

FIRST REGULAR SESSION

# HOUSE BILL NO. 720

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PARKINSON.

1544L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 484, RSMo, by adding thereto one new section relating to the transparency in private attorney contracts act.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 484, RSMo, is amended by adding thereto one new section, to be known as section 484.400, to read as follows:

**484.400. 1. This section shall be known and may be cited as the "Transparency in Private Attorney Contracts Act".**

**2. As used in this section, the following terms shall mean:**

**(1) "Government attorney", an attorney employed by the state as a staff attorney in the attorney general's office;**

**(2) "Private attorney", any private attorney or law firm;**

**(3) "State", the state of Missouri, including state officers, departments, boards, commissions, divisions, bureaus, councils, and units of organization, however designated, of the executive branch of state government and any of its agents.**

**3. The state shall not enter into a contingency fee contract with a private attorney unless the attorney general makes a written determination prior to entering into such a contract that contingency fee representation is both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:**

**(1) Whether there exists sufficient and appropriate legal and financial resources within the attorney general's office to handle the matter;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           (2) The time and labor required; the novelty, complexity, and difficulty of the  
18 questions involved; and the skill requisite to perform the attorney services properly;

19           (3) The geographic area where the attorney services are to be provided;

20           (4) The amount of experience desired for the particular kind of attorney services  
21 to be provided and the nature of the private attorney's experience with similar issues or  
22 cases.

23           4. If the attorney general makes the determination described in subsection 3 of this  
24 section, the attorney general shall request proposals from private attorneys to represent  
25 the attorney general's office on a contingency fee basis, unless the attorney general  
26 determines that requesting proposals is not feasible under the circumstances and sets forth  
27 the basis for such determination in writing.

28           5. The state shall not enter into a contingency fee contract that provides for the  
29 private attorney to receive an aggregate contingency fee in excess of:

30           (1) Twenty-five percent of any recovery of up to ten million dollars, plus;

31           (2) Twenty percent of any portion of such recovery between ten million and fifteen  
32 million dollars, plus;

33           (3) Fifteen percent of any portion of such recovery between fifteen million and  
34 twenty million dollars, plus;

35           (4) Ten percent of any portion of such recovery between twenty million and twenty-  
36 five million dollars, plus;

37           (5) Five percent of any portion of such recovery in excess of twenty-five million  
38 dollars.

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40 In no event shall the aggregate contingency fee exceed fifty million dollars, exclusive of  
41 reasonable costs and expenses, and irrespective of the number of lawsuits filed or the  
42 number of private attorneys retained to achieve the recovery.

43           6. The state shall not enter into a contract for contingency fee attorney services  
44 unless the following requirements are met throughout the contract period and any  
45 extensions thereof:

46           (1) The government attorneys shall retain complete control over the course and  
47 conduct of the case;

48           (2) A government attorney with supervisory authority shall be personally involved  
49 in overseeing the litigation;

50           (3) The government attorneys shall retain veto power over any decisions made by  
51 outside counsel;

52           **(4) Any defendant that is the subject of such litigation may contact the lead**  
53 **government attorneys directly, without having to confer with contingency fee counsel;**

54           **(5) A government attorney with supervisory authority for the case shall attend all**  
55 **settlement conferences; and**

56           **(6) Decisions regarding settlement of the case shall be reserved exclusively to the**  
57 **discretion of the government attorneys and the state.**

58           **7. The attorney general shall develop a standard addendum to every contract for**  
59 **contingent fee attorney services that shall be used in all cases describing in detail what is**  
60 **expected of both the contracted private attorney and the state, including but not limited**  
61 **to the requirements listed in subsection 6 of this section.**

62           **8. Copies of any executed contingency fee contract and the attorney general's**  
63 **written determination to enter into a contingency fee contract with the private attorney**  
64 **shall be posted on the attorney general's website for public inspection within five business**  
65 **days after the date the contract is executed and shall remain posted on the website for the**  
66 **duration of the contingency fee contract, including any extensions or amendments thereto.**  
67 **Any payment of contingency fees shall be posted on the attorney general's website within**  
68 **fifteen days after the payment of such contingency fees to the private attorney and shall**  
69 **remain posted on the website for at least one year thereafter.**

70           **9. Any private attorney under contract to provide services to the state on a**  
71 **contingency fee basis shall, from the inception of the contract until at least four years after**  
72 **the contract expires or is terminated, maintain detailed current records, including**  
73 **documentation of all expenses, disbursements, charges, credits, underlying receipts and**  
74 **invoices, and other financial transactions that concern the provision of such attorney**  
75 **services. The private attorney shall make all such records available for inspection and**  
76 **copying upon request in accordance with chapter 610. In addition, the private attorney**  
77 **shall maintain detailed contemporaneous time records for the attorneys and paralegals**  
78 **working on the matter in increments of no greater than one-tenth of one hour and shall**  
79 **promptly provide such records to the attorney general upon request.**

80           **10. By February first of each year, the attorney general shall submit a report to the**  
81 **general assembly describing the use of contingency fee contracts with private attorneys in**  
82 **the preceding calendar year. At a minimum, the report shall:**

83           **(1) Identify all new contingency fee contracts entered into during the year and all**  
84 **previously executed contingency fee contracts that remain current during any part of the**  
85 **year, and for each such contract describe:**

86           **(a) The name of the private attorney with whom the attorney general's office has**  
87 **contracted, including the name of the attorney's law firm;**

- 88           **(b) The nature and status of the legal matter;**
- 89           **(c) The name of the parties to the legal matter;**
- 90           **(d) The amount of any recovery; and**
- 91           **(e) The amount of any contingency fees paid;**
- 92           **(2) Include copies of any written determinations made under subsections 3 and 4**
- 93 **of this section during the year.**
- 94           **11. Nothing in this section shall be construed to expand the authority of any state**
- 95 **agency or state agent to enter into contracts where no such authority previously existed.**