

By Senator Brodeur

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1                                   A bill to be entitled  
2       An act relating to defamation, false light, and  
3       unauthorized publication of name or likenesses;  
4       amending s. 90.5015, F.S.; providing that provisions  
5       concerning journalist's privilege do not apply to  
6       defamation claims when the defendant is a professional  
7       journalist or media entity; amending s. 770.05, F.S.;  
8       defining the term "defamation or privacy tort";  
9       revising provisions concerning venue for certain  
10      actions; amending s. 770.08, F.S.; revising provisions  
11      limiting the choice of venue in specified actions;  
12      creating s. 770.09, F.S.; exempting certain claims  
13      from specified provisions concerning offers of  
14      judgment and demands for judgment in civil actions;  
15      providing for award of attorney fees and costs to  
16      prevailing plaintiffs in such actions; creating s.  
17      770.105, F.S.; specifying that certain persons may not  
18      be considered public figures for purposes of certain  
19      actions; creating s. 770.11, F.S.; specifying that a  
20      fact finder may infer actual malice in certain  
21      circumstances; providing that certain allegations are  
22      defamatory per se; providing statutory damages to  
23      prevailing plaintiffs who are the subject of such  
24      allegations; creating s. 770.12, F.S.; creating a  
25      presumption that a statement by an anonymous source is  
26      presumptively false for purposes of a defamation  
27      action; providing requirements if a defendant in a  
28      defamation action refuses to identify an anonymous  
29      source; creating s. 770.13, F.S.; providing that a

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30 public figure does not need to show actual malice to  
31 prevail in a defamation action in certain  
32 circumstances; creating s. 770.15, F.S.; providing  
33 that a person who gives publicity to a matter  
34 concerning a natural person that places that person  
35 before the public in a false light may be liable for  
36 damages in certain circumstances; amending s. 720.304,  
37 F.S.; revising a provision on award of attorney fees  
38 in certain actions by property owners; amending s.  
39 768.295, F.S.; revising a provision on award of  
40 attorney fees in strategic lawsuits against public  
41 participation; providing for severability; providing  
42 an effective date.

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Subsection (9) is added to section 90.5015,  
47 Florida Statutes, to read:

48 90.5015 Journalist's privilege.—

49 (9) This section does not apply to defamation claims  
50 brought under chapter 770 when the defendant is a professional  
51 journalist or media entity.

52 Section 2. Section 770.05, Florida Statutes, is amended to  
53 read:

54 770.05 Limitation of choice of venue.—

55 (1) As used in this chapter, the term "defamation or  
56 privacy tort" refers to libel, slander, false light, invasion of  
57 privacy, or any other tort founded upon any single publication,  
58 exhibition, or utterance, such as any one edition of a

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59 newspaper, book, or magazine, any one presentation to an  
60 audience, any one broadcast over radio or television, any one  
61 exhibition of a motion picture, or any one publication,  
62 exhibition, or utterance on the Internet. Editing any form of  
63 media so that it attributes something false or leads a  
64 reasonable viewer to believe something false about a plaintiff  
65 may give rise to a defamation claim or privacy tort.

66 (2) A ~~No~~ person may not shall have more than one choice of  
67 venue for damages for any defamation or privacy tort ~~libel or~~  
68 ~~slander, invasion of privacy, or any other tort founded upon any~~  
69 ~~single publication, exhibition, or utterance, such as any one~~  
70 ~~edition of a newspaper, book, or magazine, any one presentation~~  
71 ~~to an audience, any one broadcast over radio or television, or~~  
72 ~~any one exhibition of a motion picture. Recovery in any action~~  
73 shall include all damages for any such tort suffered by the  
74 plaintiff in all jurisdictions.

75 (3) Notwithstanding any other provision of this chapter, or  
76 any other statute providing for venue, when:

77 (a) Damages for defamation are based on material published  
78 through the radio or television, venue is proper in any county  
79 where the material was accessed.

80 (b) Damages for defamation are based on material published  
81 through the Internet, venue is proper in any county in the  
82 state.

83 Section 3. Section 770.08, Florida Statutes, is amended to  
84 read:

85 770.08 Limitation on venue ~~recovery of damages.~~ Except as  
86 provided in s. 770.05(3)(a), a ~~No~~ person may not shall have more  
87 than one choice of venue for any defamation or privacy tort

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88 ~~damages for libel~~ founded upon a single publication or  
89 exhibition or utterance, as described in s. 770.05., ~~and~~ Upon  
90 his or her election in any one of his or her choices of venue,  
91 then the person shall be bound to recover there all damages  
92 allowed him or her.

93 Section 4. Section 770.09, Florida Statutes, is created to  
94 read:

95 770.09 Application of costs and attorney fees in defamation  
96 cases.—The fee-shifting provisions of s. 768.79 do not apply to  
97 defamation or privacy tort claims. Notwithstanding any other  
98 provision of law, a prevailing plaintiff on a defamation or  
99 privacy tort claim is entitled to an award of reasonable costs  
100 and attorney fees.

101 Section 5. Section 770.105, Florida Statutes, is created to  
102 read:

103 770.105 Limitations on judicial determination of a public  
104 figure.—A person may not be considered a public figure for  
105 purposes of establishing a defamation or privacy tort claim if  
106 his or her fame or notoriety arises solely from one or more of  
107 the following:

108 (1) Defending him or herself publicly against accusations.

109 (2) Granting an interview on a specific topic.

110 (3) Public employment other than elected office or  
111 appointment by an elected official.

112 (4) A video, image, or statement uploaded on the Internet  
113 that has reached a broad audience.

114 Section 6. Section 770.11, Florida Statutes, is created to  
115 read:

116 770.11 Clarifying defamation standards.—

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117 (1) A fact finder shall infer actual malice for purposes of  
118 a defamation action when:

119 (a) The defamatory allegation is fabricated by the  
120 defendant, is the product of his or her imagination, or is based  
121 wholly on an unverified anonymous report;

122 (b) An allegation is so inherently implausible that only a  
123 reckless person would have put it into circulation;

124 (c) There are obvious reasons to doubt the veracity of the  
125 defamatory allegation or the accuracy of an informant's reports.  
126 There are obvious reasons to doubt the veracity of a report  
127 when:

128 1. There is sufficient contrary evidence that was known to  
129 or should have been known to the defendant after a reasonable  
130 investigation; or

131 2. The report is inherently improbable or implausible on  
132 its face; or

133 (d) The defendant willfully failed to validate,  
134 corroborate, or otherwise verify the defamatory allegation.

135 (2) An allegation that the plaintiff has discriminated  
136 against another person or group because of their race, sex,  
137 sexual orientation, or gender identity constitutes defamation  
138 per se.

139 (a) A defendant cannot prove the truth of an allegation of  
140 discrimination with respect to sexual orientation or gender  
141 identity by citing a plaintiff's constitutionally protected  
142 religious expression or beliefs.

143 (b) A defendant cannot prove the truth of an allegation of  
144 discrimination with respect to sexual orientation or gender  
145 identity by citing a plaintiff's scientific beliefs.

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146 (c) A prevailing plaintiff for allegations under this  
147 subsection is, in addition to all other damages, entitled to  
148 statutory damages of at least \$35,000.

149 Section 7. Section 770.12, Florida Statutes, is created to  
150 read:

151 770.12 Presumption regarding anonymous sources.-

152 (1) A statement by an anonymous source is presumptively  
153 false for purposes of a defamation action.

154 (2) In a case where a defendant in a defamation action  
155 refuses to identify the source of a defamatory statement, the  
156 plaintiff need only prove that the defendant acted negligently  
157 in making the defamatory statement.

158 Section 8. Section 770.13, Florida Statutes, is created to  
159 read:

160 770.13 Actual malice for public figures in defamation  
161 cases.-A public figure does not need to show actual malice to  
162 prevail in a defamation cause of action when the allegation does  
163 not relate to the reason for his or her public status.

164 Section 9. Section 770.15, Florida Statutes, is created to  
165 read:

166 770.15 Invasion of privacy; place person before public in  
167 false light.-

168 (1) Any person who gives publicity to a matter concerning a  
169 natural person that places that person before the public in a  
170 false light is subject to liability if:

171 (a) The false light in which the person was placed would be  
172 highly offensive to a reasonable person; and

173 (b) The defendant had knowledge of or acted in reckless  
174 disregard as to the false implications of the publicized matter.

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175       (2) This section incorporates the standards set forth under  
176 this chapter for defamation causes of action to whatever extent  
177 necessary.

178       (3) Editing any form of media so that it attributes  
179 something false or leads a reasonable viewer to believe  
180 something false about a plaintiff may give rise to a defamation  
181 claim for false light.

182       Section 10. Paragraph (c) of subsection (4) of section  
183 720.304, Florida Statutes, is amended to read:

184       720.304 Right of owners to peaceably assemble; display of  
185 flags; SLAPP suits prohibited.—

186       (4) It is the intent of the Legislature to protect the  
187 right of parcel owners to exercise their rights to instruct  
188 their representatives and petition for redress of grievances  
189 before the various governmental entities of this state as  
190 protected by the First Amendment to the United States  
191 Constitution and s. 5, Art. I of the State Constitution. The  
192 Legislature recognizes that "Strategic Lawsuits Against Public  
193 Participation" or "SLAPP" suits, as they are typically called,  
194 have occurred when members are sued by individuals, business  
195 entities, or governmental entities arising out of a parcel  
196 owner's appearance and presentation before a governmental entity  
197 on matters related to the homeowners' association. However, it  
198 is the public policy of this state that government entities,  
199 business organizations, and individuals not engage in SLAPP  
200 suits because such actions are inconsistent with the right of  
201 parcel owners to participate in the state's institutions of  
202 government. Therefore, the Legislature finds and declares that  
203 prohibiting such lawsuits by governmental entities, business

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204 entities, and individuals against parcel owners who address  
205 matters concerning their homeowners' association will preserve  
206 this fundamental state policy, preserve the constitutional  
207 rights of parcel owners, and assure the continuation of  
208 representative government in this state. It is the intent of the  
209 Legislature that such lawsuits be expeditiously disposed of by  
210 the courts.

211 (c) A parcel owner sued by a governmental entity, business  
212 organization, or individual in violation of this section has a  
213 right to an expeditious resolution of a claim that the suit is  
214 in violation of this section. A parcel owner may petition the  
215 court for an order dismissing the action or granting final  
216 judgment in favor of that parcel owner. The petitioner may file  
217 a motion for summary judgment, together with supplemental  
218 affidavits, seeking a determination that the governmental  
219 entity's, business organization's, or individual's lawsuit has  
220 been brought in violation of this section. The governmental  
221 entity, business organization, or individual shall thereafter  
222 file its response and any supplemental affidavits. As soon as  
223 practicable, the court shall set a hearing on the petitioner's  
224 motion, which shall be held at the earliest possible time after  
225 the filing of the governmental entity's, business organization's  
226 or individual's response. The court may award the parcel owner  
227 sued by the governmental entity, business organization, or  
228 individual actual damages arising from the governmental  
229 entity's, individual's, or business organization's violation of  
230 this section. A court may treble the damages awarded to a  
231 prevailing parcel owner and shall state the basis for the treble  
232 damages award in its judgment. The court shall award the



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233 ~~nonmoving prevailing~~ party reasonable attorney ~~attorney's~~ fees  
234 and costs incurred in connection with a claim that an action was  
235 filed in violation of this section if the nonmoving party  
236 prevails on a motion filed under this section.

237 Section 11. Subsection (4) of section 768.295, Florida  
238 Statutes, is amended to read:

239 768.295 Strategic Lawsuits Against Public Participation  
240 (SLAPP) prohibited.—

241 (4) A person or entity sued by a governmental entity or  
242 another person in violation of this section has a right to an  
243 expeditious resolution of a claim that the suit is in violation  
244 of this section. A person or entity may move the court for an  
245 order dismissing the action or granting final judgment in favor  
246 of that person or entity. The person or entity may file a motion  
247 for summary judgment, together with supplemental affidavits,  
248 seeking a determination that the claimant's or governmental  
249 entity's lawsuit has been brought in violation of this section.  
250 The claimant or governmental entity shall thereafter file a  
251 response and any supplemental affidavits. As soon as  
252 practicable, the court shall set a hearing on the motion, which  
253 shall be held at the earliest possible time after the filing of  
254 the claimant's or governmental entity's response. The court may  
255 award, subject to the limitations in s. 768.28, the party sued  
256 by a governmental entity actual damages arising from a  
257 governmental entity's violation of this section. The court shall  
258 award the nonmoving ~~prevailing~~ party reasonable attorney fees  
259 and costs incurred in connection with a claim that an action was  
260 filed in violation of this section if the nonmoving party  
261 prevails on a motion filed under this section.

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262           Section 12. If any provision of this act or the application  
263 thereof to any person or circumstance is held invalid, the  
264 invalidity does not affect other provisions or applications of  
265 this act which can be given effect without the invalid provision  
266 or application, and to this end the provisions of this act are  
267 severable.

268           Section 13. This act shall take effect July 1, 2024.