

# HOUSE BILL REPORT

## SSB 5023

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**As Passed House - Amended:**  
April 7, 2011

**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 History:**

**Committee Activity:**

Judiciary: 3/9/11, 3/17/11 [DPA].

**Floor Activity:**

Passed House - Amended: 4/7/11, 92-0.

**Brief Summary of Substitute Bill  
(As Amended by House)**

- 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.
- Requests the state Supreme Court's Practice of Law Board to evaluate issues regarding immigration related services.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Eddy, Frockt, Kirby, Orwall and Roberts.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Klippert and Nealey.

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*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.*

**Staff:** Trudes Tango (786-7384).

**Background:**

The Immigration Assistant Practices Act (Act) 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:

- 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 United States 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 Amended 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:

- advising or assisting another in determining the person's legal or illegal status for the purpose of an immigration matter;
- 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. Persons who are not licensed attorneys or not allowed to represent immigrants under federal law may do the following, for compensation:

- translate words on a government form that the person seeking services presents to the person translating;
- secure existing documents, such as marriage and birth certificates; and
- offer other immigration related services that are not otherwise prohibited and do not constitute the practice of law.

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.

The Legislature requests that the state Supreme Court's Practice of Law Board (Board) evaluate the types of services nonlawyers may provide to immigrants, the level of access to and the quality of nonlegal and legal services available for immigrants, and the level of need immigrants have for such services. A report to the Legislature of the Board's findings and recommendations must be presented by December 1, 2011.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This is a necessary bill to fix a statute that has allowed people to engage in the unauthorized practice of law. Since 1989, the Immigration Assistant Practices Act (Act) has allowed people to call themselves "immigration assistants." The term "immigration assistant" is deceptive and conveys that the person has special expertise. However, there is no training required for immigration assistants. They are just required to register. It is difficult to provide meaningful assistance to a person in immigration matters without actually practicing law.

This bill removes the title of "immigration assistant" from the books, brings the law in line with federal law, and provides enhanced remedies for people who have been injured. People will still be able to transcribe and translate for immigrants, but there is very little room under this bill for other types of services, such as giving someone advice on what form to use or how to answer a form. The bill is not going to change substantively what people can or cannot do. If someone is already doing what they are allowed to do, that is still legal. People will still be able to help others for compensation as long as it does not constitute the practice of law or fall into one of the prohibited practices described in the bill.

This is a national issue. Many states have taken steps to prohibit immigration assistants. The original law was ill-conceived to begin with. The consequences of bad advice can result in removal proceedings and other harsh consequences for the immigrant. This is a consumer protection bill. The federal laws detail who can represent persons and regulate who can prepare forms. Those persons include accredited representatives, lawyers, law students from clinics, and reputable individuals. The bill gives immigration assistants ample time to register under federal law. Those persons are not prohibited from translating, transcribing, and getting existing documents. Attorneys are subject to disciplinary rules and can lose their license to practice. There is no such penalty for immigration assistants, but there can be major consequences for the immigrant if something is done wrong. Some of the hardest cases are ones where a client has a good case, but the case has collapsed because it was handled incorrectly by an immigration assistant. Assistants sometimes charge more money than an attorney. Many immigrants have been harmed by people calling themselves immigration assistants. People think that the state has given approval to immigration assistants. The federal law regulating who can assist people in immigration matters is sufficient.

(Opposed) There is much misunderstanding about what an immigration assistant does. Attorneys were charging too much for providing assistance to people. Immigration assistants normally help people fill out applications. They translate instructions on forms, fill in the blanks, translate documents, and make sure everything is correct. Just because a person has a

license to practice law, does not mean the person has any experience. The state should seek a solution, but not shut these businesses down.

**Persons Testifying:** (In support) Pedro Bernal, Office of the Attorney General; Bonnie Stern Wasser, American Immigration Lawyers Association; Lourdes Fuentes, Latina/o Bar Association of Washington; Jorge Baron, Northwest Immigrant Rights Project; and Lisa Seifert, Seifert Law Offices and American Immigration Lawyers Association.

(Opposed) Dario Ybarra, Professional Bilingual Services Consultants.

**Persons Signed In To Testify But Not Testifying:** None.