

2C:21.??

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Unauthorized practice of law)

NJSA: 2C:21-22

LAWS OF: 1995 **CHAPTER:** 47

BILL NO: S559

SPONSOR(S): Stuhltrager

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: No Senate committee substitute
Senate Committee Substitute enacted

DATE OF PASSAGE: **ASSEMBLY:** January 27, 1994
SENATE: March 31, 1994

DATE OF APPROVAL: June 23, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

SENATE COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 559

STATE OF NEW JERSEY

ADOPTED MARCH 10, 1994

LAW LIBRARY COPY
DO NOT REMOVE

Sponsored by Assemblyman STUHLTRAGER

1 **AN ACT** concerning the unauthorized practice of law
2 supplementing chapter 21 of Title 2C of the New Jersey
3 Statutes and repealing certain sections of statutory law.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. a. A person is guilty of a disorderly persons offense if the
8 person knowingly engages in the unauthorized practice of law.

9 b. A person is guilty of a crime of the fourth degree if the
10 person knowingly engages in the unauthorized practice of law and:

11 (1) Creates or reinforces a false impression that the person is
12 licensed to engage in the practice of law; or

13 (2) Derives a benefit; or

14 (3) In fact causes injury to another.

15 c. For the purposes of this section, the phrase "in fact"
16 indicates strict liability.

17 2. The following sections are repealed: N.J.S.2A:170-78
18 through N.J.S.2A:170-85 inclusive.

19 3. This act shall take effect immediately.

20

21

22

23

24 Prohibits certain conduct pertaining to the unauthorized practice
25 of law.

LAW LIBRARY COPY
DO NOT REMOVE

ASSEMBLY, No. 559
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblyman STUHLTRAGER

1 AN ACT concerning the unauthorized practice of law and
2 amending N.J.S.2A:170-78, N.J.S.2A:170-79, N.J.S.2A:170-83,
3 N.J.S.2A:170-84 and N.J.S.2A:170-85.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. N.J.S.2A:170-78 is amended to read as follows:

8 2A:170-78. Practice of law limited to licensed attorneys or
9 counselors at law.

10 Any person not licensed as an attorney or counselor at law, and
11 any corporation that:

12 a. Engages in this state in the practice of law; or

13 b. Holds himself or itself out to the public, either alone or
14 together with, by or through any other person, whether such other
15 person is so licensed or not, as engaging in or entitled to engage
16 in the practice of law, or as rendering legal service or advice, or
17 as furnishing attorneys or counsel in legal actions or proceedings
18 of any nature; or

19 c. Assumes, uses or advertises the title of lawyer or attorney
20 at law, or equivalent terms, in the English or any other language--

21 Is [a disorderly person] guilty of a crime of the fourth degree.

22 (cf: N.J.S.2A:170-78)

23 2. N.J.S.2A:170-79 is amended to read as follows:

24 2A:170-79. Unlicensed persons not to appear as attorney or
25 solicit law business.

26 Any person not licensed as an attorney or counselor at law, and
27 any corporation that:

28 a. Solicits for himself or itself, directly or indirectly, any
29 claim or demand, for the purpose of taking any legal action
30 thereon; or

31 b. Represents any person in the pursuit of any legal remedy; or

32 c. Represents any person suing or sued, or about to sue or be
33 sued, or threatened with suit in any legal action or proceeding--

34 Is [a disorderly person] guilty of a crime of the fourth degree.

35 (cf: N.J.S.2A:170-79)

36 3. N.J.S.2A:170-83 is amended to read as follows:

37 2A:170-83. Unlicensed persons soliciting suits on contingent
38 fee basis.

39 Any person not licensed as an attorney or counselor at law who
40 solicits, advises, requests or induces any person in this state to
41 institute or prosecute any suit for damages in which the person
42 soliciting, advising, requesting or inducing the institution of such

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 suit by agreement or otherwise, directly or indirectly, receives
2 from the persons solicited to institute or prosecute such suit, or
3 his attorney, any compensation dependent upon the amount of the
4 recovery in any such suit, or in which the compensation of any
5 attorney for instituting or prosecuting such suit directly or
6 indirectly depends upon the amount of the recovery therein, is [a
7 disorderly person] guilty of a crime of the fourth degree.

8 (cf: N.J.S.2A:170-83)

9 4. N.J.S.2A:170-84 is amended to read as follows:

10 2A:170-84. Soliciting business for collection agencies upon an
11 annual basis, or for definite time

12 Any person not licensed as an attorney or counselor at law, or
13 any association or corporation engaged in the business of
14 conducting a mercantile or collection agency or adjustment
15 bureau, who solicits, invites or procures, or assists in soliciting,
16 inviting or procuring, directly or indirectly, any person, firm or
17 corporation to become affiliated or associated in or with, or to
18 become a member in, or join, or belong to any association,
19 corporation or agency engaged in the business of conducting a
20 mercantile or collection agency, upon an annual basis or
21 arrangement, or for a definite or determinable period of time, for
22 a definite, fixed or determinable sum, is [a disorderly person]
23 guilty of a crime of the fourth degree.

24 Nothing in this section shall be construed to prevent a
25 mercantile or collection agency or adjustment bureau from
26 charging a percentage or proportionate sum for each debt or
27 account adjusted.

28 (cf: N.J.S.2A:170-84)

29 5. N.J.S.2A:170-85 is amended to read as follows:

30 2A:170-85. Soliciting commencement of actions for injuries or
31 negligence.

32 Any person who, for pecuniary gain, solicits any person or
33 corporation to engage, employ or retain either himself, any
34 lawyer or any other person to manage, adjust or prosecute any
35 claim, cause of action or action at law, against any person or
36 corporation, for damages for negligence, or who, for pecuniary
37 gain, directly or indirectly solicits other persons to begin actions
38 at law to recover damages for personal injuries or death, is [a
39 disorderly person] guilty of a crime of the fourth degree.

40 (cf: N.J.S.2A:170-85)

41 6. This act shall take effect immediately.

42 43 44 STATEMENT

45
46 Currently, the unauthorized practice of law is a disorderly
47 persons offense, punishable by a term of imprisonment of up to
48 six months, or a fine of up to \$1,000, or both.

49 This bill would upgrade this offense to a crime of the fourth
50 degree. A crime of the fourth degree is punishable by a term of
51 imprisonment not to exceed 18 months, a fine of up to \$7,500, or
52 both.

53 This bill amends five existing sections of law which address
54 various offenses related to the unauthorized practice of law.

1 The bill amends existing sections of law concerning persons not
2 licensed as attorneys or counselors at law who solicit, advise,
3 represent, hold themselves out as attorneys or otherwise engage
4 in the practice of law without a license. It also amends
5 N.J.S.A.2A:170-84 concerning certain practices by any person not
6 licensed as an attorney or counselor at law, or any association or
7 corporation engaged in the business of conducting a mercantile or
8 collection agency or adjustment bureau. N.J.S.A.2A:170-85
9 concerning any person who solicits any person or corporation to
10 engage, employ or retain either himself, any lawyer or any other
11 person to manage, adjust or prosecute any claim, cause of action
12 or action at law for negligence, or who directly or indirectly
13 solicits other persons to begin actions at law to recover damages
14 for personal injuries or death is also amended.

15

16

17

18

19 Upgrades the offense of the unauthorized practice of law from a
20 disorderly persons offense to a crime of the fourth degree.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 559

STATE OF NEW JERSEY

DATED: JANUARY 20, 1994

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 559.

This bill amends five existing sections of law which address various offenses related to the unauthorized practice of law to upgrade all of them from disorderly persons offenses to crimes of the fourth degree. Currently, the unauthorized practice of law is classified as various disorderly persons offenses, punishable by a term of imprisonment of up to six months, or a fine of up to \$1,000, or both. This bill would upgrade these offenses to crimes of the fourth degree. A crime of the fourth degree is punishable by a term of imprisonment not to exceed 18 months, a fine of up to \$7,500, or both.

The bill amends existing sections of law at N.J.S.2A:170-78, N.J.S.2A:170-79 and N.J.S.2A:170-83 concerning persons not licensed as attorneys or counselors at law who solicit, advise, represent, hold themselves out as attorneys or otherwise engage in the practice of law without a license. It also amends N.J.S.2A:170-84 concerning certain practices by any person not licensed as an attorney or counselor at law, or any association or corporation engaged in the business of conducting a mercantile or collection agency or adjustment bureau. N.J.S.2A:170-85 concerning any person who solicits any person or corporation to engage, employ or retain either himself, any lawyer or any other person to manage, adjust or prosecute any claim, cause of action or action at law for negligence, or who directly or indirectly solicits other persons to begin actions at law to recover damages for personal injuries or death is also amended.

This bill was prefiled for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 559
STATE OF NEW JERSEY

DATED: MARCH 10, 1994

The Senate Judiciary Committee reports a Senate Committee Substitute for Assembly Bill No. 559.

Currently, Title 2A contains a number of sections of law which address various offenses related to the unauthorized practice of law. Offenses under these sections are graded as disorderly persons offenses. The committee substitute would repeal these statutes and in their place enact a single statute prohibiting the unauthorized practice of law. This new section would be codified within the fraud provisions of Title 2C.

Under the committee substitute, the unauthorized practice of law would be upgraded to a crime of the fourth degree if the person knowingly engages in the unauthorized practice of law and (1) creates or reinforces a false impression that the person is licensed to engage in the practice of law; or (2) derives a benefit; or (3) in fact causes injury to another. For the purpose of this section, the phrase "in fact" indicates strict liability. Without this phrase, a prosecution under the proposed new section would require proof that the defendant knowingly caused injury to another. This substitute implements the Legislature's intent that one who engages in the unauthorized practice of law must be strictly liable for the injury which the person in fact causes, and should not be exonerated simply because the prosecution is unable to prove beyond a reasonable doubt that the person acted purposely, knowingly, recklessly, or negligently in causing injury to another.

In cases not covered by this new fourth degree offense, the unauthorized practice of law would continue to be graded as a disorderly persons offense.