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SENATE BILL NO. 817

Offered January 11, 2023

Prefiled December 19, 2022

A BILL to amend and reenact § 54.1-3932 of the Code of Virginia, relating to lien for attorney fees; written notice requirements; validity and amount determinations.

Patron—Surovell

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3932 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3932. Lien for fees.

A. Any person having or claiming a ~~right~~ cause of action (i) sounding in tort, ~~or~~ (ii) for liquidated or unliquidated damages on contract, or ~~for a cause of action~~ (iii) for annulment or divorce, may contract with any attorney to prosecute the same, and ~~the~~, upon contracting such attorney, the attorney shall have a lien upon the cause of action as security for his fees for any services rendered in relation to the cause of action or claim. When any such contract is made, and written notice of the claim of such lien is given to the client or former client, the opposite party, ~~his or such party's~~ attorney or agent, and the clerk of court in which a case may be pending, any settlement or adjustment of the cause of action ~~shall be~~ is void against the lien so created, except as proof of liability on such cause of action. Written notice of the lien shall be given either within 45 days of the end of representation or (a) in causes of action sounding in tort or for liquidated or unliquidated damages on contract, before settlement or adjustment, whichever is earlier or (b) in cases of annulment or divorce, before final judgment is entered, whichever is earlier. Nothing in this section ~~shall affect~~ affects the existing law in respect to champertous contracts. In causes of action for annulment or divorce ~~an attorney, the court may not exercise his claim~~ determine the validity or amount of the lien until the divorce judgment is final and all residual disputes regarding marital property are concluded. Nothing in this section ~~shall affect~~ affects the existing law in respect to exemptions from creditor process under federal or state law.

B. Notwithstanding the provisions in subsection A, a court in a case of annulment or divorce may, in its discretion, exclude spousal support and child support from the scope of the attorney's lien.

C. The validity and amount of the lien may be determined either by motion in the case in which the lien is claimed, or by separate action after final judgment has been entered therein or if no case has been filed. The validity and amount of the lien shall be determined by the court without a jury.

INTRODUCED

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