

## **Chapter 50**

### **Private Probation Provider Licensing Act**

#### **58-50-1 Short title.**

This chapter shall be known as the "Private Probation Provider Licensing Act."

Enacted by Chapter 124, 1990 General Session

#### **58-50-2 Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Private Probation Provider Licensing Board created in Section 58-50-3.
- (2) "Court" means the particular court that orders probation in a case.
- (3) "Private probation" means the preparation of presentence investigation reports and the performance of supervision services by a private probation provider and funded by a court-ordered fee, to be paid by the defendant, in accordance with Subsection 77-18-105(6)(a)(vii).
- (4)
  - (a) "Private probation provider" means any private individual preparing presentence investigation reports or providing probation supervision in accordance with a court order under Section 77-18-105 and who is licensed under this chapter, and whose services are limited to minor offenses and misdemeanor violations.
  - (b) A private probation provider does not have the authority of a peace officer.
- (5) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes:
  - (a) failure to disclose any financial or personal interest or prior relationship with parties that affects the private probation provider's impartiality or otherwise constitutes a conflict of interest;
  - (b) providing contract probation services when any financial or personal interest or prior relationship with parties affects the private probation provider's impartiality or otherwise constitutes an actual conflict of interest;
  - (c) failure to clearly define to the offender the services provided by the private probation provider, the rules of conduct, the criteria used, and the fees charged;
  - (d) failure to provide adequate supervision, or supervision as ordered by the court, as determined by the division in collaboration with the board; and
  - (e) failure to comply with the standards specified in Section 58-50-9.

Amended by Chapter 260, 2021 General Session

#### **58-50-3 Board -- Membership -- Duties.**

- (1) There is created the Private Probation Provider Licensing Board. The board shall consist of five members as follows:
  - (a) one member representing the administrative office of the courts;
  - (b) one member representing the Department of Corrections;
  - (c) two members licensed as private probation providers; and
  - (d) one member from the general public.
- (2) The board shall be appointed by the governor and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.

Amended by Chapter 297, 1993 General Session

**58-50-4 License required -- License classifications.**

- (1) An individual may not engage in practice as a private probation provider unless licensed or exempted from licensure under this chapter.
- (2) The division shall issue to a person qualified for licensure under the provisions of this chapter a license as a private probation provider.

Amended by Chapter 297, 1993 General Session

**58-50-5 Qualifications for licensure.**

An applicant for licensure as a private probation provider shall:

- (1) have a baccalaureate degree in a program approved by the division in collaboration with the board or have a combination of equivalent education and training as determined by the division in collaboration with the board;
- (2) submit evidence that a business license to engage in private probation has been issued by the political subdivision of the state in which the applicant intends to establish a business office or offices; and
- (3) apply for licensure and pay the required fees.

Amended by Chapter 302, 2025 General Session

**58-50-6 Term of license -- Expiration -- Renewal.**

- (1) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.
- (2) At the time of renewal the licensee shall show satisfactory evidence of completion of continuing education as required under this chapter.
- (3) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

Repealed and Re-enacted by Chapter 297, 1993 General Session

**58-50-7 Grounds for denial of license -- Disciplinary proceedings.**

Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

Repealed and Re-enacted by Chapter 297, 1993 General Session

**58-50-9 Standards of conduct for private probation providers -- Contracts -- Reports.**

- (1) As used in this section, "licensee" means the same as that term is defined in Section 26B-2-101.
- (2) The private probation provider:
  - (a) shall maintain impartiality toward all parties;

- (b) shall ensure that all parties understand the nature of the process, the procedure, the particular role of the private probation provider, and the parties' relationship to the private probation provider;
  - (c) shall maintain confidentiality or, in cases where confidentiality is not protected, the private probation provider shall so advise the parties;
  - (d) shall:
    - (i) disclose any circumstance that may create or give the appearance of a conflict of interest and any circumstance that may reasonably raise a question as to the private probation provider's impartiality; and
    - (ii) if the contract probation supervisor perceives or believes a conflict of interest to exist, the contract probation supervisor shall refrain from entering into those probation services;
  - (e) shall adhere to the standards regarding private probation services adopted by the licensing board;
  - (f) shall:
    - (i) comply with orders of court and perform services as directed by judges in individual cases; and
    - (ii) notify the court that the private probation provider is providing supervision services to a defendant;
  - (g) shall perform duties established under Section 77-18-105, as ordered by the court;
  - (h) beginning July 1, 2022, may not provide private probation in a county where an agency of local government provides probation services unless the private probation provider has entered into a contract with the agency of local government;
  - (i) shall provide a report each month to each county sheriff where the private probation provider provides private probation identifying:
    - (i) each individual currently supervised in the county by the private probation provider;
    - (ii) the crimes each individual supervised committed;
    - (iii) the level of supervision that is being provided for each individual; and
    - (iv) any other information related to the provision of private probation that the county sheriff determines is relevant; and
  - (j) may not solicit defendants as supervision clients on any property that operates as a court of justice as described in Section 78A-1-101.
- (3) If, after conducting a screening of a defendant's risk and needs, a private probation provider determines that a defendant requires a specific assessment, treatment, or other services, the private probation provider shall:
- (a) provide the defendant a list of all available licensees that provide the assessment, treatment, or other services; and
  - (b) permit the defendant to select a licensee described in Subsection (3)(a) with which to complete the required assessment, treatment, or other services.
- (4)
- (a) Except as provided in Subsection (4)(b), a private probation provider that is a licensee may not simultaneously provide to a defendant private probation services and other services for which the private probation provider receives compensation, including:
    - (i) mental health therapy services;
    - (ii) education services; or
    - (iii) rehabilitation services.
  - (b) A private probation provider that is a licensee may simultaneously provide private probation services and other services as described in Subsection (4)(a) if:

- (i) no other licensees that provide the services are located within 50 miles of the defendant's residence; and
  - (ii) the private probation provider obtains the defendant's written informed consent.
- (c) The written informed consent described in Subsection (4)(b) shall include:
- (i) a description of the services other than private probation services the private probation provider will provide;
  - (ii) a separate paragraph describing how the defendant can withdraw consent;
  - (iii) a separate paragraph describing grievance procedures, including how to contact and file a complaint with the division's investigation office; and
  - (iv) a separate paragraph informing the defendant of the potential conflict of interest.
- (5) A contract described in Subsection (2)(h) shall include a description of the fees the private probation provider will charge a defendant who is supervised by the private probation provider.

Amended by Chapter 257, 2023 General Session

**58-50-10 Exceptions from licensure.**

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in probation supervision services subject to the stated circumstances and limitations without being licensed under this chapter:

- (1) an employee of the Division of Adult Probation and Parole created in Section 64-14-202 while the employee is performing probation services as part of the employee's normal duties and responsibilities;
- (2) a member of the armed forces and an employee, agent, or representative of the federal government while acting in the member's, employee's, agent's, or representative's official capacity; and
- (3) an agency of a local government in accordance with Section 77-18-105.

Amended by Chapter 214, 2025 General Session