

SENATE, No. 328

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires all attorneys engaged in private practice of law in New Jersey be covered by legal malpractice liability insurance.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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1 AN ACT concerning legal malpractice liability insurance coverage
2 requirements for certain attorneys and supplementing chapter 13
3 of Title 2A of the New Jersey Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. On and after January 1, 2016, every attorney who, pursuant
9 to applicable Rules of Court, is permitted to practice or appear in
10 court, and is engaged in the private practice of law in this State
11 shall, as a condition to practice, either maintain a policy of legal
12 malpractice liability insurance coverage that is obtained from an
13 authorized insurer transacting business in that line of insurance
14 under Title 17 of the Revised Statutes or from another authorized
15 insurer, or be covered under a policy obtained from an authorized
16 insurer that is maintained by a professional corporation, company,
17 or partnership under which the attorney and others engage in the
18 private practice of law. Under the legal malpractice liability
19 insurance policy, the minimum amount or limit of coverage for
20 damages resulting from any claim made against an attorney, or a
21 professional corporation, company, or partnership, shall be
22 \$100,000 per attorney covered by the policy, unless a greater
23 minimum amount or limit of coverage is instead established by
24 Rules of Court in which case the policy shall comply with that
25 minimum, but the total amount or limit shall not be required to
26 exceed \$5,000,000. The New Jersey Supreme Court may adopt any
27 Rules of Court it deems necessary to implement the purposes of this
28 section.
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30 2. This act shall take effect immediately.
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33 STATEMENT
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35 This bill would require, on and after January 1, 2016, that all
36 attorneys engaged in the private practice of law in New Jersey be
37 covered by legal malpractice liability insurance. Such coverage
38 would either be in the form of a policy maintained by an individual
39 attorney or attorneys, or maintained by a professional corporation,
40 company, or partnership under which an attorney and others engage
41 in the private practice of law.

42 Under any such policy, the minimum amount or limit of
43 coverage for damages resulting from any claim made against an
44 attorney, or a professional corporation, company, or partnership,
45 would be \$100,000 per attorney covered by the policy, unless a
46 greater minimum amount or limit of coverage is instead established
47 by Rules of Court promulgated by the New Jersey Supreme Court,
48 in which case the policy would be required to comply with that

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1 minimum; but the total amount or limit would not be required to
2 exceed \$5,000,000.

3 Under the current Rules of Court, law firms operating as
4 professional corporations, limited liability companies, or limited
5 liability partnerships are already required to maintain legal
6 malpractice liability insurance coverage in the minimum amount or
7 limit of coverage of \$100,000 for each attorney they employ, with a
8 total amount or limit not required to exceed \$5,000,000. See
9 R.1:21-1A, -1B, and -1C. This bill would codify in statute such
10 mandatory legal malpractice liability insurance coverage
11 requirements for those entities, and extend the requirements to all
12 lawyers in order to capture those lawyers currently not required by
13 court rule to be covered, such as solo practitioners and lawyers
14 practicing in small, general partnerships.