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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE – PROCEDURE GENERALLY

Introduced By: Senators Cano, Crowley, Quezada, and Metts

Date Introduced: March 04, 2020

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 9 of the General Laws entitled "COURTS AND CIVIL PROCEDURE  
2 - PROCEDURE GENERALLY" is hereby amended by adding thereto the following chapter:

3 CHAPTER 9-34

4 THE STOP GUILT BY ACCUSATION ACT

5 **9-34-1. Short title.**

6 This chapter shall be known and may be cited as the "The Stop Guilt By Accusation Act."

7 **9-34-2. Legislative findings.**

8 The general assembly hereby finds and declares that:

9 (1) The First Amendment of the United States Constitution asserts that the government  
10 "shall make no law abridging the freedom of the press";

11 (2) Freedom of the press in the United States is not absolute and is subject to certain  
12 restrictions, such as defamation law;

13 (3) The state has a compelling interest to compel the press to promote the objective truth  
14 for the sake of the viability of democracy and for the safety, health, and welfare of our communities  
15 and in keeping with the spirit of the Due Process Clause of the Fourteenth Amendment and to stop  
16 the press from serving as a slander machine;

17 (4) There has been a growing trend for individuals to abuse process and maliciously  
18 prosecute someone they disagree with ideologically by filing spurious cases and controversies in  
19 various government venues for ulterior motives, knowing that certain segments of the media that

1 align with their ideology would serve as an accomplice by engaging in a form of defamation in-  
2 kind by selectively reporting on the facts of the original case but not on the actual outcome in  
3 actions where the petitioner received less relief than originally sought, which cultivates an unjust  
4 prejudicial conviction in the court of public opinion causing the accused to be shunned, avoided,  
5 and marginalized and the media outlet guilty of defamation in-kind to the point that it unduly  
6 decreases the quality of life for the accused;

7 (5) The pattern of media outlets only reporting on the facts of a case and controversy but  
8 not the outcome has incentivized the abuse of our institutions of justice to the point that it threatens  
9 to erode the community's trust in the integrity of different government institutions, while giving  
10 license to unaccountable members of the press to abuse their position with impunity by trampling  
11 civil liberties; and

12 (6) The state has a compelling interest to compel the press to promote the truth because  
13 without truth, there is no freedom – freedom comes from the truth.

14 **9-34-3. Definitions.**

15 As used in this chapter:

16 (1) “Abuse of process” means the act of bringing and following through with a civil or  
17 criminal action or case and controversy for a purpose known to be different from the purpose for  
18 which the action was designed. The term includes proceedings that are brought for ulterior reasons  
19 than sought on the surface.

20 (2) “Accused” means a person who is blamed for a wrongdoing before a civil court, ethics  
21 commission, criminal court, administrative court, or a military tribunal. The term includes a person  
22 who has been arrested or formally charged by an indictment, information, or presentment with a  
23 crime or ethical violation.

24 (3) “Case and controversy” means any civil, criminal, or ethical proceedings before any  
25 governmental, state, federal, and administrative court, ethics commission, military tribunal, or  
26 legislative body.

27 (4) “Court of public opinion” means the general community consensus or opinion.

28 (5) “Defamation” means a false and unprivileged statement of fact that is harmful to  
29 someone's reputation, and published with fault, meaning as a result of negligence or malice.

30 (6) “Defamation in-kind” means the failure of a media outlet to report on the outcome of a  
31 case and controversy after it reported on the initial filings of a case and controversy in which the  
32 petitioner ended up receiving less relief than originally sought or could have obtained, which could  
33 reasonably cultivate a conviction in the court of public opinion by placing the accused in a false  
34 light that causes him or her to be avoided, marginalized, and shunned by the general public.

1 (7) “False light” means an untrue or misleading portrayal.

2 (8) “Malicious prosecution” means the act of initiation of a criminal prosecution or civil  
3 suit or other proceedings against another party with malice and without probable cause.

4 (9) “Media outlet” means a publication or broadcast program that provides news and  
5 feature stories to the public through various distribution channels. Media outlets include  
6 newspapers, magazines, radio stations, television stations, and certain websites on the Internet that  
7 are part of the press. A media outlet does not involve a person who does not work in the press as a  
8 profession or who does not regularly engage in the business of reporting.

9 (10) “Mugshot” means an official photograph taken after the accused suspect is arrested  
10 for an alleged criminal violation. The intended purpose of the mugshot is to allow law enforcement  
11 to have a photographic record of the arrested individual. Mugshots are also intended to be used for  
12 identification by victims and investigators. Usually, mugshots are two (2) part, one side-view photo,  
13 and another front-view photo.

14 (11) “Petitioner” means a person or government body who presents a petition to a  
15 government authority with respect to a particular cause. The terms shall be inclusive of plaintiffs,  
16 claimant, or complainant.

17 (12) “Press” means the people such as reporters and photographers who work for  
18 newspapers, magazines, televisions, websites, and radio outlets.

19 **9-34-4. Duty of a media outlet to publish a follow-up report on the outcome of a case**  
20 **and controversy under certain conditions following a timely demand notice.**

21 (a) A media outlet is required to provide equal coverage in comparable time, place,  
22 magnitude, prominence, scale and manner in the same format as the original reporting of a case  
23 and controversy, if and only if:

24 (1) The media outlet reported on the facts of a case and controversy and the final verdict  
25 provided less relief against the accused than originally sought by the petitioner or less than could  
26 have been obtained by the petitioner; and

27 (2) The accused or the authorized agent of the accused sends an electronic or written  
28 demand notice to an authorized agent of the media outlet within twenty (20) days after the verdict  
29 or outcome, demanding that the facts surrounding the final and actual decision or outcome be  
30 reported and published as a follow-up to the original reporting.

31 (b) In the written notification described in subsection (a) of this section, the accused or the  
32 authorized agent of the accused must include:

33 (1) The date and source of the first reporting by the media outlet;

34 (2) A short description of the original allegations, the original relief sought by the

1 petitioner, or the amount of relief that could have been obtained, and a short description of the final  
2 outcome and the relief actually awarded;

3 (3) The location of the venue where the case and controversy was resolved and the docket  
4 number of the case and controversy, if one was assigned;

5 (4) An acknowledgment that the positions asserted in the demand notice are declared under  
6 oath, under the penalty of perjury, pursuant to 28 U.S.C. § 1746;

7 (c) In the demand notice described in subsection (a) of this section, the accused or the  
8 authorized agent of the accused may include:

9 (1) A photograph of the accused that authorizes the media outlet to use it at its discretion;

10 (2) Links to or a hard copy of the original coverage published by the media outlet;

11 (3) A demand to take down any unflattering pictures or mugshots of the accused that were  
12 used in the original publication; and

13 (4) Any other facts or pertinent information that could be relevant.

14 (d) If a media outlet reports on the facts of a case and controversy and displays the mugshot  
15 of the accused, and the accused is acquitted, enters into a plea of nolo contendere, or receives an  
16 outcome more favorable than originally sought by the petitioner or available to the petitioner:

17 (1) The media outlet shall take down or remove the mugshot from any digital publication,  
18 if possible;

19 (2) The media outlet shall not display the mugshot in the follow-up publication that reports  
20 on the actual outcome of the case and controversy and shall only display images that it has the  
21 authorization to use.

22 (e) If the result of a civil trial is settled under the terms of a private settlement agreement,  
23 the accused is not required to provide the terms of the private settlement agreement but can alert  
24 the media outlet that the case and controversy was settled.

25 **9-34-5. Civil liability, penalties, statute of limitations.**

26 (a) After receiving the demand notice by the accused described in § 9-34-4, a media outlet  
27 that reported on the facts of the case and controversy prior to its resolution shall have ten (10) days  
28 to comply with the demand notice by publishing a follow-up story that reports on the actual  
29 outcome. The accused shall have the burden of proof at a civil trial to show that the notice was  
30 timely served on the media outlet, and met all of the requirements of § 9-34-4.

31 (b) If the media outlet fails to comply with the demand notice within ten (10) days, the  
32 accused has one year to file suit from the day of non-compliance and can seek the following relief  
33 in a court of competent jurisdiction against the media outlet:

34 (1) Statutory damages of ten thousand dollars (\$10,000);

1 (2) Attorneys' fees and costs;

2 (3) Actual damages; and

3 (4) Other forms of equitable and injunctive relief.

4 (c) If multiple media outlets fail to comply with the demand notice subject to the  
5 jurisdiction of the court, they can be added as co-defendants in a consolidated case to conserve  
6 judicial economy.

7 (d) If the media outlet displayed the mugshot of the accused in the original publication as  
8 described in § 9-34-4, in a digital format, the accused can seek injunctive relief to have the media  
9 outlet remove the image.

10 **9-34-6. Immunity, exceptions, and exemptions.**

11 (a) A media outlet is immune and exempt from liability under this chapter if it:

12 (1) Is known to publish satire or parody or admits that it is a fake news outlet, and its  
13 purpose is to traffic in fiction peddling for comedic or entertainment purposes.

14 (2) Reports on the facts of the outcome in comparable time, place, magnitude, prominence,  
15 scale and manner of the original publication prior to receiving the demand notice from the accused;

16 (3) Receives an untimely demand notice more than twenty (20) days after the day of the  
17 verdict by the accused; or

18 (4) Never reported on the case and controversy prior to the decision being reached.

19 (b) The petitioner has no standing under this chapter to make a media outlet report on the  
20 outcome of a case and controversy regardless of the outcome. Neither the petitioner nor the accused  
21 have standing to compel a media outlet to report on the case and controversy after it is filed.

22 (c) If a media outlet reported on a case or controversy involving one or more felony charges  
23 and the accused was convicted or plead guilty to one felony count, the accused lacks standing to  
24 enforce this chapter.

25 (d) The act does not apply to a media outlet that publishes a documentary, film, or an  
26 extensive investigative report regarding a case and controversy.

27 **9-34-7. Waiver of rights.**

28 (a) An accused has the right to waive his or her rights under this chapter as a part of a  
29 negotiated settlement.

30 (b) A court of competent jurisdiction has the discretion to not acknowledge that waiver of  
31 rights described in subsection (a) of this section, if there is any evidence that the waiver was  
32 undertaken under coercion.

33 **9-34-8. Construction and purpose.**

34 The purpose of this chapter is to:

1           (1) Prevent unchecked media outlets from acting as slander machines by engaging in  
2 defamation in-kind, abusing the general public, and degrading the integrity of our institutions of  
3 justice through selective reporting on cases and controversies that cultivates false narratives to the  
4 point that it unduly injures the accused by eroding their civil liberties causing them to be shunned  
5 and avoided by the general public due to a cloud of suspicion of wrongdoing that does not exactly  
6 align with the original allegations or the relief provided in a case and controversy lodged before a  
7 governmental body;

8           (2) Protect the integrity of the press and encourage good character of the members of the  
9 press core;

10          (3) Deter malicious prosecution, abuse of process in general, prosecutors from  
11 overcharging defendants, and plaintiff's from seeking excessive reliefs in the original cause  
12 complaint;

13          (4) Promote a mercy centric justice system because no human is perfect; and

14          (5) Deter convictions in the court of public opinion that do not necessarily align with  
15 convictions by our institutions of justice.

16          SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO COURTS AND CIVIL PROCEDURE – PROCEDURE GENERALLY

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1           This act would create “The Stop Guilt by Accusation Act” which would preclude the media  
2 from engaging in defamation in-kind through selective reporting on cases and controversies that  
3 cultivate false narratives so that it unduly injures the accused, causing them to be shunned and  
4 avoided by the general public due to a cloud of suspicion of wrongdoing that is not accurate as to  
5 the original allegations or the relief provided in a case or controversy.

6           This act would take effect upon passage.

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