

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0234.02 Michael Dohr x4347

SENATE BILL 17-227

SENATE SPONSORSHIP

Gardner, Cooke, Guzman, Holbert, Kagan

HOUSE SPONSORSHIP

Foote, Herod, Lee, Willett, Wist

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Committee on Legal Services. Current law directs the office of legislative legal services to study the organizational recodification of title 12, Colorado Revised Statutes, which relates to professions and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

occupations. To implement the initial recommendations of the study, **section 1** of the bill relocates article 5 of title 12, attorneys-at-law, to a new article 93 in title 13, Colorado Revised Statutes. **Sections 2 to 9** of the bill make conforming amendments and **section 10** repeals the article where the law was previously codified.

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

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

4 **ARTICLE 93**

5 **Attorneys-at-law**

6 PART 1

7 GENERAL PROVISIONS

8 **13-93-101. [Formerly 12-5-101] License to practice necessary.**

9 (1) No person shall be permitted to practice as an attorney- or
10 counselor-at-law or to commence, conduct, or defend any action, suit, or
11 plaint in which he or she is not a party concerned in any court of record
12 within this state, either by using or subscribing his or her own name or the
13 name of any other person, without having previously obtained a license
14 or other authorization to practice law pursuant to the supreme court's rules
15 governing admission to the practice of law in Colorado.

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

22 (3) Upon request of the supreme court or a representative of its
23 office of attorney regulation counsel, the Colorado bureau of

1 investigation shall also provide a name-based criminal history record
2 check for any applicant whose fingerprints are unclassifiable.

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

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

9 **13-93-103. [Formerly 12-5-103] License fee.** The license fee for
10 admission to practice law in this state shall be as prescribed by the
11 supreme court under rules for admission to the bar.

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

17 **13-93-105. [Formerly 12-5-108] Supreme court may strike**
18 **name.** No person whose name is not subscribed to or written on the said
19 roll, with the day and year when the same was subscribed thereto or
20 written thereon, shall be admitted to practice as an attorney- or
21 counselor-at-law within this state under the penalty mentioned in ~~section~~
22 ~~12-5-112~~ SECTION 13-93-108, anything in this ~~article~~ ARTICLE 93 to the
23 contrary notwithstanding; and the justices of the supreme court in open
24 court, at their discretion, shall have power to strike the name of any
25 attorney- or counselor-at-law from the roll for misconduct in his OR HER
26 office.

27 **13-93-106. [Formerly 12-5-109] Persons forbidden to practice.**

1 No coroner, sheriff, deputy sheriff, or jailer, though qualified, shall be
2 permitted to practice as an attorney in the county in which he OR SHE is
3 commissioned or appointed, nor shall any clerk of the supreme court or
4 district court be permitted to practice as an attorney- or counselor-at-law
5 in the court in which he OR SHE is clerk.

6 **13-93-107. [Formerly 12-5-110] Judge not to act as attorney.**

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

18 **13-93-108. [Formerly 12-5-112] Practicing law without license**

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

1 **13-93-109. [Formerly 12-5-113] Special admission of**
2 **counselors from other states.** Whenever any counselor-at-law residing
3 in any of the adjacent states or territories has business in any of the courts
4 of this state, he OR SHE may be admitted, on motion, for the purpose of
5 transacting such business and none other.

6 **13-93-110. [Formerly 12-5-114] Notice of charges - time to**
7 **show cause.** Every attorney, before his OR HER name is stricken off the
8 roll, shall receive a written notice from the clerk of the supreme court
9 stating distinctly the grounds of complaint or the charges exhibited
10 against him OR HER, and after ~~such~~ THE notice he OR SHE shall be heard
11 in his OR HER defense and allowed reasonable time to collect and prepare
12 testimony for his OR HER justification. Any attorney whose name, at any
13 time, is stricken from the roll by order of the court shall be considered as
14 though his OR HER name had never been written thereon until such time
15 as the said justices, in open court, authorize him OR HER to sign or
16 subscribe the same.

17 **13-93-111. [Formerly 12-5-115.5] Solicitation of accident**
18 **victims - waiting period - definition.** (1) Except as permitted by section
19 13-21-301 (3) OR 10-3-1104 (1)(h), ~~or 10-4-706, C.R.S.~~, no person shall
20 engage in solicitation for professional employment or for any release or
21 covenant not to sue concerning personal injury or wrongful death from an
22 individual with whom the person has no family or prior professional
23 relationship unless the incident for which employment is sought occurred
24 more than thirty days prior to the solicitation.

25 (2) No person shall accept a referral for professional employment
26 concerning personal injury or wrongful death from any person who
27 engaged in solicitation of an individual with whom the person had no

1 family or prior professional relationship unless the incident for which
2 employment is sought occurred more than thirty days prior to the
3 solicitation.

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

11 (4) Any agreement made in violation of this section is voidable at
12 the option of the individual suffering the personal injury or death or ~~such~~
13 THE individual's personal or other authorized representative.

14 **13-93-112. [Formerly 12-5-117] Attorney not to be surety.** No
15 attorney- or counselor-at-law shall become surety in any bond or
16 recognizance of any sheriff or coroner, in any bond or recognizance for
17 the appearance of any person charged with any public offense, or upon
18 any bond or recognizance authorized by any statute to be taken for the
19 payment of any sum of money into court in default of the principal,
20 without the consent of a judge of the district court first had approving said
21 surety.

22 **13-93-113. [Formerly 12-5-118] Judge not to have law partner.**
23 A judge shall not have a partner acting as attorney or counsel in any court
24 in his OR HER judicial district, county, or precinct.

25 **13-93-114. [Formerly 12-5-119] Attorney's lien - notice of claim**
26 **filed.** All attorneys- and counselors-at-law shall have a lien on any
27 money, property, choses in action, or claims and demands in their hands,

1 on any judgment they may have obtained or assisted in obtaining, in
2 whole or in part, and on any and all claims and demands in suit for any
3 fees or balance of fees due or to become due from any client. In the case
4 of demands in suit and in the case of judgments obtained in whole or in
5 part by any attorney, such attorney may file, with the clerk of the court
6 wherein such cause is pending, notice of his OR HER claim as lienor,
7 setting forth specifically the agreement of compensation between such
8 attorney and his OR HER client, which notice, duly entered of record, shall
9 be notice to all persons and to all parties, including the judgment creditor,
10 to all persons in the case against whom a demand exists, and to all
11 persons claiming by, through, or under any person having a demand in
12 suit or having obtained a judgment that the attorney whose appearance is
13 thus entered has a first lien on such demand in suit or on such judgment
14 for the amount of his OR HER fees. Such notice of lien shall not be
15 presented in any manner to the jury in the case in which the same is filed.
16 Such lien may be enforced by the proper civil action.

17 **13-93-115. [Formerly 12-5-120] Other property to which lien**
18 **attaches.** An attorney has a lien for a general balance of compensation
19 upon any papers of his OR HER client ~~which~~ THAT have come into his OR
20 HER possession in the course of his OR HER professional employment and
21 upon money due to his OR HER client in the hands of the adverse party in
22 an action or proceeding in which the attorney was employed from the
23 time of giving notice of the lien to that party.

24 PART 2

25 LAW STUDENT PRACTICE

26 **13-93-201. [Formerly 12-5-116] Legal aid dispensaries - law**
27 **students practice.** Students of any law school that maintains a legal-aid

1 dispensary where poor or legally underserved persons receive legal advice
2 and services shall, when representing the dispensary and its clients, be
3 authorized to advise clients on legal matters and appear in court or before
4 any arbitration panel as if licensed to practice law.

5 **13-93-202. [Formerly 12-5-116.1] Practice by law student**
6 **intern.** (1) An eligible law student intern, as specified in ~~section~~
7 ~~12-5-116.2~~ SECTION 13-93-203, may appear and participate in any civil
8 proceeding in any municipal, county, or district court or before any
9 administrative agency in this state or in any county or municipal court
10 criminal proceeding, except when the defendant has been charged with
11 a felony, or in any juvenile proceeding in any municipal or county court
12 or before any magistrate in any juvenile or other proceeding or any parole
13 revocation under the following circumstances:

14 (a) If the person on whose behalf he OR SHE is appearing has
15 indicated his OR HER consent to that appearance and the law student intern
16 is under the supervision of a supervising lawyer, as specified in ~~section~~
17 ~~12-5-116.4~~ SECTION 13-93-205;

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

23 (c) On behalf of the state or any of its departments, agencies, or
24 institutions, a county, a city, or a town, with the written approval and
25 under the supervision of the attorney general, attorney for the state,
26 county attorney, district attorney, city attorney, town attorney, or
27 authorized legal services organization. A general approval for the law

1 student intern to appear, executed by the appropriate supervising attorney
2 pursuant to this ~~paragraph (c)~~ SUBSECTION (1)(c), shall be filed with the
3 clerk of the applicable court and brought to the attention of the judge
4 thereof.

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

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

17 **13-93-203. [Formerly 12-5-116.2] Eligibility requirements for**
18 **law student intern practice.** (1) In order to be eligible to make an
19 appearance and participate pursuant to ~~section 12-5-116.1~~ SECTION
20 13-93-202, a law student must:

- 21 (a) Be duly enrolled in or a graduate of any accredited law school;
- 22 (b) Have completed a minimum of two years of legal studies;
- 23 (c) Have the certification of the dean of such law school that he
24 OR SHE has no personal knowledge of or knows of nothing of record that
25 indicates that the student is not of good moral character and, in addition,
26 that the law student has completed the requirements specified in
27 ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION

1 and is a student in good standing;

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

5 (e) Neither ask nor receive any compensation or remuneration of
6 any kind for his OR HER services from the person on whose behalf he OR
7 SHE renders services; but such limitation shall not prevent the law student
8 intern from receiving credit for participation in the program upon prior
9 approval of the law school, nor shall it prevent the law school, the state,
10 a county, a city, a town, or the office of the district attorney or the public
11 defender from paying compensation to the law school intern, nor shall it
12 prevent any agency from making such charges for its services as it may
13 otherwise properly require; and

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

18 **13-93-204. [Formerly 12-5-116.3] Certification of law student**
19 **intern by law school dean - filing - effective period - withdrawal by**
20 **dean or termination.** (1) The certification by the law school dean,
21 pursuant to ~~section 12-5-116.2~~ SECTION 13-93-203 (1)(c), required in
22 order for a law student intern to appear and participate in proceedings:

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

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

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

6 **13-93-205. [Formerly 12-5-116.4] Qualifications of supervising**
7 **lawyer.** (1) A supervising lawyer, under whose supervision an eligible
8 law student intern appears and participates pursuant to ~~section 12-5-116.1~~
9 SECTION 13-93-202, shall be authorized to practice law in this state and:

10 (a) Shall be a lawyer in the public sector as provided in ~~section~~
11 ~~12-5-116.1~~ SECTION 13-93-202 (1)(b) and (1)(c);

12 (b) Shall assume personal professional responsibility for the
13 conduct of the law student intern; and

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

16 **13-93-206. [Formerly 12-5-116.5] Other rights not affected by**
17 **provisions for practice by law student intern.** Nothing contained in
18 ~~sections 12-5-116 to 12-5-116.4~~ SECTIONS 13-93-201 TO 13-93-205 shall
19 affect the right of any person who is not admitted to practice law to do
20 anything that he OR SHE might lawfully do prior to the adoption of these
21 sections.

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

24 **5-9.5-103. Definitions.** As used in this ~~article~~ ARTICLE 9.5, unless
25 the context otherwise requires:

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

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

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

5 **6-1-727. Immigration-related services provided by**
6 **nonattorneys - deceptive trade practice. (3) Prohibited practices -**
7 **assistance with immigration matters - permitted practices.** (a) A
8 person shall not engage in the practice of law in an immigration matter
9 for compensation unless the person is:

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

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

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

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

22 **13-1-127. Entities - school districts - legislative declaration -**
23 **representation.** (7) (c) An authorized employee who represents a school
24 district in truancy proceedings pursuant to the provisions of this
25 subsection (7) shall not be subject to the provisions of ~~section 12-5-112,~~
26 ~~C.R.S.~~ SECTION 13-93-108.

27 **SECTION 5.** In Colorado Revised Statutes, 13-6-407, **amend**

1 (2)(a)(I) as follows:

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

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

16 **38-27-101. Lien for hospital care - definition.** (8) The lien of
17 ~~attorneys and counselors at law~~ ATTORNEYS- AND COUNSELORS-AT-LAW
18 created by ~~section 12-5-119, C.R.S.,~~ SECTION 13-93-114 has precedence
19 over and is senior to the lien created under this section. This ~~article~~
20 ARTICLE 27 does not apply to any hospital charges incurred after the date
21 of any such judgment, settlement, or compromise.

22 **SECTION 7.** In Colorado Revised Statutes, 42-4-505, **amend**
23 (1)(c) as follows:

24 **42-4-505. Longer vehicle combinations - rules.** (1) (c) The
25 department shall provide the option to a company filing for a permit
26 under this section to file an express consent waiver that enables the
27 company to designate a company representative to be a party of interest

1 for a violation of this section. The appearance of the company
2 representative in a court hearing without the operator when the operator
3 has signed such waiver shall not be deemed the practice of law in
4 violation of ~~article 5 of title 12, C.R.S.~~ ARTICLE 93 OF TITLE 13.

5 **SECTION 8.** In Colorado Revised Statutes, 42-4-510, **amend**
6 (1.5)(c) as follows:

7 **42-4-510. Permits for excess size and weight and for**
8 **manufactured homes - rules.** (1.5)(c) The department shall provide the
9 option to a company filing for a permit under this subsection (1.5) to file
10 an express consent waiver that enables the company to designate a
11 company representative to be a party of interest for a violation of this
12 section. The appearance of the company representative in a court hearing
13 without the operator when the operator has signed such waiver shall not
14 be deemed the practice of law in violation of ~~article 5 of title 12, C.R.S.~~
15 ARTICLE 93 OF TITLE 13.

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

18 **42-20-202. Transportation permit - application fee.** (1)(d) The
19 public utilities commission shall provide the option to a company filing
20 for a permit under this subsection (1) to file an express consent waiver
21 that enables the company to designate a company representative to be a
22 party of interest for a violation of this section. The appearance of the
23 company representative in a court hearing without the operator when the
24 operator has signed such waiver shall not be deemed the practice of law
25 in violation of ~~article 5 of title 12, C.R.S.~~ ARTICLE 93 OF TITLE 13.

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

1 **SECTION 11. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2018 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.