

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 short title; 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 members, terms,
 13 vacancies, headquarters, meetings, powers, and fiscal
 14 accountability; amending ss. 57.104 and 744.108, F.S.;
 15 conforming terminology; providing effective dates.

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

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 19 Section 1. Chapter 454, Florida Statutes, is designated
 20 part I of the 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 Short title.--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 that every person who holds himself or herself
 38 out 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 to be a paralegal by local, state, or federal
 51 statute, rules of court, or administrative rules.

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

55 454.40 Exceptions and exemptions.--A disbarred attorney
 56 does not qualify under this part and may not use the title

57 "paralegal." No person shall hold himself or herself out as a
58 paralegal in this state unless that person is regulated under
59 this part or has been determined to be exempt by the board. A
60 person who is an active member of a branch of the United States
61 military and is classified as a "paralegal" is exempt from this
62 part. An individual who is a civilian employee of a branch of
63 the United States military and is classified as a "paralegal" is
64 exempt from this part during the term of such employment in that
65 capacity by a branch of the United States military.

66 454.41 Educational requirements.--A paralegal regulated
67 under this part shall have completed postsecondary education and
68 training that includes at least one of the following:

69 (1) Successful completion of:

70 (a) The Certified Legal Assistant/Certified Paralegal
71 (CLA/CP) certification examination administered by the National
72 Association of Legal Assistants (NALA);

73 (b) The Registered Paralegal (RP) certification
74 examination offered by the National Federation of Paralegal
75 Associations (NFPA); or

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

79 (2) Graduation from one of the following kinds of
80 educational programs:

81 (a) A program of study for paralegals that was approved by
82 the American Bar Association at the time the applicant
83 graduated.

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

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

99 454.42 Continuing education.--A paralegal regulated under
 100 this part shall complete continuing legal education. The board
 101 shall establish the required number of hours and approved course
 102 content, which shall not be less than 20 hours every 2 years, 2
 103 hours of which shall be in the area of ethics. Courses approved
 104 for credit by The Florida Bar, the National Association of Legal
 105 Assistants (NALA), or the National Federation of Paralegal
 106 Associations (NFPA) shall be deemed acceptable for purposes of
 107 this section.

108 454.43 Ethics.--A paralegal regulated under this part
 109 shall comply with the Florida Paralegal Code of Ethics and
 110 Professional Responsibility as adopted by the board.

111 454.44 Grandfathering.--

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

115 (a) Has a high school diploma or high school equivalency
 116 diploma at the time of application.

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

121 (c) Has completed at least 2 hours of continuing education
 122 courses approved under s. 454.42 in the area of legal ethics and
 123 professional responsibility during the 12 months immediately
 124 preceding the time of application.

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

127 (2) A paralegal shall provide documentation of the work
 128 experience required in paragraph (1)(b) by the certification of
 129 an attorney under whose supervision the work was performed, a
 130 law office, a governmental agency, or other entity. The form and
 131 content of the certification shall be prescribed by the board.

132 454.45 Reciprocity.--Other individuals may qualify under
 133 this part by rules of reciprocity as established by the board.

134 454.46 Penalties.--Any individual who violates the
 135 provisions of s. 454.40 commits a felony of the third degree,
 136 punishable as provided in s. 775.082 or s. 775.083.

137 454.47 Severability.--If any provision of this part or the
 138 application thereof to any individual or circumstance is for any
 139 reason held invalid, such invalidity shall not affect other

140 provisions or applications of the part which can be given effect
 141 without the invalid provision or application, and to this end
 142 the provisions of this part are declared to be severable.

143 454.48 Paralegal Regulation Board; members, terms,
 144 vacancies, headquarters, meetings, powers, and fiscal
 145 accountability.--

146 (1) The Paralegal Regulation Board is created and shall
 147 consist of at least 15 members who are residents of this state
 148 and who are appointed and elected as follows:

149 (a) Ten members shall be persons who are regulated under
 150 this part and shall be comprised of members representing each
 151 federal district within the state. The initial members shall be
 152 appointed by the Florida Alliance of Paralegal Associations,
 153 Inc., and shall include three members who are paralegals and who
 154 shall serve a 1-year term, three members who are paralegals and
 155 who shall serve a 2-year term, and four members who are
 156 paralegals and who shall serve a 3-year term. Initially
 157 appointed paralegal members of the board may serve for one
 158 consecutive term of 3 years. Twelve months after the second year
 159 after the effective date of this part, paralegal member
 160 vacancies on the board shall be elected by majority vote of the
 161 persons regulated under this part for staggered terms as
 162 determined by the board. No elected paralegal member of the
 163 board may serve more than two consecutive terms.

164 (b) Three members shall be paralegal educators and shall
 165 consist of one member from each federal district in this state.
 166 The initial appointments shall be made from a list of paralegal
 167 educators in this state by a majority vote of the members of the

168 board who are paralegals. Twelve months after the effective date
169 of this part, a member of the board who is a paralegal educator
170 shall serve for a 3-year term or until his or her successor is
171 appointed.

172 (c) Of the two remaining members, one shall be a member of
173 the public and one shall be an attorney serving on The Florida
174 Bar Standing Committee on Unlicensed Practice of Law as of the
175 effective date of this part. The initial appointments shall be
176 made by the then-current standing committee chair. Twelve months
177 after the effective date of this part, each of these members of
178 the board shall serve for a 3-year term or until a successor is
179 appointed by the standing committee chair.

180 (2) Vacancies occurring by reason of death, resignation,
181 or removal shall be filled by appointment of the board, and the
182 member so appointed shall serve for the balance of the vacated
183 term.

184 (3) The board shall maintain its official headquarters in
185 Tallahassee.

186 (4) The board shall meet at least once annually.

187 (5) The board shall be charged with and have the power and
188 duty to administer the regulation of paralegals under this part.
189 The board shall have, but not be limited to, the power to:

190 (a) Approve, deny, suspend, revoke, or reinstate the
191 status of paralegals registered under this part.

192 (b) Review, evaluate, and approve educational requirements
193 and continuing education programs to ensure compliance with the
194 standards set forth in this part.

195 (c) Adopt rules, bylaws, and procedures not inconsistent
 196 with law as may be necessary to carry out the duties and
 197 authority conferred upon the board by this section.

198 (d) Establish fees to be paid for registration as a
 199 paralegal adequate to ensure continued operation of the board
 200 and to fund the proportionate expenses incurred by the board in
 201 carrying out its regulatory and other related responsibilities
 202 under this section.

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

207 Section 2. All initial members of the Paralegal Regulation
 208 Board created under s. 454.48, Florida Statutes, shall be
 209 appointed at least 60 days before the effective date of this
 210 part. This section shall take effect upon this act becoming a
 211 law.

212 Section 3. Section 57.104, Florida Statutes, is amended to
 213 read:

214 57.104 Computation of attorneys' fees.--In any action in
 215 which attorneys' fees are to be determined or awarded by the
 216 court, the court shall consider, among other things, time and
 217 labor of any paralegals, as defined in s. 454.39(2), legal
 218 assistants who contributed nonclerical, meaningful legal support
 219 to the matter involved and who are working under the supervision
 220 of an attorney. For purposes of this section "legal assistant"
 221 means a person, who under the supervision and direction of a
 222 licensed attorney engages in legal research, and case

223 ~~development or planning in relation to modifications or initial~~
224 ~~proceedings, services, processes, or applications; or who~~
225 ~~prepares or interprets legal documents or selects, compiles, and~~
226 ~~uses technical information from references such as digests,~~
227 ~~encyclopedias, or practice manuals and analyzes and follows~~
228 ~~procedural problems that involve independent decisions.~~

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

231 744.108 Guardian's and attorney's fees and expenses.--

232 (4) Fees for legal services may include customary and
233 reasonable charges for work performed by paralegals, as defined
234 in s. 454.39(2), ~~legal assistants~~ employed by and working under
235 the direction of the attorney.

236 Section 5. Except as otherwise expressly provided in this
237 act, this act shall take effect October 1, 2006.