



General Assembly

February Session, 2010

**Raised Bill No. 487**

LCO No. 2606

\*02606\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 51-88 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) As used in this section:

4 (1) "Practice of law" means ministering to the legal needs of another  
5 person and applying legal principles and judgment to the  
6 circumstances or objectives of that person. "Practice of law" includes,  
7 but is not limited to:

8 (A) Holding oneself out in any manner as an attorney, lawyer,  
9 counselor, advisor or in any other capacity which directly or indirectly  
10 represents that such person is either qualified or capable of  
11 performing, or engaged in the business or activity of performing, any  
12 act constituting the practice of law as defined in this subdivision;

13 (B) Giving advice or counsel to persons concerning or with respect  
14 to their legal rights or responsibilities or with respect to any matter

15 involving the application of legal principles to rights, duties,  
16 obligations or liabilities;

17 (C) Drafting any legal document or agreement involving or affecting  
18 the legal rights of a person;

19 (D) Representing any person in a court, or in a formal  
20 administrative adjudicative proceeding or other formal dispute  
21 resolution process or in any administrative adjudicative proceeding in  
22 which legal pleadings are filed or a record is established as the basis  
23 for judicial review;

24 (E) Giving advice or counsel to any person, or representing or  
25 purporting to represent the interest of any person, in a transaction in  
26 which an interest in property is transferred where the advice or  
27 counsel, or the representation or purported representation, involves (i)  
28 the preparation, evaluation or interpretation of documents related to  
29 such transaction or to implement such transaction, or (ii) the  
30 evaluation or interpretation of procedures to implement such  
31 transaction, where such transaction, documents or procedures affect  
32 the legal rights, obligations, liabilities or interests of such person; and

33 (F) Engaging in any other act which may indicate an occurrence of  
34 the authorized practice of law in this state as established by case law,  
35 statute, ruling or other authority;

36 (2) "Documents" include, but are not limited to, contracts, deeds,  
37 easements, mortgages, notes, releases, satisfactions, leases, options,  
38 articles of incorporation and other corporate documents, articles of  
39 organization and other limited liability company documents,  
40 partnership agreements, affidavits, prenuptial agreements, wills,  
41 trusts, family settlement agreements, powers of attorney, notes and  
42 like or similar instruments, and pleadings and any other papers  
43 incident to legal actions and special proceedings;

44 (3) "Person" means a natural person, corporation, company,

45 partnership, firm, association, organization, society, labor union,  
46 business trust, trust, financial institution, governmental unit and any  
47 other group, organization or entity of any nature, unless the context  
48 otherwise requires;

49 (4) "Connecticut lawyer" means a natural person who has been duly  
50 admitted to practice law in this state and whose privilege to do so is  
51 current and in good standing as an active member of the bar of this  
52 state.

53 (b) Whether or not it constitutes the practice of law, the following  
54 activities by any person are permitted:

55 (1) Selling legal document forms previously approved by a  
56 Connecticut lawyer in any format;

57 (2) Acting as a lay representative authorized by administrative  
58 agencies or in administrative hearings solely before such agency or  
59 hearing where:

60 (A) Such services are confined to representation before such agency  
61 or hearing or other conduct reasonably ancillary to such  
62 representation; and

63 (B) Such conduct is authorized by statute, or the special court,  
64 department or agency has adopted a rule expressly permitting and  
65 regulating such practice;

66 (3) Serving in a neutral capacity as a mediator, arbitrator, conciliator  
67 or facilitator;

68 (4) Participating in labor negotiations, arbitrations or conciliations  
69 arising under collective bargaining rights or agreements;

70 (5) Providing clerical assistance to another to complete a form  
71 provided by a court for the protection from abuse, harassment or  
72 violence when no fee is charged to do so;

73 (6) Acting as a legislative lobbyist;

74 (7) Serving in a neutral capacity as a clerk or a court employee  
75 providing information to the public;

76 (8) Performing activities that are preempted by federal law;

77 (9) Performing statutorily authorized services as a real estate  
78 salesperson or real estate broker licensed in this state;

79 (10) Preparing tax returns and performing any other statutorily  
80 authorized services as a certified public accountant, enrolled agent of  
81 the Internal Revenue Service, public accountant, bookkeeper or tax  
82 return preparer;

83 (11) Performing such other activities as the courts have determined  
84 do not constitute the unlicensed or unauthorized practice of law, or  
85 which do not constitute the unlicensed or unauthorized practice of law  
86 under the general statutes; and

87 (12) Undertaking pro se representation or practicing law authorized  
88 by a limited license to practice.

89 [(a) A] (c) Unless a person is providing legal services pursuant to a  
90 statute or rule of court, a person who has not been admitted as an  
91 attorney under the provisions of section 51-80 or has been disqualified  
92 from the practice of law due to resignation, disciplinary suspension,  
93 disbarment or being placed on inactive status shall not [: (1) Practice  
94 law or appear as an attorney-at-law for another, in any court of record  
95 in this state, (2) make it a business to practice law, or appear as an  
96 attorney-at-law for another in any such court, (3) make it a business to  
97 solicit employment for an attorney-at-law, (4) hold himself out to the  
98 public as being entitled to practice law, (5) assume to be an attorney-at-  
99 law, (6) assume, use or advertise the title of lawyer, attorney and  
100 counselor-at-law, attorney-at-law, counselor-at-law, attorney,  
101 counselor, attorney and counselor, or an equivalent term, in such  
102 manner as to convey the impression that he is a legal practitioner of

103 law, or (7) advertise that he, either alone or with others, owns,  
104 conducts or maintains a law office, or office or place of business of any  
105 kind for the practice of law] practice law in this state. Any person who  
106 is not authorized to practice law in this state who engages in the  
107 practice of law shall be subject to the civil and criminal penalties of this  
108 state.

109 [(b) Any person who violates any provision of this section shall be  
110 fined not more than two hundred and fifty dollars or imprisoned not  
111 more than two months or both. The provisions of this subsection shall  
112 not apply to any employee in this state of a stock or nonstock  
113 corporation, partnership, limited liability company or other business  
114 entity who, within the scope of his employment, renders legal advice  
115 to his employer or its corporate affiliate and who is admitted to  
116 practice law before the highest court of original jurisdiction in any  
117 state, the District of Columbia, the Commonwealth of Puerto Rico or a  
118 territory of the United States or in a district court of the United States  
119 and is a member in good standing of such bar. For the purposes of this  
120 subsection, "employee" means any person engaged in service to an  
121 employer in the business of his employer, but does not include an  
122 independent contractor.]

123 [(c)] (d) Any person who violates any provision of this section shall  
124 be deemed in contempt of court, and the Superior Court shall have  
125 jurisdiction in equity upon the petition of any member of the bar of  
126 this state in good standing or upon its own motion to restrain such  
127 violation.

128 (e) Any person, other than a person described in subsection (h) of  
129 this section, who violates any provision of this section and who is  
130 authorized to practice law in another jurisdiction shall be guilty of a  
131 class A misdemeanor for the first offense, and shall be guilty of a class  
132 C felony for each subsequent offense.

133 (f) Any person, other than a person described in subsection (h) of  
134 this section, who violates any provision of this section, whose

135 admission to practice as an attorney in this state has been suspended  
136 for any reason except for failure to pay the fee required by section 51-  
137 81d and who has not been duly reinstated shall be guilty of a class C  
138 felony.

139 (g) Any person, other than a person subject to subsection (e) or (f) of  
140 this section or described in subsection (h) of this section, who violates  
141 any provision of this section shall be guilty of a class C felony.

142 (h) The penalties in subsections (e), (f) and (g) of this section shall  
143 not apply to any employee in this state of a stock or nonstock  
144 corporation, partnership, limited liability company or other business  
145 entity who, within the scope of his or her employment, renders legal  
146 advice to his or her employer or its corporate affiliate and who is  
147 admitted to practice law before the highest court of original  
148 jurisdiction in any state, the District of Columbia, the Commonwealth  
149 of Puerto Rico or a territory of the United States or in a district court of  
150 the United States and is a member in good standing of such bar. For  
151 the purposes of this subsection, "employee" means any person engaged  
152 in service to an employer in the business of his employer, but does not  
153 include an independent contractor.

154 (i) (1) Nothing in this section shall affect the ability of a nonattorney  
155 assistant to act under the supervision of an attorney in compliance  
156 with the Rules of Professional Conduct.

157 (2) Nothing in this section shall affect the ability of a person or  
158 entity to provide information of a general nature about the law and  
159 legal procedures to members of the public.

160 (3) Nothing in this section shall affect the ability of a governmental  
161 agency to carry out its responsibilities as provided by law.

162 (4) Nothing in this section shall be construed to define or affect  
163 standards for civil liability or professional responsibility.

164 [(d) The provisions of] (5) Nothing in this section shall [not] be

165 construed as prohibiting: [(1)] (A) A town clerk from preparing or  
 166 drawing deeds, mortgages, releases, certificates of change of name and  
 167 trade name certificates which are to be recorded or filed in the town  
 168 clerk's office in the town in which the town clerk holds office; [(2)] (B)  
 169 any person from practicing law or pleading at the bar of any court of  
 170 this state in his own cause; [(3)] (C) any person from acting as an agent  
 171 or representative for a party in an international arbitration, as defined  
 172 in subsection (3) of section 50a-101; or [(4)] (D) any attorney admitted  
 173 to practice law in any other state or the District of Columbia from  
 174 practicing law in relation to an impeachment proceeding pursuant to  
 175 Article Ninth of the Connecticut Constitution, including an  
 176 impeachment inquiry or investigation, if the attorney is retained by  
 177 [(A)] (i) the General Assembly, the House of Representatives, the  
 178 Senate, a committee of the House of Representatives or the Senate, or  
 179 the presiding officer at a Senate trial, or [(B)] (ii) an officer subject to  
 180 impeachment pursuant to said Article Ninth.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	51-88

**Statement of Purpose:**

To define "the practice of law" in conformity with Section 2-44A of the Connecticut Practice Book, and revise penalties for the unauthorized practice of law.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*