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HOUSE BILL 1579

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AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington                      57th Legislature                      2001 Regular Session

By Representatives Carrell, Lantz, Hurst and Rockefeller

Read first time 01/30/2001. Referred to Committee on Judiciary.

1            AN ACT Relating to the wrongful practice of law; reenacting and  
2 amending RCW 9.94A.320; reenacting RCW 2.48.180 and 9.12.010; creating  
3 a new section; and declaring an emergency.

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

5            NEW SECTION.    **Sec. 1.**    The purpose of this act is to respond to  
6 *State v. Thomas*, 103 Wn. App. 800, by reenacting and ranking, without  
7 changes, legislation relating to the crime of unlawful practice of law,  
8 enacted as sections 26 and 27, chapter 285, Laws of 1995.

9            **Sec. 2.**    RCW 2.48.180 and 1995 c 285 s 26 are each reenacted to  
10 read as follows:

11            (1) As used in this section:

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

15            (b) "Nonlawyer" means a person to whom the Washington supreme court  
16 has granted a limited authorization to practice law but who practices  
17 law outside that authorization, and a person who is not an active

1 member in good standing of the state bar, including persons who are  
2 disbarred or suspended from membership;

3 (c) "Ownership interest" means the right to control the affairs of  
4 a business, or the right to share in the profits of a business, and  
5 includes a loan to the business when the interest on the loan is based  
6 upon the income of the business or the loan carries more than a  
7 commercially reasonable rate of interest.

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

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

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

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

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

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

20 (3) Unlawful practice of law is a crime. A single violation of  
21 this section is a gross misdemeanor. Each subsequent violation,  
22 whether alleged in the same or in subsequent prosecutions, is a class  
23 C felony.

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

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

33 (6) A violation of this section is cause for discipline and  
34 constitutes unprofessional conduct that could result in any regulatory  
35 penalty provided by law, including refusal, revocation, or suspension  
36 of a business or professional license, or right or admission to  
37 practice. Conduct that constitutes a violation of this section is  
38 unprofessional conduct in violation of RCW 18.130.180.

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

6 (8) Independent of authority granted to the attorney general, the  
7 prosecuting attorney may petition the superior court for an injunction  
8 against a person who has violated this chapter. Remedies in an  
9 injunctive action brought by a prosecuting attorney are limited to an  
10 order enjoining, restraining, or preventing the doing of any act or  
11 practice that constitutes a violation of this chapter and imposing a  
12 civil penalty of up to five thousand dollars for each violation. The  
13 prevailing party in the action may, in the discretion of the court,  
14 recover its reasonable investigative costs and the costs of the action  
15 including a reasonable attorney's fee. The degree of proof required in  
16 an action brought under this subsection is a preponderance of the  
17 evidence. An action under this subsection must be brought within three  
18 years after the violation of this chapter occurred.

19 **Sec. 3.** RCW 9.12.010 and 1995 c 285 s 27 are each reenacted to  
20 read as follows:

21 Every person who brings on his or her own behalf, or instigates,  
22 incites, or encourages another to bring, any false suit at law or in  
23 equity in any court of this state, with intent thereby to distress or  
24 harass a defendant in the suit, or who serves or sends any paper or  
25 document purporting to be or resembling a judicial process, that is not  
26 in fact a judicial process, is guilty of a misdemeanor; and in case the  
27 person offending is an attorney, he or she may, in addition thereto be  
28 disbarred from practicing law within this state.

29 **Sec. 4.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and  
30 2000 c 66 s 2 are each reenacted and amended to read as follows:

31 TABLE 2

32 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

33 XVI Aggravated Murder 1 (RCW 10.95.020)  
34 XV Homicide by abuse (RCW 9A.32.055)  
35 Malicious explosion 1 (RCW 70.74.280(1))

1 Murder 1 (RCW 9A.32.030)

2 XIV Murder 2 (RCW 9A.32.050)

3 XIII Malicious explosion 2 (RCW 70.74.280(2))

4 Malicious placement of an explosive 1 (RCW

5 70.74.270(1))

6 XII Assault 1 (RCW 9A.36.011)

7 Assault of a Child 1 (RCW 9A.36.120)

8 Malicious placement of an imitation device

9 1 (RCW 70.74.272(1)(a))

10 Rape 1 (RCW 9A.44.040)

11 Rape of a Child 1 (RCW 9A.44.073)

12 XI Manslaughter 1 (RCW 9A.32.060)

13 Rape 2 (RCW 9A.44.050)

14 Rape of a Child 2 (RCW 9A.44.076)

15 X Child Molestation 1 (RCW 9A.44.083)

16 Indecent Liberties (with forcible

17 compulsion) (RCW 9A.44.100(1)(a))

18 Kidnapping 1 (RCW 9A.40.020)

19 Leading Organized Crime (RCW

20 9A.82.060(1)(a))

21 Malicious explosion 3 (RCW 70.74.280(3))

22 Manufacture of methamphetamine (RCW

23 69.50.401(a)(1)(ii))

24 Over 18 and deliver heroin,

25 methamphetamine, a narcotic from

26 Schedule I or II, or flunitrazepam

27 from Schedule IV to someone under 18

28 (RCW 69.50.406)

29 IX Assault of a Child 2 (RCW 9A.36.130)

30 Controlled Substance Homicide (RCW

31 69.50.415)

32 Explosive devices prohibited (RCW

33 70.74.180)

34 Homicide by Watercraft, by being under the

35 influence of intoxicating liquor or

36 any drug (RCW 79A.60.050)

1 Inciting Criminal Profiteering (RCW  
2 9A.82.060(1)(b))  
3 Malicious placement of an explosive 2 (RCW  
4 70.74.270(2))  
5 Over 18 and deliver narcotic from Schedule  
6 III, IV, or V or a nonnarcotic, except  
7 flunitrazepam or methamphetamine, from  
8 Schedule I-V to someone under 18 and 3  
9 years junior (RCW 69.50.406)  
10 Robbery 1 (RCW 9A.56.200)  
11 Sexual Exploitation (RCW 9.68A.040)  
12 Vehicular Homicide, by being under the  
13 influence of intoxicating liquor or  
14 any drug (RCW 46.61.520)

15 VIII Arson 1 (RCW 9A.48.020)  
16 Deliver or possess with intent to deliver  
17 m e t h a m p h e t a m i n e ( R C W  
18 69.50.401(a)(1)(ii))  
19 Hit and Run--Death (RCW 46.52.020(4)(a))  
20 Homicide by Watercraft, by the operation of  
21 any vessel in a reckless manner (RCW  
22 79A.60.050)  
23 Manslaughter 2 (RCW 9A.32.070)  
24 Manufacture, deliver, or possess with  
25 intent to deliver amphetamine (RCW  
26 69.50.401(a)(1)(ii))  
27 Manufacture, deliver, or possess with  
28 intent to deliver heroin or cocaine  
29 (RCW 69.50.401(a)(1)(i))  
30 Possession of Ephedrine, Pseudoephedrine,  
31 or Anhydrous Ammonia with intent to  
32 manufacture methamphetamine (RCW  
33 69.50.440)  
34 Promoting Prostitution 1 (RCW 9A.88.070)  
35 Selling for profit (controlled or  
36 counterfeit) any controlled substance  
37 (RCW 69.50.410)  
38 Theft of Anhydrous Ammonia (RCW 69.55.010)

1 Vehicular Homicide, by the operation of any  
2 vehicle in a reckless manner (RCW  
3 46.61.520)

4 VII Burglary 1 (RCW 9A.52.020)  
5 Child Molestation 2 (RCW 9A.44.086)  
6 Dealing in depictions of minor engaged in  
7 sexually explicit conduct (RCW  
8 9.68A.050)  
9 Drive-by Shooting (RCW 9A.36.045)  
10 Homicide by Watercraft, by disregard for  
11 the safety of others (RCW 79A.60.050)  
12 Indecent Liberties (without forcible  
13 compulsion) (RCW 9A.44.100(1) (b) and  
14 (c))  
15 Introducing Contraband 1 (RCW 9A.76.140)  
16 Involving a minor in drug dealing (RCW  
17 69.50.401(f))  
18 Malicious placement of an explosive 3 (RCW  
19 70.74.270(3))  
20 Sending, bringing into state depictions of  
21 minor engaged in sexually explicit  
22 conduct (RCW 9.68A.060)  
23 Unlawful Possession of a Firearm in the  
24 first degree (RCW 9.41.040(1)(a))  
25 Use of a Machine Gun in Commission of a  
26 Felony (RCW 9.41.225)  
27 Vehicular Homicide, by disregard for the  
28 safety of others (RCW 46.61.520)

29 VI Bail Jumping with Murder 1 (RCW  
30 9A.76.170(2)(a))  
31 Bribery (RCW 9A.68.010)  
32 Incest 1 (RCW 9A.64.020(1))  
33 Intimidating a Judge (RCW 9A.72.160)  
34 Intimidating a Juror/Witness (RCW  
35 9A.72.110, 9A.72.130)  
36 Malicious placement of an imitation device  
37 2 (RCW 70.74.272(1)(b))

1 Manufacture, deliver, or possess with  
2 intent to deliver narcotics from  
3 Schedule I or II (except heroin or  
4 cocaine) or flunitrazepam from  
5 Schedule IV (RCW 69.50.401(a)(1)(i))  
6 Rape of a Child 3 (RCW 9A.44.079)  
7 Theft of a Firearm (RCW 9A.56.300)  
8 Unlawful Storage of Anhydrous Ammonia (RCW  
9 69.55.020)

10 V Abandonment of dependent person 1 (RCW  
11 9A.42.060)

12 Advancing money or property for  
13 extortionate extension of credit (RCW  
14 9A.82.030)

15 Bail Jumping with class A Felony (RCW  
16 9A.76.170(2)(b))

17 Child Molestation 3 (RCW 9A.44.089)  
18 Criminal Mistreatment 1 (RCW 9A.42.020)  
19 Custodial Sexual Misconduct 1 (RCW  
20 9A.44.160)

21 Delivery of imitation controlled substance  
22 by person eighteen or over to person  
23 under eighteen (RCW 69.52.030(2))

24 Domestic Violence Court Order Violation  
25 (RCW 10.99.040, 10.99.050, 26.09.300,  
26 26.10.220, 26.26.138, 26.50.110,  
27 26.52.070, or 74.34.145)

28 Extortion 1 (RCW 9A.56.120)  
29 Extortionate Extension of Credit (RCW  
30 9A.82.020)

31 Extortionate Means to Collect Extensions of  
32 Credit (RCW 9A.82.040)

33 Incest 2 (RCW 9A.64.020(2))  
34 Kidnapping 2 (RCW 9A.40.030)  
35 Perjury 1 (RCW 9A.72.020)  
36 Persistent prison misbehavior (RCW  
37 9.94.070)

38 Possession of a Stolen Firearm (RCW  
39 9A.56.310)

1 Rape 3 (RCW 9A.44.060)  
2 Rendering Criminal Assistance 1 (RCW  
3 9A.76.070)  
4 Sexual Misconduct with a Minor 1 (RCW  
5 9A.44.093)  
6 Sexually Violating Human Remains (RCW  
7 9A.44.105)  
8 Stalking (RCW 9A.46.110)  
9 IV Arson 2 (RCW 9A.48.030)  
10 Assault 2 (RCW 9A.36.021)  
11 Assault by Watercraft (RCW 79A.60.060)  
12 Bribing a Witness/Bribe Received by Witness  
13 (RCW 9A.72.090, 9A.72.100)  
14 Commercial Bribery (RCW 9A.68.060)  
15 Counterfeiting (RCW 9.16.035(4))  
16 Escape 1 (RCW 9A.76.110)  
17 Hit and Run--Injury (RCW 46.52.020(4)(b))  
18 Hit and Run with Vessel--Injury Accident  
19 (RCW 79A.60.200(3))  
20 Indecent Exposure to Person Under Age  
21 Fourteen (subsequent sex offense) (RCW  
22 9A.88.010)  
23 Influencing Outcome of Sporting Event (RCW  
24 9A.82.070)  
25 Knowingly Trafficking in Stolen Property  
26 (RCW 9A.82.050(2))  
27 Malicious Harassment (RCW 9A.36.080)  
28 Manufacture, deliver, or possess with  
29 intent to deliver narcotics from  
30 Schedule III, IV, or V or nonnarcotics  
31 from Schedule I-V (except marijuana,  
32 amphetamine, methamphetamines, or  
33 flunitrazepam) (RCW 69.50.401(a)(1)  
34 (iii) through (v))  
35 Residential Burglary (RCW 9A.52.025)  
36 Robbery 2 (RCW 9A.56.210)  
37 Theft of Livestock 1 (RCW 9A.56.080)  
38 Threats to Bomb (RCW 9.61.160)



1 Use of Proceeds of Criminal Profiteering  
2 (RCW 9A.82.080 (1) and (2))  
3 Vehicular Assault (RCW 46.61.522)  
4 Willful Failure to Return from Furlough  
5 (RCW 72.66.060)

6 III Abandonment of dependent person 2 (RCW  
7 9A.42.070)  
8 Assault 3 (RCW 9A.36.031)  
9 Assault of a Child 3 (RCW 9A.36.140)  
10 Bail Jumping with class B or C Felony (RCW  
11 9A.76.170(2)(c))  
12 Burglary 2 (RCW 9A.52.030)  
13 Communication with a Minor for Immoral  
14 Purposes (RCW 9.68A.090)  
15 Criminal Gang Intimidation (RCW 9A.46.120)  
16 Criminal Mistreatment 2 (RCW 9A.42.030)  
17 Custodial Assault (RCW 9A.36.100)  
18 Delivery of a material in lieu of a  
19 controlled substance (RCW  
20 69.50.401(c))  
21 Escape 2 (RCW 9A.76.120)  
22 Extortion 2 (RCW 9A.56.130)  
23 Harassment (RCW 9A.46.020)  
24 Intimidating a Public Servant (RCW  
25 9A.76.180)  
26 Introducing Contraband 2 (RCW 9A.76.150)  
27 Maintaining a Dwelling or Place for  
28 Controlled Substances (RCW  
29 69.50.402(a)(6))  
30 Malicious Injury to Railroad Property (RCW  
31 81.60.070)  
32 Manufacture, deliver, or possess with  
33 intent to deliver marijuana (RCW  
34 69.50.401(a)(1)(iii))  
35 Manufacture, distribute, or possess with  
36 intent to distribute an imitation  
37 controlled substance (RCW  
38 69.52.030(1))

1 Patronizing a Juvenile Prostitute (RCW  
2 9.68A.100)  
3 Perjury 2 (RCW 9A.72.030)  
4 Possession of Incendiary Device (RCW  
5 9.40.120)  
6 Possession of Machine Gun or Short-Barreled  
7 Shotgun or Rifle (RCW 9.41.190)  
8 Promoting Prostitution 2 (RCW 9A.88.080)  
9 Recklessly Trafficking in Stolen Property  
10 (RCW 9A.82.050(1))  
11 Securities Act violation (RCW 21.20.400)  
12 Tampering with a Witness (RCW 9A.72.120)  
13 Telephone Harassment (subsequent conviction  
14 or threat of death) (RCW 9.61.230)  
15 Theft of Livestock 2 (RCW 9A.56.080)  
16 Unlawful Imprisonment (RCW 9A.40.040)  
17 Unlawful possession of firearm in the  
18 second degree (RCW 9.41.040(1)(b))  
19 Unlawful Use of Building for Drug Purposes  
20 (RCW 69.53.010)  
21 Willful Failure to Return from Work Release  
22 (RCW 72.65.070)

23 II Computer Trespass 1 (RCW 9A.52.110)  
24 Counterfeiting (RCW 9.16.035(3))  
25 Create, deliver, or possess a counterfeit  
26 controlled substance (RCW  
27 69.50.401(b))  
28 Escape from Community Custody (RCW  
29 72.09.310)  
30 Health Care False Claims (RCW 48.80.030)  
31 Malicious Mischief 1 (RCW 9A.48.070)  
32 Possession of controlled substance that is  
33 either heroin or narcotics from  
34 Schedule I or II or flunitrazepam from  
35 Schedule IV (RCW 69.50.401(d))  
36 Possession of phencyclidine (PCP) (RCW  
37 69.50.401(d))  
38 Possession of Stolen Property 1 (RCW  
39 9A.56.150)

1 Theft 1 (RCW 9A.56.030)  
2 Theft of Rental, Leased, or Lease-purchased  
3 Property (valued at one thousand five  
4 hundred dollars or more) (RCW  
5 9A.56.096(4))  
6 Trafficking in Insurance Claims (RCW  
7 48.30A.015)  
8 Unlawful Practice of Law (RCW 2.48.180 (as  
9 reenacted by this act))  
10 Unlicensed Practice of a Profession or  
11 Business (RCW 18.130.190(7))  
12 I Attempting to Elude a Pursuing Police  
13 Vehicle (RCW 46.61.024)  
14 False Verification for Welfare (RCW  
15 74.08.055)  
16 Forged Prescription (RCW 69.41.020)  
17 Forged Prescription for a Controlled  
18 Substance (RCW 69.50.403)  
19 Forgery (RCW 9A.60.020)  
20 Malicious Mischief 2 (RCW 9A.48.080)  
21 Possess Controlled Substance that is a  
22 Narcotic from Schedule III, IV, or V  
23 or Non-narcotic from Schedule I-V  
24 (except phencyclidine or  
25 flunitrazepam) (RCW 69.50.401(d))  
26 Possession of Stolen Property 2 (RCW  
27 9A.56.160)  
28 Reckless Burning 1 (RCW 9A.48.040)  
29 Taking Motor Vehicle Without Permission  
30 (RCW 9A.56.070)  
31 Theft 2 (RCW 9A.56.040)  
32 Theft of Rental, Leased, or Lease-purchased  
33 Property (valued at two hundred fifty  
34 dollars or more but less than one  
35 thousand five hundred dollars) (RCW  
36 9A.56.096(4))  
37 Unlawful Issuance of Checks or Drafts (RCW  
38 9A.56.060)

1                   Unlawful Use of Food Stamps (RCW 9.91.140  
2                               (2) and (3))  
3                   Vehicle Prowl 1 (RCW 9A.52.095)

4       NEW SECTION.   **Sec. 5.**   This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and takes effect  
7 immediately.

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