SENATE, No. 2897

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED MAY 14, 2015

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. On and after January 1, 2016, every attorney who, pursuant to applicable Rules of Court, is permitted to practice or appear in court, and is engaged in the private practice of law in this State shall, as a condition to practice, either maintain a policy of legal malpractice liability insurance coverage that is obtained from an authorized insurer transacting business in that line of insurance under Title 17 of the Revised Statutes or from another authorized insurer, or be covered under a policy obtained from an authorized insurer that is maintained by a professional corporation, company, or partnership under which the attorney and others engage in the private practice of law. Under the legal malpractice liability insurance policy, the minimum amount or limit of coverage for damages resulting from any claim made against an attorney, or a professional corporation, company, or partnership, shall be $100,000 per attorney covered by the policy, unless a greater minimum amount or limit of coverage is instead established by Rules of Court in which case the policy shall comply with that minimum, but the total amount or limit shall not be required to exceed $5,000,000. The New Jersey Supreme Court may adopt any Rules of Court it deems necessary to implement the purposes of this section.

2. This act shall take effect immediately.

STATEMENT

This bill would require, on and after January 1, 2016, that all attorneys engaged in the private practice of law in New Jersey be covered by legal malpractice liability insurance. Such coverage would either be in the form of a policy maintained by an individual attorney or attorneys, or maintained by a professional corporation, company, or partnership under which an attorney and others engage in the private practice of law.

Under any such policy, the minimum amount or limit of coverage for damages resulting from any claim made against an attorney, or a professional corporation, company, or partnership, would be $100,000 per attorney covered by the policy, unless a greater minimum amount or limit of coverage is instead established by Rules of Court promulgated by the New Jersey Supreme Court, in which case the policy would be required to comply with that
minimum; but the total amount or limit would not be required to exceed $5,000,000.

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