



House of Representatives

File No. 1006

General Assembly

January Session, 2009

(Reprint of File No. 672)

Substitute House Bill No. 6642
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 28, 2009

AN ACT CONCERNING SOLICITATION OF CLIENTS, PATIENTS OR CUSTOMERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) For the purposes of
2 this section:

3 (1) "Provider" means an attorney, a health care professional, as
4 defined in section 19a-12a of the general statutes, a person who owns
5 or operates a business or entity that provides legal or health care
6 services, a person who, by such person's representations, creates a
7 reasonable belief that such person or such person's practice, business
8 or entity can provide legal or health care services or a person
9 employed by or acting on behalf of any of such persons;

10 (2) "Public media" means telephone directories, professional
11 directories, newspapers and other periodicals, radio, television,
12 billboards and mailed or electronically transmitted written
13 communications that do not involve in-person contact with a specific
14 prospective client, patient or customer; and

15 (3) "Runner" means an individual who, for a pecuniary benefit,
 16 procures or attempts to procure a client, patient or customer at the
 17 direction of, request of or in cooperation with a provider whose
 18 purpose is to seek to obtain benefits under an insurance contract or
 19 assert a claim against an insured or an insurance company for
 20 providing services to the client, patient or customer, or to obtain
 21 benefits under or assert a claim against a state or federal health care
 22 benefits program or prescription drug assistance program, except that
 23 "runner" does not include (A) an individual who procures or attempts
 24 to procure a client, patient or customer for a provider through public
 25 media, (B) an individual who refers a prospective client, patient or
 26 customer to a provider as otherwise authorized by law, (C) an
 27 individual who facilitates, presents or speaks at a meeting, program or
 28 seminar that is open to the public and at which information about a
 29 provider's services are discussed, or (D) an individual who is a bona
 30 fide employee of a provider who responds to an inquiry or request for
 31 information initiated by a prospective client, patient or customer.

32 (b) An individual who knowingly acts as a runner or uses, solicits,
 33 directs, hires or employs another individual to act as a runner shall be
 34 fined not more than five thousand dollars or imprisoned not more than
 35 one year, or both.

36 (c) The provisions of subsection (b) of this section shall not apply to
 37 the referral of individuals between attorneys, between health care
 38 professionals or between attorneys and health care professionals.

39 (d) The provisions of this section shall be in addition to, and shall
 40 not be construed to limit or restrict, the provisions of sections 51-86, 51-
 41 87 and 51-87a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Judicial Dept.	GF - Revenue Gain	Potential	Potential
Judicial Dpt (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes it a violation of state law, punishable by imprisonment for up to 1 year and/or a fine of up to \$5,000, for any person to act as a "runner", which the bill defines, or solicit, direct, hire or employ someone as a "runner."

The potential volume of offenses under this new crime is unknown. However, to the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

House Amendment "A" makes clarifying and technical changes that have no fiscal impact.

The Out Years

The annualized ongoing incarceration/probation costs identified above would continue into the future subject to inflation; the annualized ongoing revenue from criminal fines would remain constant into the future since fine amounts are set by statute.

OLR Bill Analysis**sHB 6642 (as amended by House "A")******AN ACT CONCERNING SOLICITATION OF CLIENTS, PATIENTS OR CUSTOMERS.*****SUMMARY:**

This bill makes it a crime for someone to knowingly, for financial gain, procure or attempt to procure a client, patient, or customer at the direction of, request of, or in cooperation with a "provider" as defined by the bill whose purpose is to:

1. seek to obtain benefits under an insurance contract;
2. assert a claim against an insured or an insurance carrier for providing services to the client, patient, or customer; or
3. obtain benefits under or assert a claim against a state or federal health care benefits program or prescription drug assistance program.

The bill labels such a person a "runner." It specifies that certain individuals are not runners.

The bill also makes it a crime to solicit, direct, hire, or employ someone as a runner. The penalty for acting as, or hiring, a runner is imprisonment for up to one year, or a fine of up to \$5,000, or both.

The criminal penalties do not apply to the referral of individuals between (1) attorneys, (2) health care professionals, or (3) attorneys and health care professionals.

The bill specifies that a "runner" does not include an individual who:

1. procures or attempts to procure clients, patients, or customers for a provider through public media;
2. refers prospective clients, patients, or customers to a provider as otherwise authorized by law;
3. facilitates, presents, or speaks at a meeting, program or seminar that is open to the public and at which information about a provider's services are discussed; or
4. is a bona fide employee of a provider who responds to an inquiry or request for information initiated by a prospective client, patient, or customer.

The bill specifies that it is in addition to, and cannot be interpreted to limit or restrict, the laws that (1) prohibit soliciting individuals to file lawsuits for damages, or soliciting cases for attorneys, or (2) limit communications by attorneys to prospective clients (see BACKGROUND).

*House Amendment "A" (1) expands the class of people excluded from the definition of runner by also excluding those who (a) facilitate or speak at a public gathering at which information about a provider's services are discussed or (b) are a provider's employee who responds to an inquiry initiated by a prospective client, patient, or customer; (2) adds the provision dealing with other laws that restrict soliciting and limit communications by attorneys with prospective clients; (3) eliminates an exception from the definition of public media for contact or mailings within 40 days of an accident to any person (a) who has been involved in a motor vehicle accident, (b) who has suffered a personal injury, or (c) whose relative has suffered a wrongful death; (4) defines "health care professional"; and (5) makes certain technical changes.

EFFECTIVE DATE: October 1, 2009

PROVIDER

Under the bill a “provider” is:

1. an attorney;
2. a health care professional;
3. a person who owns or operates a business or entity that provides legal or health care services;
4. a person who, by his or her representations, creates a reasonable belief that he or she or his or her practice, business, or entity can provide legal or health care services; or
5. a person employed by or acting on behalf of any of these persons.

Under the bill, a health care professional includes any person licensed or who holds a permit for or as:

1. medicine and surgery,
2. chiropractic,
3. natureopathy,
4. podiatry,
5. athletic training,
6. physical therapists,
7. occupational therapists,
8. substance abuse counselors,
9. radiographer and radiologic technologist,
10. midwifery,
11. nursing,

12. dentistry,
13. dental hygienists,
14. optometry,
15. optician,
16. respiratory care practitioner,
17. psychologist,
18. marital and family therapist,
19. clinical social worker,
20. professional counselor,
21. veterinary medicine,
22. massage therapist,
23. dietitian and nutritionist,
24. acupuncturist,
25. paramedic,
26. embalmer and funeral director,
27. hearing instrument specialist, and
28. speech and language pathologist and audiology.

RUNNER

The bill defines a “runner” as an individual who, for a pecuniary benefit, procures or attempts to procure a client, patient, or customer at the direction of, request of, or in cooperation with a provider whose purpose is to:

1. seek to obtain benefits under an insurance contract or assert a

claim against an insured or an insurance company for providing services to the client, patient or customer or

2. obtain benefits under, or assert a claim against, a state or federal health care benefits program or prescription drug assistance program.

The bill specifies that a “runner” does not include an individual who:

1. procures or attempts to procure clients, patients, or customers for a provider through public media;
2. refers prospective clients, patients, or customers to a provider as otherwise authorized by law;
3. facilitates, presents, or speaks at a meeting, program, or seminar that is open to the public and at which information about a provider's services are discussed; or
4. is a bona fide employee of a provider who responds to an inquiry or request for information initiated by a prospective client, patient, or customer.

PUBLIC MEDIA

Under the bill, “public media” means telephone directories, professional directories, newspapers and other periodicals, radio and television, billboards, mail, or electronically transmitted written communications that do not involve in-person contact with a specific prospective client, patient, or customer.

BACKGROUND

Related Law-Soliciting Persons to Sue for Damages

The law prohibits individuals not licensed as attorneys from soliciting, advising, requesting, or inducing another person to cause an lawsuit for damages to be instituted, if (1) he may, by agreement or otherwise, directly or indirectly, receive compensation from person

filing suit or his or her attorney, or (2) in which lawsuit the compensation of the attorney instituting or prosecuting the action, depends upon the amount of the recovery. Violators are subject to a fine of up to \$100, or imprisonment up to six months, or both (CGS § 51-86).

Related Law-Solicitation of Cases for Attorneys

The law makes it a crime for anyone to pay, remunerate, or reward:

1. any other person with something of value to solicit or obtain a cause of action or client for an attorney;
2. any other person with something of value for soliciting or bringing a cause of action or a client to an attorney;
3. a police officer, court officer, correctional institution officer or employee, a physician, any hospital employee, an automobile repairman, tower or wrecker, funeral director or any other person who induces any person to seek the services of an attorney; or
4. any other person with something of value to induce him to bring a cause of action to, or to come to, an attorney or to seek his professional services.

The law also makes it a crime to employ an agent, runner, or other person to solicit or obtain a cause of action or a client for an attorney. Violators are subject to a fine of up to \$10,000 or imprisonment of up to three years or both. This does not apply to an attorney's engaging other or additional attorneys for professional assistance or to an attorney's referring a case to another attorney (CGS § 51-87(a)).

The law also makes it a crime for anyone to knowingly (1) receive or accept any payment, remuneration, or reward of value for referring or bringing a cause of action or prospective client to an attorney or (2) induce or influence any other person to seek the professional advice or services of an attorney. Violators are subject to a fine of up to \$10,000,

or imprisonment of up to three years, or both. This does not apply to the referral by an attorney of causes of action or clients or other persons to another attorney (CGS § 51-87(b)).

Related Law- Limitations on Written Communications to Prospective Clients.

An attorney may not send, or knowingly permit to be sent, on behalf of his or her firm or other attorneys affiliated with his or her firm a written communication to a prospective client to obtain professional employment if:

1. the written communication concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a relative of that person, unless the accident or disaster occurred more than 40 days before the mailing of the communication;
2. the written communication concerns a specific matter and the attorney knows or reasonably should know that the person to whom the communication is directed is represented by an attorney in the matter;
3. it has been made known to the attorney that the person does not want to receive such communications from him or her;
4. the communication involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence;
5. the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim; or
6. the attorney knows or reasonably should know that the physical, emotional or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing an attorney.

The law also contains certain requirements concerning written

communications to prospective clients known to be in need of legal services in a particular matter for the purpose of obtaining professional employment (CGS § 51-87a).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/27/2009)

Insurance and Real Estate Committee

Joint Favorable

Yea 12 Nay 1 (04/23/2009)