

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

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presumptively false for purposes of a defamation action; providing requirements if a defendant in a defamation action refuses to identify an anonymous source; creating s. 770.13, F.S.; providing that a public figure does not need to show actual malice to prevail in a defamation action in certain circumstances; creating s. 770.15, F.S.; providing that a person who gives publicity to a matter concerning a natural person that places that person before the public in a false light may be liable for damages in certain circumstances; amending s. 720.304, F.S.; revising a provision on award of attorney fees in certain actions by property owners; amending s. 768.295, F.S.; revising a provision on award of attorney fees in strategic lawsuits against public participation; providing for severability; providing an effective date.

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

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

90.5015 Journalist's privilege.—

(9) This section does not apply to defamation claims 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
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,

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

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

117 (1) A fact finder shall infer actual malice for purposes
118 of 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; or

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.

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:

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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
169 a 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
172 be 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.

175 (2) This section incorporates the standards set forth
176 under chapter 770 for defamation causes of action to whatever
177 extent 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 flag; 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

suits because such actions are inconsistent with the right of parcel owners to participate in the state's institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by governmental entities, business entities, and individuals against parcel owners who address matters concerning their homeowners' association will preserve this fundamental state policy, preserve the constitutional rights of parcel owners, and assure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts.

(c) A parcel owner sued by a governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A parcel owner may petition the court for an order dismissing the action or granting final judgment in favor of that parcel owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this section. The governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after

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the filing of the governmental entity's, business organization's or individual's response. The court may award the parcel owner sued by the governmental entity, business organization, or individual actual damages arising from the governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing parcel owner and shall state the basis for the treble damages award in its judgment. The court shall award the nonmoving ~~prevailing~~ party reasonable attorney ~~attorney's~~ fees and costs incurred in connection with a claim that an action was filed in violation of this section if the nonmoving party prevails on a motion filed under this section.

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

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

(4) A person or entity sued by a governmental entity or another person in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A person or entity may move the court for an order dismissing the action or granting final judgment in favor of that person or entity. The person or entity may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the claimant's or governmental entity's lawsuit has been brought in violation of this section.

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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.

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

268 Section 13. This act shall take effect July 1, 2023.