

SENATE FILE NO. SF0048

Criminal justice-reform.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to criminal justice; amending provisions
2 relating to sentencing, probation and parole; providing for
3 probation for certain first time felony offenses; providing
4 for confinement and treatment in an intensive substance
5 abuse treatment unit as condition of probation or
6 suspension of sentence; creating alternative procedures for
7 addressing parole, probation and suspension of sentence
8 violations; amending provisions relating to rewards and
9 sanctions as an alternative to probation or parole
10 revocations; amending the membership and powers and duties
11 of the corrections board; and providing for an effective
12 date.

13

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

15

1 **Section 1.** W.S. 7-13-301(a)(intro), by creating new
2 subsections (b) through (d), by amending and renumbering
3 (b) and (c) as (e) and (f) and by renumbering (d) through
4 (f) as (g) through (j), 7-13-304 by creating a new
5 subsection (e), 7-13-305, 7-13-403(b) and by creating new
6 subsections (c) and (d), 7-13-404, 7-13-408(e), 7-13-420(a)
7 and (c), 7-13-1107(a), (b)(iii) by creating a new
8 subparagraph (A), by renumbering (A) and (B) as (B) and (C)
9 and by creating new subparagraphs (D) and (E),
10 7-18-102(a)(iii)(C), 7-18-106(a)(iii) and 7-18-109(b)(iii)
11 are amended to read:

12

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

15

16 (a) If a person who has not previously been convicted
17 of any felony is charged with or is found guilty of or
18 pleads guilty or no contest to any misdemeanor except any
19 second or subsequent violation of W.S. 31-5-233 or any
20 similar provision of law, or any second or subsequent
21 violation of W.S. 6-2-510(a) or 6-2-511(a) or any similar
22 provision of law, ~~or any felony except murder, sexual~~
23 ~~assault in the first or second degree, aggravated assault~~

1 ~~and battery or arson in the first or second degree,~~ the
2 court may, with the consent of the defendant and the state
3 and without entering a judgment of guilt or conviction,
4 defer further proceedings and place the person on probation
5 for a term not to exceed ~~five (5) years~~ three (3) years
6 upon terms and conditions set by the court. ~~The terms of~~
7 ~~probation shall include that he:~~

8
9 (b) If a person who has not previously been convicted
10 of any felony is charged with or is found guilty of or
11 pleads guilty or no contest to any felony except murder,
12 sexual assault in the first or second degree, aggravated
13 assault and battery or arson in the first or second degree,
14 the court may, with the consent of the defendant and the
15 state and without entering a judgment of guilt or
16 conviction, defer further proceedings and place the person
17 on probation for a term not to exceed five (5) years upon
18 terms and conditions set by the court.

19
20 (c) The terms of probation under subsection (a) or
21 (b) of this section shall include that the person charged:

22

1 (i) Report to the court not less than twice each
2 year at times and places fixed in the order;

3
4 (ii) Conduct himself in a law-abiding manner;

5
6 (iii) Not leave the state without the consent of
7 the court;

8
9 (iv) Conform his conduct to any other terms of
10 probation the court finds proper; and

11
12 (v) Pay restitution to each victim in accordance
13 with W.S. 7-9-101 and 7-9-103 through 7-9-115.

14
15 (d) The court may reduce the severity of probation
16 conditions, or remove conditions previously imposed, at any
17 time.

18
19 ~~(b)~~(e) If the court finds the person has fulfilled
20 the terms of probation and that his rehabilitation has been
21 attained to the satisfaction of the court, the court may,
22 ~~at the end of five (5) years, or~~ at any time after the
23 expiration of one (1) year from the date of the original

1 probation for felony charges or at six (6) months for
2 misdemeanor charges, discharge the person and dismiss the
3 proceedings against him.

4

5 ~~(e)~~(f) If the defendant violates a term or condition
6 of probation at any time before final discharge, the court
7 may:

8

9 (i) Enter an adjudication of guilt and
10 conviction and proceed to impose sentence upon the
11 defendant if he previously pled guilty to or was found
12 guilty of the original charge for which probation was
13 granted under this section;~~or~~

14

15 (ii) Order that the trial of the original charge
16 proceed if the defendant has not previously pled or been
17 found guilty;~~or~~

18

19 (iii) Continue the term of probation and
20 conditions of probation;

21

22 (iv) Continue the term of probation and increase
23 the severity of probation conditions if the court

1 determines the offender's treatment should also include any
2 or all of the following terms:

3
4 (A) Completion of a rehabilitative program
5 that addresses the risks or needs presented by the
6 offender;

7
8 (B) Technological monitoring of the
9 offender's location through the global positioning system
10 or other means;

11
12 (C) Establishing a curfew requiring the
13 offender to be home during established hours;

14
15 (D) Establishing a period of home detention
16 requiring the offender to remain at home except during
17 periods of work, study or other permitted absences;

18
19 (E) Intermittent confinement in a jail,
20 residential treatment center or adult community corrections
21 center, not to exceed a total of ninety (90) days.

22

1 (v) Order a period of incarceration not to
2 exceed ninety (90) days for a first violation and a period
3 of incarceration not to exceed one hundred twenty (120)
4 days for a second violation of the terms and conditions of
5 probation not involving a new conviction for a criminal
6 offense unless otherwise ordered by the court; or

7
8 (vi) Credit time already served on probation or
9 suspension of sentence towards the sentence and proceed to
10 deal with the case as if no suspension of the remaining
11 portion of the sentence or probation had been ordered.

12
13 ~~(d)~~(g) Discharge and dismissal under this section
14 shall be without adjudication of guilt and is not a
15 conviction for any purpose.

16
17 ~~(e)~~(h) There shall be only one (1) discharge and
18 dismissal under this section or under any similar section
19 of the probationary statutes of any other jurisdiction.

20
21 ~~(f)~~(j) This section shall not apply to any person
22 holding any class of commercial driver's license pursuant
23 to W.S. 31-7-304(a) (i), nor to the driver of any commercial

1 motor vehicle as defined by W.S. 31-7-102(a)(viii), who is
2 charged with any offense specified in W.S. 31-7-305.

3

4 **7-13-304. Imposition or modification of conditions;**
5 **performance of work by defendant.**

6

7 (e) Notwithstanding any other provision of law, the
8 court may require as a condition of probation or suspension
9 of sentence or modification of conditions of probation or
10 suspension of sentence that a defendant successfully
11 complete a term of confinement and treatment in an
12 intensive substance abuse treatment unit operated by or
13 under contract with the department of corrections as
14 follows:

15

16 (i) A term of confinement and treatment imposed
17 under this subsection shall be for an indeterminate term of
18 not less than ninety (90) days or more than one hundred
19 eighty (180) days;

20

21 (ii) A court may impose the condition authorized
22 under this subsection if:

23

1 (A) The offender has one hundred eighty
2 (180) days or more remaining on his term of probation or
3 suspended sentence;

4
5 (B) The offender is a qualified offender
6 under W.S. 7-13-1301;

7
8 (C) The offender is recommended for
9 intensive substance abuse treatment as a result of a
10 substance abuse assessment conducted in accordance with
11 W.S. 7-13-1302; and

12
13 (D) The court makes an affirmative finding
14 that drug or alcohol abuse significantly contributed to the
15 commission of the crime or violation of probation or
16 conditions of the suspended sentence.

17
18 (iii) The court shall order the release of the
19 offender from his indeterminate term of confinement and
20 treatment under this subsection upon notification to the
21 court by the department of corrections that the offender
22 has successfully completed the intensive treatment program.
23 If the department notifies the court that the offender has

1 refused to participate in treatment and removal is
2 recommended by the department of corrections, the court
3 may then reinstate the remaining portion of probation or
4 suspended sentence, discharge the remaining portion of
5 sentence or revoke the probation or suspended sentence;

6
7 (iv) Time served within the department of
8 corrections under this subsection shall be credited by the
9 court towards the sentence on a day for day basis. Good
10 time credits pursuant to W.S. 7-13-420(a) shall not be
11 authorized.

12
13 **7-13-305. Determination, continuance or extension;**
14 **revocation proceedings.**

15
16 (a) The period of probation or suspension of sentence
17 under W.S. 7-13-302 shall be for a term not to exceed five
18 (5) years unless otherwise determined by the court and may
19 be continued or extended at any time during the period of
20 probation or suspension of sentence.

21

1 (b) The period of probation or suspension of sentence
2 under W.S. 7-13-302 shall be upon terms and conditions set
3 by the court. The court may:

4
5 (i) Reduce the severity of probation conditions,
6 or remove conditions previously imposed, at any time;

7
8 (ii) Increase the severity of probation
9 conditions if the offender violates a term or condition of
10 probation at any time before final discharge.

11
12 ~~(b)~~ (c) Upon the satisfactory fulfillment of the
13 conditions of suspension of sentence or probation under
14 W.S. 7-13-302 the court shall enter an order discharging
15 the ~~defendant~~ offender. During the probationary period, if
16 the court finds the person has fulfilled the terms and
17 conditions of probation and that his rehabilitation has
18 been attained to the satisfaction of the court, the court
19 may, at any time after the expiration of one (1) year from
20 the date of the original probation or suspension of
21 sentence, enter an order discharging the offender.

22

1 ~~(e)~~(d) For a violation of a condition of probation
2 occurring during the probationary period, revocation
3 proceedings may be commenced at any time during the period
4 of suspension of sentence or probation under W.S. 7-13-302,
5 or within thirty (30) days thereafter, in which case the
6 court may issue a warrant and cause the ~~defendant~~offender
7 to be arrested. If after hearing the court determines that
8 the ~~defendant~~offender violated any of the terms of
9 probation or suspension of sentence, the court may proceed
10 ~~to deal with the case as if no suspension of sentence or~~
11 ~~probation had been ordered~~under W.S. 7-13-304(e).

12

13 ~~(d)~~(e) The time for commencing revocation proceedings
14 shall be automatically extended for any period of time in
15 which the probationer is incarcerated outside this state
16 during the probationary period for the conviction of an
17 offense which is a violation of the conditions of
18 probation, unless the probationer has made a valid request
19 for final disposition under the interstate agreement on
20 detainers, W.S. 7-15-101 through 7-15-105.

21

22 **7-13-403. Custody of parolee; return upon violation.**

23

1 (b) Unless otherwise ordered by the board, a parole
2 violator shall be returned to the custody of the department
3 to serve the remainder of the original sentence, reduced in
4 accordance with subsection (d) of this section.

5
6 (c) A parole violator who is returned to the custody
7 of the department for a violation of the terms and
8 conditions of parole not involving a new conviction for a
9 criminal offense or absconding while on parole shall be
10 returned for a period of incarceration not to exceed one
11 hundred twenty (120) days for a first violation and a
12 period of incarceration not to exceed one hundred eighty
13 (180) days for a second violation unless otherwise ordered
14 by the board.

15
16 (d) Provided the parolee had not received a new
17 felony conviction or absconded during the most recent
18 period of parole, time spent on the most recent period of
19 parole prior to return to the custody of the department
20 shall count towards the prisoner's original sentence on a
21 day for day basis.

22

1 **7-13-404. Computing remainder of sentence for parole**
2 **violator.**

3
4 In computing the remainder of the sentence to be served by
5 a parole violator, ~~no~~ credit for each day served on parole
6 shall be given against his original sentence for ~~any~~
7 ~~portion of~~ the time between his most recent release on
8 parole and his return to the institution unless ~~the board~~
9 ~~directs otherwise~~ he is returned to prison as a parole
10 violator for a new felony conviction or he absconded from
11 parole during his most recent period of parole.

12
13 **7-13-408. Probation, parole and conditional release**
14 **administrative jail or adult community correction program**
15 **sanction and revocation hearing procedures.**

16
17 (e) The department may establish by rule and
18 regulation a system of imposing the administrative
19 sanctions specified in W.S. 7-13-1107(b) as an alternative
20 to revocation of the parole of any parolee who has violated
21 a condition of his parole or as an alternative to
22 revocation of the probation of any probationer who has
23 violated a condition of his probation. Parolees and

1 probationers committed to the county jail or a residential
2 community correctional program pursuant to this subsection
3 shall be housed in accordance with W.S. 7-13-1107(c) or
4 7-18-115(b).

5

6 **7-13-420. Good time allowances.**

7

8 (a) The governor, after consultation with the board
9 and the department, shall adopt rules and regulations to
10 establish a system of good time and special good time
11 allowances for inmates of and parolees from any state penal
12 institution, any institution which houses Wyoming inmates
13 pursuant to W.S. 7-3-401 or any correctional facility
14 operated pursuant to a contract with the state under W.S.
15 7-22-102 or inmates or parolees transferred to a community
16 correctional facility pursuant to W.S. 7-18-109 or
17 7-18-115. The rules may provide: ~~either for good time to be
18 deducted from the maximum sentence or for good time to be
19 deducted from the minimum sentence imposed by the
20 sentencing court, or both, and may provide for the removal
21 of previously earned good time allowances and the
22 withholding of future good time allowances.~~

23

1 (i) Either for good time to be deducted from the
2 maximum sentence or for good time to be deducted from the
3 minimum sentence imposed by the sentencing court, or both;
4

5 (ii) For the removal of previously earned good
6 time allowances other than additional good time awarded
7 pursuant to paragraph (iii) of this subsection, and the
8 withholding of future good time allowances;
9

10 (iii) For additional good time to be awarded to
11 any inmate under this paragraph only after all statutory
12 requirements are satisfied. Once additional good time has
13 been awarded, it shall not be removed. In accordance with
14 adopted rules additional good time may be deducted from the
15 maximum sentence and minimum sentence imposed by the
16 sentencing court of any inmate who:
17

18 (A) Has no prior conviction for a felony
19 level crime in any state;
20

21 (B) Is not serving a sentence as a result
22 of a conviction for murder, manslaughter, kidnapping,
23 sexual assault in the first or second degree, robbery,

1 aggravated assault, aircraft hijacking, arson in the first
2 or second degree, aggravated burglary, or a violation of
3 W.S. 6-2-314(a) (i) or 6-2-315(a) (ii);

4
5 (C) Is in compliance with his
6 individualized case plan, including any requirements for
7 education, programming, treatment and work;

8
9 (D) Has served at least one-half (1/2) of
10 the maximum sentence imposed by the sentencing court; and

11
12 (E) Has no institutional disciplinary rule
13 infractions.

14
15 (iv) For additional good time to be awarded to
16 any parolee only after all statutory requirements are
17 satisfied. Once additional good time has been awarded, it
18 shall not be removed. The award shall be dependent upon the
19 written recommendation of the supervising parole agent and
20 that agent's supervisor and shall be based on the parolee's
21 reduced level of community risk and his compliance with his
22 individualized parole case plan and conditions, including
23 any requirements for education, programming, treatment,

1 court ordered restitution and work. Additional good time
2 may be deducted from the maximum sentence imposed by the
3 sentencing court of any parolee who:

4
5 (A) Has satisfactorily completed at least
6 one-half (1/2) of his period of supervised parole from the
7 date of release from prison to his projected date of
8 discharge; and

9
10 (B) Has no documented police contacts noted
11 and no documented sanctions for violations of the terms and
12 conditions of his parole during the current period of
13 parole.

14
15 (c) The court may ~~adjust~~decrease the period of a
16 probationer's supervised probation as an incentive for
17 reaching specified goals on the recommendation of the
18 probation and parole agent, which shall be based on the
19 probationer's positive progression towards the goals of the
20 case plan, including successful completion of a
21 rehabilitative program or completion of a defined increment
22 of time without a serious violation of probation

1 conditions, as well as the overall compliance with the
2 conditions imposed by the court.

3

4 **7-13-1107. Administrative sanctions for program**
5 **violations.**

6

7 (a) The department is authorized to establish by rule
8 and regulation a system of administrative rewards and
9 sanctions as an alternative to probation or parole
10 revocation for probationers and parolees who violate the
11 rules and restrictions of an intensive supervision program
12 established under this article.

13

14 (b) Authorized sanctions may include:

15

16 (iii) Restrictions on personal liberty
17 including:

18

19 (A) An immediate sanction of confinement in
20 a county jail, to be imposed as a two (2) day or three (3)
21 day consecutive period by the probation and parole agent
22 with approval of the field services administrator. The
23 total of all such sanctions shall not exceed eighteen (18)

1 total days during the term of supervision. Sanctions
2 imposed under this subparagraph shall not require a hearing
3 held in accordance with W.S. 7-13-408(b);

4
5 ~~(A)~~(B) Detention in county jail for a
6 period not exceeding thirty (30) days;

7
8 ~~(B)~~(C) Placement in a residential community
9 correctional program for a period not to exceed sixty (60)
10 days;;

11
12 (D) Detention in a consenting county jail
13 coupled with substance abuse treatment contracted with and
14 paid by the department for a period not exceeding ninety
15 (90) days. Detention under this subparagraph shall be
16 initiated due to repeated substance abuse violations during
17 the period of probation or parole and shall be credited to
18 the sentence;

19
20 (E) Cumulative custodial sanctions imposed
21 under subparagraphs (A) and (B) of this paragraph shall not
22 exceed ninety (90) days per probation sentence or period of
23 parole supervision prior to revocation and shall be

1 credited to the sentence. Custodial sanctions imposed
2 under subparagraphs (B) through (D) of this paragraph shall
3 require a hearing held in accordance with W.S. 7-13-408(b).
4

5 **7-18-102. Definitions.**

6
7 (a) As used in this act:

8
9 (iii) "Inmate" means an adult serving a felony
10 sentence in any state penal institution or any correctional
11 facility operated pursuant to a contract under W.S.
12 7-22-102, excluding any inmate who:

13
14 (C) Is serving a term of ~~life~~-imprisonment
15 not subject to parole; or

16
17 **7-18-106. Powers and duties of boards.**

18
19 (a) Subject to this act, a corrections board may:

20
21 (iii) Accept, reject or reject after acceptance
22 the placement pursuant to a contract with the department,
23 of any offender, parolee or inmate in an adult community

1 correctional facility or program. Acceptance, rejection or
2 rejection after acceptance shall be based on a simple
3 majority vote of those present at the meeting of the
4 corrections board where a quorum is present. The reason for
5 rejection or rejection after acceptance shall be reduced to
6 writing with a copy provided to the referring agency and
7 the offender, parolee or inmate. The basis for the
8 rejection or rejection after acceptance shall not be
9 subject to appeal or court action. If an offender, parolee
10 or inmate is rejected by the corrections board after
11 initial acceptance, the offender, parolee or inmate shall
12 be placed in the custody of a sheriff of a county served by
13 the corrections board for a reasonable period of time
14 pending receipt of appropriate orders for the transfer of
15 the offender, parolee or inmate.

16

17 **7-18-109. Transfer of inmate to facility by**
18 **department.**

19

20 (b) A transfer of an inmate to a residential adult
21 community correctional facility under this section may be
22 made only if:

23

1 (iii) The inmate is within at least ~~twenty-four~~
2 ~~(24)~~thirty-six (36) months of his parole eligibility date
3 and his conduct during his confinement has been such that
4 he is appropriate for placement;

5

6 **Section 2.** W.S. 7-13-301(a)(i) through (v) is
7 repealed.

8

9 **Section 3.** This act is effective July 1, 2016.

10

11

(END)