

1                   **PRIVATE PROBATION AND COURT ORDERED SERVICES**

2                                   **AMENDMENTS**

3   2023 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Jen Plumb**

6                                   House Sponsor: \_\_\_\_\_

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8 **LONG TITLE**

9 **General Description:**

10           This bill amends provisions related to persons providing certain services to criminal  
11 defendants.

12 **Highlighted Provisions:**

13           This bill:

14           ▶ prohibits private probation providers and other court ordered service providers from  
15 soliciting clients on court property;

16           ▶ requires a court that orders probation to make available to a defendant a list of  
17 private probation providers under certain circumstances;

18           ▶ requires assessors to provide a list of licensed providers of required treatment and  
19 services;

20           ▶ requires private probation providers to notify the court if the private probation  
21 provider is providing supervision services to a defendant;

22           ▶ prohibits a private probation provider from simultaneously providing other services  
23 except in certain circumstances;

24           ▶ defines terms; and

25           ▶ makes technical and conforming changes.

26 **Money Appropriated in this Bill:**

27           None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **58-50-9**, as last amended by Laws of Utah 2022, Chapter 115

33 ENACTS:

34 **62A-2-129**, Utah Code Annotated 1953



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **58-50-9** is amended to read:

38 **58-50-9. Standards of conduct for private probation providers -- Contracts --**

39 **Reports.**

40 (1) As used in this section, "licensee" means the same as that term is defined in Section  
41 62A-2-101.

42 (2) The private probation provider:

43 (a) shall maintain impartiality toward all parties;

44 (b) shall ensure that all parties understand the nature of the process, the procedure, the  
45 particular role of the private probation provider, and the parties' relationship to the private  
46 probation provider;

47 (c) shall maintain confidentiality or, in cases where confidentiality is not protected, the  
48 private probation provider shall so advise the parties;

49 (d) shall:

50 (i) disclose any circumstance that may create or give the appearance of a conflict of  
51 interest and any circumstance that may reasonably raise a question as to the private probation  
52 provider's impartiality; and

53 (ii) if the contract probation supervisor perceives or believes a conflict of interest to  
54 exist, the contract probation supervisor shall refrain from entering into those probation  
55 services;

56 (e) shall adhere to the standards regarding private probation services adopted by the  
57 licensing board;

58 (f) shall:

59           (i) comply with orders of court and perform services as directed by judges in individual  
60 cases; and

61           (ii) notify the court that the private probation provider is providing supervision services  
62 to a defendant;

63           (g) shall perform duties established under Section 77-18-105, as ordered by the court;

64           (h) beginning July 1, 2022, may not provide private probation in a county where an  
65 agency of local government provides probation services unless the private probation provider  
66 has entered into a contract with the agency of local government; [~~and~~]

67           (i) shall provide a report each month to each county sheriff where the private probation  
68 provider provides private probation identifying:

69           (i) each individual currently supervised in the county by the private probation provider;

70           (ii) the crimes each individual supervised committed;

71           (iii) the level of supervision that is being provided for each individual; and

72           (iv) any other information related to the provision of private probation that the county  
73 sheriff determines is relevant[-]; and

74           (j) may not solicit defendants as supervision clients on any property that operates as a  
75 court of justice as described in Section 78A-1-101.

76           (3) If a court orders supervised probation and determines that a public probation  
77 provider is unavailable or inappropriate to supervise the defendant, the court shall make  
78 available to the defendant a list of private probation providers.

79           (4) If, after conducting a screening of a defendant's risk and needs, a private probation  
80 provider determines that a defendant requires a specific assessment, treatment, or other  
81 services, the private probation provider shall:

82           (a) provide the defendant a list of all available licensees that provide the assessment,  
83 treatment, or other services; and

84           (b) permit the defendant to select a licensee described in Subsection (4)(a) with which  
85 to complete the required assessment, treatment, or other services.

86           (5) (a) Except as provided in Subsection (5)(b), a private probation provider that is a  
87 licensee may not simultaneously provide to a defendant private probation services and other  
88 services for which the private probation provider receives compensation, including:

89           (i) mental health therapy services;

90 (ii) education services; or

91 (iii) rehabilitation services.

92 (b) A private probation provider that is a licensee may simultaneously provide private  
93 probation services and other services as described in Subsection (4)(a) if:

94 (i) no other licensees that provide the services are located within 50 miles of the  
95 defendant's residence; and

96 (ii) the private probation provider obtains the defendant's written informed consent.

97 (c) The written informed consent described in Subsection (4)(b) shall include:

98 (i) a description of the services other than private probation services the private  
99 probation provider will provide;

100 (ii) a separate paragraph describing how the defendant can withdraw consent;

101 (iii) a separate paragraph describing grievance procedures, including how to contact  
102 and file a complaint with the division's investigation office; and

103 (iv) a separate paragraph informing the defendant of the potential conflict of interest.

104 ~~[(2)]~~ (6) A contract described in Subsection ~~[(1)(h)]~~ (2)(h) shall include a description  
105 of the fees the private probation provider will charge a defendant who is supervised by the  
106 private probation provider.

107 Section 2. Section **62A-2-129** is enacted to read:

108 **62A-2-129. Obligations of persons providing assessment and treatment services.**

109 (1) As used in this section:

110 (a) "Assessor" means a licensee that provides an assessment as ordered by a court in a  
111 criminal case.

112 (b) "Criminal case" means a case in which a court of justice described in Section  
113 [78A-1-101](#) has ordered an individual to comply with certain terms and conditions of probation  
114 related to a criminal offense.

115 (c) "Licensee" means the same as that term is defined in Section [62A-2-101](#).

116 (2) (a) An assessor that determines that the individual requires specific treatment shall:

117 (i) provide the individual a list of all available licensees that provide the treatment; and

118 (ii) permit the individual to select a licensee described in Subsection (2)(a)(i) with  
119 which to complete the treatment.

120 (b) The list described in Subsection (2)(a)(i) may include the assessor, if the assessor is

121 a licensee that provides the required treatment described in Subsection (2)(a).

122 (3) An assessor shall comply with orders of the court and perform services as directed  
123 by judges in individual cases.

124 (4) An assessor or other licensee may not solicit defendants as clients on any property  
125 that operates as a court of justice as described in Section [78A-1-101](#).