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SENATE BILL NO. 825

Offered January 14, 2009

Prefiled December 11, 2008

A BILL to amend and reenact § 54.1-3900 of the Code of Virginia, relating to the practice of law; third-year students.

Patron—Cuccinelli

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3900 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3900. Practice of law; student internship program; definition.

Persons who hold a license or certificate to practice law under the laws of this Commonwealth and have paid the license tax prescribed by law may practice law in the Commonwealth.

Any person authorized and practicing as counsel or attorney in any state or territory of the United States, or in the District of Columbia, may for the purpose of attending to any case he may occasionally have in association with a practicing attorney of this Commonwealth practice in the courts of this Commonwealth, in which case no license fee shall be chargeable against such nonresident attorney.

Nothing herein shall prohibit the limited practice of law by military legal assistance attorneys who are employed by a military program providing legal services to low-income military clients and their dependents pursuant to rules promulgated by the Supreme Court of Virginia.

Nothing herein shall prohibit a limited practice of law under the supervision of a practicing attorney by (i) third-year law students or (ii) persons who are in the final year of a program of study as authorized in § 54.1-3926, pursuant to rules promulgated by the Supreme Court of Virginia.

Nothing herein shall prohibit a third-year law student who is enrolled at any law school in the Commonwealth from representing petitioners in commitment hearings for involuntary admission held pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2 without the presence of a practicing attorney. To qualify under this section the student shall have successfully completed law school classes in evidence and trial advocacy and received training on involuntary commitment law. The student may not receive compensation for his services and shall be immune from liability except for intentional malfeasance. The student shall disclose to the petitioner that he is a third-year law student and not a licensed attorney, that he is a volunteer, and that he cannot be held liable for poor performance, only for intentional malfeasance.

Nothing herein shall prohibit an employee of a state agency in the course of his employment from representing the interests of his agency in administrative hearings before any state agency, such representation to be limited to the examination of witnesses at administrative hearings relating to personnel matters and the adoption of agency standards, policies, rules and regulations.

Nothing herein shall prohibit designated nonattorney employees of the Department of Social Services from completing, signing and filing petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia in Department cases in the juvenile and domestic relations district courts.

As used in this chapter "attorney" means attorney-at-law.

2. That the provisions of this act shall expire on July 1, 2011.