

ORIGINAL SENATE
FILE NO. SF0023

ENROLLED ACT NO. 3, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2023 GENERAL SESSION

AN ACT relating to courts; transferring responsibility and oversight of the court supervised treatment programs from the department of health to the Wyoming supreme court; specifying terms and conditions of the transfer; amending application approval and expense requirements for treatment programs; making conforming amendments; renumbering provisions; requiring reports; providing for rulemaking; and providing for effective dates.

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

Section 1. W.S. 5-12-101, 7-13-304(d),
7-13-407(a)(i), 7-13-421(h)(ii), 7-16-205(a)(v),
7-18-114(a)(iv), 7-19-106(a)(ix), 9-2-102(a)(iii),
14-3-429(d)(iv), 14-6-247(a)(xiv) and 14-6-429(d)(viii) are
amended to read:

5-12-101. Short title; court supervised treatment.

(a) This act shall be known as and may be cited as the "Court Supervised Treatment Programs Act."

(b) Any district, juvenile, circuit, municipal or tribal court judge or circuit court magistrate may act as a participating judge in a court supervised treatment program established pursuant to ~~W.S. 7-13-1601 through 7-13-1615~~ this act.

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

(d) As a condition of probation or suspension of sentence, the court may require a defendant to complete successfully a court supervised treatment program qualified

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under W.S. ~~7-13-1601 through 7-13-1615~~ 5-12-101 through 5-12-118, a 24/7 sobriety program under W.S. 7-13-1701 through 7-13-1710, or both.

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

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

(i) Except as otherwise directed by the director, devote full time to the performance of their duties in carrying out the provisions of W.S. 5-12-101 through 5-12-118, 7-9-104, 7-9-107, 7-13-303, 7-13-401 through 7-13-424, 7-13-1101 through 7-13-1105, ~~7-13-1601 through 7-13-1615~~, 7-13-1801 through 7-13-1803 and 35-7-1043;

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

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

(ii) Court ordered fines, reimbursement for the services of the public defender or court appointed counsel, the surcharge imposed under W.S. 1-40-119 and the surcharge imposed under W.S. ~~7-13-1616~~ 5-12-118;

7-16-205. Disposition of earnings; confidentiality of amount.

(a) Payment for services performed by any prisoner under W.S. 7-16-202 shall be deposited in the trust and agency account at the institution and shall be disbursed

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for the purposes provided in this subsection and in the order specified:

(v) Court ordered restitution, fines, sanctions and reimbursement for the services of public defender or court appointed counsel, the surcharge imposed under W.S. 1-40-119, victims compensation obligations under W.S. 1-40-112(g) and the surcharge imposed under W.S. ~~7-13-1616~~ 5-12-118;

7-18-114. Record and disbursement of wages; exemption from process; confidentiality of amount.

(a) Wages earned by an inmate, parolee or offender while in an adult community corrections program shall be retained and accounted for by the program operator and shall be disbursed for the purposes provided in this subsection and in the order specified:

(iv) Court ordered restitution, fines, sanctions and reimbursement for the services of public defender or court appointed counsel, the surcharge imposed under W.S. 1-40-119, victims compensation obligations under W.S. 1-40-112(g) and the surcharge imposed under W.S. ~~7-13-1616~~ 5-12-118;

7-19-106. Access to, and dissemination of, information.

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

(ix) Court supervised treatment program staff solely for the purposes of utilizing the information

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pursuant to the Court Supervised Treatment Programs Act in ~~title 7, chapter 13, article 6~~ title 5, chapter 12 of the Wyoming statutes;

9-2-102. Department of health; duties and responsibilities; state grants.

(a) The department of health is the state mental health authority, the developmental disabilities authority and the substance abuse authority. The department through its divisions has the following duties and responsibilities to:

(iii) Establish minimum standards and approve policies and procedures for the establishment and operation of community-based mental health, substance abuse and developmental disabilities programs receiving state support. The department through its mental health division and its substance abuse division shall annually withhold not less than five percent (5%) of all amounts provided in each contract with a community-based mental health, ~~or~~ or substance abuse ~~or drug court~~ program or provider and shall not release the funds withheld to the individual program or provider until the respective division and the individual program or provider enter into a written agreement that provides for performance and outcome measures. If the respective division and an individual program or provider do not enter into a mutually agreed upon set of performance and outcome measures, the funds withheld under this paragraph shall revert to the budget reserve account at the end of the biennium in which the funds were withheld;

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

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

(iv) Require the child's parents or guardian and the child to participate in a court supervised treatment program qualified under W.S. ~~7-13-1601 through 7-13-1615~~ 5-12-101 through 5-12-118, provided the court supervised treatment program accepts the child's parents or guardian and the child for participation in its program.

14-6-247. Sanctions common to all levels.

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

(xiv) Require the child or the child's parents or guardian and the child to participate in a court supervised treatment program qualified under W.S. ~~7-13-1601 through 7-13-1615~~ 5-12-101 through 5-12-118, provided the court supervised treatment program accepts the child's parents or guardian and the child for participation in its program.

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

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

(viii) Require the child's parents or guardian and the child to participate in a court supervised treatment program qualified under W.S. ~~7-13-1601 through 7-13-1615~~ 5-12-101 through 5-12-118, provided the court

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supervised treatment program accepts the child's parents or guardian and the child for participation in its program.

Section 2. W.S. 7-13-1602 as 5-12-104, 7-13-1605 as 5-12-107, 7-13-1606 through 7-13-1608 as 5-12-108 through 5-12-110, 7-13-1613 as 5-12-115 and 7-13-1616 as 5-12-118 are amended and renumbered to read:

~~7-13-1602~~ 5-12-104. **Definitions.**

(a) As used in this act:

(i) "Account" means the court supervised treatment account created by W.S. ~~7-13-1605(a)~~ 5-12-107(a);

(ii) "Applicant" means the governing body of a city, town or county, a tribal government of either the Northern Arapaho or Eastern Shoshone tribes of the Wind River Indian Reservation or a nonprofit organization recognized under 26 U.S.C. 501(c)(3);

(iii) "Continuum of care" means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency;

(iv) "Department" means the Wyoming department of health;

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

(vi) "Participant" means a substance offender or any other person as provided in title 14 of the Wyoming

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statutes who has been referred to and accepted into a program;

(vii) "Participating judge" means the district, juvenile, circuit, municipal or tribal court judge or magistrate acting as part of a program team;

(viii) "Program" or "court supervised treatment program" means a local court supervised treatment program that complies with rules and regulations adopted by the ~~department~~ Wyoming supreme court;

(ix) "Program coordinator" means the person responsible for coordinating the establishment, operation, evaluation and integrity of a program;

(x) "Program team" means the team created pursuant to W.S. ~~7-13-1609(a)~~ 5-12-111(a);

(xi) "Recidivism" means any subsequent criminal charge;

(xii) "Referring judge" means the district, juvenile, circuit, municipal or tribal court judge or magistrate who refers a substance offender or any other person as provided in title 14 of the Wyoming statutes to a program;

(xiii) "Staffing" means the meeting of a program team before a participant's entry into the program, and during the participant's participation in the program, to plan a coordinated response to the participant's behaviors and needs;

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(xiv) "Substance" means alcohol, any controlled substance as defined in W.S. 35-7-1002(a)(iv), any substance used for mind altering purpose or over-the-counter medications and inhalants which are used in a manner not intended by the manufacturer;

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

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

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

(xviii) "This act" means W.S. ~~7-13-1601 through 7-13-1616~~ 5-12-101 through 5-12-118.

~~7-13-1605~~ 5-12-107. **Establishment of court supervised program account; rules and regulations; panel created; program funding.**

(a) There is created a court supervised treatment program account. All interest earned on funds within this account shall be deposited in the account. The ~~department~~ supreme court shall oversee and provide funding for programs from the court supervised treatment program account. Funds within the account shall be expended by the ~~department~~ supreme court for the purposes of this act upon legislative appropriation provided, however, that

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surcharges deposited in the account pursuant to W.S. ~~7-13-1616(e)~~ 5-12-118(e) shall be distributed to programs by the ~~department~~ supreme court semiannually. ~~Department expenses under this act shall not exceed ten percent (10%) of the total amount of funding provided by the department for programs in any fiscal biennium.~~

(b) The ~~department~~ supreme court shall determine whether an application for a program meets the qualifications specified in W.S. ~~7-13-1606(b)~~ 5-12-118(b) and the rules and regulations promulgated by the ~~department~~ supreme court pursuant to subsection (c) of this section.

(c) Except as otherwise provided in this subsection, the ~~department~~ supreme court shall promulgate rules and regulations necessary to implement this act, including establishing standards consistent with the key components of drug courts defined by the United States department of justice or such similar rules as may be adopted by the ~~department~~ supreme court. The department of health, in consultation with the supreme court, shall promulgate rules for certification and accreditation requirements for treatment personnel. The rules promulgated by the supreme court shall:

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

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

(iii) Establish program requirements, operational standards and protocols for programs, program team and staff training requirements, program data

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collection and maintenance, ~~certification requirements for treatment personnel,~~ and incentive and sanction limitations.

(d) ~~A panel, consisting of the attorney general, the directors of the department of health, department of family services and department of corrections, the chairman of the governor's advisory board on substance abuse and violent crimes and the state public defender, or their designees,~~ The supreme court shall make the final determination whether an application for a court supervised treatment program meets the qualifications of this act and shall determine the funding amount for each successful applicant. The ~~panel~~ supreme court may deny an application for a new program if the funding for the new program would substantially affect funding levels for existing programs.

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

(f) Nothing in this act shall prohibit a program from obtaining or providing supplemental funding. All supplemental funds received by a program shall be reported to the ~~department~~ supreme court.

~~7-13-1606~~ 5-12-108. **Establishment of court supervised treatment programs.**

(a) Any court supervised treatment program that meets the qualifications specified in this section and the ~~department's~~ supreme court's rules and regulations may

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apply for funding from the account on a form developed by the ~~department~~supreme court.

(b) The applicant shall be the contracting agent for all its program contracts. All program employees of a program shall be employees of the applicant that was awarded a grant under this section, but referring judges, participating judges, other judicial branch personnel and department of corrections personnel shall not be program employees. All program funds and grants shall be managed by the applicant to whom a grant is awarded pursuant to the provisions of a contract between the ~~department~~supreme court and the applicant.

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

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

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

(f) The application shall include other information that may be required by the ~~department~~supreme court.

~~7-13-1607~~5-12-109. **Participation in court supervised treatment program; conditions; extended probation.**

(a) No substance offender may participate in a program unless the substance offender, in a Wyoming

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district, juvenile, circuit, municipal or tribal court, has been charged with an offense; and:

(i) Has entered an admission, or a guilty or nolo contendere plea;

(ii) Has entered a guilty plea pursuant to W.S. 7-13-301;

(iii) Has signed a consent decree under title 14 of the Wyoming statutes; or

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

(b) Any district, juvenile, circuit, municipal or tribal court judge, or magistrate, may refer substance offenders for participation in a program. The referring judge may act as a participating judge in a program as authorized by this act and by rules adopted by the supreme court. A substance offender who is a defendant in a criminal action or a respondent in a juvenile court action may be referred for participation in a program if:

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

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

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

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

(c) Participation in a program shall only be with the consent of the referring judge and the participant, and acceptance of the participant by the program team in accordance with a written agreement between the participant and the program team. The agreement shall include the participant's consent to release of medical and other records relevant to his treatment history and assessment that meets the requirements of 42 U.S.C. 290dd-2(b) or 42 C.F.R. part 2.31, as applicable. Prior to a participant's entry into a written agreement, the participating judge shall inform the participant that he may be subject to a term of probation that exceeds the maximum term of imprisonment established for the particular offense charged, as provided in W.S. 5-9-134 and ~~7-13-1614~~ 5-12-116.

(d) Nothing in this act shall confer a right or an expectation of a right to participate in a program, nor does this act obligate a program team to accept any proposed participant. Neither the establishment of a program nor anything herein contained shall be construed as limiting the discretion of a prosecuting attorney in regard to the prosecution of any criminal or juvenile case. Consent to participation in a program under subsection (c) of this section shall only be required from the referring judge and participant.

~~7-13-1608~~ 5-12-110. Incentives and sanctions; extended probation.

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(a) The participating judge may grant reasonable incentives under the written agreement under W.S. ~~7-13-1607(e)~~ 5-12-109(c) if he finds that since the last staffing, the participant:

- (i) Is performing satisfactorily in the program;
- (ii) Is benefiting from the program; and
- (iii) Has not violated any term or condition of the agreement.

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

- (i) Is not performing satisfactorily in the program;
- (ii) Is not benefiting from the program;
- (iii) Has engaged in conduct rendering the participant unsuitable for the program;
- (iv) Has otherwise violated any term or condition of the written agreement; or
- (v) Is unable to participate in the program.

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

~~7-13-1613~~ 5-12-115. **Participant information and progress statistics.**

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

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

(ii) Criminal history;

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

(iv) Employment, education and income history;

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

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

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(b) Programs shall maintain and report to the ~~department~~supreme court the following information pursuant to ~~department~~supreme court rules and regulations, none of which shall identify the participants:

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

(ii) The costs of operation and sources of funding of the program.

~~7-13-1616~~5-12-118. **Surcharge to be assessed in certain criminal cases; paid to account.**

(a) In addition to any fine or other penalty prescribed by law, a defendant who pleads guilty or nolo contendere to, or is convicted of, any offense under W.S. 31-5-233 or 35-7-1001 through 35-7-1057 may be assessed a surcharge of not more than fifty dollars (\$50.00).

(b) The surcharge may be imposed upon any defendant for whom prosecution, trial or sentence is deferred under W.S. 7-13-301 and 7-13-302 or 35-7-1037 or who participates in any other diversion agreement for an offense specified in subsection (a) of this section.

(c) The court may waive the surcharge if the person is unable to pay the surcharge or for any other good cause shown. The court shall consider all other financial obligations imposed on the defendant and set the surcharge so as not to create an undue financial burden on the defendant.

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(d) The surcharge shall be paid within ten (10) days of imposition. Failure to comply with the provisions for payment of the surcharge is punishable as contempt of court. Contempt or other proceedings, including proceedings under W.S. 6-10-105, if applicable, to collect the surcharge may be initiated by the district attorney or by the court on its own motion.

(e) The proceeds from the surcharge imposed by this section shall be remitted promptly by the clerk of the court to the ~~department~~ supreme court for deposit in the account.

Section 3. W.S. 7-13-1603, 7-13-1604, 7-13-1609, 7-13-1610, 7-13-1611, 7-13-1612, 7-13-1614 and 7-13-1615 are renumbered as 5-12-105, 5-12-106, 5-12-111, 5-12-112, 5-12-113, 5-12-114, 5-12-116 and 5-12-117.

Section 4. W.S. 7-13-1601 is repealed.

Section 5.

(a) The court supervised treatment program established in title 7, chapter 13, article 16 of the Wyoming statutes, as renumbered by this act, shall be transferred from the department of health to the supreme court on July 1, 2024. All property, equipment, obligations and unexpended funds of the court supervised treatment unit (unit 2503) of the department of health shall be transferred to the supreme court on July 1, 2024, except as otherwise provided in this section.

(b) Nothing in this act shall be construed to impair existing contracts, agreements or other obligations of the court supervised treatment program that the department of

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health entered into on the program's behalf before July 1, 2024. The supreme court shall, to the greatest extent authorized by law and upon assuming responsibility for the court supervised treatment program, fulfill existing agreements, contracts and other obligations of the court supervised treatment program entered into before July 1, 2024. For any existing agreement, contract or other obligation that the supreme court cannot assume lawfully, the department of health shall retain those agreements, contracts and other obligations.

(c) Any unexpended, unobligated funds appropriated and any positions allocated to the court supervised treatment unit of the department of health as of July 1, 2024 shall be transferred to the supreme court on July 1, 2024. For purposes of this subsection, any funds appropriated and any positions allocated to the court supervised treatment unit of the department of health during the 2024 budget session of the legislature shall be transferred to the supreme court on July 1, 2024.

Section 6.

(a) The supreme court shall promulgate all rules necessary to implement and manage the court supervised treatment program.

(b) Beginning with the effective date of this section until July 1, 2024, the department of health shall consult with the supreme court regarding any agreement, contract or other obligation the department of health seeks to enter into on behalf of the court supervised treatment program.

(c) Not later than August 1, 2023, the supreme court and the department of health shall report to the joint

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judiciary committee on a plan for transferring the court supervised treatment program and its functions and responsibilities to the supreme court. The report shall include any recommendations for legislation the supreme court or the department of health determine is necessary to effectuate the transfer of the court supervised treatment program to the supreme court. The committee shall sponsor any necessary legislation to correct or improve the outcome of any issue identified in the report submitted under this subsection.

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Section 7.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2024.

(b) Sections 6 and 7 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk