By Senator Smith

14-473B-06

1	A bill to be entitled
2	An act relating to actions involving free
3	speech or defamation; creating s. 770.09, F.S.;
4	clarifying criteria for liability for
5	publishing a matter concerning an individual
6	which places that individual before the public
7	in a false light; providing for a civil action
8	to recover damages; requiring that the person
9	bringing the action plead and prove by clear
10	and convincing evidence the elements of the
11	claim; providing that certain privileged
12	publications are not subject to liability under
13	the act; limiting the period in which to
14	commence an action; providing that the
15	Legislature intends that the act apply
16	retroactively; providing an effective date.
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18	Be It Enacted by the Legislature of the State of Florida:
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20	Section 1. Section 770.09, Florida Statutes, is
21	created to read:
22	770.09 Publicity placing a person in a false light
23	(1) A person may not be held liable for publishing a
24	matter concerning an individual which places that individual
25	before the public in a false light, unless:
26	(a) The matter published relates to a fact that is
27	<u>false;</u>
28	(b) The false fact placed the individual in a false
29	light that is highly offensive to a reasonable person;
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1	(c) The person making the publication acted knowingly
2	or in reckless disregard as to the falsity of the fact
3	publicized; and
4	(d) The person making the publication acted knowingly
5	or in reckless disregard as to the false light in which the
6	individual would be placed.
7	(2) A person may bring a civil action under this
8	section to recover damages sustained by reason of the false
9	light in which he or she was placed, except that ss. 770.01
10	and 770.02 apply to all actions under this section.
11	(3) In any action under this section, the person
12	bringing the action has the burden to plead and prove by clear
13	and convincing evidence the elements set forth in subsection
14	<u>(1).</u>
15	(4) A publication that is privileged or otherwise
16	protected from liability under the common law of defamation,
17	the First Amendment to the United States Constitution, or s.
18	4, Art. I of the State Constitution is not subject to
19	liability under this section.
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	(5) An action may not be brought or maintained under
21	(5) An action may not be brought or maintained under this section if a claim based upon the same published fact or
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	this section if a claim based upon the same published fact or
22	this section if a claim based upon the same published fact or facts is, or could be, brought under the common law of
22 23	this section if a claim based upon the same published fact or facts is, or could be, brought under the common law of defamation.
22 23 24	this section if a claim based upon the same published fact or facts is, or could be, brought under the common law of defamation. (6) A cause of action for damages founded upon a
22232425	this section if a claim based upon the same published fact or facts is, or could be, brought under the common law of defamation. (6) A cause of action for damages founded upon a single publication as described in this section accrues at the
2223242526	this section if a claim based upon the same published fact or facts is, or could be, brought under the common law of defamation. (6) A cause of action for damages founded upon a single publication as described in this section accrues at the time of the first publication or exhibition or utterance
222324252627	this section if a claim based upon the same published fact or facts is, or could be, brought under the common law of defamation. (6) A cause of action for damages founded upon a single publication as described in this section accrues at the time of the first publication or exhibition or utterance thereof in this state. A judgment in any jurisdiction for or

1	the same plaintiff against the same defendant founded upon the
2	same publication.
3	(7) An action may not be brought or maintained under
4	this section by, or on behalf of, a person who is deceased.
5	(8) An action under this section must be commenced
6	within 2 years after the first publication of the matter that
7	forms the basis of the claim.
8	(9) It is the expressed intent of the Legislature that
9	this section applies retroactively.
10	Section 2. This act shall take effect July 1, 2006.
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13	SENATE SUMMARY
14	Clarifies criteria for liability for publishing a matter
15	concerning an individual which places that individual before the public in a false light. Provides for a civil
16	action to recover damages. Requires that the person bringing the action plead and prove by clear and
17	convincing evidence the elements of the claim. Provides that certain privileged publications are not subject to
18	claims of liability under the act. Limits the period in which to commence an action. Provides that the
19	Legislature intends this act to have a retroactive application.
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