

AN ACT

relating to the prosecution of the offense of barratry and solicitation of professional employment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 38.12(d), Penal Code, is amended to read as follows:

(d) A person commits an offense if the person:

(1) is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state; and

(2) with the intent to obtain professional employment for the person ~~[himself]~~ or for another, provides ~~[sends]~~ or knowingly permits to be provided ~~[sent]~~ to an individual who has not sought the person's employment, legal representation, advice, or care a written communication or a solicitation, including a solicitation in person or by telephone, that:

(A) concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication or solicitation is provided ~~[addressed]~~ or a relative of that person and that was provided ~~[mailed]~~ before the 31st day after the date on which the accident or disaster occurred;

(B) concerns a specific matter and relates to

1 legal representation and the person knows or reasonably should know
2 that the person to whom the communication or solicitation is
3 directed is represented by a lawyer in the matter;

4 (C) concerns an arrest of or issuance of a
5 summons to the person to whom the communication or solicitation is
6 provided [~~addressed~~] or a relative of that person and that was
7 provided [~~mailed~~] before the 31st day after the date on which the
8 arrest or issuance of the summons occurred;

9 (D) concerns a lawsuit of any kind, including an
10 action for divorce, in which the person to whom the communication or
11 solicitation is provided [~~addressed~~] is a defendant or a relative
12 of that person, unless the lawsuit in which the person is named as a
13 defendant has been on file for more than 31 days before the date on
14 which the communication or solicitation was provided [~~mailed~~];

15 (E) is provided [~~sent~~] or permitted to be
16 provided [~~sent~~] by a person who knows or reasonably should know that
17 the injured person or relative of the injured person has indicated a
18 desire not to be contacted by or receive communications or
19 solicitations concerning employment;

20 (F) involves coercion, duress, fraud,
21 overreaching, harassment, intimidation, or undue influence; or

22 (G) contains a false, fraudulent, misleading,
23 deceptive, or unfair statement or claim.

24 SECTION 2. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect at the time the offense was committed,

1 and the former law is continued in effect for that purpose. For
2 purposes of this section, an offense was committed before the
3 effective date of this Act if any element of the offense occurred
4 before that date.

5 SECTION 3. This Act takes effect September 1, 2009.

H.B. No. 148

President of the Senate

Speaker of the House

I certify that H.B. No. 148 was passed by the House on May 15, 2009, by the following vote: Yeas 140, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 148 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 148 on May 31, 2009, by the following vote: Yeas 142, Nays 1, 1 present, not voting.

Chief Clerk of the House

H.B. No. 148

I certify that H.B. No. 148 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 148 on May 31, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor