AN ACT
relating to the prosecution of the offense of barratry and
solicitation of professional employment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 38.12(d), Penal Code, is amended to read
as follows:

(d) A person commits an offense if the person:

(1) is an attorney, chiropractor, physician, surgeon,
or private investigator licensed to practice in this state or any
person licensed, certified, or registered by a health care
regulatory agency of this state; and

(2) with the intent to obtain professional employment
for the person [himself] or for another, provides [sends] or
knowingly permits to be provided [sent] to an individual who has not
sought the person's employment, legal representation, advice, or
care a written communication or a solicitation, including a
solicitation in person or by telephone, that:

(A) concerns an action for personal injury or
wrongful death or otherwise relates to an accident or disaster
involving the person to whom the communication or solicitation is
provided [addressed] or a relative of that person and that was
provided [mailed] before the 31st day after the date on which the
accident or disaster occurred;

(B) concerns a specific matter and relates to
legal representation and the person knows or reasonably should know
that the person to whom the communication or solicitation is
directed is represented by a lawyer in the matter;

(C) concerns an arrest of or issuance of a
summons to the person to whom the communication or solicitation is
provided [addressed] or a relative of that person and that was
provided [mailed] before the 31st day after the date on which the
arrest or issuance of the summons occurred;

(D) concerns a lawsuit of any kind, including an
action for divorce, in which the person to whom the communication or
solicitation is provided [addressed] is a defendant or a relative
of that person, unless the lawsuit in which the person is named as a
defendant has been on file for more than 31 days before the date on
which the communication or solicitation was provided [mailed];

(E) is provided [sent] or permitted to be
provided [sent] by a person who knows or reasonably should know that
the injured person or relative of the injured person has indicated a
desire not to be contacted by or receive communications or
solicitations concerning employment;

(F) involves coercion, duress, fraud,
overreaching, harassment, intimidation, or undue influence; or

(G) contains a false, fraudulent, misleading,
deceptive, or unfair statement or claim.

SECTION 2. The change in law made by this Act applies only
to an offense committed on or after the effective date of this Act.
An offense committed before the effective date of this Act is
governed by the law in effect at the time the offense was committed,
and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.
I certify that H.B. No. 148 was passed by the House on May 15, 2009, by the following vote: Yeas 140, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 148 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 148 on May 31, 2009, by the following vote: Yeas 142, Nays 1, 1 present, not voting.

Chief Clerk of the House
H.B. No. 148

I certify that H.B. No. 148 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 148 on May 31, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: __________________

Date

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Governor