SLS 18RS-248 **ORIGINAL**

2018 Regular Session

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SENATE BILL NO. 147

BY SENATOR MORRELL AND REPRESENTATIVE MORENO

CRIMINAL JUSTICE. Provides relative to a defamation claim brought by an alleged perpetrator of sexual misconduct against the alleged victim. (8/1/18)

AN ACT

2	To enact Chapter 12-A of Title 13 of the Louisiana Revised Statutes of 1950, to be
3	comprised of R.S. 13:3381 and 3382, relative to certain claims initiated by alleged
4	perpetrators of sexual misconduct; to provide for special procedures when claims are
5	against the alleged victim; to provide for waivers; to provide for damages; and to
6	provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. Chapter 12-A of Title 13 of the Louisiana Revised Statutes of 1950,
9	comprised of R.S. 13:3381 and 3382, is hereby enacted to read as follows:
10	CHAPTER 12-A. SLANDER, DEFAMATION, OR LIBEL PROCEEDINGS
11	RELATED TO SEXUAL MISCONDUCT
12	§3381. Stay of proceedings
13	A.(1) Notwithstanding any provision of law to the contrary, upon the
14	filing of a motion to stay by the defendant, the court shall stay the proceedings
15	on a claim for defamation of character, libel, slander, or damage to reputation
16	when the plaintiff is an alleged perpetrator of sexual misconduct against the
17	defendant who is the alleged victim until such time as all civil or criminal

1	investigations, administrative hearings, or any other hearing or legal proceeding
2	regarding the allegations of sexual misconduct are complete and final.
3	(2) For purposes of this Subsection, the motion to stay shall identify the
4	forum of the pending investigation, hearing, or proceeding.
5	(3) For purposes of this Chapter, a plaintiff is "an alleged perpetrator
6	of sexual misconduct" if there is a pending claim of unwelcome behavior of a
7	sexual nature that was allegedly committed without consent or by force,
8	intimidation, coercion, or manipulation and the victim of the unwelcome
9	behavior is the defendant.
10	B.(1) Notwithstanding any provision of law to the contrary, if the claim
11	for defamation of character, libel, slander, or damage to reputation referred to
12	in Subsection A of this Section is determined by the court to be fraudulent or
13	frivolous, the defendant in such matter shall be entitled to exemplary damages
14	from the plaintiff.
15	(2) For the purposes of this Section, "fraudulent" and "frivolous" shall
16	have the same meaning as provided in R.S. 13:5241.
17	(3) The amount of exemplary damages that may be awarded to the
18	defendant by the court pursuant to Paragraph (1) of this Subsection shall be at
19	the court's discretion and shall not be subject to any cap or similar limitation
20	provided by law.
21	<u>§3382. Waiver</u>
22	A. Notwithstanding any provision of law to the contrary, a plaintiff filing
23	a claim for defamation of character, libel, slander, or damage to reputation
24	referenced in R.S. 13:3381, waives all privileges and protections relating to the
25	civil or criminal investigations, administrative hearings, or any other hearing
26	or legal proceeding regarding the alleged sexual misconduct.
27	B. Such waiver shall apply but not be limited to all evidence, records,
28	testimony, and findings of an investigation, hearing, or proceeding.
29	C. Such waiver shall not be construed to waive the attorney-client

privilege of any party.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley E. Menou.

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SB 147 Original

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Morrell

<u>Proposed law</u> provides that a court shall stay proceedings in cases of defamation of character, libel, slander, or damage to reputation brought by an alleged perpetrator of sexual misconduct against the alleged victim. Further provides that the stay shall remain until the completion of all investigations, hearings, or proceedings relating to the allegations of sexual misconduct.

<u>Proposed law</u> provides that if the court determines that the defamation of character, libel, slander, or damage to reputation claim brought by an alleged perpetrator is fraudulent or frivolous, the defendant is entitled to exemplary damages.

<u>Proposed law</u> provides that there is no limit to the amount of exemplary damages a defendant may receive.

<u>Proposed law</u> provides that the party instituting the suit against an alleged victim waives all privileges and protections relating to the findings and evidence of the investigation, hearing, or proceeding on the allegations of sexual misconduct.

Proposed law provides that the waiver does not apply to attorney-client privilege.

Effective August 1, 2018.

(Adds R.S. 13:3381 and 3382)