

SENATE BILL No. 1008

July 16, 2014, Introduced by Senators PAPPAGEORGE, JANSEN, JONES, COLBECK, NOFS and KOWALL and referred to the Committee on Government Operations.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2911 (MCL 600.2911), as amended by 1988 PA 396.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2911. (1) Words imputing a lack of chastity to any female
2 or male are actionable in themselves and subject the person who
3 uttered or published them to a civil action for the slander in the
4 same manner as the uttering or publishing of words imputing the
5 commission of a criminal offense.

6 (2) (a) Except as **OTHERWISE** provided in subdivision (b), in
7 actions based on libel or slander the plaintiff is entitled to
8 recover only for the actual damages ~~which~~ **THAT** he or she has
9 suffered in respect to his or her property, business, trade,
10 profession, occupation, or feelings.

1 (b) Exemplary and punitive damages ~~shall~~**MAY** not be recovered
2 in actions for libel unless the plaintiff, before instituting his
3 or her action, gives notice to the defendant to publish a
4 retraction and allows a reasonable time to do so. ~~, and proof~~**PROOF**
5 of the publication or correction ~~shall be~~**IS** admissible in evidence
6 under a denial on the question of the good faith of the defendant,
7 and in mitigation and reduction of exemplary or punitive damages.
8 For libel based on a radio or television broadcast, the retraction
9 ~~shall~~**MUST** be made in the same manner and at the same time of the
10 day as the original libel; for libel based on a publication, the
11 retraction ~~shall~~**MUST** be published in the same size type, in the
12 same editions and as far as practicable, in substantially the same
13 position as the original libel; and for other libel, the retraction
14 ~~shall~~**MUST** be published or communicated in substantially the same
15 manner as the original libel.

16 (3) If the defendant in any action for slander or libel gives
17 notice in a justification that the words spoken or published were
18 true, this notice ~~shall~~**IS** not ~~be of~~ itself proof of the malice
19 charged in the complaint though not sustained by the evidence. In
20 an action for slander or for publishing or broadcasting a libel
21 even though the defendant has pleaded or attempted to prove a
22 justification he or she may prove mitigating circumstances
23 including the sources of his or her information and the ground for
24 his or her belief. Damages ~~shall~~**MAY** not be awarded in a libel
25 action for the publication or broadcast of a fair and true report
26 of matters of public record, a public and official proceeding, ~~or~~
27 ~~or~~ a governmental notice, announcement, written or recorded report

1 or record generally available to the public, or **AN** act or action of
2 a public body, or for a heading of the report ~~which~~**THAT** is a fair
3 and true headnote of the report. This privilege ~~shall~~**DOES** not
4 apply to a libel ~~which~~**THAT** is contained in a matter added by a
5 person concerned in the publication or contained in the report of
6 anything said or done at the time and place of the public and
7 official proceeding or governmental notice, announcement, written
8 or recorded report or record generally available to the public, or
9 act or action of a public body, ~~which~~**THAT** was not a part of the
10 public and official proceeding or governmental notice,
11 announcement, written or recorded report or record generally
12 available to the public, or act or action of a public body.

13 (4) A person against whom a judgment is recovered for damages
14 arising out of the authorship or publication of a libel is entitled
15 to recover contribution in a civil action from all persons who were
16 originally jointly liable for the libel with the defendant or
17 defendants, whether joined as defendants or not, to the same extent
18 as and with the same effect that joint sureties are liable to
19 contribute to each other in cases where they are sureties on the
20 same contract. If the libel has been published in a newspaper,
21 magazine, or other periodical publication or by a radio or
22 television broadcast, the servants and agents of the publisher or
23 proprietor of the periodical or radio or television station or
24 network, and the news agents and other persons who have been
25 connected with the libel only by selling or distributing the
26 publication containing the libel and who have not acted maliciously
27 in selling or publishing the libel, shall not be required to

1 contribute and shall not be taken into account in determining the
2 amount that any joint ~~tort-feasor~~**TORTFEASOR** is required to
3 contribute under the provisions of this section. If the author of
4 the libel acted maliciously in composing or securing the printing
5 or the publication of the libel and the printer, publisher, or
6 distributor of the libel acted in good faith and without malice in
7 printing and publishing the libel, the author of the libel is
8 liable in a civil action to that printer, publisher, or distributor
9 for the entire amount of the damages ~~which~~**THAT** are recovered
10 against and paid by that printer, publisher, or distributor.

11 (5) In actions brought for the recovery of damages for libel
12 in this state, it is competent for the defendant or defendants in
13 the action to show in evidence ~~upon~~**IN** the trial of the action that
14 the plaintiff in the action has previously recovered a judgment for
15 damages in an action for libel to the same or substantially the
16 same purport or effect as the libel for the recovery of damages for
17 which the action has been brought, or that the plaintiff in the
18 action has previously brought an action for the libel or has
19 received or agreed to receive compensation for the libel.

20 (6) ~~An~~**SUBJECT TO SUBSECTION (8), AN** action for libel or
21 slander ~~shall~~**MAY** not be brought based ~~upon~~**ON** a communication
22 involving public officials or public figures unless the claim is
23 sustained by clear and convincing proof that the defamatory
24 falsehood was published with knowledge that it was false or with
25 reckless disregard of whether or not it was false.

26 (7) An action for libel or slander ~~shall~~**MAY** not be brought
27 based ~~upon~~**ON** a communication involving a private individual unless

1 the defamatory falsehood concerns the private individual and was
2 published negligently. Recovery under this ~~provision shall be~~
3 **SUBSECTION IS** limited to economic damages including attorney fees.

4 **(8) A CANDIDATE FOR PUBLIC OFFICE OR AN ELECTED OFFICIAL HAS**
5 **THE SAME PROTECTIONS AGAINST LIBEL, SLANDER, AND DEFAMATION AS HE**
6 **OR SHE WOULD HAVE AS A PRIVATE INDIVIDUAL.**

7 **(9) ~~(8)~~**As used in this section, "libel" includes defamation
8 by a radio or television broadcast.