

1                   A bill to be entitled  
 2           An act relating to attorney practices; amending s. 877.02,  
 3           F.S.; providing legislative findings; prohibiting the  
 4           solicitation of legal business for a profit; providing  
 5           certain exceptions; prohibiting aiding, assisting, or  
 6           abetting in soliciting legal business for a profit;  
 7           providing criminal penalties; prohibiting solicitation of  
 8           legal business for a profit by urging a person to consider  
 9           bringing legal action against another; defining the term  
 10          "solicit"; providing civil penalties; providing for  
 11          equitable relief; providing for construction of the act;  
 12          providing an effective date.

13  
 14 Be It Enacted by the Legislature of the State of Florida:

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

18           877.02 Solicitation of for-profit legal services or  
 19          retainers for legal services ~~therefor~~; penalty.--

20           (1) The Legislature finds that legal advertising that  
 21          solicits business by urging a person to file a suit destroys the  
 22          personal responsibility of individuals, fosters frivolous  
 23          litigation, and demeans the judiciary and the practice of law.  
 24          This form of solicitation has created a crisis in this state's  
 25          judicial system, thus creating a compelling state interest in  
 26          the state's limited regulation of advertising as set forth in  
 27          this section.

28           (2)~~(1)~~ A ~~It shall be unlawful for any person or her or his~~

29 agent or, employee, or any person acting on her or his behalf,  
 30 may not ~~to~~ solicit or procure through solicitation, ~~either~~  
 31 directly or indirectly, legal business for a profit, may not ~~or~~  
 32 ~~to~~ solicit or procure through solicitation a retainer, written  
 33 or oral, or any agreement authorizing an attorney to perform or  
 34 render legal service for a profit, and may not ~~or to~~ make it a  
 35 business to solicit or procure such business, retainers, or  
 36 agreements. ~~provided~~, However, this section does not ~~that~~  
 37 ~~nothing herein shall prohibit or be applicable to~~ banks, trust  
 38 companies, lawyer reference services, legal aid associations,  
 39 lay collection agencies, railroad companies, insurance companies  
 40 and agencies, and real estate companies and agencies, in the  
 41 conduct of their lawful businesses, and in connection therewith  
 42 and incidental thereto, from forwarding legal matters to  
 43 attorneys at law if ~~when~~ such forwarding is authorized by the  
 44 customers or clients of the said businesses and is done pursuant  
 45 to the canons of legal ethics as pronounced by the Supreme Court  
 46 of Florida.

47 (3)(2) ~~A~~ ~~It shall be unlawful for any person in the employ~~  
 48 of or in any capacity attached to any hospital, sanitarium,  
 49 police department, wrecker service, ~~or~~ garage, prison, or court,  
 50 or ~~for~~ a person authorized to furnish bail bonds, investigators,  
 51 photographers, insurance or public adjusters, may not ~~to~~  
 52 communicate, directly or indirectly, with any attorney or person  
 53 acting on the said attorney's behalf for the purpose of aiding,  
 54 assisting, or abetting such attorney in soliciting ~~the~~  
 55 ~~solicitation of~~ legal business for a profit, and may not procure  
 56 ~~or the procurement~~ through the solicitation of a retainer,

57 written or oral, ~~or~~ any agreement authorizing the attorney to  
 58 perform or render legal services for a profit.

59 (4) A person may not advertise, using any form of  
 60 electronic or other media, in a manner that solicits legal  
 61 business for a profit by urging a person to consider bringing  
 62 legal action against another.

63 (5) As used in this section, the term "solicit" means to  
 64 entreat, request, or incite another to use the services of an  
 65 attorney or a law firm. In any advertisement subject to this  
 66 section, the term "solicit" does not mean, include, or prohibit  
 67 a statement by the attorney in writing, an oral statement by the  
 68 attorney, or an appearance, picture, or voice of the attorney  
 69 stating in such advertisement only the following information:

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

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

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

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

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

82 (6)(a)(3) Except for violations of subsection (4), any  
 83 person who violates ~~violating~~ any provision of this section  
 84 commits ~~shall be guilty of~~ a misdemeanor of the first degree,

85 punishable as provided in s. 775.082 or s. 775.083.

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

98 (7)(4) This section is ~~shall be taken to be~~ cumulative and  
 99 ~~does~~ shall not be ~~construed to~~ amend or repeal any other valid  
 100 law, code, ordinance, rule, or penalty now in effect.

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