

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5023

62nd Legislature
2011 Regular Session

Passed by the Senate April 21, 2011
YEAS 42 NAYS 4

President of the Senate

Passed by the House April 7, 2011
YEAS 92 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5023** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5023

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

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 new sections to chapter 19.154 RCW; creating a new
4 section; repealing RCW 19.154.030, 19.154.040, 19.154.050, 19.154.070,
5 19.154.080, and 19.154.902; prescribing penalties; and providing an
6 effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 notary public under chapter 42.44 RCW shall constitute unprofessional
2 conduct under the uniform regulation of business and professions act,
3 chapter 18.235 RCW.

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

6 Persons who are not licensed to practice law in this state or who
7 are not otherwise permitted to represent others under federal law in an
8 immigration matter may engage in the following services for
9 compensation:

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

12 (2) Secure existing documents for the person seeking services.
13 Existing documents include, for example, birth and marriage
14 certificates; and

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

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

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

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

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

30 (1) In addition to the unprofessional conduct specified in RCW
31 18.235.130, the director may deny appointment as a notary public to any
32 person based on the following conduct, acts, or conditions:

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

1 (2)) (b) Has engaged in official misconduct as defined in RCW
2 42.44.160(1), whether or not criminal penalties resulted; or
3 (c) Has violated any of the provisions of chapter 19.154 RCW.

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

9 NEW SECTION. Sec. 7. A new section is added to chapter 19.154 RCW
10 to read as follows:

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

13 **Sec. 8.** RCW 19.154.900 and 1989 c 117 s 11 are each amended to
14 read as follows:

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

17 NEW SECTION. Sec. 9. (1)(a) The legislature recognizes that
18 immigrants in Washington need legal services to assist them in
19 immigration matters, and it is difficult for existing organizations to
20 meet those needs because of high case loads and limited resources.

21 (b) The legislature also recognizes that the difference between
22 offering nonlegal services and offering legal services in immigration
23 matters is sometimes difficult to distinguish. Not understanding or
24 recognizing the distinction between nonlegal services and legal
25 services in immigration matters can result in a person engaging in the
26 unauthorized practice of law and can result in irreparable consequences
27 for immigrants who seek assistance.

28 (2) Therefore, the legislature respectfully requests that the
29 supreme court's practice of law board, within available resources,
30 evaluate the following:

31 (a) The specific services nonattorneys may provide to immigrants
32 that do not rise to the level of the practice of law in immigration
33 matters;

34 (b) The level of access to and the quality of nonlegal and legal

1 services immigrants have and the ways in which access and quality can
2 be improved;

3 (c) The level of need immigrants have for nonlegal services
4 compared to the need for legal services in immigration matters.

5 (3) A report of the board's findings and recommendations must be
6 presented to the legislature no later than December 1, 2011.

7 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
8 each repealed:

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

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

11 (3) RCW 19.154.050 (Change of address) and 1989 c 117 s 5;

12 (4) RCW 19.154.070 (Written contract--Requirements--Right to
13 rescind) and 1989 c 117 s 7;

14 (5) RCW 19.154.080 (Prohibited activities) and 1989 c 117 s 8; and

15 (6) RCW 19.154.902 (Effective date--1989 c 117) and 1989 c 117 s
16 15.

17 NEW SECTION. **Sec. 11.** This act takes effect one hundred eighty
18 days after final adjournment of the legislative session in which it is
19 enacted.

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