

SENATE FILE NO. SF0038

Limitation on length of probation.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to criminal procedure and sentencing;  
2 limiting the length of a probation term as specified;  
3 specifying applicability; and providing for an effective  
4 date.

5

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

7

8 **Section 1.** W.S. 7-13-301(a)(intro) and (b), 7-13-302 by  
9 creating a new subsection (b), 7-13-305(a) and 35-7-1037 are  
10 amended to read:

11

12 **7-13-301. Placing person found guilty, but not**  
13 **convicted, on probation.**

14

15 (a) If a person who has not previously been convicted  
16 of any felony is charged with or is found guilty of or pleads

1 guilty or no contest to any misdemeanor except any second or  
2 subsequent violation of W.S. 31-5-233 or any similar  
3 provision of law, or any second or subsequent violation of  
4 W.S. 6-2-510(a) or 6-2-511(a) or any similar provision of  
5 law, or any felony except murder, sexual assault in the first  
6 or second degree, aggravated assault and battery or arson in  
7 the first or second degree, the court may, with the consent  
8 of the defendant and the state and without entering a judgment  
9 of guilt or conviction, defer further proceedings and place  
10 the person on probation for a term not to exceed ~~five (5)~~  
11 ~~years~~thirty-six (36) months upon terms and conditions set by  
12 the court. The terms of probation shall include that he:

13

14 (b) If the court finds the person has fulfilled the  
15 terms of probation and that his rehabilitation has been  
16 attained to the satisfaction of the court, the court may at  
17 the end of ~~five (5) years~~thirty-six (36) months, or at any  
18 time after the expiration of one (1) year from the date of  
19 the original probation, discharge the person and dismiss the  
20 proceedings against him.

21

1           7-13-302. Placing person convicted on probation;  
2 suspension of imposition or execution of sentence; imposition  
3 of fine; maximum length of probation term.

4  
5           (b) Unless otherwise authorized by law, no term of  
6 probation imposed shall exceed the maximum term of  
7 imprisonment allowed by law. Any term of probation imposed  
8 under this section for a felony offense shall in no case  
9 exceed thirty-six (36) months, except that the judge may  
10 impose a term of probation that is not greater than the  
11 maximum term of imprisonment authorized by law for the offense  
12 for good cause shown upon the record and after considering  
13 public safety, rehabilitation, deterrence and any other goals  
14 of sentencing.

15  
16           7-13-305. Determination, continuance or extension;  
17 revocation proceedings.

18  
19           (a) The period of probation or suspension of sentence  
20 under W.S. 7-13-302 shall be determined by the court and may  
21 be continued or extended. Any term of probation including any  
22 continuations or extensions shall not exceed the maximum term  
23 of probation authorized under W.S. 7-13-302(b), except that

1 the judge may impose a term of probation that is not greater  
2 than the maximum term of imprisonment authorized by law for  
3 the offense for good cause shown upon the record and after  
4 considering public safety, rehabilitation, deterrence and any  
5 other goals of sentencing.

6

7 **35-7-1037. Probation and discharge of first offenders.**

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9 Whenever any person who has not previously been convicted of  
10 any offense under this act or under any statute of the United  
11 States or of any state relating to narcotic drugs, marihuana,  
12 or stimulant, depressant, or hallucinogenic drugs, pleads  
13 guilty to or is found guilty of possession of a controlled  
14 substance under W.S. 35-7-1031(c) or 35-7-1033(a)(iii)(B), or  
15 pleads guilty to or is found guilty of using or being under  
16 the influence of a controlled substance under W.S. 35-7-1039,  
17 the court, without entering a judgment of guilt and with the  
18 consent of the accused, may defer further proceedings and  
19 place him on probation upon terms and conditions. Any term of  
20 probation imposed under this section for a felony offense  
21 shall not exceed the maximum term of probation authorized  
22 under W.S. 7-13-302(b). Upon violation of a term or condition,  
23 the court may enter an adjudication of guilt and proceed as

1 otherwise provided. Upon fulfillment of the terms and  
2 conditions, the court shall discharge the person and dismiss  
3 the proceedings against him. Discharge and dismissal under  
4 this section shall be without adjudication of guilt and is  
5 not a conviction for purposes of this section or for purposes  
6 of disqualifications or disabilities imposed by law upon  
7 conviction of a crime, including the additional penalties  
8 imposed for second or subsequent convictions under W.S.  
9 35-7-1038. There may be only one (1) discharge and dismissal  
10 under this section with respect to any person. This section  
11 shall not be construed to provide an exclusive procedure. Any  
12 other procedure provided by law relating to suspension of  
13 trial or probation, may be followed, in the discretion of the  
14 trial court.

15

16       **Section 2.** The provisions of this act shall apply to  
17 all persons who are sentenced or placed on probation pursuant  
18 to W.S. 7-13-301, 7-13-302 and 35-7-1037 on or after the  
19 effective date of this act.

20

21       **Section 3.** This act is effective July 1, 2019.

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23

(END)