

SENATE FILE NO. SF0017

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; clarifying 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.

15

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

17

1 **Section 1.** W.S. 7-13-303(a)(intro), 7-13-401(a)(ii)
2 and by creating new paragraphs (xiii) and (xiv),
3 7-13-402(b)(intro), (d) and by creating a new subsection
4 (j), 7-13-405(a), (b)(intro) and (c), 7-13-407(a)(i),
5 7-13-408(a) and (b), 7-13-410(a), 7-13-411(a)(iii) and (c)
6 through (e), 7-13-418(a)(intro) and (iv), 7-13-420 by
7 creating a new subsection (c), 7-13-421(e) through (g) and
8 by creating a new subsection (h), 7-13-1107(c), 7-18-108(d)
9 and 35-7-1043 are amended to read:

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11 **7-13-303. Investigation preceding probation or**
12 **suspension of sentence.**

13

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

20

21 **7-13-401. Definitions; creation of board; officers;**
22 **compensation; hearing panels; meetings.**

23

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

1

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

6

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

10

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

14

15 7-13-402. General powers and duties of board;
16 eligibility for parole; immunity.

17

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

20

21 (d) No person granted a parole shall be released from
22 an institution until he has signed an agreement that he
23 will comply with the terms and conditions under which he
24 has been released and abide by the laws of the state. In

1 addition, no person shall be granted a parole until the
2 board makes a reasonable effort to notify victims of the
3 ~~parole~~hearing and provides a reasonable opportunity for
4 the victims to provide written comments to the board
5 relative to the parole. ~~The agreement shall be retained in~~
6 ~~the records of the department.~~

7
8 (j) The board may order the arrest and return to the
9 custody of the department of any parolee who has absconded
10 from supervision, been charged with or convicted of a crime
11 while on parole or committed an alleged violation of parole
12 for which probable cause has been established through a
13 hearing, or waiver thereof, pursuant to W.S. 7-13-408. The
14 written order of the board shall be sufficient warrant for
15 any peace officer to return a parolee to custody. All
16 peace officers shall execute any order of the board issued
17 under this subsection. A parolee taken into custody under
18 the order of the board is not subject to release on bail.

19
20 **7-13-405. Field services administrator; hiring of**
21 **agents.**

22
23 (a) The department has general supervisory authority
24 over state parolees and over probationers for whom the

1 sentencing court requests supervision under W.S.
2 ~~7-13-410(b)~~ 7-13-410.

3
4 (b) The director shall appoint a ~~state probation and~~
5 ~~parole officer~~ field services administrator. The department
6 shall:

7
8 (c) The ~~state probation and parole officer~~ field
9 services administrator, with the approval of the director,
10 shall ~~appoint~~ coordinate the hiring of probation and parole
11 agents.

12
13 **7-13-407. Duties of probation and parole agents.**

14
15 (a) Under direction and supervision of the director,
16 probation and parole agents shall:

17
18 (i) Except as otherwise directed by the
19 director, devote full time to the performance of their
20 duties in carrying out the provisions of W.S. 7-9-104,
21 7-9-107, 7-13-303, 7-13-401 through 7-13-424, 7-13-1101
22 through 7-13-1107, 7-13-1601 through 7-13-1615 and
23 35-7-1043;

1 7-13-408. Probation, parole and conditional release
2 administrative jail or adult community correction program
3 sanction and revocation hearing procedures.
4

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

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

11

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

23

1 7-13-410. Notice of probation order; request for
2 probation supervision or report.

3
4 (a) The clerk of the court granting probation to a
5 person convicted of a crime shall send a certified copy of
6 the order to the ~~state probation and parole officer~~
7 department of corrections or, in the case of a ~~minor~~
8 juvenile, to the department of family services.

9
10 7-13-411. Apprehension of violators.

11
12 (a) A probation and parole agent may, in the
13 performance of his duties:

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

22
23 (c) A peace officer ~~or probation and parole agent~~ may
24 take into custody and hold a person granted parole or on

1 probation from another state when requested to do so by the
2 probation and parole agent or the proper authorities from
3 the other state.

4
5 (d) A parole or probation violator apprehended ~~by a~~
6 ~~probation and parole agent~~ shall be accepted and held in
7 the county jail at the request of the probation and parole
8 agent.

9
10 (e) Any expense incurred in holding a parolee in
11 county jail at the request of a probation and parole agent
12 or pending proceedings under W.S. 7-13-408, including costs
13 of shelter, food, clothing, and necessary medical, dental
14 and hospital care and any expense for transporting the
15 parolee shall be paid by the department unless there are
16 local charges pending. The per diem cost of holding
17 parolees under this section shall be agreed upon by the
18 sheriff and the department, ~~and but~~ shall not exceed the
19 ~~per diem cost of housing an inmate at the Wyoming state~~
20 ~~penitentiary~~ amount established by the department based on
21 funds appropriated to the department for housing of
22 offenders.

1 7-13-418. Selection, training and powers of local
2 volunteer; compensation.

3
4 (a) In order to further the objectives of W.S.
5 7-13-401 through 7-13-424, the ~~state probation and parole~~
6 ~~officer~~ field services administrator may select, organize
7 and train local volunteer citizens who, acting under his
8 supervision, may:

9
10 (iv) Not receive compensation from the state. At
11 the discretion of the ~~state probation and parole officer~~
12 field services administrator, however, volunteers may be
13 reimbursed for necessary and actual expenses incurred in
14 performing the duties described in this section.

15
16 7-13-420. Good time allowances.

17
18 (c) The court may adjust the period of a
19 probationer's supervised probation on the recommendation of
20 the probation and parole agent, which shall be based on the
21 probationer's positive progression towards the goals of the
22 case plan as well as the overall compliance with the
23 conditions imposed by the court.

1 **7-13-421. Restitution as condition of parole.**

2
3 (e) Nothing in this section shall limit or impair the
4 rights of victims to sue and recover damages from the
5 ~~defendant~~parolee in a civil action. However, any
6 restitution payment by the ~~defendant~~parolee to a victim
7 shall be set off against any judgment in favor of the
8 victim in a civil action arising out of the same facts or
9 event.

10
11 (f) The fact that restitution was required or made
12 under this section shall not be admissible as evidence in a
13 civil action unless offered by the ~~defendant~~parolee.

14
15 (g) In the event a victim is not satisfied with the
16 restitution plan ~~approved~~required or modified by the
17 board, the victim's ~~sole and exclusive remedy is~~remedies
18 are a civil action against the parolee or execution on the
19 restitution order pursuant to W.S. 7-9-103(d).

20
21

(h) The board may require payment of the following

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

1

2

(i) Support of dependents of the parolee;

3

4

5

6

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

7

8

9

10

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

11

12

13

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

14

15

16

7-13-1107. Administrative sanctions for program violations.

17

18

19

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21

22

23

(c) The county sheriff shall house probationers and parolees committed to the county jail pursuant to this section. The cost of housing a program violator in the county jail shall be paid by the department at a per diem rate not to exceed the ~~daily cost of keeping an inmate at the Wyoming state penitentiary~~ amount established by the

1 department based on funds appropriated for housing of
2 offenders.

3
4 7-18-108. Placement of offender in program by court;
5 placement by department as administrative sanction.

6
7 (d) The probation and parole ~~officers~~agent for the
8 judicial district shall ~~be responsible for including~~
9 include in the presentence report to the sentencing judge
10 recommendations for the utilization of any governmental or,
11 when available, nongovernmental adult community
12 correctional facility or program which has been approved
13 for use by the corrections board.

14
15 35-7-1043. Immunity from prosecution.

16
17 All duly authorized peace officers including any special
18 agents or other personnel appointed by the commissioner,
19 and probation and parole agents as defined in W.S.
20 7-13-401, while investigating violations of this act in
21 performance of their official duties, shall be immune from
22 prosecution under this act. Any person working under the
23 immediate direction, supervision or instruction of a duly
24 authorized peace officer, special agent or other person

1 appointed by the commissioner, may be granted immunity from
2 prosecution under this act by the commissioner. In addition
3 to the foregoing persons, such immunity may also be granted
4 to any person whose testimony is necessary to secure a
5 conviction under this act with the consent of district
6 judge in the district wherein prosecution is to take place.
7 Any person granted immunity under this section shall not be
8 excused from testifying or producing evidence on the ground
9 that the testimony or evidence required of him may tend to
10 incriminate him or subject him to penalty or forfeiture.
11 Any person who except for the provisions of this act, would
12 have been privileged to withhold the testimony given or the
13 evidence produced by him shall not be prosecuted, subjected
14 to any penalty, forfeiture, for or on account of any
15 transaction, matter or thing concerning which, by reason of
16 said immunity, he gave testimony and produced evidence; and
17 no such testimony given or evidence produced shall be
18 received against him in any criminal proceeding. Provided,
19 no person given immunity under this section shall be exempt
20 from prosecution for perjury or contempt committed while
21 giving testimony or producing evidence under compulsion as
22 provided in this section.
23

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

3

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

5

6 (END)