

1                   **PRIVATE CAUSE OF ACTION FOR UNDISCLOSED**

2                                   **REFERRAL FEES**

3   2021 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Nelson T. Abbott**

6                                   Senate Sponsor: Daniel McCay

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8   **LONG TITLE**

9   **General Description:**

10           This bill creates a cause of action that may be brought against an attorney or a law firm  
11 for failure to provide notice of a referral fee.

12   **Highlighted Provisions:**

13           This bill:

- 14           ▶ defines terms;
- 15           ▶ creates a cause of action that may be brought against an attorney or a law firm to  
16 recover a referral fee that is paid to a person that is not an attorney if the attorney or  
17 the law firm pays the referral fee for a client and fails to provide notice of the  
18 referral fee to the client;

- 19           ▶ provides exceptions for payments for profit-sharing plans, marketing services, and  
20 debt collection; and
- 21           ▶ addresses joint and several liability.

22   **Money Appropriated in this Bill:**

23           None

24   **Other Special Clauses:**

25           None

26   **Utah Code Sections Affected:**

27   ENACTS:

28           **78B-3-111**, Utah Code Annotated 1953

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30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **78B-3-111** is enacted to read:

32 **78B-3-111. Cause of action against attorney or law firm for referral fee --**

33 **Exceptions.**

34 (1) As used in this section:

35 (a) "Attorney" means an individual who is authorized to provide legal services in any  
36 state or territory of the United States.

37 (b) "Client" means an individual who is provided legal services by an attorney or a law  
38 firm.

39 (c) "Client referral fee" means any amount paid by an attorney or a law firm to a person  
40 that is not an attorney for the purpose of referring the client to receive legal services from the  
41 attorney.

42 (d) "Law firm" means a person that employs an attorney.

43 (e) "Legal services" means any form of legal advice or legal representation that is  
44 subject to the laws of this state.

45 (2) A client may bring a cause of action against an attorney or a law firm to recover a  
46 client referral fee if:

47 (a) the attorney or the law firm pays a client referral fee; and

48 (b) the client referral fee was not disclosed to the client before the client paid for, or  
49 was obligated to pay for, legal services from the attorney or the law firm.

50 (3) A client may not bring a cause of action under this section if the client referral fee  
51 was paid:

52 (a) as part of a profit-sharing plan that complies with the requirements of Section 401,  
53 Internal Revenue Code;

54 (b) to a person that provides marketing services, including pay-per-click advertising,  
55 for the attorney or the law firm, and the client referral fee was not contingent on whether the  
56 attorney or the law firm retains a client; or

57 (c) to a third party debt collection agency, as that term is defined in Section [12-1-11](#),

58 for the purpose of recovering money owed to the attorney by the client.

59 (4) Any attorney or law firm that provides legal services to the client in the matter for  
60 which the client referral fee was paid shall be jointly and severally liable in a cause of action  
61 under Subsection (2).

62 (5) This section applies to a cause of action described in Subsection (2) that arises on  
63 or after May 5, 2021.