to
34 support court supervised treatment programs as provided by
35 this act in its biennial budget request.

36

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

5

6

(END)