

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

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; providing an appropriation; and  
12 providing for an effective date.

13

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

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6 **STAFF COMMENT**

7  
8 **This bill draft contains language from 2016 Senate File 48**  
9 **with changes requested by the Board of Parole and the**  
10 **Department of Corrections highlighted in yellow. This**  
11 **revised bill draft has not gone through LSO internal**  
12 **review. Technical or substantive changes may be made after**  
13 **LSO review.**

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16 \*\*\*\*\*

17  
18 **Section 1.** W.S. 7-13-301(a)(intro), by creating new  
19 subsections (b) through (d), by amending and renumbering  
20 (b) and (c) as (e) and (f) and by renumbering (d) through  
21 (f) as (g) through (j), 7-13-304 by creating a new  
22 subsection (e), 7-13-305, 7-13-403(b) and by creating a new  
23 subsection (c), 7-13-404, 7-13-408(e), 7-13-420(a) and (c),  
24 7-13-1107(a), (b)(iii) by creating a new subparagraph (A),  
25 by renumbering (A) and (B) as (B) and (C) and by creating  
26 new subparagraphs (D) and (E), 7-18-102(a)(iii)(C),  
27 7-18-106(a)(iii) and 7-18-109(b)(iii) are amended to read:

28

1           **7-13-301. Placing person found guilty, but not**  
2 **convicted, on probation.**

3  
4           (a) If a person who has not previously been convicted  
5 of any felony is charged with or is found guilty of or  
6 pleads guilty or no contest to any misdemeanor except any  
7 second or subsequent violation of W.S. 31-5-233 or any  
8 similar provision of law, or any second or subsequent  
9 violation of W.S. 6-2-510(a) or 6-2-511(a) or any similar  
10 provision of law, ~~or any felony except murder, sexual~~  
11 ~~assault in the first or second degree, aggravated assault~~  
12 ~~and battery or arson in the first or second degree,~~ the  
13 court may, with the consent of the defendant and the state  
14 and without entering a judgment of guilt or conviction,  
15 defer further proceedings and place the person on probation  
16 for a term not to exceed ~~five (5) years~~ three (3) years  
17 upon terms and conditions set by the court. ~~The terms of~~  
18 ~~probation shall include that he:~~

19  
20           (b) If a person who has not previously been convicted  
21 of any felony is charged with or is found guilty of or  
22 pleads guilty or no contest to any felony except murder,  
23 sexual assault in the first or second degree, aggravated

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

7  
8 (c) The terms of probation under subsection (a) or  
9 (b) of this section shall include that the person charged:

10  
11 (i) Report to the court not less than twice each  
12 year at times and places fixed in the order;

13  
14 (ii) Conduct himself in a law-abiding manner;

15  
16 (iii) Not leave the state without the consent of  
17 the court;

18  
19 (iv) Conform his conduct to any other terms of  
20 probation the court finds proper; and

21  
22 (v) Pay restitution to each victim in accordance  
23 with W.S. 7-9-101 and 7-9-103 through 7-9-115.

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2 (d) The court may reduce the severity of probation  
3 conditions, or remove conditions previously imposed, at any  
4 time.

5

6 ~~(b)~~ (e) If the court finds the person has fulfilled  
7 the terms of probation and that his rehabilitation has been  
8 attained to the satisfaction of the court, the court may,  
9 ~~at the end of five (5) years, or~~ at any time after the  
10 expiration of one (1) year from the date of the original  
11 probation for felony charges or at six (6) months for  
12 misdemeanor charges, discharge the person and dismiss the  
13 proceedings against him.

14

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

18

19 (i) Enter an adjudication of guilt and  
20 conviction and proceed to impose sentence upon the  
21 defendant if he previously pled guilty to or was found  
22 guilty of the original charge for which probation was  
23 granted under this section; ~~or~~

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

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

(iv) Continue the term of probation and increase the severity of probation conditions if the court determines the offender's treatment should also include any or all of the following terms:

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

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

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

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

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

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

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

1       ~~(d)~~(g) Discharge and dismissal under this section  
2 shall be without adjudication of guilt and is not a  
3 conviction for any purpose.

4

5       ~~(e)~~(h) There shall be only one (1) discharge and  
6 dismissal under this section or under any similar section  
7 of the probationary statutes of any other jurisdiction.

8

9       ~~(f)~~(j) This section shall not apply to any person  
10 holding any class of commercial driver's license pursuant  
11 to W.S. 31-7-304(a)(i), nor to the driver of any commercial  
12 motor vehicle as defined by W.S. 31-7-102(a)(viii), who is  
13 charged with any offense specified in W.S. 31-7-305.

14

15       **7-13-304. Imposition or modification of conditions;  
16 performance of work by defendant.**

17

18       (e) Notwithstanding any other provision of law, the  
19 court may require as a condition of probation or suspension  
20 of sentence or modification of conditions of probation or  
21 suspension of sentence that a defendant successfully  
22 complete a term of confinement and treatment in an  
23 intensive substance abuse treatment unit operated by or



1 under contract with the department of corrections as  
2 follows:

3  
4 (i) A term of confinement and treatment imposed  
5 under this subsection shall be for an indeterminate term of  
6 not less than ninety (90) days or more than one hundred  
7 eighty (180) days;

8  
9 (ii) A court may impose the condition authorized  
10 under this subsection if:

11  
12 (A) The offender has one hundred eighty  
13 (180) days or more remaining on his term of probation or  
14 suspended sentence;

15  
16 (B) The offender is a qualified offender  
17 under W.S. 7-13-1301;

18  
19 (C) The offender is recommended for  
20 intensive substance abuse treatment as a result of a  
21 substance abuse assessment conducted in accordance with  
22 W.S. 7-13-1302; and

23

1           (D) The court makes an affirmative finding  
2 that drug or alcohol abuse significantly contributed to the  
3 commission of the crime or violation of probation or  
4 conditions of the suspended sentence.

5  
6           (iii) The court shall order the release of the  
7 offender from his indeterminate term of confinement and  
8 treatment under this subsection upon notification to the  
9 court by the department of corrections that the offender  
10 has successfully completed the intensive treatment program.  
11 If the department notifies the court that the offender has  
12 refused to participate in treatment and removal is  
13 recommended by the department of corrections, the court  
14 may then reinstate the remaining portion of probation or  
15 suspended sentence, discharge the remaining portion of  
16 sentence or revoke the probation or suspended sentence;

17  
18           (iv) Time served within the department of  
19 corrections under this subsection shall be credited by the  
20 court towards the sentence on a day for day basis. Good  
21 time credits pursuant to W.S. 7-13-420(a) shall not be  
22 authorized.

23

1           **7-13-305. Determination, continuance or extension;**  
2 **revocation proceedings.**

3  
4           (a) The period of probation or suspension of sentence  
5 under W.S. 7-13-302 shall be for a term not to exceed five  
6 (5) years unless otherwise determined by the court and may  
7 be continued or extended at any time during the period of  
8 probation or suspension of sentence.

9  
10           (b) The period of probation or suspension of sentence  
11 under W.S. 7-13-302 shall be upon terms and conditions set  
12 by the court. The court may:

13  
14                   (i) Reduce the severity of probation conditions,  
15 or remove conditions previously imposed, at any time;

16  
17                   (ii) Add new probation conditions or increase  
18 the severity of probation conditions if the offender  
19 violates a term or condition of probation at any time  
20 before final discharge.

21  
22           ~~(b)~~(c) Upon the satisfactory fulfillment of the  
23 conditions of suspension of sentence or probation under

1 W.S. 7-13-302 the court shall enter an order discharging  
2 the ~~defendant~~offender. During the probationary period, if  
3 the court finds the person has fulfilled the terms and  
4 conditions of probation and that his rehabilitation has  
5 been attained to the satisfaction of the court, the court  
6 may, at any time after the expiration of one (1) year from  
7 the date of the original probation or suspension of  
8 sentence, enter an order discharging the offender.

9  
10 ~~(e)~~(d) For a violation of a condition of probation  
11 occurring during the probationary period, revocation  
12 proceedings may be commenced at any time during the period  
13 of suspension of sentence or probation under W.S. 7-13-302,  
14 or within thirty (30) days thereafter, in which case the  
15 court may issue a warrant and cause the ~~defendant~~offender  
16 to be arrested. If after hearing the court determines that  
17 the ~~defendant~~offender violated any of the terms of  
18 probation or suspension of sentence, the court may proceed  
19 ~~to deal with the case as if no suspension of sentence or~~  
20 ~~probation had been ordered~~ under W.S. 7-13-301(f) or  
21 7-13-304(e).

22

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

9

10           **7-13-403. Custody of parolee; return upon violation.**

11

12           (b) Unless otherwise ordered by the board, a parole  
13 violator shall be returned to the custody of the department  
14 to serve the remainder of the original sentence, reduced in  
15 accordance with W.S. 7-13-404.

16

17           (c) A parole violator who is returned to the custody  
18 of the department for a violation of the terms and  
19 conditions of parole not involving a new conviction for a  
20 criminal offense or absconding while on parole shall be  
21 returned for a period of incarceration not to exceed one  
22 hundred twenty (120) days for a first violation that leads  
23 to revocation of parole and a period of incarceration not

1 to exceed one hundred eighty (180) days for a second  
2 violation that leads to revocation of parole unless  
3 otherwise ordered by the board.

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7 **STAFF COMMENT**

8  
9 **The following provision is deleted from this bill draft**  
10 **based on changes requested by the Board of Parole and the**  
11 **Department of Corrections:**

12  
13 (d) Provided the parolee had not received a new felony  
14 conviction or absconded during the most recent period of  
15 parole, time spent on the most recent period of parole  
16 prior to return to the custody of the department shall  
17 count towards the prisoner's original sentence on a day for  
18 day basis.

19  
20 \*\*\*\*\*

21 \*\*\*\*\*

22 **7-13-404. Computing remainder of sentence for parole**  
23 **violator.**

24  
25 In computing the remainder of the sentence to be served by  
26 a parole violator, ~~no~~ credit for each day served on parole  
27 shall be given against his original sentence for ~~any~~  
28 ~~portion of~~ the time between his most recent release on  
29 parole and his return to the institution unless ~~the board~~

1 ~~directs otherwise~~ he is returned to prison as a parole  
2 violation for a new felony conviction, he absconded from  
3 parole during his most recent period of parole or the board  
4 directs otherwise.

5  
6 **7-13-408. Probation, parole and conditional release**  
7 **administrative jail or adult community correction program**  
8 **sanction and revocation hearing procedures.**

9  
10 (e) The department may establish by rule and  
11 regulation a system of imposing the administrative  
12 sanctions specified in W.S. 7-13-1107(b) as an alternative  
13 to revocation of the parole of any parolee who has violated  
14 a condition of his parole or as an alternative to  
15 revocation of the probation of any probationer who has  
16 violated a condition of his probation. Parolees and  
17 probationers committed to the county jail or a residential  
18 community correctional program pursuant to this subsection  
19 shall be housed in accordance with W.S. 7-13-1107(c) or  
20 7-18-115(b).

21  
22 **7-13-420. Good time allowances.**

23

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

16

17           (i) Either for good time to be deducted from the  
18 maximum sentence or for good time to be deducted from the  
19 minimum sentence imposed by the sentencing court, or both;

20

21           (ii) For the removal of previously earned good  
22 time allowances other than additional good time awarded



1 pursuant to paragraph (iii) of this subsection, and the  
2 withholding of future good time allowances;

3  
4 (iii) For additional good time to be awarded to  
5 any inmate under this paragraph only after all statutory  
6 requirements are satisfied. Once additional good time has  
7 been awarded, it shall not be removed. In accordance with  
8 adopted rules, additional good time may be deducted from  
9 the maximum sentence and minimum sentence imposed by the  
10 sentencing court of any inmate who:

11  
12 (A) Has no prior conviction for a felony  
13 level crime in any state;

14  
15 (B) Is not serving a sentence as a result  
16 of a conviction for murder, manslaughter, kidnapping,  
17 sexual assault in the first or second degree, robbery,  
18 aggravated assault, aircraft hijacking, arson in the first  
19 or second degree, aggravated burglary, or a violation of  
20 W.S. 6-2-314(a)(i) or 6-2-315(a)(ii);

21

1                   (C) Is in compliance with his  
2 individualized case plan, including any requirements for  
3 education, programming, treatment and work;

4  
5                   (D) Has served at least one-half (1/2) of  
6 the maximum sentence imposed by the sentencing court; and

7  
8                   (E) Has no institutional disciplinary rule  
9 infractions that resulted in placement into disciplinary  
10 segregation or the withholding or removal of good time.

11  
12                   (iv) For additional good time to be awarded to  
13 any parolee only after all statutory requirements are  
14 satisfied. Once additional good time has been awarded, it  
15 shall not be removed. The award shall be dependent upon the  
16 written recommendation of the supervising parole agent and  
17 that agent's supervisor and shall be based on the parolee's  
18 reduced level of community risk and his compliance with his  
19 individualized parole case plan and conditions, including  
20 any requirements for education, programming, treatment,  
21 court ordered restitution and work. Additional good time  
22 may be deducted from the maximum sentence imposed by the  
23 sentencing court of any parolee who:

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

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

(c) The court may ~~adjust~~ decrease the period of a probationer's supervised probation as an incentive for reaching specified goals on the recommendation of the probation and parole agent, which shall be based on the probationer's positive progression towards the goals of the case plan, including successful completion of a rehabilitative program or completion of a defined increment of time without a serious violation of probation conditions, as well as the overall compliance with the conditions imposed by the court.

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

3  
4           (a) The department is authorized to establish by rule  
5 and regulation a system of administrative rewards and  
6 sanctions as an alternative to probation or parole  
7 revocation for probationers and parolees who violate the  
8 rules and restrictions of an intensive supervision program  
9 established under this article.

10  
11           (b) Authorized sanctions may include:

12  
13                   (iii) Restrictions on personal liberty  
14 including:

15  
16                           (A) An immediate sanction of confinement in  
17 a county jail, to be imposed as a two (2) day or three (3)  
18 day consecutive period by the probation and parole agent  
19 with approval of the field services administrator. The  
20 total of all such sanctions shall not exceed eighteen (18)  
21 total days during the term of supervision. Sanctions  
22 imposed under this subparagraph shall not require a hearing  
23 held in accordance with W.S. 7-13-408(b);

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

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

8

9

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

16

17

(E) Cumulative custodial sanctions imposed under subparagraphs (A) and (B) of this paragraph shall not exceed ninety (90) days per probation sentence or period of parole supervision prior to revocation and shall be credited to the sentence. Custodial sanctions imposed under subparagraphs (B) through (D) of this paragraph shall require a hearing held in accordance with W.S. 7-13-408(b).

23

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2           **7-18-102. Definitions.**

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4           (a) As used in this act:

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

10

11                           (C) Is serving a term of ~~life~~-imprisonment  
12 not subject to parole; or

13

14           **7-18-106. Powers and duties of boards.**

15

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

17

18                   (iii) Accept, reject or reject after acceptance  
19 the placement pursuant to a contract with the department,  
20 of any offender, parolee or inmate in an adult community  
21 correctional facility or program. Acceptance, rejection or  
22 rejection after acceptance shall be based on a simple  
23 majority vote of those present at the meeting of the

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

13

14 **7-18-109. Transfer of inmate to facility by**  
15 **department.**

16

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

20

21 (iii) The inmate is within at least ~~twenty-four~~  
22 ~~(24)~~ thirty-six (36) months of his parole eligibility date

1 and his conduct during his confinement has been such that  
2 he is appropriate for placement;

3

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

6

7 **Section 3.** There is appropriated from the general  
8 fund to the department of corrections two million eight  
9 hundred thirty-four thousand three hundred ninety-six  
10 dollars (\$2,834,396.00) for the period beginning July 1,  
11 2017 and ending June 30, 2018. This appropriation shall  
12 only be expended for the purpose of this act.  
13 Notwithstanding any other provision of law, this  
14 appropriation shall not be transferred or expended for any  
15 other purpose and any unexpended, unobligated funds  
16 remaining from this appropriation shall revert as provided  
17 by law on June 30, 2018. This appropriation shall be  
18 included in the department of corrections' 2019-2020  
19 standard biennial budget request.

20

21 **Section 4.** This act is effective July 1, 2017.

22

23

(END)