

## **FIRST OFFENDER INFORMATION**

Wyoming Statute 7-13-301 provides as follows:

(a) If a person who has not previously been convicted of any felony is charged with or is found guilty of or pleads guilty or no contest to any misdemeanor except any second or subsequent violation of W.S. 31-5-233 or any similar provision of law, or any second or subsequent violation of W.S. 6-2-501 (a) or (b) by a household member as defined by W.S. 35-21-102 against any other household member or any similar provision of law, or any felony except murder, sexual assault in the first or second degree, aggravated assault and battery or arson in the first or second degree, the court may, with the consent of the defendant and the state and without entering a judgment of guilt or conviction, defer further proceeding and place the person on probation for a term not to exceed five (5) years upon terms and conditions set forth by the court. The terms of the probation shall include that he:

- (i) Report to the court not less than twice in each year at times and places fixed in the order;
  - (ii) Conduct himself in a law-abiding manner
  - (iii) Not leave the state without the consent of the court;
  - (iv) Conform his conduct to any other terms of probation the court finds proper; and
  - (v) Pay restitution to each victim in accordance with W.S. 7-9-101 and 7-9-103 through 7-9-112
- (b) If the court finds the person has fulfilled the terms of probation and that his rehabilitation has been attained to the satisfaction of the court, the court may at the end of five (5) years, or at any time after the expiration of one (1) year from the date of the original probation, discharge the person and dismiss the proceedings against him.
- (c) If the defendant violates a term or condition of probation at any time before final discharge the court may:
- (i) Enter an adjudication of guilt and conviction and proceed to impose sentence upon the defendant if he previously pled guilty to or was found guilty of the original charge for which probation was granted under this section; or
  - (ii) Order that the trial of the original charge proceed if the defendant has not previously pled or been found guilty.
- (d) Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for any purpose.
- (e) There shall be only one (1) discharge and dismissal under this section or under any similar section of the probationary statutes of any other jurisdiction.

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In Laramie Municipal Court, First Offender Status is not granted to many people. Even if the prosecution consents to First Offender Treatment the judge makes the final determination on whether or not to grant First Offender Status. This means not only does

an individual have to convince the prosecution, but they are also going to have to convince the judge at hearing why they are deserving of receiving this treatment. Another important thing to consider before requesting First Offender Treatment is that an individual in the State of Wyoming and in many other jurisdictions only receives First Offender Treatment once in their lifetime. Therefore, if a Defendant is granted First Offender Treatment in the pending matter they will not be able to receive First Offender Treatment for any other charge, in this Court and/or other Courts, thereafter.

If the prosecution is willing to consent to First Offender Treatment, a Defendant (or his/her attorney) will need to make arrangements with Laramie Municipal Court to schedule a First Offender hearing. Arraignments for this hearing will need to be scheduled prior to the Scheduling or Motion Hearing. At the First Offender Hearing the Defendant will change their plea to the underlying charge to guilty and move for consideration of First Offender Treatment under Wyoming Statute 7-13-301. It is important for a Defendant to understand that once the judge has accepted their guilty plea and if for any reason the judge decides not to grant First Offender Treatment in their case, they cannot change your mind and withdraw the guilty plea previously entered.

Pursuant to W.S. 7-13-301 a Defendant placed under First Offender Status must complete probationary terms and conditions. Terms and conditions usually imposed by Laramie Municipal Court, in addition to the required statutory conditions, include but are not limited to, community service in the City of Laramie, obtaining a drug/alcohol evaluation and completing any follow-up treatment recommended, donation to a local charitable organization (usually comparable to the bond amount for the underlying charge), and attending the Victims Impact Panel. The probationary period ordered by the judge usually lasts between 2 and 5 years depending on the Defendant's character, circumstances, and underlying facts of the case.

First Offender Status is something the Court does not take lightly. There is a lot of work an individual has to put into completing a First Offender and sometimes it is just easier for an individual to plead guilty to the charge and pay the applicable fine. Usually a Defendant who enters a guilty plea or is found guilty will not be sentenced to jail on a first time offense. Defendants who receive First Offender Treatment, however, are strongly cautioned by the judge that if they violate any of the terms of their probation and they are brought back into Court on a Motion for an Order to Show Cause why the Court should not enter the guilty plea, run an extremely high risk of being sentenced to jail.

**This document is intended for information purposes only and should in no way be considered advice to the Defendant. Further, the City Attorney's Office represents the City of Laramie and as such Defendants are always encouraged to seek the advice and assistance of an attorney regarding their pending charge.**

If a Defendant wishes to be considered for First Offender Treatment under Wyoming Statute 7-13-301 the following information will need to be supplied to the City Attorney's Office for the prosecutor to determine whether or not to consent for the Court to consider the Defendant for First Offender Treatment:

1. How or why did this incident occur?
2. What (if anything) the Defendant has learned from this experience?
3. The Defendant's past criminal history, if any (the prosecution will conduct a records check to verify);
4. Anything the Defendant is currently doing or has done in the past that is deserving of special consideration (for example academic achievement, community work and achievement, etc);
5. Reasons the Defendant should be treated under First Offender Status when others are not;
6. The Defendant's future plans and how a charge of this nature on their record could affect those plans;
7. How the Defendant can be assured that this will not happen again. Please include any steps the Defendant has taken since this incident to ensure it will not happen again (for example alcohol and/or substance abuse evaluations, counseling, classes, etc).

The above information will need to be provided to the City Attorney's office no later than two weeks prior to the Scheduling or Motion Hearing to ensure ample time for the prosecutor to look into the matter and make a determination prior to such hearing. If a determination has not been made prior to the Scheduling or Motion Hearing, the matter will proceed to trial on the scheduled date unless the defendant wishes to change his/her plea to the underlying charge.

**Please be advised that by providing the requested information to the City Attorney's Office, the defendant understands the following:**

1. That the defendant has a right to an attorney. If the defendant obtains an attorney to represent them on the pending criminal charge, the defendant will not contact the Laramie City Attorney's Office and will only act through their attorney.
2. That requesting consideration of First Offender Treatment does not create an attorney-client relationship between the defendant and the Laramie City Attorney's Office and that the defendant should have no expectations of the Laramie City Attorney's Office other than those imposed by law.
3. That the defendant has a right to remain silent and the defendant understands that they are waiving their right to remain silent regarding the information and/or documentation they provide to the City Attorney's Office and that such information and/or documentation may be used against them in court.