

2 State of Arkansas
3 92nd General Assembly
4 Regular Session, 2019

A Bill

SENATE BILL 230

5
6 By: Senator K. Hammer

7 Filed with: Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

9 For An Act To Be Entitled

10 AN ACT CREATING A STATUTORY CIVIL ACTION FOR INVASION
11 OF PRIVACY; AND FOR OTHER PURPOSES.

12 13 14 Subtitle

15 CREATING A STATUTORY CIVIL ACTION FOR
16 INVASION OF PRIVACY.

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code Title 16, Chapter 118, is amended to add an
22 additional section to read as follows:

23 16-118-116. Civil action for invasion of privacy.

24 (a) A person may bring a civil action for damages and injunctive
25 relief against another person that:

26 (1) Improperly intrudes into the person's private affairs, if
27 the intrusion would be offensive to a reasonable person; or

28 (2)(A) Publicizes the person in a false light, as would be
29 recognized in the common law unless otherwise stated in this section.

30 (B) A person may bring a claim involving false light
31 against a defendant under both the common law and under this section.

32 (b)(1) In a civil action brought under this section, it is not
33 necessary for the plaintiff to allege in the complaint any extrinsic facts
34 for the purpose of showing the application of the extrinsic facts to the
35 plaintiff out of which the cause of action arose.

1 (2) For the purposes of this section, it is sufficient in a
2 civil action under this section to plead generally that the matter concerning
3 the plaintiff was published or spoken to another person.

4 (3) If an allegation in the plaintiff's complaint is not
5 controverted or disputed in the defendant's answer, the allegation is deemed
6 proven and it shall not be necessary for the plaintiff to prove the
7 allegation at trial.

8 (c) A defendant to a cause of action under this section is strictly
9 liable for any statement made that is proven to have improperly invaded the
10 plaintiff's privacy.

11 (d) The burden of proof for a claim under this section is a
12 preponderance of the evidence.

13 (e)(1) Damages in a civil action under this section shall be
14 determined by the trier of fact, but proof of damages is not required as an
15 element of a civil action under this section.

16 (2)(A) Compensatory and punitive damages for emotional distress
17 are available for a civil action under this section.

18 (B) Damages described under this subsection are the only
19 damages available under this section unless the person raises an additional
20 cause of action that provides for additional damages.

21 (f) Subsection (c) of this section and subdivision (e)(2) of this
22 section do not apply to a civil action under this section if the court
23 hearing the civil action determines as a matter of law that the plaintiff is:

24 (1) A public figure and the acts complained of consist
25 only of a statement or statements that relate directly to the plaintiff's
26 status as a public figure; or

27 (2) Not a public figure but the subject of the acts
28 complained of is solely a matter of public concern.

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32 Referred requested by the Arkansas Senate

33 Prepared by: BPG/VJF