

PRIVATE CAUSE OF ACTION FOR REFERRAL FEES

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a cause of action that may be brought against an attorney or a law firm to recover a referral fee that is paid to a person who is not an attorney if the attorney or the law firm pays the referral fee for a client and fails to provide notice of the referral fee to the client;
- ▶ provides exceptions for payments for profit-sharing plans, marketing services, and debt collection;
- ▶ allows the client to recover attorney fees and costs for the cause of action; and
- ▶ addresses joint and several liability.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



28 [78B-3-111](#), Utah Code Annotated 1953



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 this
36 state.

37 (b) "Client" means a person that is provided legal services by an attorney or a law firm.

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

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

42 (e) "Legal services" means any form of legal advice or legal representation that is
43 provided to a client.

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

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

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

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

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

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

56 (c) to a third party debt collection agency, as that term is defined in Section [12-1-11](#),
57 for the purpose of recovering money owed to the attorney by the client.

58 (4) (a) If a client obtains a favorable judgment from a cause of action described in

59 Subsection (2), the court shall order the attorney or the law firm to pay attorney fees and costs
60 incurred by the client in bringing the cause of action.

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

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