Florida Senate - 2005

By Senator Campbell

32-226-05

1	A bill to be entitled
2	An act relating to attorney practices; amending
3	s. 877.02, F.S.; providing legislative
4	findings; prohibiting the solicitation of legal
5	business for a profit; providing certain
6	exceptions; prohibiting aiding, assisting, or
7	abetting in soliciting legal business for a
8	profit; providing criminal penalties;
9	prohibiting attorneys from advertising services
10	for business for a profit unless permitted by
11	law; defining the term "solicit"; providing
12	civil penalties; providing for equitable
13	relief; providing for construction of the act;
14	providing an effective date.
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16	Be It Enacted by the Legislature of the State of Florida:
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18	Section 1. Section 877.02, Florida Statutes, is
19	amended to read:
20	877.02 Solicitation of <u>for-profit</u> legal services or
21	retainers for legal services therefor; penalty
22	(1) The Legislature finds that legal advertising that
23	solicits business by urging a person to file a suit destroys
24	the personal responsibility of individuals, fosters frivolous
25	litigation, and demeans the judiciary and the practice of law.
26	This form of solicitation has created a crisis in this state's
27	judicial system, thus creating a compelling state interest in
28	the state's limited regulation of advertising as set forth in
29	this section.
30	<u>(2)(1)</u> <u>A</u> It shall be unlawful for any person or her or
31	his agent $\underline{\text{or}}_{\tau}$ employee, or any person acting on her or his
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behalf, may not to solicit or procure through solicitation, 1 either directly or indirectly, legal business for a profit, 2 may not or to solicit or procure through solicitation a 3 retainer, written or oral, or any agreement authorizing an 4 attorney to perform or render legal service for a profit, and 5 6 may not or to make it a business to solicit or procure such 7 business, retainers or agreements.; provided, However, this 8 section does not that nothing herein shall prohibit or be 9 applicable to banks, trust companies, lawyer reference services, legal aid associations, lay collection agencies, 10 railroad companies, insurance companies and agencies, and real 11 12 estate companies and agencies, in the conduct of their lawful 13 businesses, and in connection therewith and incidental thereto, from forwarding legal matters to attorneys at law if 14 when such forwarding is authorized by the customers or clients 15 of the said businesses and is done pursuant to the canons of 16 17 legal ethics as pronounced by the Supreme Court of Florida. 18 (3) (2) <u>A</u> It shall be unlawful for any person in the employ of or in any capacity attached to any hospital, 19 sanitarium, police department, wrecker service, or garage, 20 prison, or court, or for a person authorized to furnish bail 21 22 bonds, investigators, photographers, insurance, or public 23 adjusters, <u>may not</u> to communicate, directly or indirectly, with any attorney or person acting on the said attorney's 2.4 25 behalf for the purpose of aiding, assisting, or abetting such 26 attorney in soliciting the solicitation of legal business for 27 a profit, and may not procure or the procurement through the 2.8 solicitation of a retainer, written or oral, or any agreement 29 authorizing the attorney to perform or render legal services for a profit. 30

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1	(4) A person may not advertise, using any form of
2	electronic or other media, in a manner that solicits legal
3	business for a profit by urging a person to consider bringing
4	legal action against another.
5	(5) As used in this section, the term "solicit" means
6	to entreat, request, or incite another to use the services of
7	an attorney or a law firm. In any advertisement subject to
8	this section, the term "solicit" does not mean, include, or
9	prohibit a statement by the attorney in writing, an oral
10	statement by the attorney, or an appearance, picture, or voice
11	of the attorney stating in such advertisement only the
12	following information:
13	(a) The name of the attorney or law firm;
14	(b) The field of practice of such attorney or law
15	firm, including the prices charged, so long as expressly
16	permitted by Rule 4-7.2 of the rules regulating The Florida
17	Bar;
18	(c) The right of an injured or aggrieved person to
19	seek redress if such person's rights have been violated;
20	(d) A public service announcement, so long as it does
21	not entreat, request, or urge another to use the services of
22	an attorney or law firm for the purpose of bringing legal
23	action against another; or
24	(e) Those matters expressly permitted by Rule
25	4-7.2(c)(11) of the rules regulating The Florida Bar.
26	<u>(6)(a)</u> Except for violations of subsection (4), any
27	person <u>who violates</u> violating any provision of this section
28	<u>commits</u> shall be guilty of a misdemeanor of the first degree,
29	punishable as provided in s. 775.082 or s. 775.083.
30	(b) A person who violates subsection (4) is liable for
31	a civil penalty of \$1,000 for the first offense and a civil

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1	penalty of \$10,000 for each subsequent offense. The Florida
2	Bar and the Attorney General may enforce such penalties and
3	seek an injunction against any person who violates subsection
4	(4) and, upon prevailing in such action, shall recover costs
5	and reasonable attorney's fees. For purposes of this
б	paragraph, an offense is a single advertisement published in a
7	single print publication or through a single electronic media
8	outlet, regardless of the number of times or in how many
9	issues it is republished in the same publication or through
10	the same media outlet.
11	(7)(4) This section <u>is</u> shall be taken to be cumulative
12	and <u>does</u> shall not be construed to amend or repeal any other
13	valid law, code, ordinance, rule, or penalty now in effect.
14	Section 2. This act shall take effect upon becoming a
15	law.
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18	SENATE SUMMARY
19	Prohibits the solicitation of legal business for a profit. Prohibits attorneys from advertising services for
20	business for a profit unless permitted by law. Provides civil and criminal penalties.
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