

HOUSE BILL REPORT

HB 2691

As Reported by House Committee On:
Judiciary

Title: An act relating to the regulation of legal service contractors.

Brief Description: Regulating legal service contractors.

Sponsors: Representative Kirby.

Brief History:

Committee Activity:

Judiciary: 2/3/14, 2/5/14 [DPS].

Brief Summary of Substitute Bill

- Provides that legal service contractors are not insurers, and the legal service plans they offer are not insurance, under the state's insurance laws.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; Nealey, Assistant Ranking Minority Member; Goodman, Haler, Kirby, Klippert, Muri, Orwall, Roberts, Shea and Walkinshaw.

Staff: Edie Adams (786-7180).

Background:

A legal service plan, sometimes referred to as a prepaid legal plan, is an arrangement in which a person prepays for legal services that the person may need in the future. Typically the person pays a monthly or annual fee which entitles the person to certain basic legal services as they are needed. Basic legal services that may be provided under a prepaid legal plan include legal advice and consultation by telephone, office consultations, review of simple legal documents, and correspondence or communication made by a lawyer to an adverse party. Some plans may offer more comprehensive services at an extra charge for more complex legal services. The provider of the legal service plan contracts with private

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.

attorneys or law firms to provide covered legal services to the persons covered by the plan. Providers of legal service plans are not currently regulated in Washington.

Insurers and insurance transactions are subject to the Insurance Code (Code). Under the Code, an "insurer" includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. "Insurance" is defined as a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies. There are some types of businesses or transactions that fall within these definitions but that have been specifically exempted from regulation under the Code, or that have been made subject to less stringent forms of regulation than what applies to traditional insurance.

Summary of Substitute Bill:

A public policy is stated that ready access to legal assistance and counsel for all citizens of the state is to be promoted, and that plans that promote arrangements between the public as consumers of legal services and lawyers who provide legal services to the public should be encouraged.

The Code is amended to provide that legal service contractors are not insurers, and legal service plans are not insurance, as those terms are defined under the Code. A "legal service contractor" is a person, entity, or group of persons who are not engaged in the practice of law or the business of insurance and who provide enrolled participants with legal services through agreements with providing attorneys. "Legal service plan" means an arrangement between a legal service contractor and a person or group of persons where specified legal services are provided to enrolled participants in consideration of a specified payment for a specified time period.

The act does not in any way affect the practice of law in Washington or apply to the following arrangements: certain retainer, fee, or representation agreements made by an attorney or firm of attorneys with any person or group other than a legal service contractor; free referral of individual clients to an attorney by a nonprofit lawyer referral service; employee welfare benefit plans if state law is preempted by federal law; legal assistance plans financed primarily by public funds or public service funds; and policies of insurance or coverage incidental to such insurance.

Substitute Bill Compared to Original Bill:

The original bill established regulatory requirements for legal service contractors transacting business in Washington. These regulations included: obtaining a certificate of registration from the Insurance Commissioner (Commissioner); disclosing various business and financial information to the Commissioner; meeting certain requirements with respect to the content of their participation agreements and the conduct their businesses; posting a bond or other security; and filing annual financial reports with the Commissioner.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The issues raised concerning the previous bill (House Bill 2287) have been worked through. With the help of the Insurance Commissioner and other stakeholders, the bill has been simplified and the regulatory provisions have been eliminated, and the bill is now ready to move forward.

(Opposed) None.

Persons Testifying: Representative Kirby, prime sponsor; and Brian Kreger, Kreger Bregly Professional Limited Liability Company.

Persons Signed In To Testify But Not Testifying: None.