

SENATE BILL REPORT

SB 5412

As Reported by Senate Committee On:
Law & Justice, February 12, 2015

Title: An act relating to the regulation of service contracts.

Brief Description: Addressing the regulation of service contracts.

Sponsors: Senator Angel.

Brief History:

Committee Activity: Law & Justice: 1/29/15, 2/12/15 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Darneille and Kohl-Welles.

Staff: Tim Ford (786-7423)

Background: A legal service plan is a contract that allows a person to prepay, on a monthly or yearly basis, for legal services that they may need in the future. A variety of legal service plans are offered to meet the different needs of participants. The provider of the legal service plan contracts with private attorneys or law firms to provide covered legal services to the persons paying for the plan. Basic legal services provided include legal consultation, advice, and other assistance for a variety of legal matters such as wills, trusts, review of contracts, and simple divorces. Some plans offer more comprehensive or complex legal services at an extra charge for matters such as trials, bankruptcy, and real estate matters.

While other states have enacted express regulations for legal service providers, no Washington State law expressly regulates providers of legal service plans. State law does not restrict who may offer or provide legal service plans, and state law does not restrict how a plan may be offered or structured. The actual practice of law is subject to oversight by courts, and lawyers are subject to disciplinary rules. Businesses that contract with consumers are subject to the state Consumer Protection Act. Employee welfare benefit plans are

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regulated under the federal Employee Retirement Income Security Act of 1974. Insurers and insurance plans are regulated by the Office of the Insurance Commissioner.

Summary of Bill: The state insurance code is amended to provide that legal service contractors are not insurers, and legal service plans are not insurance. A legal service contractor is not engaged in the practice of law nor the business of insurance. A legal service contractor provides enrolled participants with legal services through agreements with providing attorneys. Legal service plans sold by a legal service contractor means specified legal services 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.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Legal service plans provide people an opportunity to receive legal help that they otherwise might not be able to afford. The bill recognizes that a legal services contract is not insurance and precludes regulation by the Office of the Insurance Commissioner. This bill passed the House in 2014. Law firms who provide the contracted service are remunerated by Legal Shield, a provider of contract plans. Lombino Martini is the only law firm in Washington doing business with Legal Shield. Lombino Martini discounts its rate by 25 percent for clients using Legal Shield. Lombino Martini does not pay Legal Shield.

Persons Testifying: PRO: Senator Angel, prime sponsor; Brian Kreger, Legal Shield; Joseph Lombino, Lombino Martino, Professional Services Corporation.