

CHAPTER 138

S.B. No. 164

An Act relating to the operation of lawyer referral services; providing enforcement procedures; adding Article 320d to Title 14, Revised Statutes.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 14, Revised Statutes, is amended by adding Article 320d to read as follows:

“Article 320d. LAWYER REFERRAL SERVICES. (a) An individual, firm, corporation, organization, or any other entity may not operate as a lawyer referral service in this state, or use the term ‘referral service’ or similar terms, if the purpose of the individual, firm, corporation, organization, or entity is to refer potential clients to attorneys unless:

“(1) the referral service is offered primarily for the benefit of the public;

“(2) the referral service is operated by a governmental entity or a nonprofit organization or entity exempt from federal taxation under Section 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code of 1954;

“(3) the combined charges to the potential client by the referral service and the attorney to whom the potential client is referred do not exceed \$20 for the first 30 minutes of the initial office visit with the participating attorney;

“(4) the organization or entity providing referral services is the type that a lawyer may cooperate with under the Code of Professional Responsibility (Section 9, Article X, Rules Governing the State Bar of Texas); and

“(5) all attorneys licensed by this state and maintaining an office within the geographical area of the population of potential clients served by the referral service are eligible to participate in the referral service and to receive the referral of potential clients if they comply with reasonable participation requirements.

“(b) This article does not apply to any bona fide organization that:

“(1) recommends, furnishes, or pays for legal services to its members or beneficiaries; and

“(2) satisfies the conditions of DR 2-103(E)(5) of the Code of Professional Responsibility (Section 9, Article X, Rules Governing the State Bar of Texas).

“(c) This article does not apply to a lawyer who refers a potential client to another lawyer or law firm and receives a forwarding fee in conformity with DR 2-107 of the Code of Professional Responsibility (Section 9, Article X, Rules Governing the State Bar of Texas).

“(d) A lawyer referral service and any participating attorney accepting referrals from the referral service must comply with any representation made to the public by the referral service concerning a free or fixed limited-fee initial consultation period between a referred potential client and a participating attorney if:

“(1) the potential client qualifies under the conditions for the free or limited-fee consultation period; and

“(2) the participating attorney has consented in writing to accept referral of potential clients from the referral service for free or for a fixed limited fee.

“(e) An agreement between a referral service and a participating attorney to eliminate or restrict the attorney’s fee for the first 30 minutes of the initial consultation period for each potential client is in the public interest and does not violate the Texas Free Enterprise and Antitrust Act of 1983 (Section 15.01 et seq., Business & Commerce Code).

“(f) A violation or threatened violation of this article may be enjoined by any person on proof that a violation has occurred or is about to occur.”

SECTION 2. The legislature finds that many of the citizens of the state who are potential consumers of legal services often find it difficult to locate attorneys willing to consult with them for a nominal fee. The legislature further finds that lawyer referral services supply this need but that because a potential for abuse exists, referral services must be regulated in order to ensure that those services exist for the true benefit of the public.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 19, 1985, by a viva-voce vote; passed the House on May 9, 1985, by a non-record vote.

Approved: May 24, 1985

Effective: August 26, 1985