

HOUSE BILL REPORT

SB 5213

As Reported by House Committee On: Judiciary

Title: An act relating to the award of fees for limited license legal technicians in certain domestic violence cases.

Brief Description: Concerning the award of fees for limited license legal technicians in certain domestic violence cases.

Sponsors: Senators Wilson and Zeiger.

Brief History:

Committee Activity:

Judiciary: 2/21/18, 2/22/18 [DP].

Brief Summary of Bill

- Authorizes a court in a domestic violence proceeding to require a respondent to pay Limited License Legal Technician fees.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

Staff: Cece Clynch (786-7195).

Background:

Domestic Violence Prevention.

Civil domestic violence protection orders are available to those who have suffered physical harm, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking by a family or household member. In addition to restraining further acts of domestic violence, the order can prohibit the perpetrator from contacting the victim or knowingly coming within a specified distance of a location.

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.

In an action brought under chapter 26.50 RCW regarding domestic violence prevention, a court may provide a variety of relief, including requiring the respondent to pay certain costs and fees, including reasonable attorneys' fees.

Limited License Legal Technician.

The Washington Supreme Court regulates the practice of law in the state. Court rule defines the practice of law as the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person which requires the knowledge and skill of a person trained in the law, specifically including:

- giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration;
- selection, drafting, or completion of legal documents of agreements which affect the legal rights of an entity or person;
- representation of another entity or person in a court or other proceedings in which legal pleadings are filed or a record is established as the basis for judicial review; and
- negotiation of legal rights or responsibilities on behalf of another entity or person.

A limited license legal technician (LLLT) is a person qualified by education, training, and work experience and authorized to engage in the limited practice of law in an approved practice area of law as specified in Washington Court Admission and Practice Rule (APR) 28. Within that scope, an LLLT is a member of the legal profession and is a representative of clients.

An LLLT must complete all of the following educational requirements:

- an associate degree or higher in any subject;
- 45 credits of Core Curriculum at an approved paralegal program. Five Washington colleges offer paralegal programs approved for the LLLT Core Curriculum: Edmonds Community College; Highline College; Spokane Community College; Tacoma Community College; and Whatcom Community College; and
- practice Area Curriculum at the University of Washington. Currently, the only LLLT practice area is domestic relations, and the Practice Area Curriculum consists of three quarters of classes in family law co-taught by law professors and practicing attorneys. The classes are taught via live streaming and are attended remotely.

There are three examinations that must be taken to be licensed as a LLLT: the paralegal core competency exam; the practice area exam; and the professional responsibility exam. Prior to being licensed as an LLLT, a person must also have 3,000 hours of substantive law-related work experience supervised by a licensed lawyer. This work experience must be acquired within a six year window, no more than three years prior to or after passing the practice area exam.

As a representative of clients, an LLLT acts as an advisor and an evaluator. She or he may: obtain relevant facts and explain their relevancy; inform the client of applicable procedures, deadlines, and documents which must be filed; provide the client with approved self-help materials; review documents or exhibits that the client has received and explain them; select, complete, file, and effect service of certain forms, including those that have been approved through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; perform legal research; draft letters setting forth legal

opinions and documents if the work is reviewed and approved by a lawyer; advise a client as to other documents that may be necessary; and assist the client in obtaining necessary documents such as birth, death, and marriage certificates. An LLLT is prohibited from representing a client in court proceedings or negotiating the client's legal rights or responsibilities.

Within the domestic relations practice area, APR 28 specifies the scope of practice of an LLLT and also sets forth prohibited acts. Domestic relations is explicitly defined to include domestic violence actions. However, an LLLT is prohibited from advising or assisting clients regarding other protection orders, such as anti-harassment orders, criminal no-contact orders, anti-stalking orders, and sexual assault protection orders in domestic violence actions.

Summary of Bill:

A court in a domestic violence proceeding may award limited license legal technician fees, when the fees are incurred by a person licensed and practicing in accord with Washington Court Admission and Practice Rule 28.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This is a technical fix bill to allow victims to recover fees for the work that their limited license legal technicians (LLLTs) have done for them, and for LLLTs to be paid for the work that they do. It updates the law and gives judicial officers specific authority to award fees without requiring briefing on why an LLLT should be awarded fees. The LLLT program is fairly new, existing just since 2015. Limited license legal technicians frequently work with victims of domestic violence. Currently, LLLTs have difficulty getting the court to order that they be paid. While there are no set fees in these types of cases, an attorney in such a case might charge about \$10,000, while an LLLT's fees might be in the neighborhood of \$3,000.

(Opposed) None.

Persons Testifying: Senator Wilson, prime sponsor; and Jeff Kinstler.

Persons Signed In To Testify But Not Testifying: None.