
SUBSTITUTE SENATE BILL 5023

State of Washington

62nd Legislature

2011 Regular Session

By Senate Judiciary (originally sponsored by Senators Prentice, McAuliffe, Litzow, Shin, Kline, Pflug, Fraser, Chase, and Rockefeller; by request of Attorney General)

READ FIRST TIME 02/08/11.

1 AN ACT Relating to nonlegal immigration-related services; amending
2 RCW 19.154.010, 19.154.020, 19.154.060, 19.154.090, 42.44.030, and
3 19.154.900; adding a new section to chapter 19.154 RCW; repealing RCW
4 19.154.030, 19.154.040, 19.154.050, 19.154.070, 19.154.080, and
5 19.154.902; prescribing penalties; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 19.154.010 and 1989 c 117 s 1 are each amended to read
8 as follows:

9 The legislature finds and declares that ~~((assisting persons
10 regarding immigration matters))~~ the practice by nonlawyers and other
11 unauthorized persons of providing legal advice and legal services to
12 others in immigration matters substantially affects the public
13 interest. The practice~~((s))~~ of ~~((immigration assistants have a
14 significant impact on the residents of the state of Washington))~~
15 nonlawyers and other unauthorized persons providing immigration-related
16 legal advice and legal services for compensation may impact the ability
17 of their customers to reside and work within the United States and to
18 establish and maintain stable families and business relationships. The
19 legislature further finds and declares that the previous scheme for

1 regulating the behavior of nonlawyers and other unauthorized persons
2 who provide immigration-related services is inadequate to address the
3 level of unfair and deceptive practices that exists in the marketplace
4 and often contributes to the unauthorized practice of law. It is the
5 intent of the legislature, through this act, to ~~((establish rules of~~
6 ~~practice and conduct for immigration assistants to promote honesty and~~
7 ~~fair dealing with residents and to preserve public confidence))~~
8 prohibit nonlawyers and other unauthorized persons from providing
9 immigration-related services that constitute the practice of law.

10 **Sec. 2.** RCW 19.154.020 and 1989 c 117 s 2 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) ~~((“Immigration assistant” means every person who, for~~
15 ~~compensation or the expectation of compensation, gives nonlegal~~
16 ~~assistance on an immigration matter. That assistance is limited to:~~

17 ~~(a) Transcribing responses to a government agency form selected by~~
18 ~~the customer which is related to an immigration matter, but does not~~
19 ~~include advising a person as to his or her answers on those forms;~~

20 ~~(b) Translating a person's answer to questions posed on those~~
21 ~~forms;~~

22 ~~(c) Securing for a person supporting documents currently in~~
23 ~~existence, such as birth and marriage certificates, which may be needed~~
24 ~~to submit with those forms;~~

25 ~~(d) Making referrals to attorneys who could undertake legal~~
26 ~~representation for a person in an immigration matter.~~

27 ~~(2))~~ “Immigration matter” means any proceeding, filing, or action
28 affecting the nonimmigrant, immigrant, or citizenship status of any
29 person ~~((which arises))~~ arising under immigration and naturalization
30 law, executive order, or presidential proclamation, or ~~((which arises~~
31 ~~under))~~ pursuant to any action of the United States citizenship and
32 immigration ~~((and naturalization))~~ services, the United States
33 department of labor, ~~((or))~~ the United States department of state, the
34 United States department of justice, the United States department of
35 homeland security, the board of immigration appeals, or any other
36 entity or agency having jurisdiction over immigration law.

1 ~~((3))~~ (2) "Compensation" means money, property, or anything else
2 of value.

3 (3) "Practice of law" has the definition given to it by the supreme
4 court of Washington whether by rule or decision, and includes all
5 exceptions and exclusions to that definition currently in place or
6 hereafter created, whether by rule or decision.

7 **Sec. 3.** RCW 19.154.060 and 1989 c 117 s 6 are each amended to read
8 as follows:

9 ~~((Immigration assistants shall offer or provide only nonlegal~~
10 ~~assistance in an immigration matter as defined in RCW 19.154.020.)) (1)~~
11 Persons, other than those licensed to practice law in this state or
12 otherwise permitted to practice law or represent others under federal
13 law in an immigration matter, are prohibited from engaging in the
14 practice of law in an immigration matter for compensation.

15 (2) Persons, other than those licensed to practice law in this
16 state or otherwise permitted to practice law or represent others under
17 federal law in an immigration matter, are prohibited from engaging in
18 the following acts or practices, for compensation:

19 (a) Selecting or assisting another in selecting, or advising
20 another as to his or her answers on, a government agency form or
21 document in an immigration matter;

22 (b) Selecting or assisting another in selecting, or advising
23 another in selecting, a benefit, visa, or program to apply for in an
24 immigration matter;

25 (c) Soliciting to prepare documents for, or otherwise representing
26 the interests of, another in a judicial or administrative proceeding in
27 an immigration matter;

28 (d) Explaining, advising, or otherwise interpreting the meaning or
29 intent of a question on a government agency form in an immigration
30 matter;

31 (e) Charging a fee for referring another to a person licensed to
32 practice law;

33 (f) Selecting, drafting, or completing legal documents affecting
34 the legal rights of another in an immigration matter.

35 (3) Persons, other than those holding an active license to practice
36 law issued by the Washington state bar association or otherwise

1 permitted to practice law or represent others under federal law in an
2 immigration matter, are prohibited from engaging in the following acts
3 or practices, regardless of whether compensation is sought:

4 (a) Representing, either orally or in any document, letterhead,
5 advertisement, stationery, business card, web site, or other comparable
6 written material, that he or she is a notario publico, notario,
7 immigration assistant, immigration consultant, immigration specialist,
8 or using any other designation or title, in any language, that conveys
9 or implies that he or she possesses professional legal skills in the
10 area of immigration law;

11 (b) Representing, in any language, either orally or in any
12 document, letterhead, advertisement, stationery, business card, web
13 site, or other comparable written material, that he or she can or is
14 willing to provide services in an immigration matter, if such services
15 would constitute the practice of law.

16 (4) The prohibitions of subsections (1) through (3) of this section
17 shall not apply to the activities of nonlawyer assistants acting under
18 the supervision of a person holding an active license to practice law
19 issued by the Washington state bar association or otherwise permitted
20 to practice law or represent others under federal law in an immigration
21 matter.

22 (5) In addition to complying with the prohibitions of subsections
23 (1) through (3) of this section, persons licensed as a notary public
24 under chapter 42.44 RCW who do not hold an active license to practice
25 law issued by the Washington state bar association shall not use the
26 term notario publico, notario, immigration assistant, immigration
27 consultant, immigration specialist, or any other designation or title,
28 in any language, that conveys or implies that he or she possesses
29 professional legal skills in the areas of immigration law, when
30 advertising notary public services in the conduct of their business.
31 A violation of any provision of this chapter by a person licensed as a
32 notary public under chapter 42.44 RCW shall constitute unprofessional
33 conduct under the uniform regulation of business and professions act,
34 chapter 18.235 RCW.

35 **Sec. 4.** RCW 19.154.090 and 1989 c 117 s 9 are each amended to read
36 as follows:

37 (1) The legislature finds and declares that any violation of this

1 chapter substantially affects the public interest and is an unfair and
2 deceptive act or practice and unfair method of competition in the
3 conduct of trade or commerce as set forth in RCW 19.86.020.

4 (2) In addition to all remedies available in chapter 19.86 RCW, a
5 person injured by a violation of this chapter may bring a civil action
6 to recover the actual damages proximately caused by a violation of this
7 chapter, or one thousand dollars, whichever is greater.

8 **Sec. 5.** RCW 42.44.030 and 2002 c 86 s 287 are each amended to read
9 as follows:

10 (1) In addition to the unprofessional conduct specified in RCW
11 18.235.130, the director may deny appointment as a notary public to any
12 person based on the following conduct, acts, or conditions:

13 ~~((1))~~ (a) Has had disciplinary action taken against any
14 professional license in this or any other state; ~~((or~~

15 ~~(2))~~ (b) Has engaged in official misconduct as defined in RCW
16 42.44.160(1), whether or not criminal penalties resulted; or

17 (c) Has violated any of the provisions of chapter 19.154 RCW.

18 (2) The director shall deliver a certificate evidencing the
19 appointment to each person appointed as a notary public. The
20 certificate may be signed in facsimile by the governor, the secretary
21 of state, and the director or the director's designee. The certificate
22 must bear a printed seal of the state of Washington.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.154 RCW
24 to read as follows:

25 Nothing in this chapter shall apply to or regulate any business to
26 the extent such regulation is prohibited or preempted by federal law.

27 **Sec. 7.** RCW 19.154.900 and 1989 c 117 s 11 are each amended to
28 read as follows:

29 This chapter shall be known and cited as the "immigration
30 ~~((assistant practices))~~ services fraud prevention act."

31 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
32 repealed:

33 (1) RCW 19.154.030 (Exemptions) and 1989 c 117 s 3;

34 (2) RCW 19.154.040 (Registration required) and 1989 c 117 s 4;

1 (3) RCW 19.154.050 (Change of address) and 1989 c 117 s 5;
2 (4) RCW 19.154.070 (Written contract--Requirements--Right to
3 rescind) and 1989 c 117 s 7;
4 (5) RCW 19.154.080 (Prohibited activities) and 1989 c 117 s 8; and
5 (6) RCW 19.154.902 (Effective date--1989 c 117) and 1989 c 117 s
6 15.

7 NEW SECTION. **Sec. 9.** This act takes effect one hundred eighty
8 days after final adjournment of the legislative session in which it is
9 enacted.

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