

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. 6-2-510(a) or 6-2-511(a) 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 proceedings and place the person on probation for a term not to exceed five (5) years upon terms and conditions set by the court. The terms of 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 7-9-115.
- (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.
- (f) This section shall not apply to any person holding any class of commercial driver's license pursuant to W.S. 31-7-304(a)(i), nor to the driver of any commercial motor vehicle as defined by W.S. 31-7-102(a)(viii), who is charged with any offense specified in W.S. 31-7-305.

In Laramie Municipal Court, First Offender Status is granted on a very limited basis. The City Attorney's Office will undertake a careful review of the Defendant's charge(s), history, request and background in determining whether it is appropriate to give the prosecution's consent required under the statute. Even if the prosecution consents, 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 he/she is also going to have to convince the Judge at the hearing why he/she is 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 a person's lifetime. Therefore, if a Defendant is granted First Offender Treatment in the pending Municipal Court matter, then he/she will not be able to receive First Offender Treatment for any other charge, in Laramie Municipal Court or other Courts (including likely other states), thereafter.

If the City Prosecutor is willing to give consent to for First Offender Treatment, a Defendant (or his/her attorney) will need to request the Laramie Municipal Court schedule a First Offender Hearing. Arraignments for this hearing must be scheduled prior to or at the Second Scheduling Conference. At the First Offender Hearing the Defendant will change his/her plea to the underlying charge to Guilty and move the Municipal Court 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 his/her Guilty plea, and if for any reason the Judge decides not to grant First Offender Treatment in the case, the Defendant cannot change his/her mind and withdraw the Guilty plea.

Pursuant to W.S. § 7-13-301, a Defendant placed on First Offender Status must complete probationary terms and conditions. Terms and conditions typically imposed by the Laramie Municipal Court, in addition to the required statutory conditions, include but are not limited to: community service within the City of Laramie, obtaining a drug/alcohol evaluation and completing any follow-up treatment recommended in that evaluation, checking in with the Municipal Court, in writing, twice per year, and attending a Victim Impact Panel. The probationary period ordered by the Municipal Court can last between one to five years, depending on the Defendant's character, circumstances, background, and the underlying facts of the case.

First Offender Status is something the City Attorney's Office and Municipal Court do not take lightly. There is a lot of work required for an individual to complete the terms of the First Offender program. There are times that it may be easier for an individual to plead Guilty to the charge and pay the applicable fine. Defendants who receive First Offender Treatment are strongly cautioned that if they violate any of the terms of their probation and are brought back into Court on a Motion for an Order to Show Cause (why the Court should not enter the Guilty plea), then they run a risk of being sentenced to jail, if the underlying charge is a jailable offense.

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 to represent them 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 (**no less than two weeks prior to the Second Scheduling Conference**) for the City Prosecutor to determine whether or not to give the required consent 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 conviction should impact 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 must be provided to the City Attorney's office **no less than two weeks prior to the Second Scheduling Conference** to ensure ample time for the City Prosecutor to review the request, review the case and make a determination prior to the setting. If a determination has not been made prior to the Second Scheduling Conference, the matter will proceed on the scheduled date unless the Defendant wishes to change his/her plea to the underlying charge(s). Late requests will not be considered unless arrangements have been made in writing prior to the deadline.

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 him/her on the pending criminal charge, the Defendant will not contact the Laramie City Attorney's Office and will only act through his/her 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 in any manner, and that the Defendant has 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 he/she is waiving this right to remain silent regarding the information and/or documentation he/she provide to the City Attorney's Office and that such information and/or documentation may be used against them in Court if the matters proceeds.