

By the Committee on Judiciary; and 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. 770.02, F.S.; requiring that certain
5 articles or broadcasts be removed from the Internet
6 within a specified period to limit damages for
7 defamation; amending s. 770.04, F.S.; providing
8 persons in certain positions relating to newspapers
9 with immunity for defamation if such persons exercise
10 due care to prevent publication or utterance of such a
11 statement; requiring removal of defamatory statements
12 from the Internet in certain circumstances; amending
13 s. 770.05, F.S.; defining the term "defamation or
14 privacy tort"; providing venue for damages for a
15 defamation or privacy tort based on material broadcast
16 over radio or television; providing venue for damages
17 for a defamation or privacy tort based on material
18 published, exhibited, or uttered on the Internet;
19 creating s. 770.107, F.S.; requiring the court to
20 conduct an evidentiary hearing upon motion by any
21 party to a cause of action; specifying determinations
22 to be made on such a motion; providing the timeframe
23 for a hearing on such motions; limiting the court's
24 review of such a motion; specifying that a certain
25 finding may not be made in ruling on such a motion;
26 requiring the court to assess against the
27 nonprevailing party reasonable attorney fees and costs
28 for such hearing; providing applicability; creating s.
29 770.11, F.S.; providing a rebuttable presumption that

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30 a publisher of a false statement acted with actual
31 malice in certain circumstances; creating s. 770.15,
32 F.S.; defining the term "artificial intelligence";
33 providing that a person who uses artificial
34 intelligence to create or edit any form of media in a
35 certain manner is subject to liability in certain
36 circumstances; incorporating certain standards;
37 reenacting ss. 770.06, 770.07, and 770.08, F.S.,
38 relating to adverse judgment in any jurisdiction as a
39 bar to additional action, cause of action and time of
40 accrual, and limitation on recovery of damages,
41 respectively, to incorporate the amendment made to s.
42 770.05, F.S., in references thereto; providing for
43 severability; providing an effective date.

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

46
47 Section 1. Section 770.02, Florida Statutes, is amended to
48 read:

49 770.02 Correction, apology, or retraction by newspaper or
50 broadcast station.—

51 (1) If it appears upon the trial that said article or
52 broadcast was published in good faith; that its falsity was due
53 to an honest mistake of the facts; that there were reasonable
54 grounds for believing that the statements in said article or
55 broadcast were true; and that, within the period of time
56 specified in subsection (2), a full and fair correction,
57 apology, or retraction was, in the case of a newspaper or
58 periodical, published in the same editions or corresponding

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59 issues of the newspaper or periodical in which said article
60 appeared and in as conspicuous place and type as said original
61 article or, in the case of a broadcast, the correction, apology,
62 or retraction was broadcast at a comparable time, then the
63 plaintiff in such case shall recover only actual damages. For
64 purposes of this section, if such an article or a broadcast has
65 been published on the Internet, the article or broadcast must be
66 permanently removed from the Internet within the time period
67 provided in paragraph (2) (a) in order to limit recovery to
68 actual damages as provided in this section.

69 (2) Full and fair correction, apology, or retraction shall
70 be made:

71 (a) In the case of a broadcast or a daily or weekly
72 newspaper or periodical, within 10 days after service of
73 notice.~~†~~

74 (b) In the case of a newspaper or periodical published
75 semimonthly, within 20 days after service of notice.~~†~~

76 (c) In the case of a newspaper or periodical published
77 monthly, within 45 days after service of notice.~~†~~ and

78 (d) In the case of a newspaper or periodical published less
79 frequently than monthly, in the next issue, provided notice is
80 served no later than 45 days prior to such publication.

81 Section 2. Section 770.04, Florida Statutes, is amended to
82 read:

83 770.04 Civil liability of certain media outlets ~~radio or~~
84 ~~television broadcasting stations~~; care to prevent publication or
85 utterance required.-

86 (1) The owner, licensee, or operator of a radio or
87 television broadcasting station or a newspaper, and the agents

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88 or employees of any such owner, licensee, or operator, shall not
89 be liable for any damages for any defamatory statement published
90 or uttered in or as a part of a radio or television broadcast or
91 newspaper article, by one other than such owner, licensee, or
92 operator, or general agent or employees thereof, unless it is
93 ~~shall be~~ alleged and proved by the complaining party, that such
94 owner, licensee, operator, general agent, or employee, has
95 failed to exercise due care to prevent the publication or
96 utterance of such statement in such broadcasts or newspaper
97 articles, provided, however, the exercise of due care shall be
98 construed to include the bona fide compliance with any federal
99 law or the regulation of any federal regulatory agency.

100 (2) When an owner, a licensee, or an operator described in
101 subsection (1) publishes a defamatory statement on the Internet
102 with no knowledge of falsity of the statement and thereafter
103 receives notice that such statement has been found in a judicial
104 proceeding to be false, or receives notice of facts that would
105 cause a reasonable person to conclude that such statement was
106 false, and the owner, licensee, or operator fails to take
107 reasonable steps to permanently remove the statement and any
108 related report from the Internet, the continued appearance of
109 such statement or report on the Internet after the notice shall
110 be a new publication for purpose of the statute of limitations,
111 and the owner, licensee, or operator shall not be entitled to a
112 fair reporting privilege for such new publication.

113 Section 3. Section 770.05, Florida Statutes, is amended to
114 read:

115 770.05 Limitation of choice of venue.—

116 (1) As used in this chapter, the term "defamation or

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117 privacy tort” means libel, slander, invasion of privacy, or any
118 other tort founded upon any single publication, exhibition, or
119 utterance, such as any one edition of a newspaper, book, or
120 magazine, any one presentation to an audience, any one broadcast
121 over radio or television, any one exhibition of a motion
122 picture, or any one publication, exhibition, or utterance on the
123 Internet.

124 (2) A ~~No~~ person may not shall have more than one choice of
125 venue for damages for a defamation or privacy tort ~~libel or~~
126 ~~slander, invasion of privacy, or any other tort founded upon any~~
127 ~~single publication, exhibition, or utterance, such as any one~~
128 ~~edition of a newspaper, book, or magazine, any one presentation~~
129 ~~to an audience, any one broadcast over radio or television, or~~
130 ~~any one exhibition of a motion picture.~~ Recovery in any action
131 shall include all damages for any such tort suffered by the
132 plaintiff in all jurisdictions.

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

135 (a) Damages for a defamation or privacy tort are based on
136 material broadcast over radio or television, venue is proper in
137 any county in which the material was accessed.

138 (b) Damages for a defamation or privacy tort are based on
139 material published, exhibited, or uttered on the Internet, venue
140 is proper in any county in the state.

141 Section 4. Section 770.107, Florida Statutes, is created to
142 read:

143 770.107 Veracity hearings in defamation or privacy tort
144 actions.—

145 (1) Upon motion by any party to a cause of action brought

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146 under this chapter, the court shall conduct an evidentiary
147 hearing to determine:

148 (a) Whether a statement is a statement of fact or an
149 opinion.

150 (b) The veracity of any statement of fact that constitutes
151 the basis for the cause of action.

152 (2) Unless otherwise agreed to by the parties, the court
153 shall hear the motion within 60 days after service of the
154 motion.

155 (3) The court's review of the motion shall be limited
156 solely to determining whether a statement is a statement of fact
157 or an opinion and the veracity of the statement of fact at issue
158 in the underlying cause of action.

159 (4) In ruling upon a motion for determination of veracity,
160 the court shall issue no findings regarding the following
161 matters at issue in the underlying cause of action:

162 (a) Whether the statement of fact constitutes defamation
163 per se, defamation per quod, or a privacy tort;

164 (b) Whether the plaintiff in the cause of action qualifies
165 as a public figure or limited public figure; or

166 (c) Whether the defendant in the cause of action acted
167 negligently, recklessly, intentionally, or with actual malice.

168 (5) The court shall assess against the nonprevailing party
169 the reasonable attorney fees and costs associated with the
170 hearing.

171 (6) This section applies only to actions against a
172 newspaper or a periodical, whether in print or electronic
173 format; a broadcast station; or an employee, an agent, or a
174 contractor of such an entity that routinely publishes news or

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175 information of a public character or interest or value.

176 Section 5. Section 770.11, Florida Statutes, is created to
177 read:

178 770.11 Presumption regarding anonymous sources when the
179 statement made about a public figure is false.—If a public
180 figure plaintiff can establish that a published statement is
181 false and that the publisher relied on an anonymous source for
182 the statement, there is a rebuttable presumption that the
183 publisher acted with actual malice in publishing the statement.

184 Section 6. Section 770.15, Florida Statutes, is created to
185 read:

186 770.15 Using artificial intelligence to place person in
187 false light.—

188 (1) As used in this section, the term “artificial
189 intelligence” means the theory and development of computer
190 systems that are designed to simulate human intelligence through
191 machine learning and perform tasks that would normally require
192 human involvement, such as visual perception, speech
193 recognition, decisionmaking, and translation between languages.

194 (2) A person who uses artificial intelligence to create or
195 edit any form of media so that it attributes something false to
196 or leads a reasonable viewer to believe something false about
197 another person is subject to liability if all of the following
198 apply:

199 (a) The media is published, distributed, or otherwise
200 placed before the public.

201 (b) The false light in which the other person was placed
202 would be highly offensive to a reasonable person.

203 (c) The person had knowledge of or acted in reckless

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204 disregard as to the false implications of the media.

205 (3) This section incorporates the standards set forth under
206 this chapter for defamation causes of action to the extent
207 necessary.

208 Section 7. For the purpose of incorporating the amendment
209 made by this act to section 770.05, Florida Statutes, in a
210 reference thereto, section 770.06, Florida Statutes, is
211 reenacted to read:

212 770.06 Adverse judgment in any jurisdiction a bar to
213 additional action.—A judgment in any jurisdiction for or against
214 the plaintiff upon the substantive merits of any action for
215 damages founded upon a single publication or exhibition or
216 utterance as described in s. 770.05 shall bar any other action
217 for damages by the same plaintiff against the same defendant
218 founded upon the same publication or exhibition or utterance.

219 Section 8. For the purpose of incorporating the amendment
220 made by this act to section 770.05, Florida Statutes, in a
221 reference thereto, section 770.07, Florida Statutes, is
222 reenacted to read:

223 770.07 Cause of action, time of accrual.—The cause of
224 action for damages founded upon a single publication or
225 exhibition or utterance, as described in s. 770.05, shall be
226 deemed to have accrued at the time of the first publication or
227 exhibition or utterance thereof in this state.

228 Section 9. For the purpose of incorporating the amendment
229 made by this act to section 770.05, Florida Statutes, in a
230 reference thereto, section 770.08, Florida Statutes, is
231 reenacted to read:

232 770.08 Limitation on recovery of damages.—No person shall

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233 have more than one choice of venue for damages for libel founded
234 upon a single publication or exhibition or utterance, as
235 described in s. 770.05, and upon his or her election in any one
236 of his or her choices of venue, then the person shall be bound
237 to recover there all damages allowed him or her.

238 Section 10. If any provision of this act or its application
239 to any person or circumstance is held invalid, the invalidity
240 does not affect other provisions or applications of this act
241 which can be given effect without the invalid provision or
242 application, and to this end the provisions of this act are
243 severable.

244 Section 11. This act shall take effect July 1, 2024.