

**ESHB 1788** - S COMM AMD

By Committee on Law & Justice

**ADOPTED 04/10/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 2.44  
4 RCW to read as follows:

5 The legislature recognizes the inherent plenary authority of the  
6 Washington state supreme court to regulate court-related functions,  
7 including the practice of law and the administration of justice. The  
8 legislature further recognizes that the Washington state supreme  
9 court has commissioned a work group to undertake a review of the  
10 structure of the Washington state bar association. Because the court  
11 may conclude that it is necessary or desirable to make changes that  
12 may be inconsistent with the provisions of the 1933 state bar act,  
13 the legislature intends to preserve the existing state bar  
14 association but repeal provisions of the act that may be interpreted  
15 as limiting the court's authority to make structural or governance  
16 changes that the court determines to be necessary or desirable.

17 **Sec. 2.** RCW 2.48.010 and 1933 c 94 s 2 are each reenacted and  
18 amended to read as follows:

19 There is ~~((hereby))~~ created ~~((as))~~ an agency of the state ~~((, for~~  
20 ~~the purpose and with the powers hereinafter set forth, an~~  
21 ~~association))~~ within the judicial branch to be known as the  
22 Washington state bar association ~~((, hereinafter designated as the~~  
23 ~~state bar, which association shall))~~ or another name as designated by  
24 the supreme court. The supreme court may provide for (1) the powers,  
25 governance, and operation of the association, including the  
26 establishment of fees sufficient to make the association self-  
27 sufficient; (2) the practice of law; and (3) the administration of  
28 justice. The supreme court may provide that the association have a  
29 common seal and may sue and be sued, and ~~((which))~~ may, for the  
30 purpose of carrying into effect and promoting the objects of ~~((said))~~  
31 the association, enter into contracts and acquire, hold, encumber,

1 and dispose of such real and personal property as is necessary  
2 (~~therete~~). If the supreme court delegates responsibilities for  
3 governance of the association to a board, committee, or other group,  
4 a majority of the members of such board, committee, or group must be  
5 subject to election by the membership of the association.

6 **Sec. 3.** RCW 2.48.180 and 2003 c 53 s 2 are each amended to read  
7 as follows:

8 (1) As used in this section:

9 (a) "Legal provider" means (~~an active member in good standing of~~  
10 ~~the state bar, and any other~~) a person authorized by the Washington  
11 state supreme court to engage in full or limited practice of law;

12 (b) "Nonlawyer" means a person to whom the Washington supreme  
13 court has granted a limited authorization to practice law but who  
14 practices law outside that authorization, and a person who is not  
15 (~~an active member in good standing of the state bar, including~~  
16 ~~persons who are disbarred or suspended from membership~~) authorized  
17 by the Washington state supreme court to engage in full or limited  
18 practice of law;

19 (c) "Ownership interest" means the right to control the affairs  
20 of a business, or the right to share in the profits of a business,  
21 and includes a loan to the business when the interest on the loan is  
22 based upon the income of the business or the loan carries more than a  
23 commercially reasonable rate of interest.

24 (2) The following constitutes unlawful practice of law:

25 (a) A nonlawyer practices law, or holds himself or herself out as  
26 entitled to practice law;

27 (b) A legal provider holds an investment or ownership interest in  
28 a business primarily engaged in the practice of law, knowing that a  
29 nonlawyer holds an investment or ownership interest in the business;

30 (c) A nonlawyer knowingly holds an investment or ownership  
31 interest in a business primarily engaged in the practice of law;

32 (d) A legal provider works for a business that is primarily  
33 engaged in the practice of law, knowing that a nonlawyer holds an  
34 investment or ownership interest in the business; or

35 (e) A nonlawyer shares legal fees with a legal provider.

36 (3) (a) Unlawful practice of law is a crime. A single violation of  
37 this section is a gross misdemeanor.

1 (b) Each subsequent violation of this section, whether alleged in  
2 the same or in subsequent prosecutions, is a class C felony  
3 punishable according to chapter 9A.20 RCW.

4 (4) Nothing contained in this section affects the power of the  
5 courts to grant injunctive or other equitable relief or to punish as  
6 for contempt.

7 (5) Whenever a legal provider or a person licensed by the state  
8 in a business or profession is convicted, enjoined, or found liable  
9 for damages or a civil penalty or other equitable relief under this  
10 section, the plaintiff's attorney shall provide written notification  
11 of the judgment to the appropriate regulatory or disciplinary body or  
12 agency.

13 (6) A violation of this section is cause for discipline and  
14 constitutes unprofessional conduct that could result in any  
15 regulatory penalty provided by law, including refusal, revocation, or  
16 suspension of a business or professional license, or right or  
17 admission to practice. Conduct that constitutes a violation of this  
18 section is unprofessional conduct in violation of RCW 18.130.180.

19 (7) In a proceeding under this section it is a defense if proven  
20 by the defendant by a preponderance of the evidence that, at the time  
21 of the offense, the conduct alleged was authorized by the rules of  
22 professional conduct or the admission to practice rules, or  
23 Washington business and professions licensing statutes or rules.

24 (8) Independent of authority granted to the attorney general, the  
25 prosecuting attorney may petition the superior court for an  
26 injunction against a person who has violated this chapter. Remedies  
27 in an injunctive action brought by a prosecuting attorney are limited  
28 to an order enjoining, restraining, or preventing the doing of any  
29 act or practice that constitutes a violation of this chapter and  
30 imposing a civil penalty of up to five thousand dollars for each  
31 violation. The prevailing party in the action may, in the discretion  
32 of the court, recover its reasonable investigative costs and the  
33 costs of the action including a reasonable attorney's fee. The degree  
34 of proof required in an action brought under this subsection is a  
35 preponderance of the evidence. An action under this subsection must  
36 be brought within three years after the violation of this chapter  
37 occurred.

38 NEW SECTION. **Sec. 4.** The following acts or parts of acts are  
39 each repealed:

- 1 (1) RCW 2.48.020 (First members) and 1933 c 94 s 3;
- 2 (2) RCW 2.48.021 (New members) and 1933 c 94 s 4;
- 3 (3) RCW 2.48.030 (Board of governors) and 1982 1st ex.s. c 30 s
- 4 1, 1972 ex.s. c 66 s 1, & 1933 c 94 s 5;
- 5 (4) RCW 2.48.035 (Board of governors—Membership—Effect of
- 6 creation of new congressional districts or boundaries) and 1982 1st
- 7 ex.s. c 30 s 2;
- 8 (5) RCW 2.48.040 (State bar governed by board of governors) and
- 9 1933 c 94 s 6;
- 10 (6) RCW 2.48.050 (Powers of governors) and 1933 c 94 s 7;
- 11 (7) RCW 2.48.060 (Admission and disbarment) and 1933 c 94 s 8;
- 12 (8) RCW 2.48.070 (Admission of veterans) and 1945 c 181 s 1;
- 13 (9) RCW 2.48.080 (Admission of veterans—Establishment of
- 14 requirements if in service) and 2011 c 336 s 63 & 1945 c 181 s 2;
- 15 (10) RCW 2.48.090 (Admission of veterans—Establishment of
- 16 requirements if discharged) and 2011 c 336 s 64 & 1945 c 181 s 3;
- 17 (11) RCW 2.48.100 (Admission of veterans—Effect of disability
- 18 discharge) and 1945 c 181 s 4;
- 19 (12) RCW 2.48.110 (Admission of veterans—Fees of veterans) and
- 20 1945 c 181 s 5;
- 21 (13) RCW 2.48.130 (Membership fee—Active) and 1957 c 138 s 1,
- 22 1953 c 256 s 1, & 1933 c 94 s 9;
- 23 (14) RCW 2.48.140 (Membership fee—Inactive) and 1955 c 34 s 1 &
- 24 1933 c 94 s 10;
- 25 (15) RCW 2.48.150 (Admission fees) and 2011 c 336 s 65 & 1933 c
- 26 94 s 11;
- 27 (16) RCW 2.48.160 (Suspension for nonpayment of fees) and 2011 c
- 28 336 s 66 & 1933 c 94 s 12;
- 29 (17) RCW 2.48.166 (Admission to or suspension from practice—
- 30 Noncompliance with support order—Rules) and 1997 c 58 s 810;
- 31 (18) RCW 2.48.170 (Only active members may practice law) and 2011
- 32 c 336 s 67 & 1933 c 94 s 13;
- 33 (19) RCW 2.48.190 (Qualifications on admission to practice) and
- 34 1987 c 202 s 107 & 1921 c 126 s 4;
- 35 (20) RCW 2.48.210 (Oath on admission) and 2013 c 23 s 1 & 1921 c
- 36 126 s 12;
- 37 (21) RCW 2.48.220 (Grounds of disbarment or suspension) and 2011
- 38 c 336 s 68, 1921 c 126 s 14, & 1909 c 139 s 7; and
- 39 (22) RCW 2.48.230 (Code of ethics) and 1921 c 126 s 15.

1        NEW SECTION.    **Sec. 5.**    (1) RCW 2.48.010 is recodified as a  
2 section in chapter 2.04 RCW.

3        (2) RCW 2.48.180 and RCW 2.48.200 are each recodified as sections  
4 in chapter 2.44 RCW.

5        NEW SECTION.    **Sec. 6.**    This act takes effect July 1, 2020."

**ESHB 1788** - S COMM AMD  
By Committee on Law & Justice

**ADOPTED 04/10/2019**

6        On page 1, line 1 of the title, after "association;" strike the  
7 remainder of the title and insert "amending RCW 2.48.180; reenacting  
8 and amending RCW 2.48.010; adding new sections to chapter 2.44 RCW;  
9 adding a new section to chapter 2.04 RCW; recodifying RCW 2.48.010,  
10 2.48.180, and 2.48.200; repealing RCW 2.48.020, 2.48.021, 2.48.030,  
11 2.48.035, 2.48.040, 2.48.050, 2.48.060, 2.48.070, 2.48.080, 2.48.090,  
12 2.48.100, 2.48.110, 2.48.130, 2.48.140, 2.48.150, 2.48.160, 2.48.166,  
13 2.48.170, 2.48.190, 2.48.210, 2.48.220, and 2.48.230; and providing  
14 an effective date."

--- END ---