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SENATE BILL 17-227

BY SENATOR(S) Gardner, Cooke, Guzman, Holbert, Kagan, Crowder, Lambert, Martinez Humenik, Tate;
also REPRESENTATIVE(S) Foote, Herod, Lee, Willett, Wist.

CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED TO ATTORNEYS-AT-LAW FROM TITLE 12, COLORADO REVISED STATUTES, AS PART OF THE ORGANIZATIONAL RECODIFICATION OF TITLE 12.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add with amended and relocated provisions** article 93 to title 13 as follows:

ARTICLE 93
Attorneys-at-law

PART 1
GENERAL PROVISIONS

13-93-101. [Formerly 12-5-101] License to practice necessary.
(1) No person shall be permitted to practice as an attorney- or counselor-at-law or to commence, conduct, or defend any action, suit, or

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

plaint in which he or she is not a party concerned in any court of record within this state, either by using or subscribing his or her own name or the name of any other person, without having previously obtained a license or other authorization to practice law pursuant to the supreme court's rules governing admission to the practice of law in Colorado.

(2) Upon request of the supreme court or its office of attorney regulation counsel, the Colorado bureau of investigation shall conduct a state and national fingerprint-based criminal history record check, utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. Upon completion of the criminal history record check, the bureau shall provide the results to the requesting agency.

(3) Upon request of the supreme court or a representative of its office of attorney regulation counsel, the Colorado bureau of investigation shall also provide a name-based criminal history record check for any applicant whose fingerprints are unclassifiable.

(4) Local law enforcement agencies shall cooperate with any supreme court request for records related to criminal history.

13-93-102. [Formerly 12-5-102] No discrimination - issuance of license. No person shall be denied a license to practice on account of race, creed, color, religion, disability, age, sex, sexual orientation, marital status, national origin, or ancestry.

13-93-103. [Formerly 12-5-103] License fee. The license fee for admission to practice law in this state shall be as prescribed by the supreme court under rules for admission to the bar.

13-93-104. [Formerly 12-5-107] Clerk of supreme court keeps roll of attorneys. It is the duty of the clerk of the supreme court to make and keep a roll or record of the persons who have been regularly licensed and admitted to practice as attorneys- and counselors-at-law within this state and who have taken the prescribed oath.

13-93-105. [Formerly 12-5-108] Supreme court may strike name. No person whose name is not subscribed to or written on the said roll, with the day and year when the same was subscribed thereto or written thereon, shall be admitted to practice as an attorney- or counselor-at-law within this

state under the penalty mentioned in ~~section 12-5-112~~ SECTION 13-93-108, anything in this ~~article~~ ARTICLE 93 to the contrary notwithstanding; and the justices of the supreme court in open court, at their discretion, shall have power to strike the name of any attorney- or counselor-at-law from the roll for malconduct in his OR HER office.

13-93-106. [Formerly 12-5-109] Persons forbidden to practice. No coroner, sheriff, deputy sheriff, or jailer, though qualified, shall be permitted to practice as an attorney in the county in which he OR SHE is commissioned or appointed, nor shall any clerk of the supreme court or district court be permitted to practice as an attorney- or counselor-at-law in the court in which he OR SHE is clerk.

13-93-107. [Formerly 12-5-110] Judge not to act as attorney. It is unlawful for judges of the district, county, and municipal courts to counsel or advise in or write any petition or answer or other pleadings in any proceeding, or to perform any service as attorney- or counselor-at-law, or to be interested in any profits or emoluments arising out of any practice in any of said courts, except costs in their own courts; except that county judges in counties of such classes as may be specified by the laws relating to county courts, if licensed attorneys, may practice in courts other than the county court and in matters ~~which~~ THAT have not come before the county court; and further, municipal judges, if licensed attorneys, may practice in courts other than the municipal court and in matters ~~which~~ THAT have not come before the municipal court.

13-93-108. [Formerly 12-5-112] Practicing law without license deemed contempt. Any person who, without having a license from the supreme court of this state so to do, advertises, represents, or holds himself OR HERSELF out in any manner as an attorney, attorney-at-law, or counselor-at-law or who appears in any court of record in this state to conduct a suit, action, proceeding, or cause for another person is guilty of contempt of the supreme court of this state and of the court in which said person appears and shall be punished therefor according to law. Nothing in this section shall prevent the special admission of counselors residing in other states, as provided in ~~section 12-5-113~~ SECTION 13-93-109.

13-93-109. [Formerly 12-5-113] Special admission of counselors from other states. Whenever any counselor-at-law residing in any of the adjacent states or territories has business in any of the courts of this state,

he OR SHE may be admitted, on motion, for the purpose of transacting such business and none other.

13-93-110. [Formerly 12-5-114] Notice of charges - time to show cause. Every attorney, before his OR HER name is stricken off the roll, shall receive a written notice from the clerk of the supreme court stating distinctly the grounds of complaint or the charges exhibited against him OR HER, and after ~~such~~ THE notice he OR SHE shall be heard in his OR HER defense and allowed reasonable time to collect and prepare testimony for his OR HER justification. Any attorney whose name, at any time, is stricken from the roll by order of the court shall be considered as though his OR HER name had never been written thereon until such time as the said justices, in open court, authorize him OR HER to sign or subscribe the same.

13-93-111. [Formerly 12-5-115.5] Solicitation of accident victims - waiting period - definition. (1) Except as permitted by section 13-21-301 (3) OR 10-3-1104 (1)(h), ~~or 10-4-706, C.R.S.~~, no person shall engage in solicitation for professional employment or for any release or covenant not to sue concerning personal injury or wrongful death from an individual with whom the person has no family or prior professional relationship unless the incident for which employment is sought occurred more than thirty days prior to the solicitation.

(2) No person shall accept a referral for professional employment concerning personal injury or wrongful death from any person who engaged in solicitation of an individual with whom the person had no family or prior professional relationship unless the incident for which employment is sought occurred more than thirty days prior to the solicitation.

(3) As used in this section, "solicitation" means an initial contact initiated in person, through any form of written communication, or by telephone, telegraph, or facsimile, any of which is directed to a specific individual, unless requested by the individual, a member of the individual's family, or the authorized representative of the individual. "Solicitation" shall not include radio, television, newspaper, or yellow pages advertisements.

(4) Any agreement made in violation of this section is voidable at

the option of the individual suffering the personal injury or death or ~~such~~
THE individual's personal or other authorized representative.

13-93-112. [Formerly 12-5-117] Attorney not to be surety. No attorney- or counselor-at-law shall become surety in any bond or recognizance of any sheriff or coroner, in any bond or recognizance for the appearance of any person charged with any public offense, or upon any bond or recognizance authorized by any statute to be taken for the payment of any sum of money into court in default of the principal, without the consent of a judge of the district court first had approving said surety.

13-93-113. [Formerly 12-5-118] Judge not to have law partner. A judge shall not have a partner acting as attorney or counsel in any court in his OR HER judicial district, county, or precinct.

13-93-114. [Formerly 12-5-119] Attorney's lien - notice of claim filed. All attorneys- and counselors-at-law shall have a lien on any money, property, choses in action, or claims and demands in their hands, on any judgment they may have obtained or assisted in obtaining, in whole or in part, and on any and all claims and demands in suit for any fees or balance of fees due or to become due from any client. In the case of demands in suit and in the case of judgments obtained in whole or in part by any attorney, such attorney may file, with the clerk of the court wherein such cause is pending, notice of his OR HER claim as lienor, setting forth specifically the agreement of compensation between such attorney and his OR HER client, which notice, duly entered of record, shall be notice to all persons and to all parties, including the judgment creditor, to all persons in the case against whom a demand exists, and to all persons claiming by, through, or under any person having a demand in suit or having obtained a judgment that the attorney whose appearance is thus entered has a first lien on such demand in suit or on such judgment for the amount of his OR HER fees. Such notice of lien shall not be presented in any manner to the jury in the case in which the same is filed. Such lien may be enforced by the proper civil action.

13-93-115. [Formerly 12-5-120] Other property to which lien attaches. An attorney has a lien for a general balance of compensation upon any papers of his OR HER client ~~which~~ THAT have come into his OR HER possession in the course of his OR HER professional employment and upon money due to his OR HER client in the hands of the adverse party in an

action or proceeding in which the attorney was employed from the time of giving notice of the lien to that party.

PART 2

LAW STUDENT PRACTICE

13-93-201. [Formerly 12-5-116] Legal aid dispensaries - law students practice. Students of any law school that maintains a legal-aid dispensary where poor or legally underserved persons receive legal advice and services shall, when representing the dispensary and its clients, be authorized to advise clients on legal matters and appear in court or before any arbitration panel as if licensed to practice law.

13-93-202. [Formerly 12-5-116.1] Practice by law student intern.

(1) An eligible law student intern, as specified in ~~section 12-5-116.2~~ SECTION 13-93-203, may appear and participate in any civil proceeding in any municipal, county, or district court or before any administrative agency in this state or in any county or municipal court criminal proceeding, except when the defendant has been charged with a felony, or in any juvenile proceeding in any municipal or county court or before any magistrate in any juvenile or other proceeding or any parole revocation under the following circumstances:

(a) If the person on whose behalf he OR SHE is appearing has indicated his OR HER consent to that appearance and the law student intern is under the supervision of a supervising lawyer, as specified in ~~section 12-5-116.4~~ SECTION 13-93-205;

(b) When representing the office of the state public defender and its clients, if the person on whose behalf he OR SHE is appearing has indicated his OR HER consent to that appearance and the law student intern is under the supervision of the public defender or one of his OR HER deputies; and

(c) On behalf of the state or any of its departments, agencies, or institutions, a county, a city, or a town, with the written approval and under the supervision of the attorney general, attorney for the state, county attorney, district attorney, city attorney, town attorney, or authorized legal services organization. A general approval for the law student intern to appear, executed by the appropriate supervising attorney pursuant to this

~~paragraph (c)~~ SUBSECTION (1)(c), shall be filed with the clerk of the applicable court and brought to the attention of the judge thereof.

(2) The consent or approval referred to in subsection (1) of this section, except a general approval, shall be made in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

(3) In addition to the activities authorized in subsection (1) of this section, an eligible law student intern may engage in other activities under the general supervision of a supervising lawyer, including but not limited to the preparation of pleadings, briefs, and other legal documents ~~which~~ THAT must be approved and signed by the supervising lawyer and assistance to indigent inmates of correctional institutions who have no attorney of record and who request such assistance in preparing applications and supporting documents for postconviction relief.

13-93-203. [Formerly 12-5-116.2] Eligibility requirements for law student intern practice. (1) In order to be eligible to make an appearance and participate pursuant to ~~section 12-5-116.1~~ SECTION 13-93-202, a law student must:

(a) Be duly enrolled in or a graduate of any accredited law school;

(b) Have completed a minimum of two years of legal studies;

(c) Have the certification of the dean of such law school that he OR SHE has no personal knowledge of or knows of nothing of record that indicates that the student is not of good moral character and, in addition, that the law student has completed the requirements specified in ~~paragraph (b) of this subsection~~ (1) SUBSECTION (1)(b) OF THIS SECTION and is a student in good standing;

(d) Be introduced to the court or administrative tribunal in which he OR SHE is appearing as a law student intern by a lawyer authorized to practice law in this state;

(e) Neither ask nor receive any compensation or remuneration of any kind for his OR HER services from the person on whose behalf he OR SHE renders services; but such limitation shall not prevent the law student

intern from receiving credit for participation in the program upon prior approval of the law school, nor shall it prevent the law school, the state, a county, a city, a town, or the office of the district attorney or the public defender from paying compensation to the law school intern, nor shall it prevent any agency from making such charges for its services as it may otherwise properly require; and

(f) State that he OR SHE has read, is familiar with, and will be governed in the conduct of his OR HER activities under ~~section 12-5-116.1~~ SECTION 13-93-202 by the code of professional responsibility adopted by the supreme court.

13-93-204. [Formerly 12-5-116.3] Certification of law student intern by law school dean - filing - effective period - withdrawal by dean or termination. (1) The certification by the law school dean, pursuant to ~~section 12-5-116.2~~ SECTION 13-93-203 (1)(c), required in order for a law student intern to appear and participate in proceedings:

(a) Shall be filed with the clerk of the supreme court and, unless it is sooner withdrawn, shall remain in effect until the announcement of the results of the first bar examination following the student's graduation. For any student who passes said bar examination, the certification shall continue in effect until the date he OR SHE is admitted to the bar.

(b) May be withdrawn by the dean at any time by mailing a notice to that effect to the clerk of the supreme court, and such withdrawal may be without notice or hearing and without any showing of cause; and

(c) May be terminated by the supreme court at any time without notice or hearing and without any showing of cause.

13-93-205. [Formerly 12-5-116.4] Qualifications of supervising lawyer. (1) A supervising lawyer, under whose supervision an eligible law student intern appears and participates pursuant to ~~section 12-5-116.1~~ SECTION 13-93-202, shall be authorized to practice law in this state and:

(a) Shall be a lawyer in the public sector as provided in ~~section 12-5-116.1~~ SECTION 13-93-202 (1)(b) and (1)(c);

(b) Shall assume personal professional responsibility for the

conduct of the law student intern; and

(c) Shall assist the law student intern in his OR HER preparation to the extent the supervising lawyer considers it necessary.

13-93-206. [Formerly 12-5-116.5] Other rights not affected by provisions for practice by law student intern. Nothing contained in ~~sections 12-5-116 to 12-5-116.4~~ SECTIONS 13-93-201 TO 13-93-205 shall affect the right of any person who is not admitted to practice law to do anything that he OR SHE might lawfully do prior to the adoption of these sections.

SECTION 2. In Colorado Revised Statutes, 5-9.5-103, **amend** the introductory portion and (6)(b)(III) as follows:

5-9.5-103. Definitions. As used in this ~~article~~ ARTICLE 9.5, unless the context otherwise requires:

(6) (b) "Refund anticipation loan facilitator" does not include a person validly:

(III) Licensed as an attorney by the Colorado supreme court in accordance with ~~section 12-5-101, C.R.S.~~ SECTION 13-93-101.

SECTION 3. In Colorado Revised Statutes, 6-1-727, **amend** (3)(a)(I), (3)(d) introductory portion, and (3)(d)(I) as follows:

6-1-727. Immigration-related services provided by nonattorneys - deceptive trade practice. (3) Prohibited practices - assistance with immigration matters - permitted practices. (a) A person shall not engage in the practice of law in an immigration matter for compensation unless the person is:

(I) Licensed or otherwise authorized to practice law in this state pursuant to Colorado supreme court rules and ~~article 5 of title 12, C.R.S.~~ ARTICLE 93 OF TITLE 13; or

(d) The prohibitions of ~~paragraphs (a) to (c) of this subsection (3)~~ SUBSECTION (3)(a) TO (3)(c) OF THIS SECTION do not apply to the activities of a nonattorney assistant acting under the supervision of a person who is:

(I) Licensed or otherwise authorized to practice law in this state pursuant to Colorado supreme court rules and ~~article 5 of title 12, C.R.S.~~ ARTICLE 93 OF TITLE 13; or

SECTION 4. In Colorado Revised Statutes, 13-1-127, **amend** (7)(c) as follows:

13-1-127. Entities - school districts - legislative declaration - representation. (7) (c) An authorized employee who represents a school district in truancy proceedings pursuant to the provisions of this subsection (7) shall not be subject to the provisions of ~~section 12-5-112, C.R.S.~~ SECTION 13-93-108.

SECTION 5. In Colorado Revised Statutes, 13-6-407, **amend** (2)(a)(I) as follows:

13-6-407. Parties - representation. (2) (a) (I) Notwithstanding the provisions of ~~article 5 of title 12, C.R.S.~~ ARTICLE 93 OF THIS TITLE 13, in the small claims court, an individual shall represent himself or herself; a partnership shall be represented by an active general partner or an authorized full-time employee; a union shall be represented by an authorized active union member or full-time employee; a for-profit corporation shall be represented by one of its full-time officers or full-time employees; an association shall be represented by one of its active members or by a full-time employee of the association; and any other kind of organization or entity shall be represented by one of its active members or full-time employees or, in the case of a nonprofit corporation, a duly elected nonattorney officer or an employee.

SECTION 6. In Colorado Revised Statutes, 38-27-101, **amend** (8) as follows:

38-27-101. Lien for hospital care - definition. (8) The lien of ~~attorneys and counselors at law~~ ATTORNEYS- AND COUNSELORS-AT-LAW created by ~~section 12-5-119, C.R.S.~~, SECTION 13-93-114 has precedence over and is senior to the lien created under this section. This ~~article~~ ARTICLE 27 does not apply to any hospital charges incurred after the date of any such judgment, settlement, or compromise.

SECTION 7. In Colorado Revised Statutes, 42-4-505, **amend**

(1)(c) as follows:

42-4-505. Longer vehicle combinations - rules. (1) (c) The department shall provide the option to a company filing for a permit under this section to file an express consent waiver that enables the company to designate a company representative to be a party of interest for a violation of this section. The appearance of the company representative in a court hearing without the operator when the operator has signed such waiver shall not be deemed the practice of law in violation of ~~article 5 of title 12, C.R.S.~~ ARTICLE 93 OF TITLE 13.

SECTION 8. In Colorado Revised Statutes, 42-4-510, **amend** (1.5)(c) as follows:

42-4-510. Permits for excess size and weight and for manufactured homes - rules. (1.5) (c) The department shall provide the option to a company filing for a permit under this subsection (1.5) to file an express consent waiver that enables the company to designate a company representative to be a party of interest for a violation of this section. The appearance of the company representative in a court hearing without the operator when the operator has signed such waiver shall not be deemed the practice of law in violation of ~~article 5 of title 12, C.R.S.~~ ARTICLE 93 OF TITLE 13.

SECTION 9. In Colorado Revised Statutes, 42-20-202, **amend** (1)(d) as follows:

42-20-202. Transportation permit - application fee. (1) (d) The public utilities commission shall provide the option to a company filing for a permit under this subsection (1) to file an express consent waiver that enables the company to designate a company representative to be a party of interest for a violation of this section. The appearance of the company representative in a court hearing without the operator when the operator has signed such waiver shall not be deemed the practice of law in violation of ~~article 5 of title 12, C.R.S.~~ ARTICLE 93 OF TITLE 13.

SECTION 10. Repeal of relocated provisions in this act. In Colorado Revised Statutes, **repeal** article 5 of title 12.

SECTION 11. Act subject to petition - effective date. This act

takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO