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## DIGEST

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HB 348 Original

2020 Regular Session

Bagley

**Abstract:** Establishes limitations on attorneys providing financial assistance to clients.

Proposed law prohibits an attorney from directly or indirectly providing financial assistance to clients in connection with pending or contemplated litigation except in the following instances:

- (1) A lawyer may advance court costs and expenses of litigation when expenses are reasonably incurred and do not exceed \$50,000.
- (2) A lawyer may provide financial assistance to a client who is in necessitous circumstances, subject to proposed law restrictions.

Proposed law imposes the following restrictions on lawyers providing financial assistance to necessitous clients:

- (1) The lawyer has determined after reasonable inquiry that not providing financial assistance would adversely affect the client's ability to initiate or maintain the cause for which the lawyer's services were retained.
- (2) The financial assistance must not be used as an inducement to secure employment.
- (3) Neither the lawyer nor anyone acting on the lawyer's behalf may offer to make advances prior to being hired by the client. The lawyer must not publicize or advertise a willingness to provide financial assistance to clients.
- (4) The financial assistance provided must not exceed the minimum sum necessary to meet the client's documented obligations necessary for subsistence.

Proposed law imposes the following additional restrictions on all financial assistance given to clients whether for court costs, expenses of litigation, or for necessitous circumstances:

- (1) The financial assistance provided to the client must not bear interest, fees, or charges of any nature.
- (2) The financial assistance provided may be made using the lawyer's line of credit or loans obtained from financial institutions that the lawyer has no ownership, control, or security interest. However, that proposed law provision is not applicable to any federally insured

bank, savings and loan association, savings bank, or credit union where the lawyer's ownership, control, or security interest is less than 15%.

- (3) When the lawyer uses a line of credit or loans to provide financial assistance to the client, the lawyer must not pass the interest charges to the client.
- (4) A lawyer providing guarantee or security on a loan made in favor of the client may only do so to the extent that the interest charges do not exceed ten percentage points above the bank prime loan rate of interest.
- (5) The lawyer must procure the client's written consent to the terms and conditions under which such financial assistance is made.
- (6) Every time a client is given financial assistance by the lawyer, the full text of proposed law must be provided to the client at the time of the execution of any settlement documents, approval of any disbursement sheet, or upon submission of a bill for the lawyer's services.

Proposed law defines the term "financial institution" as including a federally insured financial institution and any of its affiliates, bank, savings and loan, credit union, savings bank, loan or finance company, thrift, and any other business or person that, for a commercial purpose, loans or advances money to attorneys or the clients of attorneys for court costs, litigation expenses, or for necessitous circumstances.

Effective if the proposed amendment of Article V the Constitution of La. contained in the Act which originated as House Bill No. \_\_\_\_\_ of this 2020 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Adds R.S. 37:223)