



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 466

November 2, 2005

Personal financial disclosure statement reporting requirements in regard to making or receiving a referral for compensation for legal services. (SP-9)

This advisory opinion addresses the requirement that a state officer who is an attorney include in a personal financial statement certain information regarding referrals for compensation for legal services.

Section 572.0252 of the Government Code states:

A state officer who is an attorney shall report on the financial statement:

- (1) making or receiving any referral for compensation for legal services; and
- (2) the category of the amount of any fee accepted for making a referral for legal services.

Gov't Code § 572.0252.

The due process clause under the United States Constitution requires that a penal statute define a criminal offense "with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." *Kolender v. Lawson*, 461 U.S. 352, 357 (1983); *United States v. Daniel*, 813 F.2d 661, 663 (5th Cir. 1987); *Comm'n for Lawyer Discipline v. Benton*, 980 S.W.2d 425, 437 (Tex.1998).

We do not think that section 572.0252 of the Government Code is defined sufficiently so that ordinary people can understand what information this statute requires to be included in a personal financial statement. This commission will recommend to the legislature that it clarify this statute.

SUMMARY

The Ethics Commission will recommend that the legislature clarify section 572.0252 of the Government Code because this statute is so vague as to be unenforceable.