

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Probation and parole-incentives and sanctions.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to criminal procedure and sentencing;
2 establishing an incentives and sanctions system for probation
3 and parole supervision as specified; specifying authorized
4 sanctions; providing procedure for imposing sanctions;
5 providing definitions; providing for the award of credit
6 against original sentences for parolees; requiring the use of
7 validated risk and need assessments; clarifying requirements
8 for placement in an intensive supervision program; making
9 conforming amendments; specifying applicability; and
10 providing for an effective date.

11

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

13

1 **Section 1.** W.S. 7-13-1801 through 7-13-1803 are created
2 to read:

3

4

ARTICLE 18

5

PROBATION AND PAROLE INCENTIVES AND SANCTIONS

6

7

8

**7-13-1801. Incentives and sanctions system; duties of
the department of corrections; definitions.**

9

10 (a) The department shall by rule and regulation
11 establish, maintain and implement an incentives and sanctions
12 system to utilize as responses to positive and negative
13 behavior by probationers, parolees and conditional releasees
14 under the department's supervision. The system shall provide
15 for graduated responses to compliance violations and other
16 violations of supervision conditions in a swift, certain and
17 proportional manner and shall include guidance and procedures
18 to determine when and how to:

19

20

(i) Request a warrant;

21

22

23

(ii) Initiate and conduct any hearing required
under W.S. 7-13-1803; and

1

2 (iii) Seek departmental approval to use custodial
3 sanctions.

4

5 (b) To implement and continuously improve the incentives
6 and sanctions system, the department shall:

7

8 (i) Provide information and training on the system
9 to probation and parole agents and supervisors and to members
10 and staff of the state board of parole;

11

12 (ii) Offer information and training on the system
13 to the Wyoming supreme court, district court judges, circuit
14 court judges, district attorneys, defense attorneys, law
15 enforcement officers, corrections and detention officers,
16 contracted service providers and other interested personnel;

17

18 (iii) Review the system at least one (1) time every
19 five (5) years to ensure that the system adheres to evidence-
20 based practices and that the use of incentives and sanctions
21 by probation and parole agents is consistent throughout the
22 state;

23

1 (iv) Ensure that the responses, guidance and
2 procedures established in the system consider community
3 safety and the needs of the victim and offender;

4

5 (v) Collect data relating to placement decisions
6 determined by using the system;

7

8 (vi) Aggregate collected data and submit a report
9 by September 1 of each year to the joint judiciary interim
10 committee.

11

12 (c) As used in this article:

13

14 (i) "Cognitive-behavioral programming" means
15 programming or therapy that utilize cognitive-behavioral and
16 social learning theories to target a person's dysfunctional
17 beliefs, thoughts and patterns of behavior that contribute or
18 lead to criminal behaviors;

19

20 (ii) "Compliance violation" means as defined in
21 W.S. 7-13-401(a)(xv);

22

1 (iii) "Department" means the department of
2 corrections.

3

4 **7-13-1802. Authorized sanctions.**

5

6 (a) The sanctions authorized under W.S. 7-13-1801(a)
7 may include:

8

9 (i) Loss or restriction of privileges;

10

11 (ii) Community service;

12

13 (iii) Placement in an intensive supervision program
14 established under W.S. 7-13-1102 or a nonresidential
15 community correctional program established under W.S. 7-18-
16 103 or 7-18-104;

17

18 (iv) Custodial sanctions authorized under
19 subsection (b) of this section, subject to any procedure
20 required under W.S. 7-13-1803 and any rules promulgated under
21 W.S. 7-13-1801(a).

22

1 (b) Subject to the requirements in W.S. 7-13-1803(c),
2 custodial sanctions authorized by W.S. 7-13-1801(a)(iv) for
3 compliance violations shall be:

4

5 (i) A sanction of time served in custody between
6 arrest and hearing or between arrest and the disposition of
7 the alleged violation if a hearing is not held;

8

9 (ii) Immediate confinement in a consenting Wyoming
10 county jail, to be imposed as a two (2) or three (3) day
11 consecutive period;

12

13 (iii) Confinement in a consenting Wyoming county
14 jail for up to fifteen (15) consecutive days in addition to
15 any time served between arrest and hearing;

16

17 *****

18

19

STAFF COMMENT

20

21 The Committee may wish to consider whether use of the word
22 "consenting" (page 6, lines 9 and 13) conflicts with the
23 language in newly created W.S. 7-13-1803(e) (page 10).

24

25 *****

26

27

1 (iv) Confinement for up to ninety (90) days in a
2 residential community correction program established under
3 W.S. 7-18-103 or 7-18-104 coupled with substance abuse
4 treatment, cognitive-behavioral programming to address
5 criminal thinking or other programming that the department
6 deems appropriate;

7

8 (v) Confinement for up to ninety (90) days in a
9 consenting Wyoming county jail coupled with substance abuse
10 treatment contracted with and paid for by the department;

11

12 (vi) Incarceration in a state penal institution for
13 up to ninety (90) days coupled with substance abuse treatment,
14 cognitive-behavioral programming to address criminal thinking
15 or other programming that the department deems appropriate.

16

17 **7-13-1803. Procedure for imposing sanctions; housing**
18 **violators; civil actions against officials.**

19

20 (a) A probation and parole agent who reasonably believes
21 that a defendant, probationer, parolee or conditional
22 releasee has committed one (1) or more compliance violations
23 that require a sanction shall utilize the incentives and

1 sanctions system to determine an appropriate response.
2 Subject to subsection (d) of this section, the agent shall
3 initiate a hearing in accordance with subsection (b) of this
4 section and W.S. 7-13-408 and shall attempt to gain the
5 person's compliance with the conditions of probation, parole
6 or conditional release through the sanctions provided in W.S.
7 7-13-1802.

8
9 (b) Any hearing under this section shall be before the
10 field services administrator, his designated hearing officer
11 or any other person authorized pursuant to the laws of this
12 state to hear cases of alleged probation, parole or
13 conditional release violations, except that no hearing
14 officer shall be the person making the allegation of
15 violation. If the hearing officer determines by a
16 preponderance of the evidence that the defendant,
17 probationer, parolee or conditional releasee has violated a
18 condition of probation, parole or conditional release, the
19 hearing officer shall utilize the incentives and sanctions
20 system to determine an appropriate response, which may
21 include the sanctions authorized under W.S. 7-13-1802.

22

1 *****
 2 *****
 3 STAFF COMMENT
 4

5 The Committee may wish to include the Board of Parole in
 6 subsection (b) as an entity authorized to conduct a hearing
 7 before imposing sanctions authorized under W.S. 7-13-1802.
 8 See W.S. 7-13-408(b) ("In cases of alleged parole violations
 9 by persons who were paroled by the board, hearings pursuant
 10 to this section shall be before the executive director of the
 11 board or his designated hearing officer.").

12 *****
 13 *****
 14

16 (c) Any imposition of custodial sanctions shall be
 17 subject to the following conditions:

18
 19 (i) All time in custody related to the compliance
 20 violation shall be credited toward the defendant's,
 21 probationer's, parolee's or conditional releasee's sentence;

22
 23 (ii) The total of all confinement under W.S. 7-13-
 24 1802(b)(i) and (ii) shall not exceed eighteen (18) days during
 25 the term of probation, parole or conditional release;

26
 27 (iii) Cumulative custodial sanctions imposed under
 28 W.S. 7-13-1802(b)(i) through (iii) shall not exceed ninety
 29 (90) days during the term of probation, parole or conditional
 30 release prior to any revocation.

1

2 (d) A hearing shall be held before custodial sanctions
3 are imposed. The imposition of sanctions shall not require a
4 hearing if:

5

6 (i) The probationer or parolee is a participant in
7 the intensive supervision program pursuant to W.S. 7-13-1105;

8

9 (ii) The probationer is a qualified offender
10 sanctioned pursuant to W.S. 7-13-1303(d); or

11

12 (iii) The probationer or parolee consents to the
13 administrative sanction without a hearing.

14

15 (e) The county sheriff shall house probationers,
16 parolees and conditional releasees committed to the county
17 jail pursuant to this article. The cost of housing a
18 probationer, parolee or conditional releasee in the county
19 jail shall be paid by the department at a per diem rate not
20 to exceed the amount established by the department based on
21 funds appropriated for housing of offenders.

22

1 *****

2 *****

3 STAFF COMMENT

4

5 The Committee may wish to consider utilizing or referencing
6 language from W.S. 7-13-103(c) for subsection (e) above:

7

8 7-13-103. Notice of sentence; transportation to
9 institution; maintenance of prisoner in county jail.

10

11 (c) Upon agreement of the sheriff and the director of
12 the department of corrections, the prisoner may be maintained
13 at the county jail at an agreed per diem rate to be paid by
14 the department for an additional period of not more than
15 thirty (30) days after expiration of the ten (10) days
16 provided by subsection (b) of this section. The department
17 shall pay for any medical treatment of the prisoner, other
18 than for conditions demanding immediate medical attention
19 which can be treated at the county jail and other than medical
20 treatment for which the county is liable under W.S. 18-6-
21 303(c)(i), which is provided after the judgment and sentence
22 is signed by the judge. Except for emergency medical
23 treatment, no treatment which is the responsibility of the
24 department under this subsection shall be provided without
25 the prior approval of the department.

26

27 *****

28 *****

29

30 (f) If any civil action is brought against any sheriff,
31 his undersheriff, deputy, agent or employee, by reason of
32 acts committed or allegedly committed in the performance of
33 necessary duties in connection with the housing and care of
34 a probation, parole or conditional release violator under
35 this section, the state shall indemnify and hold harmless the
36 officers, agents or employees from all civil liability
37 incurred or adjudged except punitive damage awards. Upon

1 request, the state shall provide legal counsel at the state's
2 expense to assist in the defense of any action referred to in
3 this subsection.

4

5 (g) Probationers, parolees and conditional releasees
6 committed to the county jail or a residential community
7 correctional program pursuant to this section shall be housed
8 in accordance with subsection (e) of this section or W.S. 7-
9 18-115(b).

10

11 **Section 2.** W.S. 7-13-303(a)(iv) and by creating a new
12 paragraph (vi) and (b), 7-13-304(a), 7-13-401(a) by creating
13 a new paragraph (xv), 7-13-403(b) and by creating a new
14 subsection (c), 7-13-404, 7-13-407(a)(i) and (v), 7-13-408(a)
15 and (b), 7-13-1101(a) by creating a new paragraph (iii), 7-
16 13-1102(b)(ii), 7-13-1103(b), 7-13-1104(a)(intro), 7-13-1105
17 by creating a new subsection (d), 7-13-1107 by creating a new
18 subsection (d), 7-13-1301(b), 7-13-1303(c)(iv) and (d), 7-
19 18-108(f) and 7-18-115(g) are amended to read:

20

21 **7-13-303. Investigation preceding probation or**
22 **suspension of sentence.**

23

1 (a) When directed by the court, the district attorney,
2 a probation and parole agent as defined in W.S. 7-13-401 or,
3 in the case of a minor, a counselor as defined by W.S. 5-3-
4 501(a)(ii) or the department of family services shall
5 investigate and report to the court in writing:
6

7 (iv) If practicable, statements from the victim;
8 ~~and~~

9
10 (vi) The results of a validated risk and need
11 assessment.
12
13

14 (b) No defendant charged with a felony, and, unless the
15 court directs otherwise, no defendant charged with a
16 misdemeanor, shall be placed on probation, placed in an
17 intensive supervision program established under W.S. 7-13-
18 1102 or released under suspension of sentence until the report
19 of the investigation under this section is presented to and
20 considered by the court. If the defendant is sentenced to the
21 custody of the department of corrections to serve a term of
22 incarceration in a state penal institution, a copy of the
23 report of the investigation shall be sent to the department

1 of corrections at the time of sentencing. In all felony cases
2 the clerk of court shall forward copies of the report to the
3 department of corrections, together with copies of all orders
4 entered by the court.

5

6 **7-13-304. Imposition or modification of conditions;
7 performance of work by defendant.**

8

9 (a) The court may impose, and at any time modify, any
10 condition of probation or suspension of sentence. The court
11 may not impose new custodial restrictions on liberty unless
12 in response to a compliance violation and only after providing
13 notice and a hearing if required under W.S. 7-13-1803.

14

15 *****

16

17

STAFF COMMENT

18

19 The Committee may wish to consider the language inserted in
20 W.S. 7-13-304(a) above. This language limits the court's
21 authority to impose new custodial restrictions on liberty in
22 response to a compliance violation. Additional language that
23 is proposed to be inserted in W.S. 7-13-408(a) (page X)
24 provides that compliance violations may be sanctioned only
25 under newly created W.S. 7-13-1801 and 7-13-1802.

26

27 *****

28

29

1 7-13-401. Definitions; creation of board; officers;
2 compensation; hearing panels; meetings.

3
4 (a) As used in W.S. 7-13-401 through 7-13-424:

5
6 (xv) "Compliance violation" means a violation of a
7 condition of probation, parole or conditional release but
8 shall not include:

9
10 (A) An arrest for a new felony offense; or

11
12 (B) Absconding from supervision, which
13 includes the defendant, probationer or parolee deliberately
14 making his whereabouts unknown to his probation and parole
15 agent, the department or court or failing to report for the
16 purpose of avoiding supervision, where reasonable efforts by
17 the probation and parole agent to locate the defendant,
18 probationer or parolee have been unsuccessful.

19
20 7-13-403. Custody of parolee; return upon violation.

21
22 (b) Unless otherwise ordered by the board or when the
23 parole violator is ordered to complete a sanction under W.S.

1 7-13-1801 through 7-13-1803, a parole violator shall be
2 returned to the custody of the department to serve the
3 remainder of the original sentence.

4

5 (c) The board shall consider imposing a sanction under
6 W.S. 7-13-1801 through 7-13-1803 before ordering a parole
7 violator to be returned to the custody of the department to
8 serve the remainder of the original sentence.

9

10 *****
11 *****
12 STAFF COMMENT

13
14 The Committee may wish to include language to clarify the
15 procedure used by the Board of Parole in its consideration of
16 imposing a sanction under newly created W.S. 7-13-1801
17 through 7-13-1803 vis-à-vis the hearing requirement outlined
18 in those sections.

19 *****
20 *****

21
22
23 7-13-404. Computing remainder of sentence for parole
24 violator.

25

26 In computing the remainder of the sentence to be served by a
27 parole violator, ~~no~~ credit shall be ~~given against~~ awarded
28 toward his original sentence for any portion of the time that
29 the person has not violated a condition of parole between his

1 release on parole and his return to the institution. ~~unless~~
2 ~~the board directs otherwise.~~

3

4 **7-13-407. Duties of probation and parole agents.**

5

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

8

9 (i) Except as otherwise directed by the director,
10 devote full time to the performance of their duties in
11 carrying out the provisions of W.S. 7-9-104, 7-9-107, 7-13-
12 303, 7-13-401 through 7-13-424, 7-13-1101 through ~~7-13-1107~~
13 7-13-1105, 7-13-1601 through 7-13-1615, 7-13-1801 through 7-
14 13-1803 and 35-7-1043;

15

16 (v) Use all practicable and suitable methods, not
17 inconsistent with the conditions imposed by the court,
18 department or board, and including the use of incentives and
19 sanctions under W.S. 7-13-1801 through 7-13-1803, to aid and
20 encourage persons on probation, parole or conditional release
21 to bring about improvement in their conditions and conduct;

22

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

1 sanctions under W.S. 7-13-1801 through 7-13-1803 for the
 2 probationer, parolee or conditional releasee and make
 3 recommendations regarding the disposition to be made of the
 4 probationer, parolee or conditional releasee. Compliance
 5 violations shall be sanctioned under W.S. 7-13-1801 and 7-
 6 13-1802. Pending any proceeding pursuant to this section, the
 7 appropriate agent may take custody of and detain the
 8 probationer, parolee or conditional releasee involved for a
 9 reasonable period of time prior to the hearing. If it appears
 10 to the hearing officer or agent that retaking or
 11 reincarceration is likely to follow, the agent may take
 12 custody of and detain the probationer, parolee or conditional
 13 releasee for a reasonable period after the hearing or waiver
 14 as may be necessary to arrange for the retaking or
 15 reincarceration.

16

17 *****
 18 *****

19 STAFF COMMENT

20 The Committee may wish to consider what is meant by "and is
 21 subject to revocation of supervision"—the inserted language
 22 on page 18, lines 10-11.

23

24 In addition, the Committee may wish to consider the inserted
 25 language on page 19, lines 4-6. This language requires
 26 compliance violations to be sanctioned through the sanctions
 27 authorized in the new sections created in this bill draft.
 28 With the definition of "compliance violation," this sentence
 29 could be interpreted to authorize a court to revoke a person's

1 probation only for committing a new felony or absconding from
2 supervision.

3
4 *****
5 *****
6

7 (b) Any hearing pursuant to this section or W.S. 7-18-
8 1803 may be before the field services administrator, his
9 designated hearing officer or any other person authorized
10 pursuant to the laws of this state to hear cases of alleged
11 probation, parole or conditional release violations, except
12 that no hearing officer shall be the person making the
13 allegation of violation. In cases of alleged parole
14 violations by persons who were paroled by the board, hearings
15 pursuant to this section shall be before the executive
16 director of the board or his designated hearing officer.

17
18 **7-13-1101. Definitions.**

19
20 (a) As used in this article:

21
22 (iii) "Validated risk-need assessment" means an
23 actuarial assessment tool that assesses the dynamic and
24 static factors that drive criminal behavior. The validated
25 risk-need assessment shall determine a person's risk to

1 reoffend and the needs of a person that, when addressed, would
2 reduce the risk to reoffend.

3

4 **7-13-1102. Authority to establish programs;**
5 **rulemaking authority.**

6

7 (b) An intensive supervision program established
8 under this article may require:

9

10 (ii) Community service work, family, educational
11 or vocational counseling, cognitive-behavioral programming to
12 address criminal thinking, treatment for substance abuse,
13 mental health treatment and monitoring of restitution orders
14 and fines previously imposed on the participant. For purposes
15 of this paragraph, cognitive-behavioral programming means as
16 defined in W.S. 7-13-1801(c)(i); and

17

18 **7-13-1103. Program participation not a matter of**
19 **right.**

20

21 (b) No person shall be allowed to participate in a
22 program authorized by this article unless the person agrees
23 in writing to abide by all the rules and regulations of the

1 department relating to the operation of the program and agrees
2 to submit to ~~administrative~~the incentives and sanctions
3 which may be imposed under W.S. ~~7-13-1107~~7-13-1801 through
4 7-13-1803.

5

6 **7-13-1104. Program participation as a condition of**
7 **parole.**

8

9 (a) The state board of parole may, as a condition of
10 parole, require a parolee who is assessed through a validated
11 risk-need assessment as a high risk for reoffending or
12 violating a condition of parole to participate in a program
13 established under this article, provided:

14

15 **7-13-1105. Placement of probationer in program by**
16 **sentencing court; eligibility.**

17

18 (d) A defendant shall not be placed in a program
19 established under W.S. 7-13-1102 unless the defendant
20 receives a validated risk-need assessment and scores as a
21 high risk for reoffending or for violating conditions of
22 probation.

23

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

3
4 (e) Probationers and parolees who violate the rules and
5 restrictions of an intensive supervision program established
6 under this article shall be sanctioned in accordance with
7 W.S. 7-13-1801 through 7-13-1803.

8
9 **7-13-1301. Definitions.**

10

11 (b) For purposes of this act "incarceration" or
12 "incarcerated" shall not include periods of confinement
13 allowed under the provisions of W.S. 7-13-1102 or ~~7-13-~~
14 ~~1107(b)-~~7-13-1801 through 7-13-1803.

15

16 **7-13-1303. Suspended sentence for qualified offenders.**

17

18 (c) A qualified offender or person sentenced under this
19 act may be incarcerated if the court concludes on the basis
20 of the evidence that:

21

22 (iv) The offender commits a felony, sells or
23 otherwise delivers controlled substances while in a program

1 pursuant to this section, or engages in other behavior that
2 poses an unreasonable risk to public safety while in the
3 program. Notwithstanding any other provision of law, in the
4 absence of the commission of these acts, those programs and
5 sanctions set forth in W.S. 7-13-1102 and ~~7-13-1107(b)~~ 7-13-
6 1801 through 7-13-1803 may be used at the discretion of the
7 probation officer or court to address other violations of the
8 sentencing or probation order.

9

10 (d) In the event probation is revoked, the court may
11 impose one (1) or more of the sanctions set forth in W.S. 7-
12 13-1102 or ~~7-13-1107(b)~~ 7-13-1801 through 7-13-1803 unless
13 the court, in its sole discretion, finds that another
14 disposition, including imprisonment, is necessary under the
15 facts of the case.

16

17 **7-18-108. Placement of offender in program by court;**
18 **placement by department as administrative sanction.**

19

20 (f) Subject to subsection (b) of this section, the
21 department may, as an administrative sanction pursuant to
22 W.S. ~~7-13-1107~~ 7-13-1801 through 7-13-1803, require any
23 probationer participating in an intensive supervision program

1 who violates the rules and restrictions of the program to
2 participate in a residential adult community correctional
3 program for a period not to exceed sixty (60) days as an
4 alternative to probation revocation.

5

6 **7-18-115. Assignment of parolee to program by state**
7 **board of parole; placement by department as administrative**
8 **sanction.**

9

10 (g) Subject to subsection (b) of this section, the
11 department may, as an administrative sanction pursuant to
12 W.S. ~~7-13-1107~~ 7-13-1801 through 7-13-1803, require any
13 parolee participating in an intensive supervision program who
14 violates the rules and restrictions of the program to
15 participate in an adult residential community correctional
16 program for a period not to exceed sixty (60) days as an
17 alternative to parole revocation.

18

19 **Section 3.** W.S. 7-13-408(e), 7-13-1106 and 7-13-1107(a)
20 through (d) are repealed.

21

22 *****

23

24

STAFF COMMENT

1
2 W.S. 7-13-408(e) currently authorizes the Department of
3 Corrections to establish by rule a system for imposing
4 administrative sanctions specified in current W.S. 7-13-
5 1107(b). Newly created W.S. 7-13-1801 (see above) requires
6 the Department to establish a similar system:
7

8 7-13-408. Probation, parole and conditional release
9 administrative jail or adult community correction program
10 sanction and revocation hearing procedures.
11

12 ~~(e) The department may establish by rule and regulation~~
13 ~~a system of imposing the administrative sanctions specified~~
14 ~~in W.S. 7-13-1107(b) as an alternative to revocation of the~~
15 ~~parole of any parolee who has violated a condition of his~~
16 ~~parole or as an alternative to revocation of the probation of~~
17 ~~any probationer who has violated a condition of his probation.~~
18 ~~Parolees and probationers committed to the county jail or a~~
19 ~~residential community correctional program pursuant to this~~
20 ~~subsection shall be housed in accordance with W.S. 7-13-~~
21 ~~1107(e) or 7-18-115(b).~~
22

23 W.S. 7-13-1106 allows the Department of Corrections to offer
24 a probationer or parolee the opportunity to participate in an
25 intensive supervision program as an alternative to
26 revocation, provided certain conditions are met.
27

28 7-13-1106. Program participation as an alternative to
29 probation or parole revocation.
30

31 ~~(a) The department may, as an alternative to~~
32 ~~recommending revocation of probation or parole under W.S. 7-~~
33 ~~13-408, offer any probationer or parolee who is not already~~
34 ~~participating in an intensive supervision program the~~
35 ~~opportunity to participate in a program authorized under this~~
36 ~~article, provided:~~
37

38 ~~(i) Space and funding is available for the person's~~
39 ~~participation in the program;~~
40

41 ~~(ii) The department determines the person has a~~
42 ~~reasonable likelihood of successfully participating in the~~
43 ~~program;~~
44

1 ~~(iii) The probationer or parolee agrees to~~
2 ~~participate in the program; and~~

3
4 ~~(iv) In the case of a probationer, the department~~
5 ~~shall notify the sentencing court and the prosecuting~~
6 ~~attorney of the probationer's agreement to participate in an~~
7 ~~intensive supervision program.~~

8
9 W.S. 7-13-1107(a) through (d) provides for authorized
10 administrative sanctions as an alternative to revocation.
11 Most of this language is recreated in W.S. 7-13-1802 (see
12 above).

13
14 7-13-1107. Administrative rewards and sanctions for
15 program violations.

16
17 ~~(a) The department is authorized to establish by rule~~
18 ~~and regulation a system of administrative rewards for~~
19 ~~positive behavior and sanctions as an alternative to~~
20 ~~probation or parole revocation for probationers and parolees~~
21 ~~who violate the rules and restrictions of an intensive~~
22 ~~supervision program established under this article or the~~
23 ~~conditions of probation or parole.~~

24
25 ~~(b) Authorized sanctions may include:~~

26
27 ~~(i) Loss or restriction of privileges;~~

28
29 ~~(ii) Community service; and~~

30
31 ~~(iii) Restrictions on personal liberty including:~~

32
33 ~~(A) Detention in county jail for a period not~~
34 ~~exceeding thirty (30) days;~~

35
36 ~~(B) Placement in a residential community~~
37 ~~correctional program for a period not to exceed sixty (60)~~
38 ~~days;~~

39
40 ~~(C) Immediate confinement in a Wyoming county~~
41 ~~jail, to be imposed as a two (2) day or three (3) day~~
42 ~~consecutive period by the probation and parole agent with~~
43 ~~approval of the field services administrator. The total of~~
44 ~~all sanctions under this subparagraph shall not exceed~~
45 ~~eighteen (18) days during the term of supervision. The~~

1 ~~imposition of sanctions shall not require a hearing held in~~
2 ~~accordance with W.S. 7-13-408 if:~~

3
4 ~~(I) The probationer or parolee is a~~
5 ~~participant in the intensive supervision program pursuant to~~
6 ~~W.S. 7-13-1105 or 7-13-1106;~~

7
8 ~~(II) The probationer is a qualified~~
9 ~~offender sanctioned pursuant to W.S. 7-13-1303(d);~~

10
11 ~~(III) The parolee is subject to~~
12 ~~sanctions under W.S. 7-13-408(e); or~~

13
14 ~~(IV) The probationer or parolee consents~~
15 ~~to the administrative sanction provided for in subparagraph~~
16 ~~(C) of this paragraph without a hearing.~~

17
18 ~~(D) Detention in a consenting Wyoming county~~
19 ~~jail coupled with substance abuse treatment contracted with~~
20 ~~and paid by the department of corrections for a period not to~~
21 ~~exceed ninety (90) days. Detention under this subparagraph~~
22 ~~shall only be imposed for repeated substance abuse violations~~
23 ~~during the probation sentence or period of parole with the~~
24 ~~consent of the probationer or parolee or by order of court or~~
25 ~~state board of parole. Detention under this subparagraph~~
26 ~~shall be credited to the sentence. A custodial sanction under~~
27 ~~this subparagraph shall only be available one (1) time to any~~
28 ~~one (1) person;~~

29
30 ~~(E) Cumulative custodial sanctions imposed~~
31 ~~under subparagraphs (A) and (B) of this paragraph shall not~~
32 ~~exceed ninety (90) days per probation sentence or period of~~
33 ~~parole supervision prior to revocation and shall be credited~~
34 ~~to the sentence. Custodial sanctions imposed under~~
35 ~~subparagraphs (A), (B) and (D) of this paragraph shall require~~
36 ~~a hearing held in accordance with W.S. 7-13-408, unless the~~
37 ~~probationer or parolee consented to the sanction under~~
38 ~~subparagraph (D) of this paragraph.~~

39
40 ~~(c) The county sheriff shall house probationers and~~
41 ~~parolees committed to the county jail pursuant to this~~
42 ~~section. The cost of housing a program violator in the county~~
43 ~~jail shall be paid by the department at a per diem rate not~~
44 ~~to exceed the amount established by the department based on~~
45 ~~funds appropriated for housing of offenders.~~

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~~(d) If any civil action is brought against any sheriff, his under sheriff, deputy, agent or employee, by reason of acts committed or allegedly committed in the performance of necessary duties in connection with the housing and care of a program violator under this section, the state shall indemnify and hold harmless the officers, agents or employees from all civil liability incurred or adjudged except punitive damage awards. Upon request, the state shall provide legal counsel at state expense to assist in the defense of any action referred to in this subsection.~~

Section 4. The provisions of this act shall apply to all persons who are sentenced on or after the effective date of this act.

Section 5. The department of corrections shall promulgate rules no later than July 1, 2019 to establish the incentives and sanctions system required by W.S. 7-13-1801 as created by this act.

Section 6.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2019.

1 (b) Section 5 of this act is effective immediately upon
2 completion of all acts necessary for a bill to become law as
3 provided by Article 4, Section 8 of the Wyoming Constitution.

4

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(END)