



ILLINOIS PARALEGAL ASSOCIATION

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March 1, 2004

Senator James A. DeLeo
Room 323
Capitol Building
Springfield, Illinois 62706

Re: *Senate Bill 2136; Legal Document Preparer Act*

Dear Senator DeLeo:

Enclosed is the Illinois Paralegal Association's Policy Statement regarding Senate Bill 2136 to be submitted into the records as testimony.

The IPA would greatly appreciate being kept apprised of the development of the legislation. All correspondence and telephone calls can be addressed to the undersigned.

If you have any questions please feel free to contact me.

Very Truly Yours,

Karen Mason
President

cc: ISBA President
CBA President
Kristine Farmer, NFPA

ILLINOIS PARALEGAL ASSOCIATION
POLICY STATEMENT REGARDING
ILLINOIS SENATE BILL 2136

The Illinois Paralegal Association [“IPA”] is an Illinois not-for-profit corporation established over thirty years ago. The purposes of the IPA are: to promote communication among members of the paralegal profession, the legal community, civic and professional organizations; to encourage and provide for the continuing education of paralegals; to inform members of developments in the paralegal profession; and to promote the paralegal profession. The IPA has over 1500 members. Part of the mission of the IPA is to educate the legal community regarding the use of paralegals. The Board of Directors of the IPA supports in concept the need to protect the consumer through an act such as the *Legal Document Preparer Act*, however, we cannot support this legislation in its current form.

For your information, the definition of a paralegal is: a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily, but not exclusively, performed by an attorney. This person is retained/employed by an attorney, law office, governmental agency, or other entity under the supervisory authority of an attorney; or is authorized by governmental administrative agency or statutory or court authority to perform this work. See [5 ILCS 70/1.35]

The IPA believes that enactment of the *Legal Document Preparer Act* would not directly affect the paralegal profession. Members currently work either as employees of law offices, banks, corporations and other types of institutions or as contractual employees **directly under the supervision of attorneys**.

At this time the concern of the IPA relates to the inadequacies of the proposed Act. *The Legal Document Preparer Act* would authorize any individual with two years experience and certification through the Act to prepare substantive legal documents for the public. The IPA opposes this Act for several reasons which are listed below. One simple reason to oppose this Act is that the individuals most in need of such services are the least likely to be able to financially recover from incompetent acts of a Legal Document Preparer [“LDP”]. The IPA admits that there are not enough pro bono services or lawyer assistance programs available to assist those in need. However, the consequences of a LDP improperly preparing documents relating to immigration, family law, real estate, estate planning or elder law (to name a few) can be emotionally and financially devastating. A LDP cannot choose the proper documents which should be prepared for a client. A LDP would be restricted from informing a client if the wrong document is chosen.

The following includes, but is not limited to, the reasons the IPA opposes the Act:

1. The Act does not propose that an injured party be financially compensated, only a civil penalty not to exceed \$2000.00 for each violation and not exceeding \$15,000.00, to be paid to the Legal Document Preparer Fund.

2. The Act does not impose disciplinary actions which would deter the incompetent LDP;
3. The Act does not impose a bond requirement;
4. The Act places the code of conduct close to the end of the Act;
5. There is no requirement that disclaimers should be made in writing and orally to potential clients regarding what a LDP can and cannot do;
6. The Act does not discuss advertising;
7. Grant the client all rights and remedies available under the law as well as under the Act; nor
8. Punish the LDP who violates the Act by conviction of a misdemeanor.

California and Arizona have enacted legal document preparer or legal document assistant acts. Each of those acts provides more stringent definitions of the acts of a LDP as well as more protections for the consumer.

For the foregoing reasons the IPA opposes the enactment of the *Legal Document Preparer Act*.