

Senate Bill 41

By: Senator Harp of the 29th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 19 of Title 15 of the Official Code of Georgia Annotated, relating to
2 attorneys, so as to provide for legislative findings; to regulate and impose conditions on
3 attorneys that advertise on television in the State of Georgia; to provide for a penalty; to
4 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 The General Assembly recognizes and declares that the attorney-client relationship is a
9 sacrosanct one in which the client is entitled to faithful and zealous counsel and
10 representation, as pronounced by the Supreme Court of Georgia and the State Bar of Georgia.
11 The General Assembly also recognizes the right of attorneys under existing law to advertise
12 their services on television. Further, the General Assembly finds a legitimate and compelling
13 need to enact the following provisions in order to preserve the sanctity of the attorney-client
14 relationship, as well as the duty of faithful and zealous representation and counsel.

15 **SECTION 2.**

16 Chapter 19 of Title 15 of the Official Code of Georgia Annotated, relating to attorneys, is
17 amended by adding a new Code section to read as follows:

18 "15-19-55.1.

19 (a) In any attorney television advertisement in the State of Georgia:

20 (1) The face and voice appearing in the advertisement shall be of a duly licensed
21 attorney;

22 (2) The advertisement shall visually and audibly state whether the advertising attorney
23 is licensed to practice in the State of Georgia;

24 (3) The advertisement shall visually and audibly state the name, city, county, and state
25 of the principal residence of the advertising attorney;

- 26 (4) Any advertising disclaimers currently required, or subsequently enacted, by the State
27 Bar of Georgia shall be visually and audibly stated in the television advertisement; and
28 (5) The type size of the required visual displays shall be no smaller than one-fifth of the
29 projected television screen image.
- 30 (b) Any attorney who secures a client through television advertising shall personally
31 consult with the client:
- 32 (1) At the time of signing any attorney-client representation and fee agreement;
33 (2) To obtain authority to engage in presuit settlement efforts and to conclude presuit
34 settlements; and
35 (3) To discuss and counsel the client regarding whether a lawsuit should be filed.
- 36 (c) Where a lawsuit is filed, any attorney who has secured the client through television
37 advertising:
- 38 (1) Shall personally consult with the client to answer and certify necessary discovery
39 responses, as required by Chapter 11 of Title 9, the 'Georgia Civil Practice Act';
40 (2) Shall act as lead counsel or co-lead counsel in the case and so indicate by signature
41 on all pleadings, discovery responses, motions and responses, and pretrial submissions;
42 and
43 (3) Absent good cause shown to the trial court and an order obtained thereon, shall
44 personally appear at all depositions, motion hearings, pretrial conferences, and the trial
45 of the action.
- 46 (d) No settlement agreement involving a client represented by an attorney who secured the
47 client through television advertising shall be binding on any party unless:
- 48 (1) The advertising attorney and the client each certify in writing and under oath that the
49 advertising attorney personally consulted with the client regarding the advisability of
50 settlement and obtained the express authority of the client to enter into the settlement; and
51 (2) The certifications required by paragraph (1) of this subsection include the date, time,
52 and method of personal consultation between the attorney and the client.
- 53 (e) Any settlement agreement entered into in violation of subsection (d) of this Code
54 section shall be voidable by the client, at the client's sole election, for any or no reason, for
55 a period of one year following the purported settlement, upon written notice by the client
56 to the advertising attorney.
- 57 (f) In order to determine whether the client was secured through television advertising, any
58 attorney who advertises his or her services on television shall have each client certify in
59 writing, at the time of signing any representation agreement, whether the employment was
60 influenced, in whole or in part, by virtue of any television advertisement. If the answer is
61 affirmative, subsections (b) through (e) of this Code section shall apply, and the attorney
62 shall explain these provisions to the client and deliver a copy of these provisions to the

63 client at the time the representation agreement is executed. These requirements shall apply
64 to any client represented by the advertising attorney and extend for a period of two years
65 following the last television advertisement shown in the State of Georgia. For compliance
66 purposes, these records shall be maintained throughout the representation and for a period
67 of four years following the conclusion of the representation. The records shall be subject
68 to audit by the State Bar of Georgia."

69 **SECTION 3.**

70 Said chapter is further amended by revising subsection (a) of Code Section 15-19-56, relating
71 to the penalty for prohibited conduct, as follows:

72 "(a) Any person, corporation, or voluntary association violating Code Section 15-19-51,
73 15-19-53, 15-19-54, ~~or 15-19-55,~~ or 15-19-55.1 shall be guilty of a misdemeanor."

74 **SECTION 4.**

75 This Act shall become effective on July 1, 2009.

76 **SECTION 5.**

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