

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 1047

By: Jett

AS INTRODUCED

An Act relating to defamation; creating the Truth in Reporting Act; providing short title; stating legislative findings; defining terms; requiring certain reporting; providing deadlines for follow-up reporting; providing elements of notification; allowing certain action; providing for relief; providing for immunity in certain circumstances; providing exception; providing for negotiated settlement agreements; providing purpose; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 782 of Title 21, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Truth in Reporting Act".

The Legislature finds:

1. The First Amendment to the United States Constitution asserts that the government "shall make no law abridging the freedom of the press;"

1 2. Freedom of the press in the United States is not absolute
2 and is subject to certain restrictions, such as defamation law;

3 3. The State has a compelling interest to compel the press to
4 promote the objective truth for the sake of the viability of
5 Democracy and for the safety, health, and welfare of our communities
6 in keeping with the spirit of the due process clause of the
7 fourteenth amendment and to stop the press from serving as a slander
8 machine;

9 4. There has been a growing trend for individuals to abuse
10 process and maliciously prosecute someone they disagree with
11 ideologically by filing spurious cases and controversies in various
12 government venues for ulterior motives, knowing that certain
13 segments of the media that align with their ideology would serve as
14 an accomplice by engaging in a form of defamation in-kind by
15 selectively reporting on the facts of the original case but not on
16 the actual outcome in actions where the petitioner received less
17 relief than originally sought, which cultivates an unjust
18 prejudicial conviction in the court of public opinion causing the
19 accused to be shunned, avoided, and marginalized and the media
20 outlet guilty of defamation in-kind to the point that it unduly
21 decreases the quality of life for the accused;

22 5. The pattern of media outlets only reporting on the facts of
23 a case and controversy but not the outcome has incentivized the
24 abuse of our institutions of justice to the point that it threatens
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1 to erode the community's trust in the integrity of different
2 government institutions, while giving licensed to unaccountable
3 members of the press to abuse their position with impunity by
4 trampling civil liberties;

5 6. The State has a compelling interest to compel the press to
6 promote the truth because without truth, there is no freedom -
7 freedom comes from the truth;

8 7. Freedom is not the presence of restrictions nor the absence
9 of restrictions, but the presence of the right set of restrictions
10 that fit the givenness of our nature, and in requiring truth in
11 reporting through the "Truth In Reporting Act (TIRA)" to limit
12 defamation in-kind will promote the kind of freedom that will
13 maximize human flourishing for the benefit of everyone to include
14 media outlets.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 783 of Title 21, unless there is
17 created a duplication in numbering, reads as follows:

18 As used in this Act:

19 1. "Abuse of process" means the act of bringing and following
20 through with a civil or criminal action or case and controversy for
21 a purpose known to be different from the purpose for which the
22 action was designed. The term includes proceedings that are brought
23 for ulterior reasons than sought on the surface;

1 2. "Accused" means a person who is blamed for a wrongdoing
2 before a civil court, ethics commission, criminal court,
3 administrative court, or a military tribunal. The term includes a
4 person who has been arrested or formally charged by an indictment,
5 information, or presentment with a crime or ethical violation. The
6 terms mean the suspect, respondent, or defendant;

7 3. "Case and controversy" means any civil, criminal, or ethical
8 proceedings before any governmental, state, federal, and
9 administrative court, ethics commission, military tribunal, or
10 legislative body;

11 4. "Court of public opinion" means the general community
12 consensus or opinion;

13 5. "Defamation" means a false and unprivileged statement of
14 fact that is harmful to someone's reputation, and published with
15 fault, meaning as a result of negligence or malice;

16 6. "Defamation in-kind" means the failure of a media outlet to
17 report on the outcome of a case and controversy after it reported on
18 the initial filings of a case and controversy in which the
19 petitioner ended up receiving less relief than originally sought or
20 could have obtained, which could reasonably cultivate in a
21 conviction in the court of public opinion by placing the accused in
22 a false light that causes him to be avoided, marginalized, and
23 shunned by the general public;

24 7. "False light" means an untrue or misleading portrayal;

1 8. "Malicious prosecution" is the act of initiating a criminal
2 prosecution or civil suit or other proceedings against another party
3 with malice and without probable cause;

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

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

18 11. "Petitioner" means a person or government body who presents
19 a petition to a government authority or institution in respect of a
20 particular cause. The term means plaintiff, prosecutor, claimant,
21 or complainant; and

22 12. "Press" means the people such as reporters and
23 photographers who work for newspapers, magazines, television,
24 websites, and radio outlets.

1 SECTION 3. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 784 of Title 21, unless there is
3 created a duplication in numbering, reads as follows:

4 A. A media outlet is required to provide equal coverage in
5 comparable time, place, magnitude, prominence, scale, and manner in
6 the same format as the original reporting of a case and controversy,
7 if and only if:

8 1. The media outlet reported on the facts of the case and
9 controversy and the final verdict provided less relief against the
10 accused than originally sought by the petitioner or less than could
11 have been obtained by the petitioner; and

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

18 B. In the written notification described in subsection A of
19 this section, the accused or the authorized agent of the accused
20 must include:

21 1. The date and source of the first reporting by the media
22 outlet;

23 2. A short description of the original allegations, the
24 original relief sought by the petitioner, or the amount of relief

1 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
4 resolved and the docket number of the case and controversy, if one
5 was assigned;

6 4. An acknowledgment that the positions asserted in the notice
7 demand are declared under oath under the penalty of perjury pursuant
8 to 28 U.S.C. Sec. 1746;

9 C. In the notice demand described in subsection A of this
10 section, the accused or the authorized agent of the accused may
11 include:

12 1. A photograph of the accused that authorizes the media outlet
13 to use at its discretion;

14 2. Links to or a hard copy of the original coverage published
15 by the media outlet;

16 3. A demand to take down any unflattering pictures or mugshot
17 of the accused that were used in the original publication; and

18 4. Any other facts or pertinent information that could be
19 relevant.

20 D. If a media outlet reports on the facts of a case and
21 controversy and displays the mugshot of the accused, and the accused
22 is acquitted, enters into a plea of no contest, or receives an
23 outcome more favorable than originally sought by the petitioner or
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1 available to the petitioner and if the accused has complied with
2 subsection A of this section:

3 1. The media outlet shall take down or remove the mugshot from
4 any digital publication, if possible, at the request of the accused;
5 and

6 2. The media outlet shall not display the mugshot in the
7 follow-up publication that reports on the actual outcome of the case
8 and controversy and shall only display images that it has the
9 authorization to use.

10 E. If the result of a civil trial is settled under the terms of
11 a private settlement agreement, the accused is not required to
12 provide the terms of the private settlement agreement but can alert
13 the media outlet that the case and controversy was settled.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 785 of Title 21, unless there is
16 created a duplication in numbering, reads as follows:

17 A. After receiving the notice demand by the accused described
18 in subsection A of Section 3 of this act, a media outlet that
19 reported on the facts of the case and controversy prior to its
20 resolution has ten (10) days to comply with subsection A of Section
21 3 of this act, by publishing the follow-up story that reports on the
22 actual outcome. The accused will have the burden of proof at a
23 civil trial to show that the notice was timely served on the media
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1 outlet and met the requirements of subsection A of Section 3 of this
2 act.

3 B. If the media outlet fails to comply with the notice demand
4 within ten (10) days, the accused has one (1) year to file suit from
5 the day of non-compliance and can seek the following relief in the
6 court of competent jurisdiction against the media outlet:

- 7 1. Up to Ten Thousand Dollars (\$10,000.00) in statutory
8 damages;
- 9 2. Attorney fees and costs;
- 10 3. Actual damages; and
- 11 4. Other forms of equitable and injunctive relief.

12 C. If multiple media outlets fail to comply with the notice
13 demand subjected to the jurisdiction of this court, they can be
14 added as co-defendants in a consolidated case to conserve judicial
15 economy.

16 D. If the media outlet, displayed the mugshot of the accused in
17 the original publication as described in subsection D of Section 3
18 of this act in a digital format, the accused can seek injunctive
19 relief to have the media outlet remove the image.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 786 of Title 21, unless there is
22 created a duplication in numbering, reads as follows:

23 A. A media outlet is immune and exempt from liability under
24 this act if it:

1 1. Is known to publish satire or parody or admits that it is a
2 fake news outlet that is purposed to traffic in fiction for comedic
3 or entertainment purposes.

4 2. Reports on the facts of the outcome in a comparable time,
5 place, magnitude, prominence, scale and manner of the original
6 publication prior to receiving the notice demand from the accused;

7 3. Receives an untimely notice demand from the accused more
8 than twenty (20) days after the date of the verdict;

9 4. Never reported on the case and controversy prior to the
10 decision being reached.

11 B. The petitioner has no standing under this statute to make a
12 media outlet report on the outcome of a case and controversy
13 regardless of the outcome. Neither the petitioner nor the accused
14 have standing to compel a media outlet to report on the case and
15 controversy after it is filed.

16 C. If a media outlet reported on a case and controversy
17 involving one or more felony charges and the accused was convicted
18 or pled guilty to one felony count, the accused lacks standing to
19 enforce this act.

20 D. This act does not apply to a media outlet that publishes a
21 documentary, film, or an extensive investigative report regarding a
22 case and controversy.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 787 of Title 21, unless there is
3 created a duplication in numbering, reads as follows:

4 A. An accused has the right to waive his rights under this act
5 as a part of a negotiated settlement agreement.

6 B. A court of competent jurisdiction has the discretion to not
7 acknowledge that waiver of rights described in subsection A of this
8 Section if there is any evidence that the waiver was undertaken
9 under coercion or duress.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 788 of Title 21, unless there is
12 created a duplication in numbering, reads as follows:

13 The purpose of this act is to:

14 1. Prevent unchecked media outlets from acting as slander
15 machines that engage in defamation in-kind, mislead the general
16 public, or erode the integrity of the institutions of justice
17 through the selective reporting of certain cases and controversies
18 in a manner that could cause the accused to be shunned and avoided
19 by the general public due to a cloud of suspicion of wrongdoing that
20 does not exactly align with the original allegations and the final
21 outcome;

22 2. Protect the integrity of the press and encourage good
23 character of the members of the press corps;

1 3. Deter malicious prosecution, abuse of process, prosecutors
2 from overcharging defendants, and plaintiffs from seeking excessive
3 reliefs in their original cause complaint;

4 4. Promote a mercy centric justice system; and

5 5. Deter convictions in the court of public opinion that do not
6 necessarily align with convictions handed down by our institutions
7 of justice.

8 SECTION 8. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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