

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 923

H.P. 679

House of Representatives, March 8, 2021

An Act To Enact the Stop Guilt by Accusation Act

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SAMPSON of Alfred.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: DRINKWATER of Milford, LIBBY of Auburn, LYMAN of Livermore Falls,
RUDNICKI of Fairfield.

1 **§1500-O. Definitions**

2 As used in this chapter, unless the context otherwise indicates, the following terms
3 have the following meanings.

4 **1. Abuse of process.** "Abuse of process" means the act of bringing a civil or criminal
5 action for a purpose known to be different from the purpose for which the action was
6 purportedly intended, including proceedings brought for reasons other than those sought
7 on the surface of the complaint.

8 **2. Accused.** "Accused" means a person, including a suspect, respondent or defendant,
9 who is blamed for a wrongdoing before a civil court, ethics commission, criminal court,
10 administrative court or military tribunal, including a person who has been arrested or
11 formally charged with a crime or ethics violation.

12 **3. Case or controversy.** "Case or controversy" means any civil, criminal or ethics
13 proceeding before any state court, federal court, administrative court, ethics commission,
14 military tribunal or legislative body.

15 **4. Defamation in kind.** "Defamation in kind" means a false and unprivileged
16 statement of fact that is harmful to an individual's reputation and that is published
17 negligently or with malice, arising from the failure of a media outlet to report on the
18 outcome of a case or controversy after the media outlet reported on the initial filings in a
19 case or controversy in which the petitioner received less relief than originally sought or
20 could have obtained and that could reasonably place the accused in a false light that causes
21 the accused to be avoided, marginalized and shunned by the general public.

22 **5. False light.** "False light" means an untrue or misleading portrayal of an individual.

23 **6. Malicious prosecution.** "Malicious prosecution" means the act of initiating a
24 criminal prosecution or civil suit or other proceeding against another party with malice and
25 lacking probable cause.

26 **7. Media outlet.** "Media outlet" means a publication or broadcast program, including
27 a newspaper, magazine, radio station or television station or an Internet website controlled
28 by any of those, that provides news and feature stories to the public through various
29 distribution channels.

30 **8. Mugshot.** "Mugshot" means an official photograph, typically both side and front
31 view, taken of a suspect after the suspect is arrested for an alleged criminal violation with
32 the purpose of creating a photographic record of the arrested individual and for
33 identification of the suspect by victims and investigators.

34 **9. Petitioner.** "Petitioner" means a person or government entity, acting as a plaintiff,
35 claimant or complainant, that presents a petition to a government authority with respect to
36 a particular cause.

37 **10. Press.** "Press" means individuals reporting on the news, including reporters and
38 photographers, who work for media outlets.

39 **§1500-P. Duty of media outlet to publish follow-up report**

40 **1. Equal coverage required.** A media outlet must provide coverage of comparable
41 time, place, magnitude, prominence, scale and manner to and in the same format as the
42 original reporting of a case or controversy if:

1 A. The media outlet reported on the facts of the case or controversy and the final
2 verdict or decision reached provided less relief to the petitioner than sought by or that
3 could have been obtained by the petitioner; and

4 B. The accused or an authorized agent of the accused sends written notice to an
5 authorized agent of a media outlet within 20 days after the verdict or outcome is
6 announced, demanding that the facts surrounding the final decision or outcome be
7 reported and published as a follow-up to the original reporting.

8 **2. Required contents of notification.** The written notification required by subsection
9 1, paragraph B must include:

10 A. The date and source of the original reporting by the media outlet;

11 B. A short description of the original allegations, the original relief sought by the
12 petitioner or the amount of relief that could have been obtained and a short description
13 of the final outcome and relief actually awarded;

14 C. The venue in which the case was resolved and the docket number of the case, if
15 any; and

16 D. An acknowledgement that the positions asserted in the notice are declared as true
17 in accordance with Title 17-A, section 452.

18 **3. Permitted contents of notification.** The written notification required by subsection
19 1, paragraph B may include:

20 A. A photograph of the accused with an authorization allowing the media outlet to use
21 the photograph at its discretion;

22 B. Links to or a copy of the original coverage published by the media outlet;

23 C. A demand to remove from any digital publication any objectionable pictures or
24 mugshots of the accused that were included in the original publication if
25 technologically possible; and

26 D. Any other facts or pertinent information.

27 **4. Mugshots.** If a media outlet reports on the facts of a case or controversy and
28 publishes a mugshot of the accused and the accused is subsequently acquitted, enters into
29 a plea of no contest or receives an outcome more favorable than originally sought by the
30 petitioner or available to the petitioner:

31 A. The media outlet must remove the mugshot from any digital publication, if
32 technologically possible; and

33 B. The media outlet may not display the mugshot in the follow-up publication that
34 reports on the actual outcome of the case or controversy and may only display images
35 it has authorization from the accused to use.

36 **5. Settlement agreements.** If the result of a civil case is settled under the terms of a
37 private settlement agreement, the accused is not required to provide the terms of the
38 agreement but may alert the media outlet that the case or controversy was settled.

39 **§1500-Q. Civil liability; penalties; statute of limitations**

40 **1. Time frame for compliance.** After receiving the notice and demand from the
41 accused described in section 1500-P, a media outlet that reported on the facts of a case or

1 controversy prior to its resolution shall publish a follow-up story in accordance with the
2 requirements of section 1500-P within 10 days.

3 **2. Burden of proof.** The accused bears the burden of proof at a civil trial to establish
4 that notice was timely provided to the media outlet and that it met the requirements of
5 section 1500-P.

6 **3. Failure to comply and statute of limitations.** If the media outlet fails to comply
7 with the notice and demand described in section 1500-P within 10 days of receipt of the
8 notice and demand, the accused may file a civil suit within one year after the date of
9 noncompliance that seeks the following relief in Superior Court against the media outlet:

10 A. Statutory damages of up to \$10,000;

11 B. Attorney fees and costs;

12 C. Actual damages; and

13 D. Other forms of equitable and injunctive relief.

14 **4. Consolidation.** If multiple media outlets fail to comply with the notice and demand
15 described in section 1500-P, the court may consolidate the outlets as codefendants.

16 **5. Injunctive relief.** If the media outlet displayed the mugshot of the accused in its
17 original publication in digital form but fails to remove the mugshot as required by section
18 1500-P, subsection 4, the accused may seek injunctive relief to compel the media outlet to
19 remove the image.

20 **§1500-R. Immunity, exceptions and exemptions**

21 **1. Immunity.** A media outlet is immune and exempt from liability under this Act if
22 it:

23 A. Is known to publish satire, parody or fiction for comedic or entertainment purposes;

24 B. Reports on the facts of the outcome in a time, place, magnitude, prominence, scale
25 and manner comparable to the original publication prior to receiving the notice and
26 demand described in section 1500-P from the accused;

27 C. Receives an untimely notice and demand described in section 1500-P; or

28 D. Did not report on the case or controversy prior to the resolution of the case or
29 controversy.

30 **2. Standing.** The petitioner does not have standing under this Act to compel a media
31 outlet to report on the outcome of a case or controversy regardless of the outcome of the
32 case or controversy. Except as described in this Act, neither the petitioner nor the accused
33 has standing to compel a media outlet to report on a case or controversy.

34 **3. Standing in cases involving felony charges.** If a media outlet reports on a case or
35 controversy involving one or more felony charges and the accused was convicted or pleads
36 guilty to at least one felony count, the accused does not have standing under this Act.

37 **4. Exemptions.** The requirements of this Act do not apply to a media outlet that
38 publishes a documentary, film or investigative report regarding a case or controversy.

39 **5. Waiver of rights.** An accused has the right to waive the accused's rights under this
40 Act as part of a negotiated settlement. A court of competent jurisdiction has the discretion

1 to refuse to acknowledge the waiver if the court find that there is evidence that the waiver
2 was obtained by coercion.

3 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
4 takes effect when approved.

5 **SUMMARY**

6 This bill creates the Stop Guilt by Accusation Act. It requires media outlets, upon
7 receiving a demand from an individual who is the defendant in a criminal or civil case, and
8 about whom the media has previously reported, to publish, within 10 days of receipt of a
9 demand, a follow-up to the original reporting in the event the final verdict or decision
10 reached provided less relief to the petitioner in the case than sought by or that would have
11 been obtained by the petitioner. It provides a private right of action with a one-year statute
12 of limitations for the accused in the event of noncompliance by the media outlet. It exempts
13 from the Act satirical or humorous publications, documentary works and investigative
14 reports and provides that an accused who is convicted of a felony charge as part of the case
15 or controversy does not have standing under the Act.