

By: Scott

H.B. No. 2164

A BILL TO BE ENTITLED

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 or for another, provides or knowingly permits to be provided to an individual who has not sought the person's employment, legal representation, advice, or care a ~~written communication or a~~ solicitation, either ~~[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 or a relative of that person and that was provided 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
6 is provided or a relative of that person and that was provided
7 before the 31st day after the date on which the arrest or issuance
8 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
11 or~~] solicitation is provided is a defendant or a relative of that
12 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;

15 (E) is provided or permitted to be provided by a
16 person who knows or reasonably should know that the injured person
17 or relative of the injured person has indicated a desire not to be
18 contacted by or receive [~~communications or~~] solicitations
19 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, 2011.