

Anthony E. Loubet proposes the following substitute bill:

Unauthorized Practice of Law Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Anthony E. Loubet

Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses the unauthorized practice of law.

Highlighted Provisions:

This bill:

- defines terms related to the unauthorized practice of law;
- allows the court to take certain actions when a person is engaging in the unauthorized practice of law before the court;
- allows a civil action to be brought for the unauthorized practice law;
- establishes a criminal penalty for the unauthorized practice of law;
- clarifies that the statutory provisions regarding the unauthorized practice of law do not limit the Supreme Court's authority to regulate the practice of law;
- provides a three-year statute of limitations for a civil action for the unauthorized practice of law and the exceptions to the statute of limitations;
- reorganizes the three-year statute of limitations for certain actions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

78A-9-103, as last amended by Laws of Utah 2013, First Special Session, Chapters 2, 2

REPEALS AND REENACTS:

78B-2-305, as last amended by Laws of Utah 2023, Chapter 185

29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **78A-9-103** is amended to read:

31 **78A-9-103 . Unauthorized practice of law -- Action by court -- Civil action --**
 32 **Criminal penalty.**

33 (1) As used in this section:

34 (a) "Board" means the Board of Commissioners for the Utah State Bar.

35 (b) "Client" means a person that is provided, or has been provided, a service constituting
 36 the practice of law.

37 (c) "Practice of law" means the same as that term is defined in Utah Code of Judicial
 38 Administration, Rule 14-802.

39 (d) "Unauthorized practice of law" means conduct that is a violation of Subsection (2).

40 ~~[(1)]~~ (2) Unless otherwise provided by law or court rule, [an individual] a person may not
 41 practice law or assume to act or hold [himself or herself] oneself out to the public as [an
 42 individual] a person qualified to practice law within this state if [that individual] the
 43 person:

44 (a) is not admitted and licensed to practice law within this state;

45 (b) has been disbarred or suspended from the practice of law; or

46 (c) is prohibited from practicing law by court order entered pursuant to the courts'
 47 inherent powers or published court rule.

48 ~~[(2) The prohibition against the practice of law described in Subsection (1) shall be~~
 49 ~~enforced by any civil action or proceeding instituted by the Board of Commissioners of~~
 50 ~~the Utah State Bar.]~~

51 (3)(a) If a court determines, by a preponderance of the evidence, that a person engaged
 52 in the unauthorized practice of law in a proceeding before the court:

53 (i) the court shall award attorney fees and costs incurred by any party as a result of
 54 the person's unauthorized practice of law; and

55 (ii) the court may:

56 (A) strike any filing by the person;

57 (B) subject to Subsection (7), issue an injunction enjoining the person from
 58 engaging in the unauthorized practice of law before the court; or

59 (C) refer the matter to the board for civil action or to a prosecuting attorney for
 60 criminal action.

61 (b) A court may make a determination described in Subsection (3)(a) upon a motion by a
 62 party or the court's own motion.

- 63 (4)(a) The board may bring a civil action against a person for engaging in the
64 unauthorized practice of law.
- 65 (b) If the board prevails on the civil action described in Subsection (4)(a), the court may:
66 (i) subject to Subsection (7), issue an injunction enjoining the person from engaging
67 in the unauthorized practice of law;
68 (ii) order the person to return any payment that the person received from a client for
69 any service that constituted the unauthorized practice of law;
70 (iii) order the person to pay up to \$10,000 to a fund that reimburses clients for losses
71 caused by dishonest persons admitted to the practice of law;
72 (iv) award reasonable attorney fees and costs to the board; or
73 (v) order any other relief necessary to prevent the person from engaging in the
74 unauthorized practice of law.
- 75 (5)(a) A client has a right of action against a person if the client sustains damages or
76 other harm as a result of the person engaging in the unauthorized practice of law.
- 77 (b) If a client bringing a right of action described in Subsection (5)(a) prevails in that
78 action:
79 (i) the court shall award reasonable attorney fees and costs to the client; and
80 (ii) the court may award the following remedies to the client:
81 (A) general damages;
82 (B) special damages; or
83 (C) equitable relief, including an injunction described in Subsection (7).
- 84 (6) An action described in Subsection (4) or (5) may only be brought within the time period
85 described in Section 78B-2-305.
- 86 (7)(a) The court may only issue an injunction described in Subsection (3), (4), or (5)
87 upon a showing, by a preponderance of the evidence, that a person engaged in, or is
88 engaging in, the unauthorized practice of law.
- 89 (b) An injunction described in Subsection (7)(a) shall include terms that the court
90 considers equitable and reasonable.
- 91 (c) Proof of monetary damages is not necessary for a court to issue an injunction under
92 this Subsection (7).
- 93 (8)(a) Except as provided in Subsection (8)(b), a person who engages in the
94 unauthorized practice of law is guilty of a class A misdemeanor.
- 95 (b) A person who engages in the unauthorized practice of law is guilty of a third degree
96 felony if:

- 97 (i) the person falsely represents to a client that the person is licensed or otherwise
98 authorized to engage in the practice of law in this state;
99 (ii) the person's unauthorized practice of law causes a client to suffer:
100 (A) monetary loss or damages exceeding \$1,000; or
101 (B) a significant impairment of a legal right; or
102 (iii) the person has been previously convicted of the unauthorized practice of law.
103 (c) The attorney general, or a county or district attorney, may investigate and prosecute
104 the unauthorized practice of law.

105 [~~3~~] (9) Nothing in this section prohibits an individual from personally and fully
106 representing that individual's own interests in a cause to which that individual is a party
107 in the individual's own right and not as an assignee.

108 (10) Nothing in this section limits the authority of the Supreme Court to regulate the
109 practice of law.

110 Section 2. Section **78B-2-305** is repealed and reenacted to read:

111 **78B-2-305 . Actions with a statute of limitations of three years -- Exceptions.**

112 (1)(a) Except as otherwise provided in this Subsection (1), an action may only be
113 brought within three years:

- 114 (i) for waste, trespass upon, or injury to real property;
115 (ii) for taking, detaining, or injuring personal property, including actions for specific
116 recovery;
117 (iii) for relief on the ground of fraud or mistake;
118 (iv) for liability created by statutes of this state other than for a penalty or forfeiture
119 under the laws of this state; or
120 (v) to enforce liability imposed by Section 78B-3-603 or for damages under Section
121 78B-6-1701.

122 (b) An action under Subsection (1)(a)(i) does not accrue until the discovery by the
123 aggrieved party of the facts constituting the waste or trespass if the waste or trespass
124 is committed by means of underground works upon any mining claim.

125 (c)(i) An action described in Subsection (1)(a)(ii) does not accrue until the owner has
126 actual knowledge of facts that would put a reasonable person upon inquiry as to
127 the possession of the animal by the defendant if:

- 128 (A) the subject of the action is a domestic animal usually included in the term
129 "livestock" which at the time of the animal's loss has a recorded mark or brand;
130 and

- 131 (B) the animal strayed or was stolen from the true owner without the owner's fault.
- 132 (ii) An action described in Subsection (1)(a)(ii) may be brought within four years in
133 accordance with Subsection 78B-2-307(3) for a claim involving damage to
134 personal property from an accident involving a motor vehicle, as defined in
135 Section 41-6a-102, including an accident involving a motor vehicle and bicycle.
- 136 (d) An action described in Subsection (1)(a)(iii) does not accrue until the discovery by
137 the aggrieved party of the facts constituting the fraud or mistake.
- 138 (e) For an action described in Subsection (1)(a)(iv), the three-year limitation period does
139 not apply if there is a different limitation period provided by the Utah Code.
- 140 (f) An action described in Subsection (1)(a)(v) does not accrue until the aggrieved party
141 knows or reasonably should know of the harm suffered.
- 142 (2)(a) As used in this Subsection (2):
- 143 (i) "Client" means the same as that term is defined in Section 78A-9-103.
- 144 (ii) "Unauthorized practice of law" means the same as that term is defined in Section
145 78A-9-103.
- 146 (b)(i) The Board of Commissioners for the Utah State Bar may only bring an action
147 for the unauthorized practice of law described in Subsection 78B-9-103(4) within
148 three years after the day on which the person engaged in the unauthorized practice
149 of law.
- 150 (ii) If a person engages in continuous conduct that constitutes the unauthorized
151 practice of law, the day on which the limitation period described in Subsection
152 (2)(b)(i) begins when the person ceases to engage in the unauthorized practice of
153 law.
- 154 (c) A client may only bring an action for the unauthorized practice of law described in
155 Subsection 78B-9-103(5) within three years after the day on which the client
156 discovers, or through the use of reasonable diligence should have discovered, that the
157 person engaged in the unauthorized practice of law.

Section 3. **Effective Date.**

This bill takes effect:

- 160 (1) except as provided in Subsection (2), May 6, 2026; or
- 161 (2) if approved by two-thirds of all members elected to each house:
- 162 (a) upon approval by the governor;
- 163 (b) without the governor's signature, the day following the constitutional time limit of
164 Utah Constitution, Article VII, Section 8; or

165 (c) in the case of a veto, the date of veto override.