



## SAFEGUARDING CONSUMERS: UNAUTHORIZED PRACTICE OF LAW AFFECTING IMMIGRANTS

### LEGISLATION:

The proposed amendments to RCW 19.154 eliminate the “immigration assistant” designation and the requirement to file with the Secretary of State’s Office. The bill substitutes new language that clarifies that individuals who provide immigration-related services may not provide legal assistance. The bill also expressly prohibits specific, common practices that constitute the practice of law under established definitions.

Under the bill, persons licensed as notaries public are prohibited from engaging in deceptive advertising and must refrain from advertising legal services if they are not licensed to practice law. The Attorney General’s proposal would not affect individuals who are otherwise authorized to provide immigration services under federal law, such as nonprofit and charitable organizations accredited by the Board of Immigration Appeals, and individuals providing services with approval from the Department of Homeland Security and without the expectation of compensation.

The court may impose a minimum civil penalty of \$1,000 per violation and allow prevailing parties in a court action to recover attorneys fees and costs.

### THE PROBLEM:

The creation of the “immigration assistant” status under Washington’s Immigration Assistant Practices Act has inadvertently opened the doors to the unauthorized practice of law. Changes are needed to protect immigrants from missing opportunities to achieve legal status because of erroneous legal advice.

### BACKGROUND:

Washington’s Immigration Assistant Practices Act (RCW 19.154) requires that anyone who charges for help on immigration matters must register as an immigration assistant with the Washington Secretary of State, unless that person is already licensed as an attorney. The law permits immigration assistants to complete forms on behalf of another, but prohibits selecting forms and suggesting responses.

However, immigration assistants are not required to have specific training and almost always end up providing legal advice to their customers. It is difficult to conceive of a situation where an immigration assistant agrees to procure an immigration form without providing any input to the consumer. Too often, the immigration assistant’s failure to select the correct form or investigate certain issues delays or ruins the customer’s chances of obtaining legal status.

These problems are compounded by the fact that many immigration assistants take advantage of the linguistic similarities between the Spanish term “notario publico,” which in Mexico and some other Latin American countries means “attorney,” with the English term “notary public,” which connotes no legal expertise whatsoever. This particular issue is not limited to the Spanish-speaking population, and similar problems have been reported in the Vietnamese, Chinese and Arabic-speaking communities.

The Attorney General’s Office has settled cases with three providers of immigration services and has two dozen other cases under investigation. Undocumented immigrants are frequently reluctant to report that they are victims of fraud or unfair business practices, which makes building these cases particularly challenging.