

1 A bill to be entitled
 2 An act relating to paralegals; creating pt. II of ch. 454,
 3 F.S.; relating to regulation of paralegals; providing a
 4 popular name; providing legislative intent; providing
 5 definitions; providing exceptions and exemptions;
 6 providing educational requirements for qualification as a
 7 paralegal; providing continuing education requirements;
 8 providing for a paralegal code of ethics and professional
 9 responsibility; providing a grandfathering clause;
 10 providing for reciprocity; providing penalties; providing
 11 for severability; establishing the Paralegal Regulation
 12 Board; providing for the board's powers, members, terms,
 13 vacancies, fiscal accountability, and meetings; amending
 14 ss. 57.104 and 744.108, F.S.; conforming cross references;
 15 providing effective dates.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Chapter 454, Florida Statutes, is designated
 20 part I of said chapter, and part II, consisting of sections
 21 454.37, 454.38, 454.39, 454.40, 454.41, 454.42, 454.43, 454.44,
 22 454.45, 454.46, 454.47, and 454.48, is created to read:

23 454.37 Part name.--This part may be cited as the
 24 "Paralegal Profession Act."

25 454.38 Legislative intent.--The legislative purpose for
 26 enacting this part is to:

27 (1) Protect the public from the unauthorized practice of
 28 law by any person who:

29 (a) Otherwise provides services outside the scope of
 30 existing laws and rules of administrative agencies.

31 (b) Holds himself or herself out as having advanced levels
 32 of legal education and training sufficient to perform
 33 substantive legal work by using the title "paralegal," or other
 34 similar title, as such title is defined in s. 454.39(2).

35 (2) Assist with the effective delivery of legal services.

36 (3) Maintain specific levels of ethics and competency.

37 (4) Ensure every person who holds himself or herself out
 38 as a paralegal in this state meets certain requirements.

39 454.39 Definitions.--As used in this part:

40 (1) "Board" means the Paralegal Regulation Board created
 41 under s. 454.48.

42 (2) "Paralegal" means:

43 (a) A person who is qualified under this part, who is
 44 employed or retained by a licensed attorney, law office,
 45 governmental agency, or other entity, and who performs
 46 substantive legal work for which a licensed attorney is
 47 responsible that, absent the paralegal, the licensed attorney
 48 would perform; or

49 (b) A person who is qualified under this part and is
 50 authorized by local, state, or federal statute, rules of court,
 51 or administrative rules to perform substantive legal work
 52 without the supervision of a licensed attorney.

53 (3) "Qualified paralegal studies program" means a program
 54 as defined by the educational requirements set forth in s.
 55 454.41.

56 454.40 Exceptions and exemptions.--A disbarred attorney
 57 does not qualify under this part and may not use the title
 58 paralegal. A person convicted of a felony does not qualify under
 59 this part regardless of whether such person meets any other
 60 criteria for qualification under this part and may not use the
 61 title "paralegal." A person may not hold himself or herself out
 62 as a paralegal in this state unless that person is regulated
 63 under this part or has been determined to be exempt by the
 64 board. A person who is an active member of a branch of the
 65 United States military and is classified as a "paralegal" is
 66 exempt from this part. An individual who is a civilian employee
 67 of a branch of the United States military and is classified as a
 68 "paralegal" is exempt from this part during the term of such
 69 employment in that capacity by a branch of the United States
 70 military.

71 454.41 Educational requirements.--A paralegal regulated
 72 under this part shall have completed postsecondary education and
 73 training that includes at least one of the following:

74 (1) Successful completion of:

75 (a) The Certified Legal Assistant/Certified Paralegal
 76 (CLA/CP) certification examination administered by the National
 77 Association of Legal Assistants (NALA);

78 (b) The Registered Paralegal (RP) certification
 79 examination offered by the National Federation of Paralegal
 80 Associations (NFPA); or

81 (c) Such other certification examination as may be
 82 recognized by the board as establishing a similar or greater
 83 level of competency as a paralegal.

84 (2) Graduation from one of the following kinds of
 85 educational programs:

86 (a) A program of study for paralegals that was approved by
 87 the American Bar Association at the time the applicant
 88 graduated.

89 (b) A program of study for paralegals that is
 90 institutionally accredited by an accrediting agency approved by
 91 the United States Department of Education, but not approved by
 92 the American Bar Association, that requires not less than the
 93 equivalent of 60 semester hours of classroom study, including
 94 the equivalent of not less than 24 semester hours of courses in
 95 paralegal studies.

96 (c) A baccalaureate degree in any field from an
 97 educational institution that is institutionally accredited by an
 98 accrediting agency approved by the United States Department of
 99 Education, in addition to not less than 2 years of full-time in-
 100 house training or the equivalent amount of time as a paralegal
 101 intern under the supervision of an attorney who has been a
 102 member in good standing of the state bar in which the attorney
 103 practices for a minimum of 5 consecutive years.

104 454.42 Continuing education.--A paralegal regulated under
 105 this part shall complete continuing legal education. The board
 106 shall establish the required number of hours and approved course
 107 content, which shall not be less than 20 hours every 2 years, 2
 108 hours of which shall be in the area of ethics. Courses approved
 109 for credit by The Florida Bar, the National Association of Legal
 110 Assistants (NALA), or the National Federation of Paralegal

111 Associations (NFPA) shall be deemed acceptable for purposes of
112 this section.

113 454.43 Ethics.--A paralegal regulated under this part
114 shall comply with the Florida Paralegal Code of Ethics and
115 Professional Responsibility as adopted by the board.

116 454.44 Grandfathering.--

117 (1) In addition to a paralegal who meets the requirements
118 of s. 454.41, a person is qualified under this part if he or she
119 meets the following cumulative criteria:

120 (a) Has a high school diploma or high school equivalency
121 diploma at the time of application.

122 (b) Has been engaged in work as a paralegal for not less
123 than 9,395 hours at any time during the 5 years immediately
124 preceding the time of application and meets the supervisory
125 requirements of s. 454.39(2).

126 (c) Has completed at least 2 hours of continuing education
127 courses approved pursuant to s. 454.42 in the area of legal
128 ethics and professional responsibility during the 12 months
129 immediately preceding the time of application.

130 (d) Makes application for regulation under this section
131 within 2 years after the effective date of this part.

132 (2) A paralegal shall provide documentation of the work
133 experience required in paragraph (1)(b) by an affidavit under
134 oath of an attorney under whose supervision the work was
135 performed, a law office, a governmental agency, or other entity.
136 The form and content of the certification shall be prescribed by
137 the board.

138 454.45 Reciprocity.--Other individuals may qualify under
 139 this part by rules of reciprocity as established by the board.

140 454.46 Penalties.--Any individual who violates the
 141 provisions of s. 454.40 commits a felony of the third degree,
 142 punishable as provided in s. 775.082 or s. 775.083.

143 454.47 Severability.--If any provision of this part or the
 144 application thereof to any individual or circumstance is for any
 145 reason held invalid, such invalidity shall not affect other
 146 provisions or applications of the section which can be given
 147 effect without the invalid provision or application, and to this
 148 end the provisions of this part are declared to be severable.

149 454.48 Paralegal Regulation Board; powers; members; terms;
 150 vacancies; fiscal accountability; meetings.--

151 (1) The board shall be charged with and have the power and
 152 duty to administer the regulation of paralegals under this part.
 153 The board shall have, but not be limited to, the following
 154 powers:

155 (a) To approve, deny, suspend, revoke, or reinstate the
 156 status of paralegals registered under this part.

157 (b) To review, evaluate, and approve educational
 158 requirements and continuing education programs to ensure
 159 compliance with the standards set forth in this part.

160 (c) To adopt rules, bylaws, and procedures not
 161 inconsistent with law as may be necessary to carry out the
 162 duties and authority conferred upon the board by this section.

163 (d) To establish fees to be paid for registration as a
 164 paralegal adequate to ensure continued operation of the board
 165 and to fund the proportionate expenses incurred by the board in

166 carrying out its regulatory and other related responsibilities
167 under this section.

168 (2) The board shall consist of at least 15 members who are
169 residents of this state and who are appointed and elected as
170 follows:

171 (a) Ten members shall be persons who are regulated under
172 this part and shall be comprised of members representing each
173 federal district within the state. The initial members shall be
174 appointed by the Florida Alliance of Paralegal Associations,
175 Inc., and shall include 3 members who are paralegals and who
176 shall serve a 1-year term, 3 members who are paralegals and who
177 shall serve a 2-year term, and 4 members who are paralegals and
178 who shall serve a 3-year term. Initially appointed paralegal
179 members of the board may serve for one consecutive term of 3
180 years. Twelve months after the second year after the effective
181 date of this part, paralegal member vacancies on the board shall
182 be elected by majority vote of the persons regulated under this
183 part for staggered terms as determined by the board. No elected
184 paralegal member of the board may serve more than two
185 consecutive terms.

186 (b) Three members shall be paralegal educators and shall
187 consist of one member from each federal district in this state.
188 The initial appointments shall be made from a list of paralegal
189 educators in this state by a majority vote of the members of the
190 board who are paralegals. Twelve months after the effective date
191 of this part, a member of the board who is a paralegal educator
192 shall serve for a 3-year term or until his or her successor is
193 appointed.

194 (c) Of the two remaining members, one shall be a member of
 195 the public and one shall be an attorney serving on The Florida
 196 Bar Standing Committee on Unlicensed Practice of Law as of the
 197 effective date of this part. The initial appointments shall be
 198 made by the then-current standing committee chair. Twelve months
 199 after the effective date of this part, each of these members of
 200 the board shall serve for a 3-year term or until a successor is
 201 appointed by the standing committee chair.

202 (3) Vacancies occurring by reason of death, resignation,
 203 or removal shall be filled by appointment of the board, and the
 204 member so appointed shall serve for the balance of the vacated
 205 term.

206 (4) The board shall maintain its official headquarters in
 207 Tallahassee.

208 (5) The board shall meet at least once annually.

209 (6) The board shall prepare an annual financial statement
 210 that shall be made available to paralegals registered under this
 211 part upon reasonable request and to such other entities as may
 212 be required by law.

213 Section 2. All initial members of the Paralegal Regulation
 214 Board created under s. 454.48, Florida Statutes, shall be
 215 appointed at least 60 days before the effective date of this
 216 part. This section shall take effect upon this act becoming a
 217 law.

218 Section 3. Section 57.104, Florida Statutes, is amended to
 219 read:

220 57.104 Computation of attorneys' fees.--In any action in
 221 which attorneys' fees are to be determined or awarded by the

222 court, the court shall consider, among other things, time and
223 labor of any paralegals, as defined by s. 454.39(2), legal
224 ~~assistants~~ who contributed nonclerical, meaningful legal support
225 to the matter involved and who are working under the supervision
226 of an attorney. ~~For purposes of this section "legal assistant"~~
227 ~~means a person, who under the supervision and direction of a~~
228 ~~licensed attorney engages in legal research, and case~~
229 ~~development or planning in relation to modifications or initial~~
230 ~~proceedings, services, processes, or applications; or who~~
231 ~~prepares or interprets legal documents or selects, compiles, and~~
232 ~~uses technical information from references such as digests,~~
233 ~~encyclopedias, or practice manuals and analyzes and follows~~
234 ~~procedural problems that involve independent decisions.~~

235 Section 4. Subsection (4) of section 744.108, Florida
236 Statutes, is amended to read:

237 744.108 Guardian's and attorney's fees and expenses.--

238 (4) Fees for legal services may include customary and
239 reasonable charges for work performed by paralegals, as defined
240 by s. 454.39(2), legal assistants employed by and working under
241 the direction of the attorney.

242 Section 5. Except as otherwise provided herein, this act
243 shall take effect October 1, 2005.