

House Bill 524

By: Representatives Wiles of the 34th, Ehrhart of the 36th, Westmoreland of the 104th, Bunn of the 74th, Smith of the 19th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 19 of Title 15 of the Official Code of Georgia Annotated,
2 relating to attorneys generally, so as to create duties, obligations, and penalties for attorneys
3 in class action lawsuits; to provide a short title; to provide legislative findings; to provide for
4 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 (a) This Act shall be known and may be cited as the "Right to Choose Your Attorney Act."

9 (b) The General Assembly finds that:

10 (1) Every person should be entitled to choose his or her own attorney;

11 (2) Every person should be free to choose whether to become, or not to become, a
12 plaintiff in a lawsuit; and

13 (3) Individuals should be protected from an attorney suing ostensibly in their behalf but
14 without their knowledge.

15 **SECTION 2.**

16 Article 1 of Chapter 19 of Title 15 of the Official Code of Georgia Annotated, relating to
17 attorneys generally, is amended by inserting after Code Section 15-19-4 a new Code Section
18 15-19-4.1 to read as follows:

19 "15-19-4.1.

20 (a) An attorney may not represent or claim to represent, or sue or claim to sue in behalf of,
21 any person as a member of a putative or certified class in accordance with Code Section
22 9-11-23 or any class action removed or transferred to a court of this state from the court of
23 another state or a federal court, unless the attorney first provides to the court of this state
24 such person's express written authorization to be so represented and to become a member
25 of the class. Such written authorization shall state that the person intends to retain a

1 specifically named attorney or firm and is aware of the legal consequences of joining the
2 specifically named litigation. The consequences shall include the rights that a person will
3 lose or waive by joining the class action, the person's right to enter an appearance through
4 his or her own counsel, and the person's right not be included in the class action. Such
5 written authorization shall also state that the attorney has provided to such person a good
6 faith estimate of the dollar amount of any attorney's fee, together with an explanation of
7 how any attorney's fee will be calculated and funded, and an explanation of the relative
8 recoveries that the attorney or firm and such person would receive if the claim is settled or
9 decided favorably.

10 (b) An attorney seeking to represent a putative or certified class in any class action
11 described in subsection (a) of this Code section shall not solicit potential members of the
12 class. The court may in its discretion direct that the attorney seeking to represent a putative
13 or certified class provide and pay for notice to potential class members of such information
14 as would reasonably provide potential class members with information to make an
15 informed decision of whether to join the class.

16 (c) No settlement of an action described in subsection (a) of this Code section and no
17 decision or judgment of a court in any such action shall bind as a party any person who has
18 not affirmatively consented to joining such action as a member of the putative or certified
19 class.

20 (d) Any person who violates any provision of this Code section in connection with any
21 class action in a court of this state shall be prohibited from representing any party in such
22 action or in any other action based upon or arising out of the subject matter of such action.
23 In addition, the court in any such action may subject any such person to an appropriate
24 sanction which may include an order to pay to the court a sum not to exceed the greater of
25 10 percent of the amount in controversy in the action, 25 percent of the maximum potential
26 contingency fee, if any, or \$100,000.00, in the discretion of the court. Willful violations
27 of subsection (a) of this Code section, if carried out by the filing of false information before
28 a court of this state, shall be punishable to the fullest extent provided under state law."

29 **SECTION 3.**

30 This Act shall become effective upon its approval by the Governor or upon its becoming law
31 without such approval and shall apply to all civil actions filed on or after such effective date.

32 **SECTION 4.**

33 All laws and parts of laws in conflict with this Act are repealed.