

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

SENATE FILE NO. \_\_\_\_\_

Probation and parole-amendments.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to probation and parole; amending obsolete  
2 provisions; clarifying procedures for arrest of parolees in  
3 violation of the terms of parole; requiring peace officers  
4 to arrest parolees and probationers as specified;  
5 clarifying the amount the department of corrections may pay  
6 for housing of detained parolees and probationers;  
7 expanding authority for good time allowances as specified;  
8 clarifying the authority of the board of parole to address  
9 payment of restitution by parolees; providing immunity to  
10 probation and parole agents as specified; amending a  
11 prohibition against granting parole to prisoners who have  
12 escaped, attempted to escape or assisted an escape from a  
13 correctional institution; providing definitions; and  
14 providing for an effective date.

1

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

3

4       **Section 1.** W.S. 7-13-303(a)(intro), 7-13-401(a)(ii)  
5 and by creating new paragraphs (xiii) and (xiv),  
6 7-13-402(b)ii), (d) and by creating a new subsection (j),  
7 7-13-405(a), (b)(intro) (c), 7-13-407(a)(i), 7-13-408(a),  
8 (b) and (e), 7-13-410(a) and by creating a new subsection  
9 (c), 7-13-411(a)(iii) and (b) through (e),  
10 7-13-418(a)(intro) and (iv), 7-13-420 by creating a new  
11 subsection (c), 7-13-421(b)(intro), (c)(intro) and (i), (d)  
12 through (g) and by creating a new subsection (h), 7-13-  
13 1107(c) 7-18-108(d) and 35-7-1043 are amended to read:

14

15       **7-13-303. Investigation preceding probation or**  
16 **suspension of sentence.**

17

18       (a) When directed by the court, the district  
19 attorney, ~~the state~~a probation and parole ~~officer~~agent as  
20 defined in W.S. 7-13-401 or, in the case of a minor, a  
21 counselor as defined by W.S. 5-3-501(a)(ii) or the  
22 department of family services shall investigate and report  
23 to the court in writing:

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**7-13-401. Definitions; creation of board; officers; compensation; hearing panels; meetings.**

(a) As used in W.S. 7-13-401 through 7-13-424:

(ii) "Conditional release" means any form of release by an institution or by a court, other than parole or probation, which is subject to conditions imposed by the institution or court, but excludes release on bail;

(xiii) "Field services administrator" means the administrator for the department of corrections division of field services;

(xiv) "Probation and parole agent" means an employee of the department of corrections, division of field services, who supervises a parolee or probationer.

**7-13-402. General powers and duties of board; eligibility for parole; immunity.**

1 (b) A prisoner is not eligible for parole on a  
2 sentence if, while serving that sentence, he has:

3  
4 (ii) ~~Escaped~~ Committed, attempted ~~to escape~~ or  
5 assisted ~~others to~~ an escape from any institution involving  
6 the use or threat of force against any person.

7  
8 (d) No person granted a parole shall be released from  
9 an institution until he has signed an agreement that he  
10 will comply with the terms and conditions under which he  
11 has been released and abide by the laws of the state. In  
12 addition, no person shall be granted a parole until the  
13 board makes a reasonable effort to notify victims who have  
14 registered to receive notification pursuant to W.S. 1-40-  
15 204(d) of the ~~parole~~ hearing and provides a reasonable  
16 opportunity for the victims to provide written comments to  
17 the board relative to the parole. ~~The agreement shall be~~  
18 ~~retained in the records of the department.~~

19  
20 (j) The board may order the arrest and return to  
21 the custody of the department of any parolee who has  
22 absconded from supervision, been charged with or convicted  
23 of a crime while on parole or committed an alleged

1 violation of parole for which probable cause has been  
2 established through a hearing, or waiver thereof, pursuant  
3 to W.S. 7-13-408. The written order of the board shall be  
4 sufficient warrant for any peace officer to return a  
5 parolee to custody. All peace officers shall execute any  
6 order of the board issued under this subsection. A parolee  
7 taken into custody under the order of the board is not  
8 subject to release on bail.

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10 **7-13-405. Field services administrator; hiring of**  
11 **agents.**

12 **\*\*\* STAFF COMMENT \*\*\***

13 **The section heading for W.S. 7-13-405 currently**  
14 **reads "State probation and parole officer;**  
15 **appointment of agents." The new heading reflects**  
16 **current practice.**  
17

18 (a) The department has general supervisory authority  
19 over state parolees and over probationers for whom the  
20 sentencing court requests supervision under W.S.  
21 ~~7-13-410(b)~~ 7-13-410.

22  
23 (b) The director shall appoint a ~~state probation and~~  
24 ~~parole officer~~ field services administrator. The department  
25 shall:  
26

1           (c) The ~~state probation and parole officer~~ field  
2 services administrator, with the approval of the director,  
3 shall ~~appoint~~ coordinate the hiring of probation and parole  
4 agents.

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6           **7-13-407. Duties of probation and parole agents.**

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8           (a) Under direction and supervision of the director,  
9 probation and parole agents shall:

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11           (i) Except as otherwise directed by the  
12 director, devote full time to the performance of their  
13 duties in carrying out the provisions of W.S. 7-9-104, 7-9-  
14 107, 7-13-303, 7-13-401 through 7-13-424, 7-13-1101 through  
15 7-13-1107, 7-13-1601 through 7-13-1615 and 35-7-1043;

16  
17           **7-13-408. Probation, parole and conditional release**  
18 **administrative jail or adult community correction program**  
19 **sanction and revocation hearing procedures.**

20                           **\*\*\* STAFF COMMENT \*\*\***

21           The heading for W.S. 7-13-408 has been amended  
22 herein to include "...administrative jail or  
23 adult community correction program sanction...".  
24

1           (a) The ~~state~~ probation and parole ~~officer~~ agent  
2 shall notify the department and the board or the  
3 appropriate court if it is determined consideration should  
4 be given to retaking or reincarcerating a person under the  
5 supervision of the department who has violated a condition  
6 of his probation, parole or other conditional release.  
7 ~~Prior to notification, a~~ When the probation and parole  
8 agent intends to pursue a revocation of probation, parole  
9 or conditional release, a preliminary hearing shall be held  
10 in accordance with this section within a reasonable time,  
11 unless a hearing is waived by the probationer, parolee or  
12 conditional releasee. In the case of a parolee for whom  
13 the violation is based on a new felony conviction, a  
14 preliminary hearing is not required under this section. In  
15 the case of a probationer, the hearing is only required  
16 when the probationer has been reincarcerated and a legal  
17 warrant has not been obtained within ten (10) days. As soon  
18 as practicable, following termination of any hearing, the  
19 appropriate officer or agent shall report to the department  
20 and the court or board, furnish a copy of the hearing  
21 record and make recommendations regarding the disposition  
22 to be made of the probationer, parolee or conditional  
23 releasee. Pending any proceeding pursuant to this section,

1 the appropriate agent may take custody of and detain the  
2 probationer, parolee or conditional releasee involved for a  
3 reasonable period of time prior to the hearing. If it  
4 appears to the hearing officer or agent that retaking or  
5 reincarceration is likely to follow, the agent may take  
6 custody of and detain the probationer, parolee or  
7 conditional releasee for a reasonable period after the  
8 hearing or waiver as may be necessary to arrange for the  
9 retaking or reincarceration.

10

11 (b) Any hearing pursuant to this section may be  
12 before the ~~state probation and parole officer~~ field  
13 services administrator, his designated hearing officer or  
14 any other person authorized pursuant to the laws of this  
15 state to hear cases of alleged probation, parole or  
16 conditional release violations, except that no hearing  
17 officer shall be the person making the allegation of  
18 violation. In cases of alleged parole violations by  
19 persons who were paroled by the board, hearings pursuant to  
20 this section shall be before the executive director of the  
21 board or his designated hearing officer.

22



1           (e) The department may establish by rule and  
2 regulation a system of imposing the administrative  
3 sanctions specified in W.S. 7-13-1107(b) as an alternative  
4 to revocation of the parole of any parolee or probation of  
5 any probationer who has violated a condition of his ~~parole~~  
6 supervision. The rules and regulations shall provide for a  
7 hearing to establish grounds for possible sanctions  
8 involving detention in a jail or an adult community  
9 corrections program. Parolees or probationers committed to  
10 the county jail or a residential community correctional  
11 program pursuant to this subsection shall be housed in  
12 accordance with W.S. 7-13-1107(c), 7-18-108(b) or  
13 7-18-115(b).

14

15           **7-13-410. Notice of probation order; request for**  
16 **probation supervision or report.**

17

18           (a) The clerk of the court granting probation to a  
19 person convicted of a crime shall send a certified copy of  
20 the order to the ~~state probation and parole officer~~  
21 department of corrections or, in the case of a minor, to  
22 the department of family services.

23

1        (c) The department of corrections shall only provide  
2 supervision of probationers where the duration of  
3 supervision is at least one (1) year or more in length.

4  
5        **7-13-411. Apprehension of violators.**

6  
7        (a) A probation and parole agent may, in the  
8 performance of his duties:

9  
10            (iii) Authorize the arrest without warrant of  
11 any probationer or parolee if the probation and parole  
12 agent has probable cause to believe the person has violated  
13 the ~~terms~~ conditions of his probation or parole. A person  
14 arrested under this paragraph may be detained for a  
15 reasonable period of time until a legal warrant is obtained  
16 or pending further proceedings under W.S. 7-13-408.

17  
18        (b) A peace officer ~~may~~ shall arrest without warrant  
19 an alleged probation or parole violator after receiving a  
20 written statement from a probation and parole agent setting  
21 forth that the probationer or parolee has, in the judgment  
22 of the probation and parole agent, violated the conditions  
23 of his probation or parole. A person arrested under this

1 subsection may be detained for a reasonable period of time  
2 until a legal warrant is obtained or pending further  
3 proceedings under W.S. 7-13-408.

4

5 (c) A peace officer ~~or probation and parole agent may~~  
6 shall take into custody and hold a person granted parole or  
7 on probation from another state when requested to do so by  
8 the probation and parole agent or the proper authorities  
9 from the other state.

10

11 (d) A parole or probation violator apprehended ~~by a~~  
12 ~~probation and parole agent~~ shall be accepted and held in  
13 the county jail at the request of the probation and parole  
14 agent.

15

16 (e) Any expense incurred in holding a parolee in  
17 county jail at the request of a probation and parole agent  
18 or pending proceedings under W.S. 7-13-408, including costs  
19 of shelter, food, clothing, and necessary medical, dental  
20 and hospital care and any expense for transporting the  
21 parolee shall be paid by the department unless there are  
22 local charges pending. The department shall be responsible  
23 for the per diem cost for a probationer held as an

1 administrative sanction. The per diem cost of holding  
2 parolees under this section shall be agreed upon by the  
3 sheriff and the department, ~~and~~ but shall not exceed the  
4 ~~per diem cost of housing an inmate at the Wyoming state~~  
5 ~~penitentiary~~ amount established by the department based on  
6 funds appropriated to the department for housing of  
7 offenders.

8

9 **7-13-418. Selection, training and powers of local**  
10 **volunteer; compensation.**

11

12 (a) In order to further the objectives of W.S.  
13 7-13-401 through 7-13-424, the ~~state probation and parole~~  
14 ~~officer~~ field services administrator may select, organize  
15 and train local volunteer citizens who, acting under his  
16 supervision, may:

17

18 (iv) Not receive compensation from the state. At  
19 the discretion of the ~~state probation and parole officer~~  
20 field services administrator, however, volunteers may be  
21 reimbursed for necessary and actual expenses incurred in  
22 performing the duties described in this section.

23

1           **7-13-420. Good time allowances.**

2

3           (c) The department shall further establish a system  
4 of good time allowance for those individuals placed on  
5 probation pursuant to W.S. 7-13-410(b) based on their  
6 positive progression towards the goals of the case plan as  
7 well as the overall compliance with the conditions imposed  
8 by the court. The court may adjust the period of a  
9 probationer's supervised probation on the recommendation of  
10 the probation and parole agent for good time allowance.

11

12           **7-13-421. Restitution as condition of parole.**

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14           (b) The board shall ~~provide for~~ require compliance  
15 with a plan for payment of restitution in the amount  
16 ~~determined-ordered~~ by the court pursuant to W.S. 7-9-103 as  
17 a condition of parole, unless the board finds the parolee  
18 is not reasonably capable of making ~~the~~ payments or paying  
19 the court ordered amount in full during the time remaining  
20 on the sentence, in which case the board may modify the  
21 amount of restitution to be paid as a condition of parole,  
22 taking into account the factors enumerated in W.S. 7-9-106.  
23 ~~The board may require payment of the following obligations~~

1 ~~as conditions of parole if it finds the parolee is~~  
2 ~~reasonably capable of making the payments, taking into~~  
3 ~~account the factors enumerated in W.S. 7-9-106(a)(iii):~~

4  
5 (c) If the parolee fails to pay the restitution as  
6 ~~provided~~required by the board pursuant to this section the  
7 board may:

8  
9 (i) Modify the amount of the restitution to be  
10 paid as a condition of parole; or

11  
12 (d) The board may waive the payment of some or all of  
13 the restitution as a condition of parole and allow the  
14 sentence to expire without full payment of restitution if  
15 it finds ~~the~~that continuing payment of some or all of the  
16 restitution while on parole will work an undue hardship on  
17 the parolee or his family or that revocation based on  
18 nonpayment of restitution will not be a cost effective use  
19 of the corrections system or will be contrary to the  
20 parolee's successful reintegration into the community. If  
21 the victim ~~can be located through the exercise of~~  
22 ~~reasonable diligence~~has registered to receive  
23 notifications pursuant to W.S. 1-40-204(d), he shall be

1 given notice and an opportunity to be heard prior to the  
2 board making a decision to waive some or all of the  
3 restitution under this subsection.

4

5 (e) Nothing in this section:

6

7 (i) Authorizes the board to waive or modify the  
8 parolee's continuing obligation after parole to repay in  
9 full the amount of restitution ordered by the court; or

10

11 (ii) Shall limit or impair the rights of victims  
12 to sue and recover damages from the ~~defendant~~-parolee in a  
13 civil action. However, any restitution payment by the  
14 ~~defendant~~-parolee to a victim shall be set off against any  
15 judgment in favor of the victim in a civil action arising  
16 out of the same facts or event.

17

18 (f) The fact that restitution was required or made  
19 under this section shall not be admissible as evidence in a  
20 civil action unless offered by the ~~defendant~~-parolee.

21

22 (g) In the event a victim is not satisfied with the  
23 restitution plan ~~approved~~-required or modified by the

1 board, the victim's ~~sole and exclusive remedy is~~ remedies  
2 are a civil action against the parolee or execution on the  
3 restitution order pursuant to W.S. 7-9-103(d).

4  
5 (h) The board may require payment of the following  
6 obligations as conditions of parole if it finds the parolee  
7 is reasonably capable of making the payments, taking into  
8 account the factors enumerated in W.S. 7-9-106(a)(iii):

9  
10 (i) Support of dependents of the parolee;

11  
12 (ii) Court ordered fines, reimbursement for the  
13 services of the public defender or court appointed counsel  
14 and the surcharge imposed under W.S. 1-40-119;

15  
16 (iii) Costs or partial costs of evaluations,  
17 treatment, services, programs or assistance the parolee is  
18 receiving;

19  
20 (iv) Cost or partial costs of supervision of the  
21 parolee imposed under W.S. 7-13-1102(a)(iii).

22



1           **7-13-1107. Administrative sanctions for program**  
2 **violations.**

3  
4           (c) The county sheriff shall house probationers  
5 and parolees committed to the county jail pursuant to this  
6 section. The cost of housing a program violator in the  
7 county jail shall be paid by the department at a per diem  
8 rate not to exceed the ~~daily cost of keeping an inmate at~~  
9 ~~the Wyoming state penitentiary~~ amount established by the  
10 department based on funds appropriated for housing of  
11 offenders.

12  
13           **7-18-108. Placement of offender in program by court;**  
14 **placement by department as administrative sanction.**

15  
16           (d) The probation and parole ~~officers~~ agent for the  
17 judicial district shall ~~be responsible for including~~  
18 include in the presentence report to the sentencing judge  
19 recommendations for the utilization of any governmental or,  
20 when available, nongovernmental adult community  
21 correctional facility or program which has been approved  
22 for use by the corrections board.

23

1           **35-7-1043. Immunity from prosecution.**

2

3 All duly authorized peace officers including any special  
4 agents or other personnel appointed by the commissioner,  
5 and probation and parole agents as defined in W.S. 7-13-  
6 401, while investigating violations of this act in  
7 performance of their official duties, shall be immune from  
8 prosecution under this act. Any person working under the  
9 immediate direction, supervision or instruction of a duly  
10 authorized peace officer, special agent or other person  
11 appointed by the commissioner, may be granted immunity from  
12 prosecution under this act by the commissioner. In addition  
13 to the foregoing persons, such immunity may also be granted  
14 to any person whose testimony is necessary to secure a  
15 conviction under this act with the consent of district  
16 judge in the district wherein prosecution is to take place.  
17 Any person granted immunity under this section shall not be  
18 excused from testifying or producing evidence on the ground  
19 that the testimony or evidence required of him may tend to  
20 incriminate him or subject him to penalty or forfeiture.  
21 Any person who except for the provisions of this act, would  
22 have been privileged to withhold the testimony given or the  
23 evidence produced by him shall not be prosecuted, subjected

1 to any penalty, forfeiture, for or on account of any  
2 transaction, matter or thing concerning which, by reason of  
3 said immunity, he gave testimony and produced evidence; and  
4 no such testimony given or evidence produced shall be  
5 received against him in any criminal proceeding. Provided,  
6 no person given immunity under this section shall be exempt  
7 from prosecution for perjury or contempt committed while  
8 giving testimony or producing evidence under compulsion as  
9 provided in this section.

10

11 **Section 2.** W.S. 7-13-411(a)(i) and (ii) and W.S. 7-  
12 13-421(a), (b)(i) through (iv) and (c)(ii) are repealed.

13

14 **Section 3.** This act is effective July 1, 2011.

15

16

(END)