

SENATE FILE NO. SF0107

Court Supervised Treatment Programs Act.

Sponsored by: Senator(s) Ross, Perkins, Sessions and Von
Flatern and Representative(s) Lubnau and
Meyer

A BILL

for

1 AN ACT relating to a Court Supervised Treatment Programs
2 Act; creating a Court Supervised Treatment Programs Act;
3 authorizing judges to participate in court supervised
4 treatment programs as specified; authorizing rulemaking;
5 providing for judicial immunity; providing definitions;
6 repealing the existing drug court program; providing
7 purposes; specifying requirements and procedures for
8 creation and operation of court supervised treatment
9 programs; specifying conditions for participation in court
10 supervised treatment programs; requiring parents or
11 guardians to participate in court supervised treatment
12 programs under specified conditions; authorizing municipal
13 courts to impose probation; increasing maximum extended
14 probation period for participants in court supervised
15 treatment programs; providing for confidentiality and
16 release of records; specifying applicability of the act;

1 providing for transition of programs and related funding;
2 and providing for effective dates.

3

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

5

6 **Section 1.** W.S. 5-12-101 through 5-12-103 and
7 7-13-1601 through 7-13-1615 are created to read:

8

9

CHAPTER 12

10

COURT SUPERVISED TREATMENT PROGRAMS

11

12 **5-12-101. Court supervised treatment.**

13

14 Any district, juvenile, circuit or municipal court judge or
15 circuit court magistrate may act as a participating judge
16 in a court supervised treatment program established
17 pursuant to W.S. 7-13-1601 through 7-13-1615.

18

19 **5-12-102. Rules.**

20

21 The Wyoming supreme court may promulgate rules of practice
22 for the participation of judges in court supervised
23 treatment programs.

24

1 **5-12-103. Judicial immunity.**

2

3 A judge participating in a court supervised treatment
4 program shall be entitled to immunity for actions taken in
5 a court supervised treatment program to the same extent the
6 judge would be entitled to immunity for other actions
7 performed in accordance with law.

8

9

ARTICLE 16

10

COURT SUPERVISED TREATMENT PROGRAMS ACT

11

12 **7-13-1601. Short title.**

13

14 This act shall be known and may be cited as the "Court
15 Supervised Treatment Programs Act."

16

17 **7-13-1602. Definitions.**

18

19 (a) As used in this act:

20

21 (i) "Account" means the court supervised
22 treatment account created by W.S. 7-13-1605(a);

23

1 (ii) "Applicant" means a government entity
2 specified in W.S. 1-39-101 et seq., a joint powers board, a
3 tribal 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) "Department" means the Wyoming department
9 of health;

10

11 (iv) "Dual diagnosis" means substance abuse and
12 a co-occurring mental health disorder;

13

14 (v) "Participant" means a substance offender or
15 other person who has been referred to and accepted into a
16 program;

17

18 (vi) "Participating judge" means the district,
19 juvenile, circuit or municipal court judge or magistrate
20 acting as part of a program team;

21

22 (vii) "Program" or "court supervised treatment
23 program" means a local court supervised treatment program

1 that complies with rules and regulations adopted by the
2 department;

3
4 (viii) "Program coordinator" means the person
5 responsible for coordinating the establishment, operation,
6 evaluation and integrity of a program;

7
8 (ix) "Program team" means the team created
9 pursuant to W.S. 7-13-1609(a);

10
11 (x) "Recidivism" means any subsequent criminal
12 charge;

13
14 (xi) "Referring judge" means the district,
15 juvenile, circuit or municipal court judge or magistrate
16 who refers a substance offender or other person to a
17 program;

18
19 (xii) "Staffing" means the meeting of a program
20 team before a participant's entry into the program, and
21 during the participant's participation in the program, to
22 plan a coordinated response to the participant's behaviors
23 and needs;

24

1 (xiii) "Substance" means alcohol or any
2 controlled substance as defined in W.S. 35-7-1002(a)(iv);

3

4 (xiv) "Substance abuse assessment" means as
5 defined in W.S. 7-13-1301(a)(v);

6

7 (xv) "Substance abuse treatment" means treatment
8 designed to provide education and therapy directed toward
9 ending substance abuse and preventing its return;

10

11 (xvi) "Substance offender" means a person
12 charged with a substance related offense or an offense in
13 which substance abuse is determined from the evidence to
14 have been a significant factor in the commission of the
15 offense;

16

17 (xvii) "This act" means W.S. 7-13-1601 through
18 7-13-1615.

19

20 **7-13-1603. Purposes and goals.**

21

22 (a) The legislature recognizes the critical need in
23 this state for treatment programs to break the cycle of
24 substance abuse and the crimes committed as a result

1 thereof. Court supervised treatment programs shall be
2 facilitated for the purpose of providing sentencing options
3 for the judicial system in cases stemming from substance
4 abuse, by combining judicial supervision, probation,
5 substance abuse assessment, substance abuse testing,
6 monitoring, treatment, and aftercare for substance
7 offenders.

8

9 (b) The goals of the programs funded under this act
10 shall be:

11

12 (i) To reduce recidivism by participants;

13

14 (ii) To ensure program retention and graduation
15 of participants;

16

17 (iii) To ensure sobriety of participants; and

18

19 (iv) To monitor the services provided to
20 participants.

21

22 **7-13-1604. Standards for attorneys and judges.**

23

1 (a) Attorneys, participating judges and referring
2 judges shall adhere to the standards set forth in the
3 Wyoming Rules of Professional Conduct for Attorneys at Law,
4 the Wyoming Code of Judicial Conduct and any rules adopted
5 by the supreme court governing program practices.

6
7 (b) The referring judge in a particular case may be
8 the participating judge in that participant's treatment
9 program, provided the participating judge shall not act
10 upon any motion to revoke probation that may be filed in
11 the original criminal or juvenile case, nor in sentencing
12 or disposition.

13
14 **7-13-1605. Establishment of court supervised program**
15 **account; rules and regulations; panel created; program**
16 **funding.**

17
18 (a) There is created a court supervised treatment
19 program account. All interest earned on funds within this
20 account shall be deposited in the account. The department
21 shall oversee and provide funding for programs from the
22 court supervised treatment program account. Funds within
23 the account shall be expended by the department for the
24 purposes of this act upon legislative appropriation. Any

1 expenses incurred by the department in implementing this
2 act shall be paid from the account and shall not exceed ten
3 percent (10%) of the amounts appropriated to the department
4 for purposes of this act.

5
6 (b) The department shall determine whether an
7 application for a program meets the qualifications
8 specified in W.S. 7-13-1606(b) and the rules and
9 regulations promulgated by the department pursuant to
10 subsection (c) of this section.

11
12 (c) The department shall promulgate rules and
13 regulations necessary to implement this act, including
14 establishing standards consistent with the key components
15 of drug courts defined by the United States department of
16 justice or such similar rules as may be adopted by the
17 department. The rules shall:

18
19 (i) Specify funding formulas for funding from
20 the account which formula shall include provisions
21 requiring local contribution to the cost of a program;

22
23 (ii) Require participants to contribute
24 financially to their own program;

1

2 (iii) Establish program requirements,
3 operational standards and protocols for programs, program
4 team and staff training requirements, program data
5 collection and maintenance, certification requirements for
6 treatment personnel, and incentive and sanction
7 limitations.

8

9 (d) A panel, consisting of the attorney general, the
10 directors of the department of health, department of family
11 services and department of corrections and the state public
12 defender, or their designees, shall make the final
13 determination whether an application for a court supervised
14 treatment program meets the qualifications of this act and
15 shall determine the funding amount for each successful
16 applicant. The panel may deny an application for a new
17 program if the funding for the new program would
18 substantially affect funding levels for existing programs.

19

20 (e) In addition to those funds deposited in the
21 account created by this section, the department may accept,
22 and shall deposit to the account, any gifts, contributions,
23 donations, grants or federal funds specifically given to
24 the department for the benefit of programs in Wyoming.

1

2 (f) Nothing in this act shall prohibit a program from
3 obtaining or providing supplemental funding. All
4 supplemental funds received by a program shall be reported
5 to the department.

6

7 **7-13-1606. Establishment of court supervised**
8 **treatment programs.**

9

10 (a) Any court supervised treatment program that meets
11 the qualifications specified in this section and the
12 department's rules and regulations may apply for funding
13 from the account on a form developed by the department.

14

15 (b) The applicant shall be the contracting agent for
16 all its program contracts. All program employees of a
17 program shall be employees of the governmental entity,
18 joint powers board, or nonprofit organization recognized
19 under 26 U.S.C. 501(c)(3) that was awarded a grant under
20 this section, but referring judges, participating judges,
21 other judicial branch personnel and department of
22 corrections personnel shall not be program employees. All
23 program funds and grants shall be managed by the applicant

1 to whom a grant is awarded pursuant to the provisions of a
2 contract between the department and the applicant.

3

4 (c) All program billing shall be the responsibility
5 of the applicant.

6

7 (d) The application shall identify participating
8 judges and contain a plan for the participation of judges.
9 The plan shall be consistent with rules adopted by the
10 department and the supreme court.

11

12 (e) The application shall specify the treatment
13 services to be provided by the program and shall identify
14 the treatment providers.

15

16 (f) The application shall include other information
17 that may be required by the department.

18

19 **7-13-1607. Participation in court supervised**
20 **treatment program; conditions; extended probation.**

21

22 (a) No person may participate in a program unless the
23 person, in a Wyoming district, juvenile, circuit or

1 municipal court, has been charged with an offense in which
2 alcohol or substance abuse may have been a factor, 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;

12

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

15

16 (b) Any district, juvenile, circuit or municipal
17 court judge may refer substance offenders for participation
18 in a program. The referring judge may act as a
19 participating judge in a program as authorized by this act
20 and by rules adopted by the supreme court. A juvenile court
21 judge may refer substance offenders and other persons as
22 provided in title 14 of the Wyoming statutes for
23 participation in the program. A person who is a defendant

1 in a criminal action or a respondent in a juvenile court
2 action may be referred for participation in a program if:

3
4 (i) A substance abuse assessment reveals that
5 the person is in need of treatment;

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

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

15
16 (iv) The person's case is processed pursuant to
17 subsection (a) of this section.

18
19 (c) Participation in a program shall only be with the
20 consent of the referring judge, the participant and the
21 prosecuting attorney, and acceptance of the participant by
22 the program team in accordance with a written agreement
23 between the participant and the program team. The
24 agreement shall include the participant's consent to

1 release of medical and other records relevant to his
2 treatment history and assessment. Prior to a participant's
3 entry into a written agreement, the participating judge
4 shall inform the participant that he may be subject to a
5 term of probation that exceeds the maximum term of
6 imprisonment established for the particular offense
7 charged, as provided in W.S. 5-9-134 and 7-13-1614.

8
9 (d) Nothing in this act shall confer a right or an
10 expectation of a right to participate in a program, nor
11 does this act obligate a program team to accept any
12 proposed participant. Neither the establishment of a
13 program nor anything herein contained shall be construed as
14 limiting the discretion of a prosecuting attorney in regard
15 to the prosecution of any criminal or juvenile case.

16
17 **7-13-1608. Incentives and sanctions; extended**
18 **probation.**

19
20 (a) The participating judge may grant reasonable
21 incentives under the written agreement under W.S.
22 7-13-1607(c) if he finds that since the last staffing, the
23 participant:

1 (i) Is performing satisfactorily in the program;

2

3 (ii) Is benefiting from the program; and

4

5 (iii) Has not violated any term or condition of
6 the agreement.

7

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

16

17 (i) Is not performing satisfactorily in the
18 program;

19

20 (ii) Is not benefiting from the program;

21

22 (iii) Has engaged in conduct rendering the
23 participant unsuitable for the program;

24

1 (iv) Has otherwise violated any term or
2 condition of the written agreement; or

3

4 (v) Is unable to participate in the program.

5

6 (c) To ensure due process of law, expulsion from the
7 program shall be at the discretion of the participating
8 judge based on the recommendation of the program team.
9 Expulsion shall not occur without the participant first
10 being notified of the reasons for the proposed expulsion
11 and given an opportunity to be heard by the program team
12 and the participating judge.

13

14 **7-13-1609. Program team to be created; duties;**
15 **program 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

23 (i) A participating judge;

24

1 (ii) A prosecuting attorney;

2

3 (iii) An attorney who practices criminal defense
4 or serves as a guardian ad litem;

5

6 (iv) A representative of the treatment
7 providers;

8

9 (v) The probation officer or other person who
10 supervises participants;

11

12 (vi) The program coordinator; and

13

14 (vii) Other persons determined necessary and
15 helpful by the participating judge.

16

17 (b) The program team shall, when practicable, conduct
18 a staffing prior to each program session to discuss and
19 provide updated information regarding participants
20 scheduled to appear during the session. After determining
21 the progress or lack thereof for each participant, the
22 program team shall agree on the appropriate incentives or
23 sanctions to be applied. If the program team cannot
24 unanimously agree on the appropriate action to be taken,

1 the participating judge shall make a decision based upon
2 the information presented during the staffing.

3

4 (c) Each program shall have a program coordinator who
5 shall be responsible for the general administration of the
6 program.

7

8 **7-13-1610. Confidentiality of treatment records.**

9

10 Program staff shall be provided with access to all records
11 of any state or local government relevant to the
12 participant's treatment. The records and reports shall be
13 maintained in a confidential file not available to the
14 public and the contents thereof shall not be disclosed to
15 any person outside the program without a court order.
16 Program staff shall comply with the confidentiality rules
17 contained in 42 U.S.C. 290dd-2.

18

19 **7-13-1611. Treatment and support services.**

20

21 (a) Each program shall establish a system to ensure
22 that participants are provided treatment services that have
23 been certified by the department. Each program team shall
24 determine the type and duration of treatment service

1 appropriate for the participant's individualized needs,
2 based upon objective medical diagnostic criteria.
3 Treatment recommendation made under this section shall be
4 deemed to be reasonable and necessary.

5
6 (b) The program team shall establish an adequate
7 continuum of care for each participant, including adequate
8 support services and aftercare.

9
10 (c) Appropriate treatment shall be provided to
11 participants who have a dual diagnosis.

12
13 (d) The relationship between each treatment provider
14 and the program shall be governed by a memorandum of
15 understanding, which shall include a requirement for the
16 timely reporting of the participant's progress or lack
17 thereof in treatment.

18
19 **7-13-1612. Substance abuse testing.**

20
21 (a) The program team shall require and ensure fair,
22 accurate and reliable substance use testing of
23 participants.

1 (b) Participants shall be required to submit to
2 frequent, random and observed substance use testing.

3

4 (c) The results of all substance use tests shall be
5 provided to the program team as soon as practicable.

6

7 **7-13-1613. Participant information and progress**
8 **statistics.**

9

10 (a) Participants may be required to provide access to
11 the following information, the collection and maintenance
12 of which by the program team shall be in a standardized
13 format pursuant to department rules and regulations:

14

15 (i) Gender, race, ethnicity, marital status and
16 child custody and support obligations;

17

18 (ii) Criminal history;

19

20 (iii) Substance abuse history, including
21 substances of choice and prior treatment;

22

23 (iv) Employment, education and income history;

24

1 (v) Number and health of children born to female
2 participants;

3

4 (vi) Incidents of recidivism occurring before,
5 during and after successful completion of a program, or
6 failed participation in a program.

7

8 (b) Programs shall maintain and report to the
9 department the following information pursuant to department
10 rules and regulations:

11

12 (i) The number of participants screened for
13 eligibility, the number of eligible persons who were, and
14 who were not, admitted to the program and their case
15 dispositions;

16

17 (ii) The costs of operation and sources of
18 funding of the program;

19

20 (iii) Data demonstrating the extent to which the
21 goals established in W.S. 7-13-1603(b) have been met.

22

23 **7-13-1614. Municipal courts.**

24

1 A municipal judge may place a criminal defendant on
2 probation pursuant to W.S. 7-13-301 through 7-13-307 and
3 require the defendant as a probationary condition to
4 participate in a program under this act. Notwithstanding
5 any other provision of law, the probation period for a
6 defendant whose disposition includes participation in a
7 program or a drug court may exceed the maximum term of
8 imprisonment established for the offense, but shall not
9 exceed eighteen (18) months.

10

11 **7-13-1615. Program participation as a condition of**
12 **parole.**

13

14 (a) The state board of parole may, as a condition of
15 parole, require a parolee to participate in a program
16 established under this act, provided:

17

18 (i) The program team accepts the parolee for
19 participation in the program; and

20

21 (ii) The parolee is subject to the rules and
22 sanctioning powers of the program but remains under the
23 authority of the board for all other matters related to the
24 parole.

1

2 **Section 2.** W.S. 5-9-134, 7-13-304 by creating a new
3 subsection (d), 7-19-106(a)(ix), 14-3-429(d) by creating a
4 new paragraph (iv), 14-6-247(a) by creating a new paragraph
5 (xiv) and 14-6-429(d) by creating a new paragraph (viii)
6 are amended to read:

7

8 **5-9-134. Probation; correction and reduction of**
9 **sentence.**

10

11 The circuit court may place a criminal defendant on
12 probation pursuant to W.S. 7-13-301 through 7-13-307.
13 Notwithstanding any other provision of law, the probation
14 period for a defendant whose disposition includes
15 participation in a substance abuse treatment program or a
16 ~~drug~~-court supervised treatment program may exceed the
17 maximum term of imprisonment established for the offense,
18 but shall not exceed ~~two (2)~~-three (3) years. The court
19 shall conduct, on at least a monthly basis, a review on the
20 progress of a defendant sentenced to treatment under this
21 section. The review may be conducted in a manner the court
22 deems appropriate, but shall include receiving regular
23 progress reports from the treatment provider.

24

1 **7-13-304. Imposition or modification of conditions;**
2 **performance of work by defendant.**

3
4 (d) As a condition of probation or suspension of
5 sentence, the court may require a defendant to complete
6 successfully a court supervised treatment program qualified
7 under W.S. 7-13-1601 through 7-13-1615.

8
9 **7-19-106. Access to, and dissemination of,**
10 **information.**

11
12 (a) Criminal history record information shall be
13 disseminated by criminal justice agencies in this state,
14 whether directly or through any intermediary, only to:

15
16 (ix) ~~Drug Court~~ supervised treatment program
17 staff solely for the purposes of utilizing the information
18 pursuant to the ~~drug court act in title 5, chapter 10~~ Court
19 Supervised Treatment Programs Act in title 7, chapter 13,
20 article 6;

21
22 **14-3-429. Decree where child adjudged neglected;**
23 **dispositions; terms and conditions; legal custody.**

1 (d) As a part of any order of disposition and the
2 terms and conditions thereof, the court may:

3
4 (iv) Require the child's parents or guardian and
5 the child to participate in a court supervised treatment
6 program qualified under W.S. 7-13-1601 through 7-13-1615,
7 provided the court supervised treatment program accepts the
8 child's parents or guardian and the child for participation
9 in its program.

10
11 **14-6-247. Sanctions common to all levels.**

12
13 (a) For a child at any sanction level, the juvenile
14 court may:

15
16 (xiv) Require the child or the child's parents
17 or guardian and the child to participate in a court
18 supervised treatment program qualified under W.S. 7-13-1601
19 through 7-13-1615, provided the court supervised treatment
20 program accepts the child's parents or guardian and the
21 child for participation in its program.

1 **14-6-429. Decree where child adjudged in need of**
2 **supervision; dispositions; terms and conditions; legal**
3 **custody.**

4
5 (d) As a part of any order of disposition and the
6 terms and conditions thereof, the court may:

7
8 (viii) Require the child's parents or guardian
9 and the child to participate in a court supervised
10 treatment program qualified under W.S. 7-13-1601 through
11 7-13-1615, provided the court supervised treatment program
12 accepts the child's parents or guardian and the child for
13 participation in its program.

14
15 **Section 3.** W.S. 5-10-101 through 5-10-107 are
16 repealed.

17
18 **Section 4.**

19
20 (a) Effective July 1, 2009, any funds remaining in
21 the drug court account created by W.S. 5-10-103 shall be
22 transferred to the court supervised treatment program
23 account created by W.S. 7-13-1605.

1 (b) Any drug court program in existence and receiving
2 funding from the department of health for its operations
3 may continue to operate until the funding authorized for
4 the drug court program prior to July 1, 2009, is exhausted,
5 or until the end of the fiscal year ending June 30, 2009,
6 whichever occurs earlier. Thereafter, the program may
7 receive funding under this act only upon compliance with
8 the requirements specified in W.S. 7-13-1605.

9

10 **Section 5.**

11

12 (a) W.S. 7-13-1605(c), created in section 1 of this
13 act and the repeal of W.S. 5-10-102(b) in section 3 of this
14 act are effective immediately upon completion of all acts
15 necessary for a bill to become law as provided by Article
16 4, section 8 of the Wyoming Constitution.

17

18 (b) Except as provided in subsection (a) of this
19 section, this act is effective July 1, 2009.

20

21

(END)