

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 84

# HOUSE BILL 2341

AN ACT

AMENDING SECTIONS 12-2701, 12-2702 AND 12-2703, ARIZONA REVISED STATUTES;  
AMENDING TITLE 12, CHAPTER 18, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING  
SECTION 12-2704; RELATING TO IMMIGRATION AND NATIONALITY LAW PRACTICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-2701, Arizona Revised Statutes, is amended to  
3 read:

4 12-2701. Definitions

5 In this chapter, unless the context otherwise requires:

6 ~~1. "Immigration consultant" means any person who renders services,~~  
7 ~~including the completion of forms and applications, to a client if the~~  
8 ~~services are related to the client's desire to determine his legal status in~~  
9 ~~an immigration or naturalization matter and who is beyond the scope of~~  
10 ~~federal regulations regulating appearances and practice under the immigration~~  
11 ~~and nationality act of 1952, as amended.~~

12 ~~2.~~ 1. "Immigration or naturalization matter" includes all matters  
13 implicating any law, action, filing or proceeding related to a person's  
14 immigration or citizenship status in the United States.

15 ~~3.~~ 2. "Original document" means any document of the United States  
16 government or any department or agency of the United States government, any  
17 foreign government, any state government or any political subdivision of any  
18 state, ANY UNITED NATIONS DOCUMENT or any other document, including signed  
19 affidavits, that would demonstrate physical presence by a person in the  
20 United States.

21 ~~4.~~ 3. "Unauthorized practice of immigration and nationality law"  
22 means:

23 (a) The act of any person appearing in any case, either in person or  
24 through preparation or filing of any brief or other document, paper,  
25 application or petition on behalf of another person or client before or with  
26 the immigration and naturalization service, or any officer of the immigration  
27 and naturalization service, the executive office for immigration review or  
28 the board of immigration appeals, without authorization under this chapter.

29 (b) The study of the facts of a case and the applicable laws, coupled  
30 with giving advice and auxiliary activities, including the incidental  
31 preparation of papers, without authorization under this chapter, but does not  
32 include the lawful functions of a notary public, nonprofit organization or  
33 service consisting solely of assistance in the completion of blank spaces on  
34 printed immigration and naturalization service forms by one A PERSON whose  
35 remuneration, if any, is nominal and who does not hold himself out as  
36 qualified in legal matters or in immigration and naturalization procedure.

37 Sec. 2. Section 12-2702, Arizona Revised Statutes, is amended to read:

38 12-2702. Representation; definition

39 A. A person desiring immigration and nationality services may be  
40 represented by any of the following:

41 1. Attorneys in the United States.

42 2. A law student who is enrolled in an accredited law school or a law  
43 school graduate who is not yet admitted to the bar, if either BOTH of the  
44 following apply APPLY:

1 (a) ~~He~~ THE STUDENT OR GRADUATE is appearing on an individual case  
2 basis at the request of the person entitled to representation.

3 (b) ~~His appearance~~ THE STUDENT OR GRADUATE is permitted TO APPEAR by  
4 the official before whom ~~he~~ THE STUDENT OR GRADUATE wishes to appear  
5 including an immigration judge, district AN immigration DISTRICT director,  
6 AN immigration officer-in-charge, A regional immigration commission, the  
7 United States commissioner of immigration and naturalization or the  
8 immigration board. ~~The official,~~ If in his THE OFFICIAL'S opinion special  
9 circumstances warrant it, THE OFFICIAL may require that a law student be  
10 accompanied by a supervising faculty member or attorney.

11 3. Any reputable ~~individual~~ PERSON of good moral character, if all of  
12 the following apply:

13 (a) ~~He~~ THE PERSON is appearing on an individual case basis, at the  
14 request of the person entitled to representation.

15 (b) ~~He~~ THE PERSON is appearing without direct or indirect remuneration  
16 and ~~he~~ THE PERSON files a written declaration to that effect.

17 (c) ~~He~~ THE PERSON has a preexisting relationship or connection with  
18 the person entitled to representation including a relative, neighbor,  
19 clergyman, business associate or personal friend, except that this  
20 requirement may be waived, as a matter of administrative discretion, in cases  
21 in which adequate representation would not otherwise be available.

22 (d) If ~~he~~ THE PERSON is appearing on behalf of a client, ~~his~~ THE  
23 PERSON'S appearance is permitted by the official before whom ~~he~~ THE PERSON  
24 wishes to appear including an immigration judge, AN immigration district  
25 director, AN immigration officer-in-charge, A regional immigration  
26 commissioner, the United States commissioner of immigration and  
27 naturalization or the immigration board, except that this permission shall  
28 not be granted with respect to any ~~individual~~ PERSON who regularly engages  
29 in immigration and nationality practice or preparation or holds himself out  
30 to the public as qualified to do so.

31 4. A person who is representing an organization accredited by the  
32 board of immigration appeals and who has been accredited by the immigration  
33 board.

34 5. An accredited official in the United States of the government to  
35 which an alien owes allegiance, if the official appears solely in his AN  
36 official capacity and with the alien's consent.

37 B. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, no other person or  
38 persons may represent others IN ANY CASE, PREPARE APPLICATIONS OR FORMS or  
39 give any legal advice relating to any immigration or naturalization matter.

40 C. Any person who misrepresents the services ~~he~~ THE PERSON may provide  
41 in immigration or nationality matters is in violation of this chapter.

42 D. ~~No~~ A person or organization may NOT retain an original document  
43 belonging to a client unless authorized by the client.

44 E. An attorney who practices immigration and nationality law in this  
45 state and who is not a member of the state bar of Arizona shall not provide

1 advice on issues of this state's law. An attorney who practices immigration  
2 and nationality law in this state and who is not licensed by the state bar  
3 of Arizona shall disclose to all persons to whom service is provided that he  
4 THE ATTORNEY is not licensed by the state bar of Arizona and shall disclose  
5 the state in which he THE ATTORNEY is licensed to practice law. This  
6 disclosure must be done in writing at the time the attorney's services are  
7 retained.

8 F. For THE purposes of this section, "attorney" means any person who  
9 is a member in good standing of the bar of the highest court of any state,  
10 possession, territory, commonwealth or district of the United States and who  
11 is not under any order of any court suspending, enjoining, restraining,  
12 disbaring or otherwise restricting him THE PERSON in the practice of law.

13 Sec. 3. Section 12-2703, Arizona Revised Statutes, is amended to read:  
14 12-2703. Scope of remedies; violation; classification

15 A. It is unlawful for any person to render for compensation any  
16 service constituting the unlawful UNAUTHORIZED practice of immigration and  
17 nationality law or to otherwise violate any provision of this chapter.

18 B. A person having an interest or right that is or may be adversely  
19 affected under this chapter may initiate an action for civil remedies. THE  
20 PROVISIONS OF THIS ARTICLE ARE IN ADDITION TO ALL OTHER CAUSES OF ACTION,  
21 REMEDIES AND PENALTIES THAT ARE AVAILABLE IN THIS STATE.

22 C. ~~Whenever the public interest so requires,~~ The attorney general  
23 shall initiate appropriate proceedings to prevent OR TO STOP violations of  
24 this chapter.

25 D. A person who violates a provision of this chapter is guilty of a  
26 class ~~misdemeanor~~ 6 FELONY.

27 E. THE PROVISIONS OF SECTION 13-702.02 SHALL NOT APPLY TO ENHANCE THE  
28 SENTENCE OF A PERSON CONVICTED OF TWO OR MORE OFFENSES UNDER THIS SECTION.

29 Sec. 4. Title 12, chapter 18, article 1, Arizona Revised Statutes, is  
30 amended by adding section 12-2704, to read:

31 12-2704. Unlawful practices; investigation

32 AN ACT OR PRACTICE IN VIOLATION OF THIS CHAPTER CONSTITUTES AN UNLAWFUL  
33 PRACTICE UNDER SECTION 44-1522. THE ATTORNEY GENERAL MAY INVESTIGATE AND  
34 TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10, ARTICLE 7.

APPROVED BY THE GOVERNOR APRIL 29, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2002.

Passed the House February 12, 2002,

Passed the Senate April 22, 2002,

by the following vote: 54 Ayes,

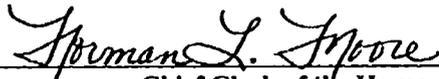
by the following vote: 24 Ayes,

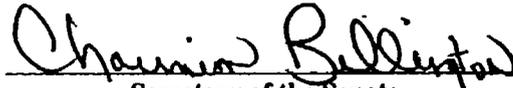
5 Nays, 1 Not Voting

2 Nays, 4 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

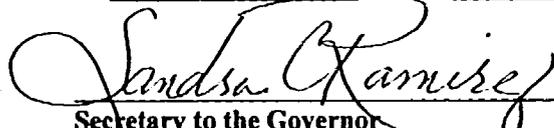
  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

23 day of April, 2002,

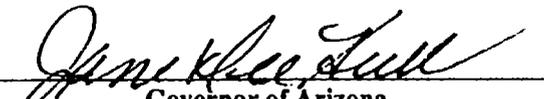
at 2:10 o'clock P M.

  
Secretary to the Governor

Approved this 29<sup>th</sup> day of

April, 2002,

at 1:08 o'clock P M.

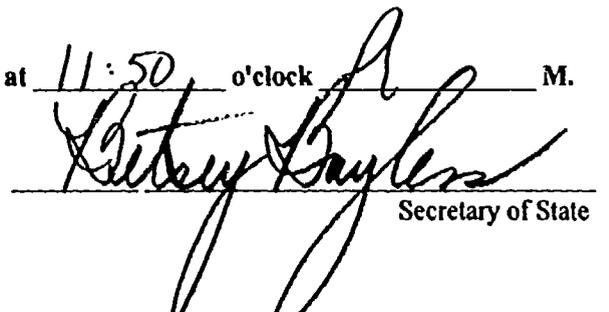
  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30 day of April, 2002,

at 11:50 o'clock P M.

  
Secretary of State

H.B. 2341