

1 HB470
2 167113-1
3 By Representatives Fridy, Jones, Mooney, Ball, Hill (J)
4 and Faulkner
5 RFD: Judiciary
6 First Read: 09-APR-15

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SYNOPSIS: Existing law prohibits an attorney from soliciting a person to bring a legal action for the purpose of procuring the legal services of the attorney or his or her law firm.

Existing law also prohibits a person from receiving compensation from an attorney who solicits the person to bring a legal action in order to procure the legal services of the attorney or the attorney's law firm.

This bill would provide a cause of action for any person who was solicited by an attorney to bring a legal action for the purpose of procuring the legal services of the attorney or his or her law firm.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to attorneys; to amend Section 34-3-25,
2 Code of Alabama 1975; provide a cause of action for any person
3 who was solicited by an attorney to bring a legal action for
4 the purpose of procuring the legal services of the attorney or
5 his or her law firm.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 34-3-25, Code of Alabama 1975, is
8 amended to read as follows:

9 "§34-3-25.

10 "(a) Any person who shall, before or after an action
11 is brought, receive or agree to receive from any
12 attorney-at-law, firm or partnership of attorneys compensation
13 for services in seeking out, procuring or placing in the hands
14 of an attorney, firm or partnership of attorneys a demand of
15 any kind for an action or compromise shall be guilty of a
16 misdemeanor and, upon conviction, shall be fined in a sum not
17 exceeding \$1,000 and, in addition, may be punished by
18 imprisonment in the county jail or by hard labor for the
19 county for a term not exceeding six months, at the discretion
20 of the court trying the case.

21 "(b) A person from whom a contract for legal
22 services is sought to be procured in the manner prohibited by
23 subsection (a) or by the provisions of the Alabama Rules of
24 Professional Conduct regarding case solicitation by attorneys
25 or other persons, may file a civil action against the person
26 or persons who engaged in the prohibited conduct to void any

1 contract so procured, and, in addition, may recover the
2 following relief:

3 "(1) All fees and expenses paid under the voided
4 contract to any person found to have engaged in the prohibited
5 conduct through which the contract was procured.

6 "(2) The balance of any fees and expenses paid to
7 any other person under the voided contract after deducting
8 fees and expenses based on the principle of quantum meruit, as
9 provided in subsection (d).

10 "(3) A civil fine in the amount of five thousand
11 dollars (\$5,000) against each person found to have engaged in
12 the prohibited conduct through which a contract for legal
13 services was sought to be procured, whether or not such a
14 contract was actually procured.

15 "(4) Actual damages caused by the prohibited
16 conduct.

17 "(5) Reasonable attorneys' fees incurred by a
18 prevailing party seeking the relief made available under this
19 subsection.

20 "(c) The remedy provided in subsection (b) does not
21 include expenses incurred by an attorney against whom the
22 action provided by this section is brought.

23 "(d) An attorney who was paid or owed fees and
24 expenses under a contract that is voided under this section
25 may recover reasonable fees and expenses based on the
26 principle of quantum meruit if the person bringing the action
27 to void the contract does not prove that the attorney had

1 actual knowledge before undertaking the representation that
2 the contract was procured through conduct prohibited by
3 subsection (a) or by the provisions of the Alabama Rules of
4 Professional Conduct regarding case solicitation by attorneys
5 or other persons. To recover fees and expenses under this
6 subsection, the attorney must have reported the misconduct as
7 required by the Alabama Rules of Professional Conduct, unless
8 either of the following occurs:

9 "(1) Another person has already reported the
10 misconduct.

11 "(2) The attorney reasonably believed that reporting
12 the misconduct would substantially prejudice the client's
13 interest.

14 "(e) Any action under this section shall be
15 commenced within two years of the accrual of the cause of
16 action and shall be tried by a judge without a jury.

17 "(f) This section shall be liberally construed and
18 applied to promote its underlying purposes, which are to
19 protect those in need of legal services against unethical,
20 unlawful solicitation and to provide efficient and economical
21 procedures to secure that protection.

22 "(g) The provisions of this section are not
23 exclusive. The remedies provided in this section are in
24 addition to any other procedures or remedies provided by any
25 other law.

1 "(h) This section does not apply to prohibited
2 conduct that occurred before the effective date of the act
3 adding this amendatory language."

4 Section 2. This act shall become effective January
5 1, 2016.