

FIRST REGULAR SESSION

HOUSE BILL NO. 180

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor), SATER, NANCE,
SANDER AND RUESTMAN (Co-sponsors).

0415L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 484, RSMo, by adding thereto one new section relating to deceptive television advertisements for legal services.

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
2 known as section 484.300, to read as follows:

484.300. 1. Any lawyer, law firm, or other entity conducting television advertising
2 **in Missouri for legal services shall abide by the provisions of this section to prevent false**
3 **or misleading television advertisements.**

4 **2. No television advertisement for legal services shall contain a false or misleading**
5 **communication about the lawyer, law firm, or the legal services. A communication shall**
6 **be false if it contains a material misrepresentation of fact or law. Misleading**
7 **communications include but are not limited to the following conditions:**

8 **(1) Omits a fact which leads the statement, when considered as a whole, to be**
9 **materially misleading;**

10 **(2) Is likely to create an unjustified expectation about results the lawyer can**
11 **achieve;**

12 **(3) States or implies that the lawyer can achieve results by means that violate the**
13 **Missouri Supreme Court Rules of Professional Conduct, or other rules or laws;**

14 **(4) Compares the quality of a lawyer's or a law firm's services with services of**
15 **another lawyer or law firm, unless the comparison can be factually substantiated;**

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.

16 (5) Advertises for a specific type of case concerning which the lawyer has neither
17 experience nor competence;

18 (6) Contains any paid testimonial about or endorsement of the lawyer, without
19 conspicuous identification of the fact that the payment has been made for the testimonial
20 or endorsement;

21 (7) Contains any simulated portrayal of a lawyer, client, victim, scene, or event
22 without conspicuous identification of the fact that it is a simulation;

23 (8) Provides an office address for an office staffed only part-time or by appointment
24 only; or

25 (9) States that legal services are available on a contingent or no-recovery-no-fee
26 basis without stating conspicuously that the client may be responsible for costs or expenses,
27 if that is the case.

28 3. Any television advertisement for legal services shall contain the following
29 language both stated orally and stated in writing: "Warning: The Missouri Supreme
30 Court cautions that the choice of a lawyer is an important decision and should not be based
31 solely upon advertisements.". The written disclaimer shall be displayed for at least ten
32 seconds at both the beginning and the end of the advertisement, and orally stated once at
33 the beginning and once at the end of the advertisement. The statement shall be made in
34 a type size and manner that is reasonably legible to persons watching and sounded audibly
35 in a clear and understandable manner to persons listening to the advertisement.

36 4. If any advertiser of legal services routinely refers cases acquired by television
37 advertising to lawyers not employed by the lawyer, law firm, or entity whose name appears
38 prominently on the advertisement, then the advertisement shall display in writing and state
39 orally the following: "Warning: Your case may be referred for handling to lawyers or law
40 firms that are not employed by the (stating name of advertising law firm) law firm.". This
41 statement shall be made in a type size and manner that is reasonably legible to persons
42 watching and sounded audibly in a clear and understandable manner to persons listening
43 to the advertisement.

44 5. (1) If a television advertisement for legal services includes amounts of particular
45 past verdicts or settlements, then the full case name, and a complete, fair and accurate
46 description of the case shall be included in the advertisement. Specific consent of the
47 former client is necessary for each television advertisement and the advertisement shall
48 prominently display and orally state the name of the actual lawyer who completed the
49 majority of the legal work on the case. This statement shall be made in a type size and
50 manner that is reasonably legible to persons watching and sounded audibly in a clear and
51 understandable manner to persons listening to the advertisement.

52 (2) If prior verdicts or settlements are referenced in a television advertisement, the
53 following disclaimer shall be displayed in writing and orally stated: "Warning: Past
54 verdicts or settlement amounts are not an indication that the advertiser can achieve similar
55 results for you or that you have a valid claim.". This statement shall be made in a type size
56 and manner that is reasonably legible to persons watching and sounded audibly in a clear
57 and understandable manner to persons listening to the advertisement.

58 (3) It shall be false or misleading advertising and a violation of this section for a
59 television advertisement to state a combined dollar amount or aggregate amount that an
60 advertiser of legal services claims to have achieved, including by way of example but not
61 by way of limitation, "our firm has collected over a billion dollars for our clients".

62 6. Any lawyer, law firm, or other entity conducting television advertising in
63 Missouri for legal services shall display in writing and state orally the location of the
64 principal office of the lawyer, law firm, or entity sponsoring the advertisement. If the
65 principal domicile of the lawyer, law firm, or entity advertising legal services is not in
66 Missouri, the advertisement shall clearly indicate in writing and state orally that the
67 lawyer, law firm, or entity does not have a license to practice law in Missouri, and shall
68 specifically state the name of the lawyer or lawyers licensed to practice law and actively
69 practicing law in Missouri who will participate in all cases obtained through use of the
70 advertisement. The statements required by this subsection shall be made in a type size and
71 manner that is reasonably legible to persons watching and sounded audibly in a clear and
72 understandable manner to persons listening to the advertisement.

73 7. A lawyer, law firm, or entity shall not, directly or indirectly, pay all or a part of
74 the cost of a television advertisement for legal services unless such advertisement discloses
75 the name and address of such financing party, the relationship between the advertising
76 party and the financing party, and whether the advertising party is likely to refer cases
77 received through the advertisement to the financing party.

78 8. The only entities or organizations that are authorized to advertise on television
79 as a lawyer referral and information service and refer potential clients or cases to lawyers
80 or law firms shall be qualified lawyer referral services as defined by Rule 4-9.1 of the
81 Missouri Supreme Court Rules of Professional Conduct.

82 9. Any person who views television advertising that violates this section may bring
83 a civil action against the lawyer, law firm or entity sponsoring the advertising for
84 injunctive relief and damages of one thousand dollars for each violation contained in the
85 advertisement and for each time the advertisement is played, and may recover the expenses
86 and costs of litigation, including expert witness fees and attorneys' fees.

87 **10. The provisions of this section shall not apply to advertising done by a qualified**
88 **lawyer referral service as defined by Rule 4-9.1 of the Missouri Supreme Court Rules of**
89 **Professional Conduct.**

90 **11. This section shall not apply to circumstances in which the name of a lawyer or**
91 **law firm appears on a television advertisement solely as a donor or sponsor for a charitable**
92 **or community cause.**

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