

Effective 5/12/2015

53-11-102 Definitions.

As used in this chapter:

- (1) "Applicant" means a person who has submitted to the department a completed application and all required application and processing fees.
- (2) "Bail bond agency" means a bail enforcement agent licensed under this chapter who operates a business to carry out the functions of a bail enforcement agent, and to conduct this business:
 - (a) employs one or more persons licensed under this chapter for wages or salary, and withholds all legally required deductions and contributions; or
 - (b) contracts with a bail recovery agent or bail recovery apprentice on a part-time or case-by-case basis.
- (3) "Bail enforcement agent" means an individual licensed under this chapter as a bail enforcement agent to enforce the terms and conditions of a defendant's release on bail in a civil or criminal proceeding, to apprehend a defendant or surrender a defendant to custody, or both, as is appropriate, and who:
 - (a) is appointed by a bail bond surety; and
 - (b) receives or is promised money or other things of value for this service.
- (4) "Bail recovery agent" means an individual employed by a bail enforcement agent to assist the bail enforcement agent regarding civil or criminal defendants released on bail by:
 - (a) presenting a defendant for required court appearances;
 - (b) apprehending or surrendering a defendant to a court; or
 - (c) keeping the defendant under necessary surveillance.
- (5) "Bail recovery apprentice" means any individual licensed under this chapter as a bail recovery apprentice, and who:
 - (a) has not met the requirements for licensure as a bail recovery agent or bail enforcement agent; and
 - (b) is employed by a bail enforcement agent, and works under the direct supervision of a bail enforcement agent or bail recovery agent employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting activities at the direction of the employing bail enforcement agent that under this chapter do not require direct supervision.
- (6) "Board" means the Bail Bond Recovery Licensure Board created under Section 53-11-104.
- (7) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.
- (8) "Commissioner" means the commissioner of public safety as defined under Section 53-1-107, or his designee.
- (9) "Contract employee" or "independent contractor" means a person who works for an agency as an independent contractor.
- (10) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from a trial or plea, including a plea of no contest or nolo contendere, regardless of whether the imposition of sentence was suspended.
- (11) "Department" means the Department of Public Safety.
- (12) "Direct supervision" means a bail enforcement agent employing or contracting with a bail recovery apprentice, or a bail recovery agent employed by or contracting with that bail enforcement agent who:
 - (a) takes responsibility for and assigns the work a bail recovery apprentice may conduct; and
 - (b) closely supervises, within close physical proximity, and provides direction and guidance to the bail recovery apprentice regarding the assigned work.

- (13) "Emergency action" means a summary suspension of a license issued under this chapter pending revocation, suspension, or probation, in order to protect the public health, safety, or welfare.
- (14) "Identification card" means a card issued by the commissioner to an applicant qualified for licensure under this chapter.
- (15) "Letter of concern" means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department believes:
 - (a) the licensee should modify or eliminate certain practices; and
 - (b) continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the license.
- (16) "Occupied structure" means any edifice, including residential and public buildings, vehicles, or any other structure that could reasonably be expected to house or shelter persons.
- (17) "Supervision" means the employing bail enforcement agent is responsible for and authorizes the type and extent of work assigned to a bail recovery agent who is his employee or contract employee.
- (18) "Unprofessional conduct" means:
 - (a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;
 - (b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a bail recovery agent in this state;
 - (c) gross negligence in the practice of a bail recovery agent;
 - (d) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of a bail recovery license, and conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission; or
 - (e) making a fraudulent or untrue statement to the board, department, its investigators, or staff.

Amended by Chapter 170, 2015 General Session