

1                                   A bill to be entitled  
 2           An act relating to actions involving free speech or  
 3           defamation; creating s. 770.09, F.S.; clarifying criteria  
 4           for liability for publishing a matter concerning an  
 5           individual which places that individual before the public  
 6           in a false light; providing for a civil action to recover  
 7           damages; requiring that the person bringing the action  
 8           plead and prove by clear and convincing evidence the  
 9           elements of the claim; providing that certain privileged  
 10          publications are not subject to liability under the act;  
 11          limiting the period in which to commence an action;  
 12          providing that the Legislature intends that the act apply  
 13          retroactively; providing an effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. Section 770.09, Florida Statutes, is created to  
 18 read:

19           770.09 Publicity placing a person in a false light.--

20           (1) A person may not be held liable for publishing a  
 21 matter concerning an individual which places that individual  
 22 before the public in a false light, unless:

23           (a) The matter published relates to a fact that is false;

24           (b) The false fact placed the individual in a false light  
 25 that is highly offensive to a reasonable person;

26           (c) The person making the publication acted knowingly or  
 27 in reckless disregard as to the falsity of the fact publicized;  
 28 and

29        (d) The person making the publication acted knowingly or  
30 in reckless disregard as to the false light in which the  
31 individual would be placed.

32        (2) A person may bring a civil action under this section  
33 to recover damages sustained by reason of the false light in  
34 which he or she was placed, except that ss. 770.01 and 770.02  
35 apply to all actions under this section.

36        (3) In any action under this section, the person bringing  
37 the action has the burden to plead and prove by clear and  
38 convincing evidence the elements set forth in subsection (1).

39        (4) A publication that is privileged or otherwise  
40 protected from liability under the common law of defamation, the  
41 First Amendment to the United States Constitution, or s. 4, Art.  
42 I of the State Constitution is not subject to liability under  
43 this section.

44        (5) An action may not be brought or maintained under this  
45 section if a claim based upon the same published fact or facts  
46 is, or could be, brought under the common law of defamation.

47        (6) A cause of action for damages founded upon a single  
48 publication as described in this section accrues at the time of  
49 the first publication or exhibition or utterance thereof in this  
50 state. A judgment in any jurisdiction for or against the  
51 plaintiff upon the substantive merits of any action for damages  
52 founded upon a single publication as described in this section  
53 bars any other action for damages by the same plaintiff against  
54 the same defendant founded upon the same publication.

55        (7) An action may not be brought or maintained under this  
56 section by, or on behalf of, a person who is deceased.

HB 1323

2006

57           (8) An action under this section must be commenced within  
58 2 years after the first publication of the matter that forms the  
59 basis of the claim.

60           (9) It is the expressed intent of the Legislature that  
61 this section applies retroactively.

62           Section 2. This act shall take effect July 1, 2006.