**South Carolina General Assembly**

125th Session, 2023-2024

**S. 58**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Malloy

Companion/Similar bill(s): 4584

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Introduced in the Senate on January 10, 2023

Currently residing in the Senate Committee on **Labor, Commerce and Industry**

Summary: Practicing law, not a member of the SC Bar

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/30/2022 Senate Prefiled

11/30/2022 Senate Referred to Committee on **Labor, Commerce and Industry**

1/10/2023 Senate Introduced and read first time ([Senate Journal‑page 39](h:\sj\20230110.docx))

1/10/2023 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 39](h:\sj\20230110.docx))

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**VERSIONS OF THIS BILL**

[11/30/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/58_20221130.docx)

A bill

to amend the South Carolina Code of Laws by amending Section 40-5-20, relating to THE SUPREME COURT’S AUTHORITY TO PROMULGATE RULES AND REGULATIONS CONCERNING THE PRACTICE OF LAW AND THE ESTABLISHMENT OF THE SOUTH CAROLINA BAR, so as to PROVIDE THAT THE SUPREME COURT MAY PROMULGATE RULES AND REGULATIONS DEFINING AND REGULATING THE PRACTICE OF LAW SUBJECT TO STATUTORY LAW AND DETERMINING THE QUALIFICATIONS AND REQUIREMENTS FOR ADMISSION TO THE PRACTICE OF LAW AND THE LICENSURE OF ATTORNEYS IN THIS STATE, TO PROVIDE THAT ANY PROVISION OF LAW OR RULE THAT REQUIRES AN ATTORNEY TO BE A MEMBER OF THE SOUTH CAROLINA BAR IS SUPERSEDED AND OF NO FORCE AND EFFECT, AND TO DELETE INCONSISTENT PROVISIONS RELATED TO THE BAR; and by amending Section 40-5-310, relating to PRACTICING LAW OR SOLICITING THE LEGAL CAUSE OF ANOTHER WITHOUT BEING ENROLLED AS A MEMBER OF THE SOUTH CAROLINA BAR, so as to PROVIDE THAT NO PERSON MAY PRACTICE LAW UNLESS HE IS LICENSED BY THE SUPREME COURT, AND TO DELETE THE REQUIREMENT THAT A PERSON BE A MEMBER OF THE SOUTH CAROLINA BAR.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑5‑20 of the S.C. Code is amended to read:

Section 40‑5‑20. (A) The Supreme Court may from time to time prescribe, adopt, promulgate and amend such rules and regulations as it may deem proper:

(a)(1) defining and regulating the practice of law, subject to the statutory law of this State;

(b)(2) determining the qualifications and requirements for admission to the practice of law, and providing for the licensure of attorneys in this State;

(c)(3) prescribing a code of ethics governing the professional conduct of attorneys at law,;

(d)(4) prescribing the procedure for disciplining, suspending, disbarring and reinstating attorneys at law,;

(e)(5) organizing and governing an association to be known as the South Carolina State Bar which shall be composed of the attorneys at law of the State, and which shall act as an administrative agency of the Supreme Court of South Carolina for the purpose of improving the administration of justice, provided that, pursuant to item (6), the Supreme Court shall not require an attorney to be a member of the South Carolina State Bar; and

(f)(6) fixing an annual license fee for the practice of law in this State and providing for the collection and disbursement of such license fees, the payment of which shall entitle but not require any attorney to be a member in the South Carolina State Bar, and providing for the collection and the disbursement of such license fees.

(B) At such time as the South Carolina State Bar is established all offices, appointments or official duties heretofore delegated or given to the South Carolina Bar Association or any officer of the same by statute or appointment of the State of South Carolina or any branch thereof shall be vested in the South Carolina State Bar and its officers Pursuant to the limitation in Article V, Section 4 of the South Carolina Constitution, providing that the Supreme Court’s authority to regulate the practice of law in all courts is subject to the statutory law, any provision of law or rule to the contrary requiring an attorney to be a member of the South Carolina State Bar is superseded and of no force and effect.

SECTION 2. Section 40‑5‑310 of the S.C. Code is amended to read:

Section 40‑5‑310. No person may either practice law or solicit the legal cause of another person or entity in this State unless he is enrolled as a member of the South Carolina Bar licensed as an attorney by the Supreme Court pursuant to applicable court rules, or otherwise authorized to perform prescribed legal activities by action of the Supreme Court of South Carolina. The type of conduct that is the subject of any charge filed pursuant to this section must have been defined as the unauthorized practice of law by the Supreme Court of South Carolina prior to any charge being filed. A person who violates this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

SECTION 3. This act takes effect upon approval by the Governor.

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