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HOUSE BILL NO. 2174

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 64.2-520.1 of the Code of Virginia, relating to legal duty; action for damages for legal malpractice concerning estate planning; third parties to an attorney-client contract.

Patron—Clark

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 64.2-520.1 of the Code of Virginia is amended and reenacted as follows:

§ 64.2-520.1. Legal duty; action for damages from legal malpractice concerning estate planning; third parties.

~~A. An action for damages to an individual or an individual's estate, including future tax liability, resulting from legal malpractice concerning the individual's estate planning, including the provision of legal advice or the preparation of legal documents, regardless of when executed, shall accrue upon completion of the representation during which the malpractice occurred.~~

~~B. Notwithstanding § 55.1-119, but subject to any an attorney does not owe a legal duty to any person other than the client in any engagement for the purpose of the client's estate planning, including the provision of legal advice or the preparation of legal documents, unless the client and attorney enter into a signed, written agreement between the individual and the defendant that expressly grants standing to a person who is not a party to the representation provides that the client and attorney intend to confer a benefit upon a third party by specific reference to this subsection; the action may be maintained only by the individual or by the individual's personal representative.~~

~~C. An action for damages pursuant to this section in which a written contract for legal services existed between the individual and the defendant shall be brought within five years after the cause of action accrues as provided in this section. An action for damages pursuant to this section in which an unwritten contract for legal services existed between the individual and the defendant shall be brought within three years after the cause of action accrues as provided in this section.~~

~~D. B. Notwithstanding the provisions of this section, no such action shall be based upon damages that may reasonably be avoided or that result from a change of law subsequent to the representation upon which the action is based.~~

~~E. Any action pursuant to this section shall survive pursuant to § 8.01-25.~~

2. That the provisions of this act are declarative of existing law.

INTRODUCED

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