

1 AN ACT relating to members of the bar.

2 WHEREAS, Section 1 of the Constitution of Kentucky recognizes the inherent and
3 inalienable rights of individuals, including the right of acquiring and protecting property
4 and pursuing a lawful occupation; and

5 WHEREAS, Section 8 of the Constitution of Kentucky and the First Amendment to
6 the Constitution of the United States protect the freedoms of speech and association,
7 including the right to refrain from compelled speech or compelled association; and

8 WHEREAS, the General Assembly finds that requiring membership in, or the
9 payment of dues to, a private association as a condition of holding a professional or
10 occupational license similarly compels association and financial support as a prerequisite
11 to engaging in lawful work; and

12 WHEREAS, licensing by the Commonwealth exists to protect public health, safety,
13 and welfare through objective standards of education, competency, and ethical conduct,
14 and not to compel participation in or financial support of private organizations; and

15 WHEREAS, conditioning licensure on association membership or dues imposes
16 unnecessary financial burdens on licensees, creates barriers to entry into lawful
17 professions, and conflicts with the Commonwealth's public policy favoring individual
18 economic liberty and voluntary association; and

19 WHEREAS, it is therefore the purpose of this Act to ensure that no member of the
20 bar is required, directly or indirectly, to join, maintain membership in, or financially
21 support any association as a condition of obtaining, renewing, reinstating, or holding a
22 license to practice law in the Commonwealth of Kentucky;

23 NOW, THEREFORE,

24 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

25 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO
26 READ AS FOLLOWS:

27 **(1) The Supreme Court has power to provide for the organization, governance, and**

membership of the bar of Kentucky, and to adopt rules and regulations to govern the conduct and activity of the bar and its members, except that no member of the bar, without the member's annual written consent, shall be required to join or pay membership dues to any association or entity beyond payment of fees required to support the costs associated with:

(a) Admission to the bar; and

(b) Discipline of members of the bar.

(2) For purposes of this section, a member of the bar is any attorney licensed to practice law in Kentucky.

➔Section 2. KRS 21A.300 is amended to read as follows:

(1) Notwithstanding Section 1 of this Act~~[KRS 21A.160]~~, for a period of thirty (30) days following the filing of a criminal or civil action, or claim for damages, or a traffic citation, injury, accident, or disaster, an attorney or an attorney referral service~~[shall be subject to the following prohibition. An attorney or an attorney referral service]~~ shall not directly solicit, or knowingly permit another person to directly solicit on~~[his or its]~~ behalf of the attorney or the attorney referral service, a victim of the accident or disaster, or a relative of the victim, for the purpose of obtaining professional employment relating to a criminal or civil action~~[,]~~ or claim for damages~~[,]~~ arising out of the traffic citation, injury, accident, or disaster.

(2) Notwithstanding Section 1 of this Act~~[KRS 21A.160]~~, an attorney shall not knowingly accept a referral from an attorney referral service when that referral has resulted from the attorney referral service violating the prohibition established in subsection (1) of this section.

➔Section 3. KRS 21A.310 is amended to read as follows:

~~[(1)]~~ Notwithstanding Section 1 of this Act~~[KRS 21A.160]~~, any person violating any provision of KRS 21A.300:

(1) Shall, upon conviction, be guilty of a Class A misdemeanor; and~~[,]~~

- 1 (2) ~~{The Kentucky Supreme Court }~~May *be disciplined by the Kentucky Supreme*
2 *Court*~~{discipline any attorney who violates any provision of KRS 21A.300.~~
- 3 (3) ~~A penalty may be imposed on an attorney pursuant to subsection (1) of this section,~~
4 ~~subsection (2) of this section, or both subsections}.~~
- 5 ➔Section 4. The following KRS section is repealed:
- 6 21A.160 Organization and control of state bar vested in Supreme Court.