

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0960.01 Sarah Lozano x3858

HOUSE BILL 26-1421

HOUSE SPONSORSHIP

Mabrey and Caldwell,

SENATE SPONSORSHIP

Daugherty and Frizell,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PROHIBITING CERTAIN COMPENSATION ARRANGEMENTS
102 IN THE LEGAL PROFESSION, AND, IN CONNECTION THEREWITH,
103 CREATING THE "COLORADO LEGAL PRACTICE INTEGRITY AND
104 FEE-SHARING PROHIBITION ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a lawyer or law firm, in connection with providing legal services concerning a legal matter arising, asserted, or properly venued in Colorado (legal services), from:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 FEE-SHARING PROHIBITION ACT

2 **13-93-401. Short title.**

3 THE SHORT TITLE OF THIS PART 4 IS THE "COLORADO LEGAL
4 PRACTICE INTEGRITY AND FEE-SHARING PROHIBITION ACT".

5 **13-93-402. Legislative declaration.**

6 (1) THE GENERAL ASSEMBLY FINDS THAT:

7 (a) THE INDEPENDENT PROFESSIONAL JUDGMENT OF LAWYERS IS
8 ESSENTIAL TO THE FAIR ADMINISTRATION OF JUSTICE;

9 (b) FINANCIAL ARRANGEMENTS THAT PROVIDE NONLAWYERS WITH
10 AN ECONOMIC INTEREST IN LEGAL FEES, REVENUES, OR CASE OUTCOMES,
11 HOWEVER STRUCTURED, THREATEN A LAWYER'S DUTIES OF LOYALTY TO
12 THEIR CLIENT, CONFIDENTIALITY, AND PROFESSIONAL INDEPENDENCE;

13 (c) EVEN MINIMAL NONLAWYER OWNERSHIP OR PROFIT
14 PARTICIPATION IN LAW FIRMS COMPROMISES PUBLIC TRUST IN THE LEGAL
15 PROFESSION;

16 (d) ALTERNATIVE BUSINESS STRUCTURES HAVE INCREASINGLY
17 BEEN USED TO CIRCUMVENT LONGSTANDING PROHIBITIONS ON
18 NONLAWYER OWNERSHIP AND FEE SHARING; AND

19 (e) COLORADO HAS A COMPELLING INTEREST IN REGULATING THE
20 PROVISION OF LEGAL SERVICES AFFECTING COLORADO CLIENTS,
21 REGARDLESS OF WHERE A LAWYER OR LAW FIRM IS LOCATED.

22 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT THE
23 PURPOSES OF THIS PART 4 ARE TO:

24 (a) PROHIBIT NONLAWYER OWNERSHIP AND FEE SHARING IN THE
25 PROVISION OF LEGAL SERVICES;

26 (b) PREVENT CONTRACTUAL FORMALITIES OR OUT-OF-STATE
27 ENTITIES FROM CIRCUMVENTING THIS PROHIBITION;

1 (c) PROTECT CLIENTS AND THE INTEGRITY OF THE LEGAL
2 PROFESSION IN COLORADO; AND

3 (d) PROVIDE EFFECTIVE ENFORCEMENT MECHANISMS FOR
4 PROFESSIONALS AND CLIENTS IN COLORADO.

5 **13-93-403. Definitions.**

6 AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES:

8 (1) "ALTERNATIVE BUSINESS STRUCTURE" MEANS AN ENTITY OR
9 ORGANIZATIONAL STRUCTURE, WHEREVER ORGANIZED OR DENOMINATED,
10 THAT:

11 (a) EITHER:

12 (I) ECONOMICALLY PARTICIPATES IN, PROVIDES, OR HOLDS ITSELF
13 OUT AS PROVIDING LEGAL SERVICES TO THIRD PARTIES OR THAT EXERCISES
14 CONTROL OVER THE PROVISION OF LEGAL SERVICES TO THIRD PARTIES; OR

15 (II) SHARES IN PROFITS OR PERCENTAGES OF LEGAL FEES OR
16 AMOUNTS AWARDED TO OR RECEIVED BY A LAWYER OR LAW FIRM AS A
17 RESULT OF THE PROVISION OF LEGAL SERVICES, DIRECTLY OR INDIRECTLY,
18 REGARDLESS OF WHETHER THE ENTITY OR ORGANIZATIONAL STRUCTURE
19 EXERCISES ANY CONTROL OVER LEGAL SERVICES; AND

20 (b) IS OWNED BY, IS CONTROLLED BY, OR ECONOMICALLY
21 PARTICIPATES IN OR IS FEE SHARING WITH, DIRECTLY OR INDIRECTLY, ONE
22 OR MORE NONLAWYERS.

23 (2) "ECONOMICALLY PARTICIPATES IN" INCLUDES EXERCISING
24 AUTHORITY OR CONTROL OVER LEGAL REPRESENTATION, LEGAL
25 STRATEGY, LEGAL FEE DETERMINATION, SETTLEMENT DECISIONS, OR THE
26 ALLOCATION OF LEGAL FEES; FEE-SHARING ARRANGEMENTS; EQUITY
27 INTERESTS; PROFIT- OR REVENUE-SHARING ARRANGEMENTS; EQUITY

1 OPTIONS; WARRANTS; CONVERTIBLE OR CONTINGENT EQUITY INTERESTS;
2 PHANTOMEQUITY; OR ANY OTHER ARRANGEMENT, HOWEVER STRUCTURED
3 OR DESCRIBED, THAT PROVIDES A NONLAWYER WITH A FINANCIAL
4 INTEREST IN LEGAL FEES, LAW FIRM REVENUE, OR LAW FIRM
5 PROFITABILITY.

6 (3) (a) "LAW FIRM" MEANS A PARTNERSHIP, PROFESSIONAL
7 COMPANY, SOLE PROPRIETORSHIP, OR OTHER ENTITY THROUGH WHICH A
8 LAWYER, LLP, OR COMBINATION OF LAWYERS, LLPS, OR BOTH PROVIDE
9 LEGAL SERVICES, WHICH ENTITY:

10 (I) OPERATES FOR PROFIT IN COMPLIANCE WITH RULE 5.4 OF THE
11 COLORADO RULES OF PROFESSIONAL CONDUCT AND RULE 265 OF THE
12 COLORADO RULES OF CIVIL PROCEDURE; AND

13 (II) COMPLIES WITH COLORADO LAW AND SUPREME COURT RULES
14 GOVERNING LAW FIRM OWNERSHIP AND FEE SHARING.

15 (b) "LAW FIRM" DOES NOT INCLUDE AN ALTERNATIVE BUSINESS
16 STRUCTURE OR MANAGED SERVICES ORGANIZATION.

17 (4) (a) "LAWYER" MEANS AN INDIVIDUAL WHO IS LICENSED TO
18 PRACTICE LAW IN ANY JURISDICTION IN THE UNITED STATES.

19 (b) "LAWYER" DOES NOT INCLUDE AN LLP.

20 (5) (a) "LEGAL FEE" MEANS ANY PAYMENT, COMPENSATION,
21 REMUNERATION, OR OTHER FINANCIAL CONSIDERATION CHARGED,
22 ASSESSED, COLLECTED, OR RECEIVED FOR THE PROVISION OF LEGAL
23 SERVICES, REGARDLESS OF HOW THE PAYMENT IS DESCRIBED,
24 STRUCTURED, OR ALLOCATED.

25 (b) "LEGAL FEE" INCLUDES:

26 (I) CONTINGENT FEES, FLAT FEES, HOURLY FEES, HYBRID FEES,
27 SUCCESS FEES, PERFORMANCE-BASED COMPENSATION, OR ANY OTHER

1 ARRANGEMENT THAT COMPENSATES A LAWYER OR LAW FIRM BASED ON
2 THE PROVISION OF LEGAL SERVICES;

3 (II) ANY PORTION OF A SETTLEMENT, VERDICT, JUDGMENT,
4 AWARD, RECOVERY, OR PAYMENT RECEIVED ON BEHALF OF A CLIENT THAT
5 IS ALLOCATED TO THE LAWYER OR LAW FIRM AS COMPENSATION FOR
6 LEGAL SERVICES;

7 (III) ANY AMOUNT PAID BY A CLIENT OR THIRD PARTY FOR LEGAL
8 REPRESENTATION, LEGAL COUNSELING, LEGAL ADVOCACY, LEGAL
9 INVESTIGATION, LEGAL ANALYSIS, NEGOTIATION, DEMAND SERVICES, OR
10 LITIGATION-RELATED ACTIVITIES;

11 (IV) RETAINERS, DEPOSITS, ADVANCED FEES, OR SECURITY
12 AMOUNTS INTENDED TO SECURE PAYMENT FOR LEGAL SERVICES, WHETHER
13 REFUNDABLE OR NONREFUNDABLE; AND

14 (V) ANY REVENUE OR FINANCIAL BENEFIT DERIVED FROM LEGAL
15 SERVICES, INCLUDING REVENUE COLLECTED THROUGH AFFILIATED
16 ENTITIES, SUBSIDIARIES, TECHNOLOGY PLATFORMS, SERVICE PROVIDERS,
17 OR FEE COLLECTION INTERMEDIARIES.

18 (c) "LEGAL FEE" DOES NOT INCLUDE:

19 (I) PAYMENTS MADE SOLELY FOR NONLEGAL GOODS OR SERVICES,
20 INCLUDING PURELY ADMINISTRATIVE, CLERICAL, OR OPERATIONAL
21 SUPPORT, IF THE PAYMENTS ARE REASONABLY SEPARABLE FROM
22 COMPENSATION FOR LEGAL SERVICES;

23 (II) ORDINARY COURSE REIMBURSEMENTS OF COSTS OR EXPENSES
24 ADVANCED BY THE LAWYER OR LAW FIRM, INCLUDING COURT FILING FEES,
25 EXPERT FEES, TRANSCRIPT COSTS, AND OTHER PASS-THROUGH EXPENSES
26 NOT CONSTITUTING COMPENSATION FOR LEGAL SERVICES; OR

27 (III) LAWFUL WAGES, SALARIES, BENEFITS, OR DISCRETIONARY

1 BONUSES PAID TO A NONLAWYER EMPLOYEE OF A LAW FIRM FOR SERVICES
2 RENDERED IN THE ORDINARY COURSE OF THEIR EMPLOYMENT.

3 (6) "LEGAL SERVICES" MEANS ENGAGING IN ANY LEGAL
4 REPRESENTATION, ADVICE, INVESTIGATION, COUNSELING, NEGOTIATION,
5 DEMAND, OR ADVOCACY PROVIDED TO OR ON BEHALF OF A THIRD PARTY
6 CONCERNING:

7 (a) A CLAIM, DISPUTE, INJURY, TRANSACTION, OCCURRENCE, OR
8 LEGAL RIGHT ARISING IN WHOLE OR IN PART IN COLORADO;

9 (b) A CLAIM, DISPUTE, OR LEGAL MATTER ASSERTED,
10 INVESTIGATED, EVALUATED, NEGOTIATED, OR THREATENED TO BE
11 ASSERTED UNDER COLORADO LAW; OR

12 (c) A LEGAL MATTER THAT IS PROPERLY VENUED IN COLORADO.

13 (7) "LICENSED LEGAL PARAPROFESSIONAL" OR "LLP" MEANS A
14 LICENSED LEGAL PARAPROFESSIONAL LICENSED UNDER PART 3 OF THIS
15 ARTICLE 93.

16 (8) "MANAGED SERVICES ORGANIZATION" MEANS A PERSON OTHER
17 THAN A LAWYER, LLP, OR LAW FIRM THAT PROVIDES ADMINISTRATIVE,
18 OPERATIONAL, FINANCIAL, MARKETING, MANAGEMENT, OR OTHER
19 NONLEGAL BUSINESS SERVICES TO A LAWYER OR LAW FIRM.

20 (9) "NONLAWYER" MEANS AN INDIVIDUAL WHO IS NOT LICENSED
21 TO PRACTICE LAW IN ANY UNITED STATES JURISDICTION AND IS NOT AN
22 LLP.

23 (10) "SUBSTANTIAL BUSINESS IN COLORADO" MEANS THAT A LAW
24 FIRM GENERATES MORE THAN TEN PERCENT OF THE LAW FIRM'S ANNUAL
25 REVENUE FROM LEGAL SERVICES PERFORMED FOR CLIENTS.

26 **13-93-404. Prohibition on nonlawyer ownership and fee**
27 **sharing with nonlawyers.**

1 (1) A LAWYER OR LAW FIRM SHALL NOT, IN CONNECTION WITH
2 PROVIDING LEGAL SERVICES:

3 (a) SHARE WITH, PAY TO, ALLOCATE TO, DISTRIBUTE TO, OR
4 PROVIDE ANY PORTION OF LEGAL FEES OR REVENUES, WHETHER GROSS OR
5 NET, OR ANY OTHER FINANCIAL BENEFIT DERIVED FROM LEGAL SERVICES,
6 DIRECTLY OR INDIRECTLY, HOWEVER DENOMINATED OR STRUCTURED, TO
7 ANY ALTERNATIVE BUSINESS STRUCTURE OR NONLAWYER, OTHER THAN
8 LAWFUL WAGES, SALARIES, BENEFITS, OR DISCRETIONARY BONUSES PAID
9 TO NONLAWYER EMPLOYEES OF THE LAW FIRM FOR SERVICES RENDERED
10 IN THE ORDINARY COURSE OF THEIR EMPLOYMENT;

11 (b) ENTER INTO ANY FINANCIAL, CONTRACTUAL, OWNERSHIP,
12 MANAGEMENT, MARKETING, CO-COUNSEL, REFERRAL, OR FEE-ALLOCATION
13 ARRANGEMENT WITH AN ALTERNATIVE BUSINESS STRUCTURE, WHICH
14 ARRANGEMENT RELATES TO PROVIDING LEGAL SERVICES;

15 (c) FORM A PARTNERSHIP, LIMITED LIABILITY COMPANY,
16 CORPORATION, OR OTHER ENTITY RECOGNIZED UNDER COLORADO LAW
17 WITH A NONLAWYER IF ANY OF THE ACTIVITIES OF THE ENTITY CONSIST OF
18 PROVIDING LEGAL SERVICES; OR

19 (d) PRACTICE WITH OR IN THE FORM OF A PROFESSIONAL COMPANY
20 THAT IS AUTHORIZED TO PROVIDE LEGAL SERVICES FOR PROFIT IF:

21 (I) A NONLAWYER OWNS ANY INTEREST IN THE PROFESSIONAL
22 COMPANY; EXCEPT THAT A FIDUCIARY REPRESENTATIVE OF THE ESTATE OF
23 A LAWYER OR LLP MAY HOLD THE STOCK OR INTEREST OF THE LAWYER OR
24 LLP FOR A REASONABLE TIME DURING ADMINISTRATION OF THE ESTATE;
25 OR

26 (II) A NONLAWYER HAS THE RIGHT TO DIRECT OR CONTROL THE
27 PROFESSIONAL JUDGMENT OF A LAWYER.

1 PART 4 BY ANOTHER LAW FIRM, WHICH LAW FIRM DOING SUBSTANTIAL
2 BUSINESS IN COLORADO MAY ONLY SEEK INJUNCTIVE OR DECLARATORY
3 RELIEF AND DISGORGEMENT PURSUANT TO SUBSECTION (5)(b) OF THIS
4 SECTION.

5 (3) A LAW FIRM DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION
6 MAY BRING A CIVIL ACTION TO ENFORCE THIS PART 4 ONLY IF THE LAW
7 FIRM HAS PROVIDED WRITTEN NOTICE OF THE ALLEGED VIOLATION TO THE
8 ATTORNEY GENERAL AND THE ATTORNEY GENERAL HAS NOT COMMENCED
9 A CIVIL ACTION AGAINST THE ALLEGED VIOLATOR BEFORE OR WITHIN
10 SIXTY DAYS AFTER RECEIPT OF THE NOTICE.

11 (4) (a) THE FOLLOWING REMEDIES ARE AVAILABLE FOR
12 VIOLATIONS OF THIS PART 4:

13 (I) FOR A PERSON DESCRIBED IN SUBSECTION (2)(a) OF THIS
14 SECTION, AND IN ADDITION TO ANY OTHER REMEDIES AVAILABLE FOR A
15 VIOLATION OF THIS PART 4, ECONOMIC DAMAGES IN THE AMOUNT OF THE
16 LEGAL FEES PAID TO THE LAWYER, LAW FIRM, OR OTHER PERSON IN
17 VIOLATION OF THIS PART 4;

18 (II) INJUNCTIVE RELIEF;

19 (III) DECLARATORY RELIEF; AND

20 (IV) ANY OTHER RELIEF THE CIRCUMSTANCES MAY REQUIRE.

21 (b) A PREVAILING PLAINTIFF IS ENTITLED TO RECOVER ANY
22 REASONABLE ATTORNEY FEES AND COSTS PAID TO ENFORCE A VIOLATION
23 OF THIS PART 4.

24 (5) (a) A LAWYER, LAW FIRM, OR OTHER PERSON THAT RECEIVES
25 OR PAYS FUNDS IN VIOLATION OF THIS PART 4 IS LIABLE FOR DAMAGES IN
26 THE AMOUNT OF THE FUNDS RECEIVED OR PAID IN VIOLATION OF THIS PART
27 4.

1 (b) (I) IF A COURT DETERMINES THAT A LAWYER, LAW FIRM, OR
2 OTHER PERSON HAS VIOLATED THIS PART 4, THE COURT SHALL ORDER THE
3 FUNDS DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION TO BE
4 DISGORGED AND PAID TO THE STATE TREASURER FOR DEPOSIT INTO THE
5 JUDICIAL STABILIZATION CASH FUND CREATED IN SECTION 13-32-101 (6);
6 EXCEPT THAT ANY AMOUNTS AWARDED AS ECONOMIC DAMAGES TO A
7 PLAINTIFF PURSUANT TO THIS SECTION SHALL BE OFFSET AGAINST THE
8 AMOUNT OF DISGORGEMENT.

9 (II) THE FUNDS DEPOSITED INTO THE JUDICIAL STABILIZATION
10 CASH FUND MUST SUPPLEMENT THE BUDGET OF THE JUDICIAL DEPARTMENT
11 FOR THE SAME STATE FISCAL YEAR IN WHICH THE FUNDS ARE RECEIVED
12 AND MUST BE USED AS A BASIS TO REDUCE THE BUDGET OF THE JUDICIAL
13 DEPARTMENT IN ANY SUBSEQUENT STATE FISCAL YEAR.

14 (6) A CONTRACT OR AGREEMENT IN VIOLATION OF THIS PART 4 IS
15 DEEMED VOID.

16 **13-93-407. Applicability - sunset review - repeal.**

17 (1) NOTHING IN THIS PART 4 SHALL BE CONSTRUED TO PROHIBIT:

18 (a) THE PLEDGING OF FUTURE REVENUES, LEGAL FEES, OR
19 RECOVERIES AS COLLATERAL FOR A LOAN; OR

20 (b) LAWFUL WAGES, SALARIES, BENEFITS, OR DISCRETIONARY
21 BONUSES PAID TO NONLAWYER EMPLOYEES OF A LAW FIRM FOR SERVICES
22 RENDERED IN THE ORDINARY COURSE OF THEIR EMPLOYMENT.

23 (2) THIS PART 4 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2032.
24 BEFORE THE REPEAL, THIS PART 4 IS SCHEDULED FOR REVIEW IN
25 ACCORDANCE WITH SECTION 24-34-104.

26 **SECTION 2.** In Colorado Revised Statutes, 13-32-101, **amend**
27 (6) as follows:

1 effective date of this act.

2 **SECTION 5. Safety clause.** The general assembly finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety or for appropriations for
5 the support and maintenance of the departments of the state and state
6 institutions.