

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 civil penalties; providing for equitable relief; 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 for-profit legal services or retainers therefor; penalty.--

(1) The Legislature has determined that legal advertising that solicits business by urging a person to file a suit destroys the personal responsibility of individuals, fosters frivolous litigation, and demeans the judiciary and the practice of law. This form of solicitation has created a crisis in this state's judicial system, thus creating a compelling state interest in the state's 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

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

56        (4) It shall be unlawful to advertise, using any form of  
 57 electronic or other media, in a manner that solicits legal  
 58 business for a profit by urging a person to consider bringing  
 59 legal action against another.

60        (5) The term "solicit" shall mean to entreat, request, or  
 61 incite another to use the services of an attorney or a law firm.  
 62 In any advertisement subject to this section, the term "solicit"  
 63 shall not mean, include, or prohibit a statement by the attorney  
 64 in writing or by the attorney of, or an appearance, picture, or  
 65 voice of the attorney who states in such advertisement only the  
 66 following information:

67            (a) The name of the attorney or law firm;

68            (b) The field of practice of such attorney or law firm,  
 69 including the prices charged, so long as expressly permitted by  
 70 Rule 4-7.2 of the rules regulating The Florida Bar;

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

73            (d) A public service type announcement, so long as it does  
 74 not entreat, request, or urge another to use the services of an  
 75 attorney or law firm for the purpose of bringing legal action  
 76 against another; or

77            (e) Those matters expressly permitted by Rule 4-7.2(c)(11)  
 78 of the rules regulating The Florida Bar.

79        (6)(a)(3) Except for violations of subsection (4), any  
 80 person violating any provision of this section ~~commits~~ shall be  
 81 ~~guilty of~~ a misdemeanor of the first degree, punishable as  
 82 provided in s. 775.082 or s. 775.083.

83 | (b) A person violating subsection (4) shall be liable for  
84 | a civil penalty of \$1,000 for the first offense and a civil  
85 | penalty of \$10,000 for each subsequent offense. The Florida Bar  
86 | and the Attorney General shall have standing to enforce such  
87 | penalties and to seek issuance of an injunction against any  
88 | person who violates subsection (4) and, upon prevailing in such  
89 | action, shall recover costs and reasonable attorney's fees. For  
90 | purposes of this paragraph, an offense is a single advertisement  
91 | published in a single print publication or through a single  
92 | electronic media outlet, regardless of the number of times or in  
93 | how many issues it is republished in the same publication or  
94 | through the same media outlet.

95 | (7)(4) This section shall be taken to be cumulative and  
96 | shall not be construed to amend or repeal any other valid law,  
97 | code, ordinance, rule, or penalty now in effect.

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