Imagine:

1. One nucleus of operative facts involving a family living trust.
2. Illicit changes implemented by the estate planning attorneys immediately following the trust becoming irrevocable.
3. Federal action for breach dismissed under the probate exception/reversed and remanded to the federal district court holding that the trust contains no assets belonging to a decedent’s estate and that the action does not come within the purview of the probate exception to federal jurisdiction.
4. Estate planners file both Settlors wills in state probate court.
	* Disabled beneficiary’s wife hires attorney who uses disabled husbands name to obtain letters testamentary for independent administration and conducts depositions before suit.
5. Disabled beneficiary’s attorney files malpractice suit against estate planners in state District Court.
6. Inventory approved and probate case closed.
7. Federal court issues injunction and attorney for disabled “independent administrator” files non-probate related tort suit in probate court trapping all of the beneficiaries of the sole devisee living trust in one court while sequestering estate planners in state District Court. (Divide and conquer)
8. Thirteen years later nothing substantive has been resolved beginning with the absence of a judicial declaration on what instruments comprise the family living trust.
9.

# BARRATRY CHAMPERTY AND MAINTENANCE

## Tex. Pen. Code § 38.12- Barratry and Solicitation of Professional Employment

Current with legislation from the 2023 Regular and Special Sessions signed by the Governor as of November 21, 2023.

Section 38.12 - Barratry and Solicitation of Professional Employment

**(a)** A person commits an offense if, with intent to obtain an economic benefit the person:

**(1)** knowingly institutes a suit or claim that the person has not been authorized to pursue;

**(2)** solicits employment, either in person or by telephone, for himself or for another;

**(3)** pays, gives, or advances or offers to pay, give, or advance to a prospective client money or anything of value to obtain employment as a professional from the prospective client;

**(4)** pays or gives or offers to pay or give a person money or anything of value to solicit employment;

**(5)** pays or gives or offers to pay or give a family member of a prospective client money or anything of value to solicit employment; or

**(6)** accepts or agrees to accept money or anything of value to solicit employment.

**(b)** A person commits an offense if the person:

**(1)** knowingly finances the commission of an offense under Subsection (a);

**(2)** invests funds the person knows or believes are intended to further the commission of an offense under Subsection (a); or

**(3)** is a professional who knowingly accepts employment within the scope of the person's license, registration, or certification that results from the solicitation of employment in violation of Subsection (a).

**(c)** It is an exception to prosecution under Subsection (a) or (b) that the person's conduct is authorized by the Texas Disciplinary Rules of Professional Conduct or any rule of court.

**(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 or for another, provides or knowingly permits to be provided 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 or a relative of that person and that was provided 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 a lawsuit of any kind, including an action for divorce, in which the person to whom the communication or solicitation is provided 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;

**(D)** is provided or permitted to be provided 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;

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

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

**(e)** For purposes of Subsection (d)(2)(D), a desire not to be contacted is presumed if an accident report reflects that such an indication has been made by an injured person or that person's relative.

**(f)** An offense under Subsection (a) or (b) is a felony of the third degree.

**(g)** Except as provided by Subsection (h), an offense under Subsection (d) is a Class A misdemeanor.

**(h)** An offense under Subsection (d) is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted under Subsection (d).

**(i)** Final conviction of felony barratry is a serious crime for all purposes and acts, specifically including the State Bar Rules and the Texas Rules of Disciplinary Procedure.

Tex. Pen. Code § 38.12

Amended by Acts 2013, 83rd Leg. - Regular Session, ch. 315,Sec. 3, eff. 9/1/2013.Amended By Acts 2009, 81st Leg., R.S., Ch. 1252, Sec. 1, eff. 9/1/2009.Amended By Acts 1997, 75th Leg., ch. 750, Sec. 2, eff. 9/1/1997.Amended By Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. 9/1/1994Amended By Acts 1993, 73rd Leg., ch. 723, Sec. 2, eff. 9/1/1993Amended by Acts 1989, 71st Leg., ch. 866, Sec. 2, eff. 9/1/1989 Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. 1/1/1974.

## Tex. Occ. Code § 1701.313- Disqualification: Conviction of Barratry

Current with legislation from the 2023 Regular and Special Sessions signed by the Governor as of November 21, 2023.

Section 1701.313 - Disqualification: Conviction of Barratry

**(a)** A person who has been convicted of barratry under **Section 38.12, Penal Code**, is disqualified to be an officer, telecommunicator, or county jailer, and the commission may not issue a license to the person.

**(b)** For purposes of this section and Section 1701.503, a person is convicted of barratry if a court enters an adjudication of guilt against the person regardless of whether:

**(1)** the sentence is subsequently probated and the person is discharged from community supervision;

**(2)** the accusation, complaint, information, or indictment against the person is dismissed following community supervision; or

**(3)** the person is pardoned for the offense, unless the pardon is granted expressly for subsequent proof of innocence.

Tex. Occ. Code § 1701.313

Amended By Acts 2011, 82nd Leg., R.S., Ch. 855, Sec. 7, eff. 9/1/2011. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. 9/1/1999.

## Tex. Occ. Code § 1701.503- Barratry Conviction

Current with legislation from the 2023 Regular and Special Sessions signed by the Governor as of November 21, 2023.

Section 1701.503 - Barratry Conviction

The commission shall immediately revoke the license of a person licensed under this chapter who is convicted of barratry under Section 38.12, Penal Code.

Tex. Occ. Code § 1701.503

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. 9/1/1999.

# CHAMPERTY AND MAINTENANCE

**Champerty and maintenance** are doctrines in [common law](https://en.wikipedia.org/wiki/Common_law) [jurisdictions](https://en.wikipedia.org/wiki/Jurisdiction) that aim to preclude [frivolous litigation](https://en.wikipedia.org/wiki/Frivolous_litigation):

* **Maintenance** is the intermeddling of a disinterested party to encourage a [lawsuit](https://en.wikipedia.org/wiki/Lawsuit).[[1]](https://en.wikipedia.org/wiki/Champerty_and_maintenance#cite_note-Curzon-1): 260 It is: "A taking in hand, a bearing up or upholding of quarrels or sides, to the disturbance of the common right."[[2]](https://en.wikipedia.org/wiki/Champerty_and_maintenance#cite_note-2)
* **Champerty** (from [Old French](https://en.wikipedia.org/wiki/Old_French) [*champart*](https://en.wikipedia.org/wiki/Champart)) is the financial support, by a party not naturally concerned in the suit, of a plaintiff that allows them to prosecute a lawsuit on condition that, if it be brought to a successful issue, the plaintiff will repay them with a share of the proceed from the suit.[[3]](https://en.wikipedia.org/wiki/Champerty_and_maintenance#cite_note-3)

In *Giles v Thompson*[[4]](https://en.wikipedia.org/wiki/Champerty_and_maintenance#cite_note-4) [Lord Justice Steyn](https://en.wikipedia.org/wiki/Johan_Steyn%2C_Baron_Steyn) declared: "In modern idiom maintenance is the support of litigation by a stranger without just cause. Champerty is an aggravated form of maintenance. The distinguishing feature of champerty is the support of litigation by a stranger in return for a share of the proceeds."

At common law, maintenance and champerty were both [crimes](https://en.wikipedia.org/wiki/Crime) and [torts](https://en.wikipedia.org/wiki/Tort), as was [barratry](https://en.wikipedia.org/wiki/Barratry_%28common_law%29) (the bringing of [vexatious litigation](https://en.wikipedia.org/wiki/Vexatious_litigation)). This is generally no longer so[[5]](https://en.wikipedia.org/wiki/Champerty_and_maintenance#cite_note-5) as, during the nineteenth century, the development of [legal ethics](https://en.wikipedia.org/wiki/Legal_ethics) tended to obviate the risks to the public, particularly after the scandal of the [Swynfen will case](https://en.wikipedia.org/wiki/Swynfen_will_case) (1856–1864).[[6]](https://en.wikipedia.org/wiki/Champerty_and_maintenance#cite_note-6) However, the principles are relevant to modern [contingent fee](https://en.wikipedia.org/wiki/Contingent_fee) agreements between a [lawyer](https://en.wikipedia.org/wiki/Lawyer) and a client and to the [assignment](https://en.wikipedia.org/wiki/Assignment_%28law%29) by a [plaintiff](https://en.wikipedia.org/wiki/Plaintiff) of his rights in a lawsuit to someone with no connection to the case. Champertous contracts can still, depending on jurisdiction, be [void](https://en.wikipedia.org/wiki/Void_%28law%29) for [public policy](https://en.wikipedia.org/wiki/Public_policy_%28law%29) or attract [liability](https://en.wikipedia.org/wiki/Legal_liability) for [costs](https://en.wikipedia.org/wiki/Costs_%28law%29).

# RACKETEERING

## Tex. Pen. Code § 71.01

Current with legislation from the 2023 Regular and Special Sessions signed by the Governor as of November 21, 2023.

Section 71.01 - Definitions

In this chapter,

**(a)** "Combination" means three or more persons who collaborate in carrying on criminal activities, although: **(1)** participants may not know each other's identity;**(2)** membership in the combination may change from time to time; and**(3)** participants may stand in a wholesaler-retailer or other arm's-length relationship in illicit distribution operations.**(b)** "Conspires to commit" means that a person agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense and that person and one or more of them perform an overt act in pursuance of the agreement. An agreement constituting conspiring to commit may be inferred from the acts of the parties.**(c)** "Profits" means property constituting or derived from any proceeds obtained, directly or indirectly, from an offense listed in Section 71.02.**(d)** "Criminal street gang" means three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.**(e)** "Foreign terrorist organization" means three or more persons operating as an organization at least partially outside the United States who engage in criminal activity and threaten the security of this state or its residents, including but not limited to a drug cartel.

Tex. Pen. Code § 71.01

Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 462,Sec. 18, eff. 9/1/2023.Amended By Acts 1995, 74th Leg., ch. 318, Sec. 23, eff. 9/1/1995.Amended By Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. 9/1/1994Amended By Acts 1991, 72nd Leg., ch. 555, Sec. 1, eff. 9/1/1991Amended by Acts 1989, 71st Leg., ch. 782, Sec. 1, eff. 9/1/1989Added by Acts 1977, 65th Leg., p. 922, ch. 346, Sec. 1, eff. 6/10/1977.

## Tex. Pen. Code § 71.02- Engaging in Organized Criminal Activity

Current with legislation from the 2023 Regular and Special Sessions signed by the Governor as of November 21, 2023.

Section 71.02 - Engaging in Organized Criminal Activity

**(a)** A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang or foreign terrorist organization, the person commits or conspires to commit one or more of the following:

**(1)** murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, continuous sexual abuse of young child or disabled individual, solicitation of a minor, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

**(2)** any gambling offense punishable as a Class A misdemeanor;

**(3)** promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution; **(4)** unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

**(5)** unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug:

**(A)** through forgery, fraud, misrepresentation, or deception; or

**(B)** with the intent to deliver the controlled substance or dangerous drug;

**(5-a)** causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;

**(5-b)**

[Added by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 910]

unlawful possession with intent to deliver a controlled substance listed in Penalty Group 1-B under Section 481.1022, Health and Safety Code; **(5-b)**

**[Added by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 885]**

any unlawful possession with intent to deliver a controlled substance or dangerous drug;

**(6)** any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

**(7)** any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

**(8)** any felony offense under Chapter 32; **(9)** any offense under Chapter 36;

**(10)** any offense under Chapter 34, 35, or 35A;

**(11)** any offense under Section 37.11(a);

**(12)** any offense under Chapter 20A;

**(13)** any offense under Section 37.10;

**(14)** any offense under Section 38.06, 38.07, 38.09, or 38.11;

**(15)** any offense under Section 42.10;

**(16)** any offense under Section 46.06(a)(1) or 46.14;

**(17)** any offense under Section 20.05, 20.06, or 20.07;

**(18)** any offense under Section 16.02;

**(19)[Added by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 269** an offense under Section 28.03 that is punishable under Subsection (b)(4)(E) of that section; **(19)[Added by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 369]** any offense punishable under Section 42.03(d) or (e);

**(20)[Added by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 269** an offense under Section 31.21 that is punishable under Subsection (d) of that section; or **(20)[Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 369]** any offense classified as a felony under the Tax Code; or

**(21)[Amendeded by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 269** any offense classified as a felony under the Tax Code.**(21)[Added by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 369]** any offense under Section 545.420, Transportation Code.

**(b)** Except as provided in Subsections (c), (d), and (e), an offense under this section is one category higher than the most serious offense listed in Subsection (a) that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony, except that the offense is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for: **(1)** life without parole, if the most serious offense is an aggravated sexual assault and if at the time of that offense the defendant is 18 years of age or older and: **(A)** the victim of the offense is younger than six years of age; **(B)** the victim of the offense is younger than 14 years of age and the actor commits the offense in a manner described by Section 22.021(a)(2)(A); or **(C)** the victim of the offense is younger than 17 years of age and suffered serious bodily injury as a result of the offense; **(2)** life or for any term of not more than 99 years or less than 30 years if the most serious offense is an offense under Section 20.06 that is punishable under Subsection (g) of that section; or **(3)** life or for any term of not more than 99 years or less than 15 years if the most serious offense is an offense punishable as a felony of the first degree, other than an offense described by Subdivision (1) or (2). **(c)** Notwithstanding Section 15.02(d), a conspiracy to commit an offense under this section is punishable in the same manner as an offense under this section . **(d)** At the punishment stage of a trial, the defendant may raise the issue as to whether in voluntary and complete renunciation of the offense he withdrew from the combination before commission of an offense listed in Subsection (a) and made substantial effort to prevent the commission of the offense. If the defendant proves the issue in the affirmative by a preponderance of the evidence the offense is the same category of offense as the most serious offense listed in Subsection (a) that is committed. **(e)** An offense that is punishable as a second degree felony or as any lower category of offense under Subsection (b) is one additional category higher than the category listed under Subsection (b) if the person used or exhibited a deadly weapon during the commission of one or more of the offenses listed under Subsection (a) and if an offense is punishable as a Class A misdemeanor under Subsection (b), the offense is a state jail felony.

Tex. Pen. Code § 71.02

Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 462,Sec. 19, eff. 9/1/2023.Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 885,Sec. 5, eff. 9/1/2023.Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 910,Sec. 21, eff. 9/1/2023.Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 369,Sec. 3, eff. 9/1/2023.Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 269,Sec. 2.05, eff. 5/29/2023.Amended by Acts 2021, Texas Acts of the 87th Leg. - Regular Session, ch. 221,Sec. 2.27, eff. 9/1/2021.Amended by Acts 2019, Texas Acts of the 86th Leg.- Regular Session, ch. 253,Sec. 1, eff. 9/1/2019.Amended by Acts 2015, Texas Acts of the 84th Leg. - Regular Session, ch. 333,Sec. 16, eff. 9/1/2015.Amended by Acts 2013, 83rd Leg. - Regular Session, ch. 1252,Sec. 21, eff. 9/1/2013.Amended by Acts 2013, 83rd Leg. - Regular Session, ch. 1325,Sec. 4, eff. 9/1/2013.Amended by Acts 2013, 83rd Leg. - Regular Session, ch. 161,Sec. 16.005, eff. 9/1/2013.Amended By Acts 2011, 82nd Leg., R.S., Ch. 68, Sec. 8, eff. 9/1/2011.Amended By Acts 2011, 82nd Leg., R.S., Ch. 91, Sec. 20.003, eff. 9/1/2011.Amended By Acts 2011, 82nd Leg., R.S., Ch. 223, Sec. 3, eff. 9/1/2011.Amended By Acts 2011, 82nd Leg., R.S., Ch. 620, Sec. 10, eff. 9/1/2011.Amended By Acts 2011, 82nd Leg., R.S., Ch. 1200, Sec. 3, eff. 9/1/2011.Amended By Acts 2011, 82nd Leg., R.S., Ch. 1200, Sec. 4, eff. 9/1/2011.Amended By Acts 2009, 81st Leg., R.S., Ch. 153, Sec. 2, eff. 9/1/2009.Amended By Acts 2009, 81st Leg., R.S., Ch. 1130, Sec. 1, eff. 9/1/2009.Amended By Acts 2009, 81st Leg., R.S., Ch. 1357, Sec. 2, eff. 9/1/2009.Amended By Acts 2007, 80th Leg., R.S., Ch. 1163, Sec. 2, eff. 9/1/2007.Amended By Acts 2005, 79th Leg., Ch. 1162, Sec. 5, eff. 9/1/2005.Amended By Acts 2003, 78th Leg., ch. 641, Sec. 3, eff. 9/1/2003.Amended By Acts 1999, 76th Leg., ch. 685, Sec. 8, eff. 9/1/1999Amended By Acts 1997, 75th Leg., ch. 189, Sec. 9, eff. 5/21/1997Amended By Acts 1995, 74th Leg., ch. 318, Sec. 24, eff. 9/1/1995Amended By Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. 9/1/1994Amended By Acts 1993, 73rd Leg., ch. 761, Sec. 3, eff. 9/1/1993Amended By Acts 1991, 72nd Leg., ch. 555, Sec. 1, eff. 9/1/1991Amended By Acts 1989, 71st Leg., ch. 782, Sec. 2, eff. 9/1/1989Amended by Acts 1981, 67th Leg., p. 2373, ch. 587, Sec. 1 to 3, eff. 9/1/1981Added by Acts 1977, 65th Leg., p. 922, ch. 346, Sec. 1, eff. 6/10/1977.

## Chapter 72 Racketeering and UNLAWFUL DEBT COLLECTION

## Tex. Pen. Code § 72.01

Current with legislation from the 2023 Regular and Special Sessions signed by the Governor as of November 21, 2023.

Section 72.01 - Definitions

In this chapter:

**(1)** "Enterprise" has the meaning assigned by Section 140B.001, Civil Practice and Remedies Code.

**(2)** "Money" means funds as defined by Section 34.01.

**(3)** "Pattern of racketeering" means engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, the last of which occurred not later than the fifth anniversary of the date of a previous incident of racketeering conduct.

**(4)** "Pecuniary value" means:

**(A)** anything of value in the form of money, a negotiable instrument, or a commercial interest or anything else the primary significance of which is economic advantage; or

**(B)** any other property or service that has a value in excess of $100.

**(5)** "Racketeering" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

**(A)** a felony offense under The Securities Act (Title 12, Government Code);

**(B)** an offense under Section 20.03 (kidnapping);

**(C)** an offense under Section 20.04 (aggravated kidnapping);

**(D)** an offense under Section 20.07 (operation of stash house);

**(E)** a felony offense under Chapter 37 (perjury and other falsification);

**(F)** a felony offense under Section 38.03 (resisting arrest, search, or transportation);

**(G)** a felony offense under Section 38.05 (hindering apprehension or prosecution);

**(H)** a felony offense under Chapter 43 (public indecency); or

**(I)** an offense under Section 71.02 (engaging in organized criminal activity).

**(6)** "Real property" has the meaning assigned by Section 140B.001, Civil Practice and Remedies Code.

**(7)** "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is wholly or partly legally unenforceable in this state because the debt was incurred or contracted:

**(A)** in violation of:

**(i)** the Texas Racing Act (Subtitle A-1, Title 13, Occupations Code, and Article 179e, Revised Civil Statutes);

**(ii)** Subtitle A, Title 4, Finance Code, or Section 11, Article XVI, Texas Constitution, relating to interest and usury, if the usurious rate is at least twice the enforceable rate; or

**(iii)** Chapter 47, relating to gambling; or

**(B)** in gambling activity in violation of federal law or in the business of lending money at a rate usurious under state law if the usurious rate is at least twice the enforceable rate.

Tex. Pen. Code § 72.01

Added by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 885,Sec. 6, eff. 9/1/2023.

# UNAUTHORIZED PRACTICE OF LAW

## Tex. Pen. Code § 38.123 - Unauthorized Practice of Law

Current with legislation from the 2023 Regular and Special Sessions signed by the Governor as of November 21, 2023.

Section 38.123 - Unauthorized Practice of Law

**(a)** A person commits an offense if, **with intent to obtain an economic benefit for himself or herself**, the person:

**(1)** contracts with any person to represent that person with regard to personal causes of action for property damages or personal injury;

**(2)** advises any person as to the person's rights and the advisability of making claims for personal injuries or property damages;

**(3)** advises any person as to whether or not to accept an offered sum of money in settlement of claims for personal injuries or property damages;

**(4)** enters into any contract with another person to represent that person in personal injury or property damage matters on a contingent fee basis with an attempted assignment of a portion of the person's cause of action; or

**(5)** enters into any contract with a third person which purports to grant the exclusive right to select and retain legal counsel to represent the individual in any legal proceeding.

**(b)** This section does not apply to a person currently licensed to practice law in this state, another state, or a foreign country and in good standing with the State Bar of Texas and the state bar or licensing authority of any and all other states and foreign countries where licensed.

**(c)** Except as provided by Subsection (d) of this section, an offense under Subsection (a) of this section is a Class A misdemeanor.

**(d)** An offense under Subsection (a) of this section is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted under Subsection (a) of this section.

Tex. Pen. Code § 38.123

Added by Acts 1993, 73rd Leg., ch. 723, Sec. 5, eff. 9/1/1993.