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SENATE BILL 5023

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Prentice, McAuliffe, Litzow, Shin, Kline, Pflug, Fraser, Chase, and Rockefeller; by request of Attorney General

Read first time 01/10/11. Referred to Committee on Judiciary.

1 AN ACT Relating to nonlegal immigration-related services; amending  
2 RCW 19.154.010, 19.154.020, 19.154.060, 19.154.090, and 19.154.900;  
3 adding a new section to chapter 19.154 RCW; repealing RCW 19.154.030,  
4 19.154.040, 19.154.050, 19.154.070, 19.154.080, and 19.154.902; and  
5 prescribing penalties.

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

7 **Sec. 1.** RCW 19.154.010 and 1989 c 117 s 1 are each amended to read  
8 as follows:

9 The legislature finds and declares that the practice by nonlawyers  
10 of assisting persons ((regarding immigration matters)) in obtaining  
11 benefits under the immigration laws of the United States substantially  
12 affects the public interest. The practice((s)) of ((immigration  
13 assistants have a significant impact on the residents of the state of  
14 Washington)) nonlawyers providing immigration-related services for  
15 compensation may impact the ability of their customers to reside and  
16 work within the United States and to establish and maintain stable  
17 families and business relationships. The legislature further finds and  
18 declares that the previous scheme for regulating the behavior of  
19 nonlawyers who provide immigration-related services is inadequate to

1 address the level of unfair and deceptive practices that exist in the  
2 marketplace and often contributes to the unauthorized practice of law.  
3 It is the intent of the legislature, through this act, to ((establish  
4 ~~rules of practice and conduct for immigration assistants to promote~~  
5 ~~honesty and fair dealing with residents and to preserve public~~  
6 ~~confidence)) end the practice of nonlawyers providing immigration  
7 services that constitute the practice of law.~~

8 **Sec. 2.** RCW 19.154.020 and 1989 c 117 s 2 are each amended to read  
9 as follows:

10 Unless the context clearly requires otherwise, the definitions in  
11 this section apply throughout this chapter.

12 (1) (~~"Immigration assistant" means every person who, for~~  
13 ~~compensation or the expectation of compensation, gives nonlegal~~  
14 ~~assistance on an immigration matter. That assistance is limited to:~~

15 ~~(a) Transcribing responses to a government agency form selected by~~  
16 ~~the customer which is related to an immigration matter, but does not~~  
17 ~~include advising a person as to his or her answers on those forms;~~

18 ~~(b) Translating a person's answer to questions posed on those~~  
19 ~~forms;~~

20 ~~(c) Securing for a person supporting documents currently in~~  
21 ~~existence, such as birth and marriage certificates, which may be needed~~  
22 ~~to submit with those forms;~~

23 ~~(d) Making referrals to attorneys who could undertake legal~~  
24 ~~representation for a person in an immigration matter.~~

25 ~~(2))~~ "Immigration matter" means any proceeding, filing, or action  
26 affecting the nonimmigrant, immigrant, or citizenship status of any  
27 person (~~which arises~~) arising under immigration and naturalization  
28 law, executive order, or presidential proclamation, or (~~which arises~~  
29 ~~under~~) pursuant to any action of the United States citizenship and  
30 immigration (~~and naturalization~~) services, the United States  
31 department of labor, (~~or~~) the United States department of state, the  
32 United States department of justice, the United States department of  
33 homeland security, the board of immigration appeals, or any other  
34 entity or agency having jurisdiction over immigration law.

35 ~~((3))~~ (2) "Compensation" means money, property, or anything else  
36 of value.

1       (3) "Practice of law" means the application of legal principles and  
2 judgment with regard to the circumstances or objectives of another  
3 entity or person that requires the knowledge and skill of a person  
4 trained in the law. This includes, but is not limited to:

5       (a) Giving advice or counsel to others as to their legal rights or  
6 the legal rights or responsibilities of others for fees or other  
7 consideration;

8       (b) Selecting, drafting, or completion of legal documents which  
9 affect the legal rights of an entity or person;

10       (c) Representation of another entity or person in a court, or in a  
11 formal proceeding or other formal dispute resolution process or in an  
12 administrative adjudicative proceeding in which legal pleadings are  
13 filed or a record review is established as the basis for judicial  
14 review;

15       (d) Negotiation of legal rights or responsibilities on behalf of  
16 another entity or person; and

17       (e) Any other acts that constitute the practice of law as  
18 determined by the supreme court and other courts of this state, whether  
19 by rule or decision.

20       **Sec. 3.** RCW 19.154.060 and 1989 c 117 s 6 are each amended to read  
21 as follows:

22       ~~((Immigration assistants shall offer or provide only nonlegal~~  
23 ~~assistance in an immigration matter as defined in RCW 19.154.020.)) (1)~~  
24 Persons, other than those licensed to practice law in this state or  
25 otherwise permitted to practice law or provide legal or other  
26 immigration-related services under federal law in an immigration  
27 matter, are prohibited from engaging in the practice of law in an  
28 immigration matter for compensation.

29       (2) Persons, other than those licensed to practice law in this  
30 state or otherwise permitted to practice law or provide legal or other  
31 immigration-related services under federal law in an immigration  
32 matter, are prohibited from engaging in the following acts or  
33 practices, for compensation:

34       (a) Selecting or assisting another in selecting, or advising  
35 another as to his or her answers on, a government agency form or  
36 document in an immigration matter;

1 (b) Selecting or assisting another in selecting, or advising  
2 another in selecting, a benefit, visa, or program to apply for in an  
3 immigration matter;

4 (c) Soliciting to prepare documents for, or otherwise representing  
5 the interests of, another in a judicial or administrative proceeding in  
6 an immigration matter;

7 (d) Explaining, advising, or otherwise interpreting the meaning or  
8 intent of a question on a government agency form in an immigration  
9 matter;

10 (e) Charging a fee for obtaining or providing a paper or electronic  
11 copy of a government agency form in an immigration matter;

12 (f) Charging a fee for referring another to an attorney licensed to  
13 practice law;

14 (g) Drafting, writing, or otherwise creating documents to support  
15 or establish a benefit for another in an immigration matter.

16 (3) Persons, other than those licensed to practice law in this  
17 state or otherwise permitted to practice law or provide legal or other  
18 immigration-related services under federal law in an immigration  
19 matter, are prohibited from engaging in the following acts or  
20 practices, regardless of whether compensation is sought:

21 (a) Representing, either orally or in any document, letterhead,  
22 advertisement, stationery, business card, web site, or other comparable  
23 written material, that he or she is a lawyer, notario publico, notario,  
24 immigration assistant, immigration consultant, immigration specialist,  
25 or using any other designation or title, in any language, that conveys  
26 or implies that he or she possesses professional legal skills in the  
27 area of immigration law;

28 (b) Representing, in any language, either orally or in any  
29 document, letterhead, advertisement, stationery, business card, web  
30 site, or other comparable written material, that he or she can or is  
31 willing to provide services in an immigration matter, if such services  
32 would constitute the practice of law.

33 (4) In addition to complying with the prohibitions of subsections  
34 (1) through (3) of this section, persons licensed as a notary public  
35 under chapter 42.44 RCW who are not licensed to practice law in this  
36 state shall not use the term notario publico, notario, or any other  
37 term, in any language, that conveys or implies that he or she possesses  
38 professional skills in the areas of immigration law, when advertising

1 notary public services in the conduct of their business. A violation  
2 of any provision of this chapter by a person licensed as a notary  
3 public under chapter 42.44 RCW shall constitute unprofessional conduct  
4 under the uniform regulation of business and professions act, chapter  
5 18.235 RCW.

6 **Sec. 4.** RCW 19.154.090 and 1989 c 117 s 9 are each amended to read  
7 as follows:

8 (1) The legislature finds and declares that any violation of this  
9 chapter substantially affects the public interest and is an unfair and  
10 deceptive act or practice and unfair method of competition in the  
11 conduct of trade or commerce as set forth in RCW 19.86.020.

12 (2) In addition to all remedies available in chapter 19.86 RCW, a  
13 person injured by a violation of this chapter may bring a civil action  
14 to recover the actual damages proximately caused by a violation of this  
15 chapter, or one thousand dollars, whichever is greater.

16 **Sec. 5.** RCW 19.154.900 and 1989 c 117 s 11 are each amended to  
17 read as follows:

18 This chapter shall be known and cited as the "immigration  
19 (~~assistant practices~~) services fraud prevention act."

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.154 RCW  
21 to read as follows:

22 Nothing in this chapter shall apply to or regulate any business to  
23 the extent such regulation is prohibited or preempted by federal law.

24 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each  
25 repealed:

- 26 (1) RCW 19.154.030 (Exemptions) and 1989 c 117 s 3;  
27 (2) RCW 19.154.040 (Registration required) and 1989 c 117 s 4;  
28 (3) RCW 19.154.050 (Change of address) and 1989 c 117 s 5;  
29 (4) RCW 19.154.070 (Written contract--Requirements--Right to  
30 rescind) and 1989 c 117 s 7;  
31 (5) RCW 19.154.080 (Prohibited activities) and 1989 c 117 s 8; and  
32 (6) RCW 19.154.902 (Effective date--1989 c 117) and 1989 c 117 s

1 15.

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