
DIGEST

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HB 23 Original

2021 Regular Session

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Abstract: Repeals provisions relative to defamation which have been ruled unconstitutional, including defamation, presumption of malice, qualified privilege, and absolute privilege.

Present law (R.S. 14:47) provides that defamation is the malicious publication or expression in any manner, to anyone other than the party defamed, of anything which tends to:

- (1) Expose any person to hatred, contempt, or ridicule, or to deprive him of the benefit of public confidence or social intercourse; or
- (2) Expose the memory of one deceased to hatred, contempt, or ridicule; or
- (3) Injure any person, corporation, or association of persons in his or their business or occupation.

Present law provides that whoever commits the crime of defamation shall be fined not more than \$500, or imprisoned for not more than six months, or both.

Present law (R.S. 14:48) provides that where a non-privilege defamatory publication or expression is false it is presumed to be malicious unless a justifiable motive for making such publication or expression is shown. Further provides that where such a publication or expression is true, actual malice must be proved in order to convict the offender.

Present law (R.S. 14:49) provides that a qualified privilege exists and actual malice must be proved, regardless of whether the publication is true or false, in the following situations:

- (1) Where the publication of expression is a fair and true report of any judicial, legislative, or other public or official proceeding, or of any statement, speech, argument, or debate.
- (2) Where the publication or expression is a comment made in the reasonable belief of its truth, upon:
 - (a) The conduct of a person in respect to public affairs, or
 - (b) A thing which the proprietor offers or explains to the public.
- (3) Where the publication or expression is made to a person interested in the communication,

by one who is also interested or who stands in such a relation to the former as to afford a reasonable ground for supposing his motive innocent.

- (4) Where the publication or expression is made by an attorney or party in a judicial proceeding.

Present law (R.S. 14:50) prohibits prosecution for defamation in the following situations:

- (1) When a statement is made by a legislator or judge in the course of his official actions.
- (2) When a statement is made by a witness in a judicial proceeding, or in any other legal proceeding where testimony may be required by law, and such statement is reasonably believed by the witness to be relevant to the matter in controversy.
- (3) Against the owner, licensee, or operator of a visual or sound broadcasting station or network of stations or the agents or employees thereof, when a statement is made or uttered over such station or network of stations by one other than the owner, licensee, operator, agents or employees.

Present law (R.S. 15:443) provides that in all prosecutions for defamation, the truth may be given in evidence.

Proposed law repeals present law.

(Repeals R.S. 14:47-50 and R.S. 15:443)