

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5023**

Chapter 244, Laws of 2011

62nd Legislature  
2011 Regular Session

NONLEGAL IMMIGRATION-RELATED SERVICES

EFFECTIVE DATE: 10/20/11

Passed by the Senate April 21, 2011  
YEAS 42 NAYS 4

BRAD OWEN

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**President of the Senate**

Passed by the House April 7, 2011  
YEAS 92 NAYS 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved May 3, 2011, 2:55 p.m.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5023** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

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**Secretary**

FILED

May 4, 2011

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5023**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

**State of Washington                      62nd Legislature                      2011 Regular Session**

**By** Senate Judiciary (originally sponsored by Senators Prentice, McAuliffe, Litzow, Shin, Kline, Pflug, Fraser, Chase, and Rockefeller; by request of Attorney General)

READ FIRST TIME 02/08/11.

1            AN ACT Relating to nonlegal immigration-related services; amending  
2 RCW 19.154.010, 19.154.020, 19.154.060, 19.154.090, 42.44.030, and  
3 19.154.900; adding new sections to chapter 19.154 RCW; creating a new  
4 section; repealing RCW 19.154.030, 19.154.040, 19.154.050, 19.154.070,  
5 19.154.080, and 19.154.902; prescribing penalties; and providing an  
6 effective date.

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

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

10            The legislature finds and declares that ~~((assisting persons~~  
11 ~~regarding immigration matters))~~ the practice by nonlawyers and other  
12 unauthorized persons of providing legal advice and legal services to  
13 others in immigration matters substantially affects the public  
14 interest. The practice((s)) of ~~((immigration assistants have a~~  
15 ~~significant impact on the residents of the state of Washington))~~  
16 nonlawyers and other unauthorized persons providing immigration-related  
17 legal advice and legal services for compensation may impact the ability  
18 of their customers to reside and work within the United States and to  
19 establish and maintain stable families and business relationships. The

1 legislature further finds and declares that the previous scheme for  
2 regulating the behavior of nonlawyers and other unauthorized persons  
3 who provide immigration-related services is inadequate to address the  
4 level of unfair and deceptive practices that exists in the marketplace  
5 and often contributes to the unauthorized practice of law. It is the  
6 intent of the legislature, through this act, to ((establish rules of  
7 practice and conduct for immigration assistants to promote honesty and  
8 fair dealing with residents and to preserve public confidence))  
9 prohibit nonlawyers and other unauthorized persons from providing  
10 immigration-related services that constitute the practice of law.

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

13 Unless the context clearly requires otherwise, the definitions in  
14 this section apply throughout this chapter.

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

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

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

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

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

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

1        ~~((3))~~ (2) "Compensation" means money, property, or anything else  
2 of value.

3        (3) "Practice of law" has the definition given to it by the supreme  
4 court of Washington whether by rule or decision, and includes all  
5 exceptions and exclusions to that definition currently in place or  
6 hereafter created, whether by rule or decision.

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

9        ~~((Immigration assistants shall offer or provide only nonlegal~~  
10 ~~assistance in an immigration matter as defined in RCW 19.154.020.)) (1)~~  
11 Persons, other than those licensed to practice law in this state or  
12 otherwise permitted to practice law or represent others under federal  
13 law in an immigration matter, are prohibited from engaging in the  
14 practice of law in an immigration matter for compensation.

15        (2) Persons, other than those licensed to practice law in this  
16 state or otherwise permitted to practice law or represent others under  
17 federal law in an immigration matter, are prohibited from engaging in  
18 the following acts or practices, for compensation:

19        (a) Advising or assisting another person in determining the  
20 person's legal or illegal status for the purpose of an immigration  
21 matter;

22        (b) Selecting or assisting another in selecting, or advising  
23 another as to his or her answers on, a government agency form or  
24 document in an immigration matter;

25        (c) Selecting or assisting another in selecting, or advising  
26 another in selecting, a benefit, visa, or program to apply for in an  
27 immigration matter;

28        (d) Soliciting to prepare documents for, or otherwise representing  
29 the interests of, another in a judicial or administrative proceeding in  
30 an immigration matter;

31        (e) Explaining, advising, or otherwise interpreting the meaning or  
32 intent of a question on a government agency form in an immigration  
33 matter;

34        (f) Charging a fee for referring another to a person licensed to  
35 practice law;

36        (g) Selecting, drafting, or completing legal documents affecting  
37 the legal rights of another in an immigration matter.

1       (3) Persons, other than those holding an active license to practice  
2 law issued by the Washington state bar association or otherwise  
3 permitted to practice law or represent others under federal law in an  
4 immigration matter, are prohibited from engaging in the following acts  
5 or practices, regardless of whether compensation is sought:

6       (a) Representing, either orally or in any document, letterhead,  
7 advertisement, stationery, business card, web site, or other comparable  
8 written material, that he or she is a notario publico, notario,  
9 immigration assistant, immigration consultant, immigration specialist,  
10 or using any other designation or title, in any language, that conveys  
11 or implies that he or she possesses professional legal skills in the  
12 area of immigration law;

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

18       (4)(a) The prohibitions of subsections (1) through (3) of this  
19 section shall not apply to the activities of nonlawyer assistants  
20 acting under the supervision of a person holding an active license to  
21 practice law issued by the Washington state bar association or  
22 otherwise permitted to practice law or represent others under federal  
23 law in an immigration matter.

24       (b) This section does not prohibit a person from offering  
25 translation services, regardless of whether compensation is sought.  
26 Translating words contained on a government form from English to  
27 another language and translating a person's words from another language  
28 to English does not constitute the unauthorized practice of law.

29       (5) In addition to complying with the prohibitions of subsections  
30 (1) through (3) of this section, persons licensed as a notary public  
31 under chapter 42.44 RCW who do not hold an active license to practice  
32 law issued by the Washington state bar association shall not use the  
33 term notario publico, notario, immigration assistant, immigration  
34 consultant, immigration specialist, or any other designation or title,  
35 in any language, that conveys or implies that he or she possesses  
36 professional legal skills in the areas of immigration law, when  
37 advertising notary public services in the conduct of their business.  
38 A violation of any provision of this chapter by a person licensed as a

1 notary public under chapter 42.44 RCW shall constitute unprofessional  
2 conduct under the uniform regulation of business and professions act,  
3 chapter 18.235 RCW.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.154 RCW  
5 to read as follows:

6 Persons who are not licensed to practice law in this state or who  
7 are not otherwise permitted to represent others under federal law in an  
8 immigration matter may engage in the following services for  
9 compensation:

10 (1) Translate words on a government form that the person seeking  
11 services presents to the person providing translation services;

12 (2) Secure existing documents for the person seeking services.  
13 Existing documents include, for example, birth and marriage  
14 certificates; and

15 (3) Offer other immigration related services that are not  
16 prohibited under this chapter or any other provision of law or do not  
17 constitute the practice of law.

18 **Sec. 5.** RCW 19.154.090 and 1989 c 117 s 9 are each amended to read  
19 as follows:

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

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

28 **Sec. 6.** RCW 42.44.030 and 2002 c 86 s 287 are each amended to read  
29 as follows:

30 (1) In addition to the unprofessional conduct specified in RCW  
31 18.235.130, the director may deny appointment as a notary public to any  
32 person based on the following conduct, acts, or conditions:

33 ~~((1))~~ (a) Has had disciplinary action taken against any  
34 professional license in this or any other state; ~~((or~~

1       (2)) (b) Has engaged in official misconduct as defined in RCW  
2 42.44.160(1), whether or not criminal penalties resulted; or  
3       (c) Has violated any of the provisions of chapter 19.154 RCW.

4       (2) The director shall deliver a certificate evidencing the  
5 appointment to each person appointed as a notary public. The  
6 certificate may be signed in facsimile by the governor, the secretary  
7 of state, and the director or the director's designee. The certificate  
8 must bear a printed seal of the state of Washington.

9       NEW SECTION. **Sec. 7.** A new section is added to chapter 19.154 RCW  
10 to read as follows:

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

13       **Sec. 8.** RCW 19.154.900 and 1989 c 117 s 11 are each amended to  
14 read as follows:

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

17       NEW SECTION. **Sec. 9.** (1)(a) The legislature recognizes that  
18 immigrants in Washington need legal services to assist them in  
19 immigration matters, and it is difficult for existing organizations to  
20 meet those needs because of high case loads and limited resources.

21       (b) The legislature also recognizes that the difference between  
22 offering nonlegal services and offering legal services in immigration  
23 matters is sometimes difficult to distinguish. Not understanding or  
24 recognizing the distinction between nonlegal services and legal  
25 services in immigration matters can result in a person engaging in the  
26 unauthorized practice of law and can result in irreparable consequences  
27 for immigrants who seek assistance.

28       (2) Therefore, the legislature respectfully requests that the  
29 supreme court's practice of law board, within available resources,  
30 evaluate the following:

31       (a) The specific services nonattorneys may provide to immigrants  
32 that do not rise to the level of the practice of law in immigration  
33 matters;

34       (b) The level of access to and the quality of nonlegal and legal

1 services immigrants have and the ways in which access and quality can  
2 be improved;

3 (c) The level of need immigrants have for nonlegal services  
4 compared to the need for legal services in immigration matters.

5 (3) A report of the board's findings and recommendations must be  
6 presented to the legislature no later than December 1, 2011.

7 NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
8 each repealed:

9 (1) RCW 19.154.030 (Exemptions) and 1989 c 117 s 3;

10 (2) RCW 19.154.040 (Registration required) and 1989 c 117 s 4;

11 (3) RCW 19.154.050 (Change of address) and 1989 c 117 s 5;

12 (4) RCW 19.154.070 (Written contract--Requirements--Right to  
13 rescind) and 1989 c 117 s 7;

14 (5) RCW 19.154.080 (Prohibited activities) and 1989 c 117 s 8; and

15 (6) RCW 19.154.902 (Effective date--1989 c 117) and 1989 c 117 s  
16 15.

17 NEW SECTION. **Sec. 11.** This act takes effect one hundred eighty  
18 days after final adjournment of the legislative session in which it is  
19 enacted.

Passed by the Senate April 21, 2011.

Passed by the House April 7, 2011.

Approved by the Governor May 3, 2011.

Filed in Office of Secretary of State May 4, 2011.