

By Senator Pedersen

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

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.
8 Therefore, the legislature hereby repeals the state bar act.

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

11 There is ~~((hereby))~~ created ~~((as))~~ an agency of the state ~~((, for~~
12 ~~the purpose and with the powers hereinafter set forth, an~~
13 ~~association))~~ within the judicial branch to be known as the
14 Washington state bar association ~~((, hereinafter designated as the~~
15 ~~state bar, which association shall))~~ or another name as designated by
16 the supreme court. The supreme court may provide for the powers,
17 governance, and operation of the association, the practice of law,
18 and the administration of justice. The supreme court may provide that
19 the association have a common seal and may sue and be sued, and
20 ~~((which))~~ may, for the purpose of carrying into effect and promoting
21 the objects of ~~((said))~~ the association, enter into contracts and
22 acquire, hold, encumber, and dispose of such real and personal
23 property as is necessary ~~((thereto))~~.

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

26 (1) As used in this section:

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

1 (b) "Nonlawyer" means a person to whom the Washington supreme
2 court has granted a limited authorization to practice law but who
3 practices law outside that authorization, and a person who is not
4 (~~an active member in good standing of the state bar, including~~
5 ~~persons who are disbarred or suspended from membership~~) authorized
6 by the Washington state supreme court to engage in full or limited
7 practice of law;

8 (c) "Ownership interest" means the right to control the affairs
9 of a business, or the right to share in the profits of a business,
10 and includes a loan to the business when the interest on the loan is
11 based upon the income of the business or the loan carries more than a
12 commercially reasonable rate of interest.

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

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

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

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

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

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

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

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

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

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

39 (6) A violation of this section is cause for discipline and
40 constitutes unprofessional conduct that could result in any

1 regulatory penalty provided by law, including refusal, revocation, or
2 suspension of a business or professional license, or right or
3 admission to practice. Conduct that constitutes a violation of this
4 section is unprofessional conduct in violation of RCW 18.130.180.

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

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

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

- 26 (1) RCW 2.48.020 (First members) and 1933 c 94 s 3;
- 27 (2) RCW 2.48.021 (New members) and 1933 c 94 s 4;
- 28 (3) RCW 2.48.030 (Board of governors) and 1982 1st ex.s. c 30 s
29 1, 1972 ex.s. c 66 s 1, & 1933 c 94 s 5;
- 30 (4) RCW 2.48.035 (Board of governors—Membership—Effect of
31 creation of new congressional districts or boundaries) and 1982 1st
32 ex.s. c 30 s 2;
- 33 (5) RCW 2.48.040 (State bar governed by board of governors) and
34 1933 c 94 s 6;
- 35 (6) RCW 2.48.050 (Powers of governors) and 1933 c 94 s 7;
- 36 (7) RCW 2.48.060 (Admission and disbarment) and 1933 c 94 s 8;
- 37 (8) RCW 2.48.070 (Admission of veterans) and 1945 c 181 s 1;
- 38 (9) RCW 2.48.080 (Admission of veterans—Establishment of
39 requirements if in service) and 2011 c 336 s 63 & 1945 c 181 s 2;

- 1 (10) RCW 2.48.090 (Admission of veterans—Establishment of
2 requirements if discharged) and 2011 c 336 s 64 & 1945 c 181 s 3;
3 (11) RCW 2.48.100 (Admission of veterans—Effect of disability
4 discharge) and 1945 c 181 s 4;
5 (12) RCW 2.48.110 (Admission of veterans—Fees of veterans) and
6 1945 c 181 s 5;
7 (13) RCW 2.48.130 (Membership fee—Active) and 1957 c 138 s 1,
8 1953 c 256 s 1, & 1933 c 94 s 9;
9 (14) RCW 2.48.140 (Membership fee—Inactive) and 1955 c 34 s 1 &
10 1933 c 94 s 10;
11 (15) RCW 2.48.150 (Admission fees) and 2011 c 336 s 65 & 1933 c
12 94 s 11;
13 (16) RCW 2.48.160 (Suspension for nonpayment of fees) and 2011 c
14 336 s 66 & 1933 c 94 s 12;
15 (17) RCW 2.48.166 (Admission to or suspension from practice—
16 Noncompliance with support order—Rules) and 1997 c 58 s 810;
17 (18) RCW 2.48.170 (Only active members may practice law) and 2011
18 c 336 s 67 & 1933 c 94 s 13;
19 (19) RCW 2.48.190 (Qualifications on admission to practice) and
20 1987 c 202 s 107 & 1921 c 126 s 4;
21 (20) RCW 2.48.210 (Oath on admission) and 2013 c 23 s 1 & 1921 c
22 126 s 12;
23 (21) RCW 2.48.220 (Grounds of disbarment or suspension) and 2011
24 c 336 s 68, 1921 c 126 s 14, & 1909 c 139 s 7; and
25 (22) RCW 2.48.230 (Code of ethics) and 1921 c 126 s 15.

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

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

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

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31 On page 1, line 1 of the title, after "association;" strike the
32 remainder of the title and insert "amending RCW 2.48.180; reenacting

1 and amending RCW 2.48.010; adding new sections to chapter 2.44 RCW;
2 adding a new section to chapter 2.04 RCW; recodifying RCW 2.48.010,
3 2.48.180, and 2.48.200; repealing RCW 2.48.020, 2.48.021, 2.48.030,
4 2.48.035, 2.48.040, 2.48.050, 2.48.060, 2.48.070, 2.48.080, 2.48.090,
5 2.48.100, 2.48.110, 2.48.130, 2.48.140, 2.48.150, 2.48.160, 2.48.166,
6 2.48.170, 2.48.190, 2.48.210, 2.48.220, and 2.48.230; and providing
7 an effective date."

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