

HB 1357

2004

A bill to be entitled

An act relating to attorney practices; amending s. 877.02, F.S.; prohibiting the solicitation of legal business for a profit; providing criminal penalties; prohibiting attorneys from advertising services for business for a profit unless permitted by law; providing a definition for the term "solicit"; prohibiting attorneys from initiating contact for the purpose of soliciting legal business for a profit; providing criminal penalties; providing construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 877.02, Florida Statutes, is amended to read:

877.02 Solicitation of profitable legal services or retainers therefor; penalty.--

(1) The Legislature, after careful study, has determined that legal advertising that solicits business, or incites a person to file a suit, destroys the personal responsibility of the public, fosters frivolous litigation, and demeans the practice of law. This form of solicitation creates a crisis in this state's judicial system, fostering a compelling state interest in the limited regulation of advertising as set forth in this section.

(2)~~(1)~~ It shall be unlawful for any person or her or his agent, employee, or any person acting on her or his behalf, to solicit or procure through solicitation either directly or indirectly legal business, or to solicit or procure through

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30 solicitation a retainer, written or oral, or any agreement
 31 authorizing an attorney to perform or render legal service for a
 32 profit, or to make it a business to solicit or procure such
 33 business, retainers, or agreements; or to advertise, using any
 34 form of electronic or other media, in a manner that solicits
 35 legal business for a profit; provided, however, that nothing
 36 herein shall prohibit or be applicable to banks, trust
 37 companies, lawyer reference services, legal aid associations,
 38 lay collection agencies, railroad companies, insurance companies
 39 and agencies, and real estate companies and agencies, in the
 40 conduct of their lawful businesses, and in connection therewith
 41 and incidental thereto, forwarding legal matters to attorneys at
 42 law when such forwarding is authorized by the customers or
 43 clients of said businesses and is done pursuant to the canons of
 44 legal ethics as pronounced by the Supreme Court of Florida.

45 ~~(3)(2)~~ It shall be unlawful for any person in the employ
 46 of or in any capacity attached to any hospital, sanitarium,
 47 police department, wrecker service or garage, prison, or court,
 48 or for a person authorized to furnish bail bonds, investigators,
 49 photographers, or insurance or public adjusters, to communicate
 50 directly or indirectly with any attorney or person acting on
 51 said attorney's behalf for the purpose of aiding, assisting, or
 52 abetting such attorney in the solicitation of legal business or
 53 the procurement through solicitation of a retainer, written or
 54 oral, or any agreement authorizing the attorney to perform or
 55 render legal services for a profit.

56 (4) The term "solicit" shall mean to entreat, request, or
 57 incite another to use the services of an attorney or a law firm.
 58 In any advertisement subject to this section, the term "solicit"

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59 shall not mean, include, or prohibit a statement in such
60 advertisement of:

61 (a) The name of an attorney or a law firm;

62 (b) The type of practice of such attorney or law firm;

63 (c) The right of an injured or aggrieved person to seek
64 redress if such person's rights have been violated; or

65 (d) A public service type announcement, so long as it does
66 not entreat, request, or incite another to use the services of
67 an attorney or law firm.

68 (5) Except as permitted in this section, all forms of
69 electronic or other media advertising by an attorney or law firm
70 are prohibited.

71 (6)(3) Any person violating any provision of this section
72 commits shall be guilty of a misdemeanor of the first degree,
73 punishable as provided in s. 775.082 or s. 775.083.

74 (7)(4) This section shall be taken to be cumulative and
75 shall not be construed to amend or repeal any other valid law,
76 code, ordinance, rule, or penalty now in effect. To the extent
77 that this section is inconsistent with any such law, code,
78 ordinance, rule, or penalty, the more restrictive provision
79 shall apply.

80 Section 2. This act shall take effect upon becoming a law.