

SSB 5023 - H COMM AMD
By Committee on Judiciary

ADOPTED AND ENGROSSED 4/7/11

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 19.154.010 and 1989 c 117 s 1 are each amended to
4 read as follows:

5 The legislature finds and declares that ~~((assisting persons
6 regarding immigration matters))~~ the practice by nonlawyers and other
7 unauthorized persons of providing legal advice and legal services to
8 others in immigration matters substantially affects the public
9 interest. The practice~~((s))~~ of ~~((immigration assistants have a
10 significant impact on the residents of the state of Washington))~~
11 nonlawyers and other unauthorized persons providing immigration-related
12 legal advice and legal services for compensation may impact the ability
13 of their customers to reside and work within the United States and to
14 establish and maintain stable families and business relationships. The
15 legislature further finds and declares that the previous scheme for
16 regulating the behavior of nonlawyers and other unauthorized persons
17 who provide immigration-related services is inadequate to address the
18 level of unfair and deceptive practices that exists in the marketplace
19 and often contributes to the unauthorized practice of law. It is the
20 intent of the legislature, through this act, to ~~((establish rules of
21 practice and conduct for immigration assistants to promote honesty and
22 fair dealing with residents and to preserve public confidence))~~
23 prohibit nonlawyers and other unauthorized persons from providing
24 immigration-related services that constitute the practice of law.

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

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

1 (1) (~~"Immigration assistant" means every person who, for~~
2 ~~compensation or the expectation of compensation, gives nonlegal~~
3 ~~assistance on an immigration matter. That assistance is limited to:~~

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

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

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

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

14 ~~(2)) "Immigration matter" means any proceeding, filing, or action~~
15 ~~affecting the nonimmigrant, immigrant, or citizenship status of any~~
16 ~~person (~~which arises~~) arising under immigration and naturalization~~
17 ~~law, executive order, or presidential proclamation, or (~~which arises~~~~
18 ~~under)) pursuant to any action of the United States citizenship and~~
19 ~~immigration (~~and naturalization~~) services, the United States~~
20 ~~department of labor, (~~or~~) the United States department of state, the~~
21 ~~United States department of justice, the United States department of~~
22 ~~homeland security, the board of immigration appeals, or any other~~
23 ~~entity or agency having jurisdiction over immigration law.~~

24 ~~((3)) (2) "Compensation" means money, property, or anything else~~
25 ~~of value.~~

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

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

32 (~~Immigration assistants shall offer or provide only nonlegal~~
33 ~~assistance in an immigration matter as defined in RCW 19.154.020.)) (1)
34 Persons, other than those licensed to practice law in this state or
35 otherwise permitted to practice law or represent others under federal
36 law in an immigration matter, are prohibited from engaging in the
37 practice of law in an immigration matter for compensation.~~

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

5 (a) Advising or assisting another person in determining the
6 person's legal or illegal status for the purpose of an immigration
7 matter;

8 (b) Selecting or assisting another in selecting, or advising
9 another as to his or her answers on, a government agency form or
10 document in an immigration matter;

11 (c) Selecting or assisting another in selecting, or advising
12 another in selecting, a benefit, visa, or program to apply for in an
13 immigration matter;

14 (d) Soliciting to prepare documents for, or otherwise representing
15 the interests of, another in a judicial or administrative proceeding in
16 an immigration matter;

17 (e) Explaining, advising, or otherwise interpreting the meaning or
18 intent of a question on a government agency form in an immigration
19 matter;

20 (f) Charging a fee for referring another to a person licensed to
21 practice law;

22 (g) Selecting, drafting, or completing legal documents affecting
23 the legal rights of another in an immigration matter.

24 (3) Persons, other than those holding an active license to practice
25 law issued by the Washington state bar association or otherwise
26 permitted to practice law or represent others under federal law in an
27 immigration matter, are prohibited from engaging in the following acts
28 or practices, regardless of whether compensation is sought:

29 (a) Representing, either orally or in any document, letterhead,
30 advertisement, stationery, business card, web site, or other comparable
31 written material, that he or she is a notario publico, notario,
32 immigration assistant, immigration consultant, immigration specialist,
33 or using any other designation or title, in any language, that conveys
34 or implies that he or she possesses professional legal skills in the
35 area of immigration law;

36 (b) Representing, in any language, either orally or in any
37 document, letterhead, advertisement, stationery, business card, web

1 site, or other comparable written material, that he or she can or is
2 willing to provide services in an immigration matter, if such services
3 would constitute the practice of law.

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

10 (b) This section does not prohibit a person from offering
11 translation services, regardless of whether compensation is sought.
12 Translating words contained on a government form from English to
13 another language and translating a person's words from another language
14 to English does not constitute the unauthorized practice of law.

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

28 NEW SECTION. Sec. 4. A new section is added to chapter 19.154 RCW
29 to read as follows:

30 Persons who are not licensed to practice law in this state or who
31 are not otherwise permitted to represent others under federal law in an
32 immigration matter may engage in the following services for
33 compensation:

34 (1) Translate words on a government form that the person seeking
35 services presents to the person providing translation services;

36 (2) Secure existing documents for the person seeking services.

1 Existing documents include, for example, birth and marriage
2 certificates; and

3 (3) Offer other immigration related services that are not
4 prohibited under this chapter or any other provision of law or do not
5 constitute the practice of law.

6 **Sec. 5.** RCW 19.154.090 and 1989 c 117 s 9 are each amended to read
7 as follows:

8 (1) The legislature finds and declares that any violation of this
9 chapter substantially affects the public interest and is an unfair and
10 deceptive act or practice and unfair method of competition in the
11 conduct of trade or commerce as set forth in RCW 19.86.020.

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

16 **Sec. 6.** RCW 42.44.030 and 2002 c 86 s 287 are each amended to read
17 as follows:

18 (1) In addition to the unprofessional conduct specified in RCW
19 18.235.130, the director may deny appointment as a notary public to any
20 person based on the following conduct, acts, or conditions:

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

23 ~~(2))~~ (b) Has engaged in official misconduct as defined in RCW
24 42.44.160(1), whether or not criminal penalties resulted; or

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

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

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.154 RCW
32 to read as follows:

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

1 (6) RCW 19.154.902 (Effective date--1989 c 117) and 1989 c 117 s
2 15.

3 NEW SECTION. **Sec. 11.** This act takes effect one hundred eighty
4 days after final adjournment of the legislative session in which it is
5 enacted."

6 Correct the title.

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