ENGROSSED SENATE
BILL NO. 1871

By: Crutchfield of the Senate

and

Hilliard of the House

[attorneys – Immigration and Nationality Law Practice Act – codification – effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.1 of Title 5, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Immigration and Nationality Law Practice Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.2 of Title 5, unless there is created a duplication in numbering, reads as follows:

The purpose of the Immigration and Nationality Law Practice Act is to prevent the unauthorized practice of law by nonlawyers who hold themselves out as immigration consultants rendering services in immigration nationality or citizenship matters and who are outside federal regulations regulating the practice of immigration law.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.3 of Title 5, unless there is created a duplication in numbering, reads as follows:

As used in the Immigration and Nationality Law Practice Act:

1. "Immigration consultant" means any person who renders services, including the completion of forms and applications, to a client where the services are related to the client's desire to determine his or her legal status in an immigration or

naturalization matter and who is beyond the scope of federal regulations regulating appearances and practice;

2. “Immigration or naturalization matter” includes all matters implicating any law, action, filing or proceeding related to a person’s immigration or citizenship status in the United States;

3. “Original document” means any document of the United States government or any department or agency thereof, any foreign government, any state government or political subdivision thereof or any other document, including signed affidavits, that would demonstrate physical presence by a person in the United States; and

4. “Unauthorized practice of law” occurs where any person gives legal advice of any kind or acts on behalf of a client in any legal matter without authorization under this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.4 of Title 5, unless there is created a duplication in numbering, reads as follows:

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

1. Attorneys in the United States, as used in this subsection, “attorney” means any person who is a member in good standing of the board of the highest court of any state, possession, territory, commonwealth or the District of Columbia and is not under any order of any court, suspending, enjoining, restraining, disbarring or otherwise restricting him or her in the practice of law;

2. A law student who is enrolled in the final year of an accredited law school or a law school graduate who is not yet admitted to the bar, provided that:

a. he or she is appearing on an individual case basis at the request of the person entitled to representation, or

b. his or her appearance is permitted by the official before whom he or she wishes to appear including an

immigration judge, district immigration director, immigration officer-in-charge, regional immigration commissioner, the commissioner of immigration and naturalization or the immigration board, which official, if in his or her opinion special circumstances warrant it, may require that a law student be accompanied by the supervising faculty member or attorney;

3. Any reputable individual of good moral character, provided that:

a. he or she is appearing on an individual case basis, at the request of the person entitled to representation,

b. he or she is appearing without direct or indirect renumeration and files a written declaration to that effect,

c. he or she has a preexisting relationship or connection with the person entitled to representation including a relative, neighbor, clergyman, business associate or personal friend, provided that such requirement may be waived, as a matter of administrative discretion, in cases where adequate representation would not otherwise be available, and

d. if appearing on behalf of a client, his or her appearance is permitted by the official before whom he or she wished to appear including an immigration judge, district immigration director, immigration officer-in-charge, regional immigration commissioner, the commissioner of immigration and naturalization or the immigration board, provided that such permission shall not be granted with respect to any individual who regularly engages in immigration and nationality

practice or preparation or holds himself or herself out to the public as qualified to do so;

4. A person representing an organization accredited by the board of immigration appeals and who has been accredited by the immigration board; or

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

B. Except as provided in this section, no other person or persons shall represent others in any case, nor prepare applications or forms or give any legal advice.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.5 of Title 5, unless there is created a duplication in numbering, reads as follows:

A. On or after the effective date of this act it shall be unlawful for any person to render for compensation any service constituting the unlawful practice of law or to otherwise violate any provision of this act. Any person who misrepresents the services he or she may provide in immigration or nationality matters is in violation of this act. No person shall retain original documents of a client in his or her possession unless authorized by the client. Violation of any provision of this act shall be a misdemeanor.

B. Whenever the public interest so requires, the attorney general shall initiate appropriate proceedings to prevent violations of this act. A person having an interest or right which is or may be adversely affected under this act may also initiate an action for private remedies in accordance with the provisions of Title 12 of the Oklahoma Statutes. Any information required to be filed by this act shall be a matter of public record and shall be disclosed by the Attorney General upon written request.

SECTION 6. This act shall become effective November 1, 2006.

Passed the Senate the 8th day of March, 2006.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2006.

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Presiding Officer of the House
of Representatives