
Judiciary Committee

SSB 5023

Title: An act relating to nonlegal immigration-related services.

Brief Description: Addressing nonlegal immigration-related services.

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

Brief Summary of Substitute Bill

- Prohibits persons from engaging in certain immigration assistance practices for compensation, unless the person is an attorney or is authorized under federal law to represent others in immigration matters.
- Prohibits certain persons from using terms such as immigration assistant, notario publico, and other terms that imply he or she has professional legal skills in immigration law.

Hearing Date: 3/9/11

Staff: Trudes Tango (786-7384).

Background:

The Immigration Assistant Practices Act (Act), enacted in 1989, establishes rules of practice for immigration assistants. Under the Act, any person who wishes to engage in the business of immigration assistance must first register with the Office of the Secretary of State. Immigration assistants may provide only nonlegal assistance on immigration matters. An immigration matter is any proceeding, filing, or action affecting the immigration or citizenship status of a person arising under immigration and naturalization laws or arising under any action by one of the enumerated federal agencies having jurisdiction over immigration law.

Assistance is limited to:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- transcribing responses to a government form selected by the person being assisted (the immigration assistant may not advise the person on how to answer the forms);
- translating a person's answers to questions posed on the forms;
- obtaining documents, such as birth and marriage certificates; and
- making referrals to attorneys who represent persons in immigration matters.

The Act prohibits an immigration assistant from doing a number of things, including:

- making any statement that he or she can or will obtain special favors from, or has influence with, a U.S. immigration service;
- communicating that he or she has special skills or expertise that allows the immigration assistant to provide advice on immigration matters;
- giving any legal advice concerning an immigration matter; and
- representing or advertising using titles or credentials such as "notary public" that could cause a customer to believe that the immigration assistant has special professional skills.

In some Latin American countries the term "notario publico" is a legal professional with specialized training on the legality of government documents. However, in Washington, a licensed notary public is a person who certifies that a signatory of a document is who he or she claims to be.

A violation of the Act is a Consumer Protection Act violation and a gross misdemeanor.

Federal law.

Federal regulations specify who may represent immigrants in immigration proceedings. Those persons are attorneys, recognized organizations, accredited representatives, and other qualified representatives who have filed specific forms with the federal agencies before representing an immigrant in an immigration proceeding.

Summary of Bill:

The Immigration Assistant Practices Act is renamed the Immigration Services Fraud Prevention Act. The term immigration assistant is removed and many of the provisions, including the requirement for immigration assistants to register, are repealed and replaced.

Persons who are not licensed attorneys or are not authorized to represent others in immigration matters under federal law may not engage in the following acts or practices for compensation:

- selecting or assisting another in selecting, or advising another as to answers on, a government agency form or document in an immigration matter;
- selecting or assisting another in selecting, or advising another in selecting, a benefit, visa, or program to apply for in an immigration matter;
- soliciting to prepare documents for another in a judicial or administrative proceeding in an immigration matter;
- explaining, advising, or otherwise interpreting the meaning or intent of a question on a government agency form in an immigration matter;
- charging a fee for referring another to an attorney; and
- the practice of law in an immigration matter.

In addition, those persons are prohibited from engaging in the following acts or practices, whether or not compensation is sought:

- representing that he or she is a notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or using any other designation, in any language, that conveys or implies that he or she possesses professional legal skills in immigration law; and
- representing, in any language, that he or she can or is willing to provide services in an immigration matter, if such services would constitute the practice of law.

The prohibitions do not apply to nonlawyer assistants acting under the supervision of a licensed attorney or person authorized to represent others under federal law in immigration matters.

Notary publics licensed in Washington who are not licensed attorneys may not use the term notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or other designation conveying or implying that he or she possesses professional legal skills in the areas of immigration law, when advertising notary public services.

A person injured by a violation of the Act may bring a civil action to recover actual damages proximately caused by the violation or \$1,000, whichever is greater.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 180 days after adjournment of the session in which the bill is passed.