

By Representative Melvin

1                                   A bill to be entitled  
2           An act relating to attorneys at law; repealing  
3           s. 454.021, F.S., relating to the admission of  
4           attorneys to practice law; creating s. 454.024,  
5           F.S.; creating the Board of Law Practice within  
6           the Department of Business and Professional  
7           Regulation; creating s. 454.025, F.S.;  
8           providing powers and duties of the board;  
9           providing for rules; amending ss. 20.165,  
10          454.026, 454.23, and 454.31, F.S., to conform;  
11          providing for adoption of some and repeal of  
12          other current rules relating to regulation of  
13          the practice of law; providing for transfer of  
14          files, records, property, and assets, including  
15          liabilities attaching thereto, of The Florida  
16          Bar and the Florida Board of Bar Examiners to  
17          the Board of Law Practice and the Florida  
18          Supreme Court; providing for establishment of  
19          The Florida Bar as a private, not-for-profit  
20          corporation chartered by the Legislature;  
21          providing for abolishment of the Florida Board  
22          of Bar Examiners; providing a contingent  
23          effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

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27           Section 1. Section 454.021, Florida Statutes, is  
28 repealed.

29           Section 2. Section 454.024, Florida Statutes, is  
30 created to read:

31           454.024 Board of Law Practice.--

1       (1) There is created within the Department of Business  
2 and Professional Regulation a Board of Law Practice, composed  
3 of 15 members appointed by the Governor and confirmed by the  
4 Senate.

5       (2) Twelve members of the board must be licensed  
6 attorneys who are residents of the state and who have been  
7 licensed attorneys engaged in the practice of law for at least  
8 4 years. The remaining three members must be residents of the  
9 state who have never been licensed as attorneys and who are in  
10 no way connected with the practice of law. At least one  
11 member of the board must be 60 years of age or older.

12       (3) Initially, three members shall be appointed for  
13 terms of 1 year, four members shall be appointed for terms of  
14 2 years, four members shall be appointed for terms of 3 years,  
15 and four members shall be appointed for terms of 4 years. As  
16 the terms of members expire, the Governor shall appoint  
17 successors for terms of 4 years, and such members shall serve  
18 until their successors are appointed.

19       (4) All provisions of chapter 455 relating to the  
20 board shall apply.

21       Section 3. Section 454.025, Florida Statutes, is  
22 created to read:

23       454.025 Powers and duties of the board; rules.--

24       (1) The Board of Law Practice may adopt and enforce  
25 rules relating to standards of competence and integrity for  
26 admission to practice law in this state and to admit lawyers  
27 to the practice of law in all courts of the state. However,  
28 the board's authority under this subsection does not preclude  
29 the common law power of any court to admit attorneys pro hac  
30 vice.

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1           (2) The board may adopt and enforce disciplinary rules  
2 relating to standards of competence and integrity and pursuant  
3 thereto may discipline lawyers for unethical, dishonest, or  
4 incompetent practice. Such discipline may include suspension  
5 or disbarment. However, the board's authority under this  
6 subsection does not alter the common law power of any court of  
7 the state to control the proceedings in the court, excluding  
8 the power to disbar or to suspend. In addition, this  
9 subsection does not prevent the profession, in its private  
10 capacity, from adopting additional standards of ethical and  
11 professional behavior and imposing them privately without the  
12 force of law.

13           (3) The board may adopt such rules not inconsistent  
14 with law as may be necessary to carry out the duties expressly  
15 conferred upon it by this section.

16           Section 4. Paragraph (a) of subsection (4) of section  
17 20.165, Florida Statutes, is amended to read:

18           20.165 Department of Business and Professional  
19 Regulation.--There is created a Department of Business and  
20 Professional Regulation.

21           (4)(a) The following boards are established within the  
22 Division of Professions:

23           1. Board of Architecture and Interior Design, created  
24 under part I of chapter 481.

25           2. Florida Board of Auctioneers, created under part VI  
26 of chapter 468.

27           3. Barbers' Board, created under chapter 476.

28           4. Florida Building Code Administrators and Inspectors  
29 Board, created under part XII of chapter 468.

30           5. Construction Industry Licensing Board, created  
31 under part I of chapter 489.

- 1           6. Board of Cosmetology, created under chapter 477.  
2           7. Electrical Contractors' Licensing Board, created  
3 under part II of chapter 489.  
4           8. Board of Employee Leasing Companies, created under  
5 part XI of chapter 468.  
6           9. Board of Funeral Directors and Embalmers, created  
7 under chapter 470.  
8           10. Board of Landscape Architecture, created under  
9 part II of chapter 481.  
10          11. Board of Law Practice, created under chapter 454.  
11          ~~12.11.~~ Board of Pilot Commissioners, created under  
12 chapter 310.  
13          ~~13.12.~~ Board of Professional Engineers, created under  
14 chapter 471.  
15          ~~14.13.~~ Board of Professional Geologists, created under  
16 chapter 492.  
17          ~~15.14.~~ Board of Professional Surveyors and Mappers,  
18 created under chapter 472.  
19          ~~16.15.~~ Board of Veterinary Medicine, created under  
20 chapter 474.  
21          Section 5. Section 454.026, Florida Statutes, is  
22 amended to read:  
23           454.026 Authority of Department of Law Enforcement to  
24 accept fingerprints of, and exchange criminal history records  
25 with respect to, bar applicants.--The Department of Law  
26 Enforcement is authorized to accept fingerprints of applicants  
27 for admission to The Florida Bar and, to the extent provided  
28 for by federal law, to exchange state, multistate, and federal  
29 criminal history records with the ~~Florida~~ Board of Law  
30 Practice Bar Examiners for licensing purposes.  
31

1           Section 6. Section 454.23, Florida Statutes, is  
2 amended to read:

3           454.23 Penalties.--Any person not licensed or  
4 otherwise authorized by the Board of Law Practice ~~Supreme~~  
5 ~~Court of Florida~~ who shall practice law or assume or hold  
6 himself or herself out to the public as qualified to practice  
7 in this state, or who willfully pretends to be, or willfully  
8 takes or uses any name, title, addition, or description  
9 implying that he or she is qualified, or recognized by law as  
10 qualified, to act as a lawyer in this state, and any person  
11 entitled to practice who shall violate any provisions of this  
12 chapter, commits ~~shall be guilty of~~ a misdemeanor of the first  
13 degree, punishable as provided in s. 775.082 or s. 775.083.

14           Section 7. Section 454.31, Florida Statutes, is  
15 amended to read:

16           454.31 Practice while disbarred or suspended  
17 prohibited.--Any person who has been disbarred and who has not  
18 been lawfully reinstated or is under suspension from the  
19 practice of law by the Board of Law Practice ~~any circuit court~~  
20 ~~of the state or by the Supreme Court of the state~~ who shall  
21 either directly or indirectly practice law in any manner or  
22 hold himself or herself out as an attorney at law or qualified  
23 to practice law commits ~~shall be guilty of~~ a misdemeanor of  
24 the first degree, punishable as provided in s. 775.082 or s.  
25 775.083.

26           Section 8. (1)(a) The following rules regulating The  
27 Florida Bar, as they exist on the effective date of this act,  
28 shall become rules of the Board of Law Practice:

29           1. Chapter 4, Rules of Professional Conduct, as  
30 adopted in The Florida Bar Re: Rules Regulating The Florida  
31 Bar, 494 So.2d 977 (Fla. 1986), on January 1, 1987.

1           2. Rule 5-1.1(a)-(e), Rules Regulating The Florida  
2 Bar.  
3           3. Rule 5-1.2, Rules Regulating The Florida Bar.  
4           4. Chapter 7, Rules Regulating The Florida Bar.  
5           (b) All other rules regulating The Florida Bar are  
6 abolished.  
7           (2) All rules of the Florida Board of Bar Examiners  
8 relating to admission to the practice of law shall become  
9 rules of the Board of Law Practice.  
10          (3) All rules adopted by the Board of Law Practice  
11 pursuant to subsections (1) and (2) are repealed on the second  
12 anniversary of the effective date of this act unless they have  
13 been approved by subsequent rule of such board.  
14          Section 9. (1)(a) All files, records, property, and  
15 assets of The Florida Bar, including all liabilities attaching  
16 thereto, which relate to admission, licensure, and discipline  
17 of lawyers shall be transferred to the Board of Law Practice  
18 in a timely manner, but not later than the first anniversary  
19 of the effective date of this act.  
20          (b) All files, records, property, and assets of The  
21 Florida Bar, including all liabilities attaching thereto,  
22 which properly belong to the judicial branch of government  
23 shall be transferred to the Florida Supreme Court in a timely  
24 manner, but not later than the first anniversary of the  
25 effective date of this act.  
26          (2) All files, records, property, and assets of the  
27 Florida Board of Bar Examiners, including all liabilities  
28 attaching thereto, shall be transferred to the Board of Law  
29 Practice in a timely manner, but not later than the first  
30 anniversary of the effective date of this act.  
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1       (3)(a) The Florida Bar shall become a private,  
2 voluntary, not-for-profit corporation chartered by the  
3 Legislature and shall have right or title to all files,  
4 records, property, and assets of The Florida Bar, including  
5 all liabilities attaching thereto, which are not transferred  
6 to the Board of Law Practice or to the Florida Supreme Court  
7 under subsection (1).

8       (b) The Florida Board of Bar Examiners shall be  
9 abolished after the transfers required in subsection (2) are  
10 completed, but not later than the first anniversary of the  
11 effective date of this act.

12       Section 10. This act shall take effect on the  
13 effective date of an amendment to the State Constitution  
14 approved by the electors at the general election to be held in  
15 November 2002 which authorizes, or removes impediment to,  
16 enactment by the Legislature of the provisions of this act.

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19                   HOUSE SUMMARY

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21       Creates the Board of Law Practice within the Department  
22       of Business and Professional Regulation for the purpose  
23       of regulating the admission of persons to the practice of  
24       law and the disciplining of persons so admitted.  
25       Provides rulemaking authority, including providing for  
26       the adoption of some and the repeal of other current  
27       rules relating to regulation of the practice of law.  
28       Provides for transfer of files, records, property, and  
29       assets, including liabilities attaching thereto, of The  
30       Florida Bar and the Florida Board of Bar Examiners to the  
31       Board of Law Practice and the Florida Supreme Court.  
32       Provides for establishment of The Florida Bar as a  
33       private, not-for-profit corporation chartered by the  
34       Legislature, and provides for abolishment of the Florida  
35       Board of Bar Examiners.