

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1999

**Introduced by Assembly Members Correa and Maldonado
(Coauthors: Assembly Members Chavez, Chu, Corbett,
Firebaugh, Frommer, Goldberg, Harman, Kehoe, Koretz,
Longville, Negrete McLeod, Strom-Martin, Thomson, and
Vargas)**

February 15, 2002

An act to amend Sections 22445 and 22446.5 of the Business and Professions Code, relating to immigration consultants.

LEGISLATIVE COUNSEL'S DIGEST

AB 1999, as amended, Correa. Immigration consultants.

Existing law, the Immigration Consultants Act, authorizes a person claiming to be aggrieved by an immigration consultant to bring a civil action for injunctive relief or damages, or both. An injured party may also seek civil penalties against an immigration consultant in an amount not to exceed \$100,000. Existing law also allows any other party to bring a civil action on behalf of the general public against an immigration consultant for injunctive relief.

This bill ~~would also authorize~~ *authorizes* the Attorney General, district attorney, or city attorney to seek civil penalties not exceeding \$100,000 against immigration consultants. *The bill would expand the types of civil remedies available to include restitution and other equitable relief.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22445 of the Business and Professions
2 Code is amended to read:
3 22445. (a) (1) A person who violates this chapter shall be
4 subject to a civil penalty not to exceed one hundred thousand
5 dollars (\$100,000) for each violation, to be assessed and collected
6 in a civil action brought by any person injured by the violation or
7 in a civil action brought in the name of the people of the State of
8 California by the Attorney General, a district attorney, or a city
9 attorney.
10 (2) The court shall impose a civil penalty for each violation of
11 this chapter. In assessing the amount of the civil penalty, the court
12 shall consider relevant circumstances presented by the parties to
13 the case, including, but not limited to, the following: the nature and
14 seriousness of the misconduct, the number of violations, the
15 persistence of the misconduct, the length of time over which the
16 misconduct occurred, the willfulness of the defendant's
17 misconduct, and the defendant's assets, liabilities, and net worth.
18 (3) If the Attorney General brings the action, one-half of the
19 civil penalty collected shall be paid to the treasurer of the county
20 in which the judgment was entered, and one-half to the General
21 Fund. If a district attorney brings the action, the civil penalty
22 collected shall be paid to the treasurer of the county in which the
23 judgment was entered. If a city attorney brings the action, one-half
24 of the civil penalty collected shall be paid to the treasurer of the city
25 in which the judgment was entered, and one-half to the treasurer
26 of the county in which the judgment was entered.
27 (b) In addition to the provisions of subdivision (a), a violation
28 of this chapter is a misdemeanor punishable by a fine of not less
29 than two thousand dollars (\$2,000) or more than ten thousand
30 dollars (\$10,000), as to each client with respect to whom a
31 violation occurs, or imprisonment in the county jail for not more
32 than one year, or by both fine and imprisonment. However,
33 payment of restitution to a client shall take precedence over
34 payment of a fine.
35 (c) A second or subsequent violation of Sections 22442.2,
36 22442.3, and 22442.4 is a misdemeanor subject to the penalties
37 specified in subdivisions (a) and (b). A second or subsequent



1 violation of any other provision of this chapter is a felony
2 punishable by imprisonment in state prison.

3 SEC. 2. Section 22446.5 of the Business and Professions
4 Code is amended to read:

5 22446.5. (a) A person claiming to be aggrieved by a violation
6 of this chapter by an immigration consultant may bring a civil
7 action for injunctive relief or damages, or both. If the court finds
8 that the defendant has violated a provision of this chapter, it shall
9 award actual damages, plus an amount equal to treble the amount
10 of actual damages or one thousand dollars (\$1,000) per violation,
11 whichever is greater. The court shall also grant a prevailing
12 plaintiff reasonable attorneys' fees and costs.

13 (b) Any other party who, upon information and belief, claims
14 a violation of this chapter has been committed by an immigration
15 consultant may bring a civil action for injunctive relief on behalf
16 of the general public and, upon prevailing, shall recover
17 reasonable attorneys' fees and costs.

18 (c) The Attorney General, a district attorney, or a city attorney
19 ~~who, upon information and belief,~~ claims a violation of this
20 chapter has been committed by an immigration consultant, may
21 bring a civil action for injunctive relief, *restitution, and other*
22 *equitable relief* against the immigration consultant ~~on behalf of the~~
23 ~~general public and, upon prevailing, shall recover reasonable~~
24 ~~attorney's fees and costs.~~ *in the name of the people of the State of*
25 *California.*

26 (d) An action brought under this chapter shall be set for trial at
27 the earliest possible date, and shall take precedence over all other
28 cases, except older matters of the same character and matters to
29 which special preference may be given by law.

