

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1381

Short Title: Internet Defamation.

(Public)

Sponsors: Representative Jones.

Referred to: Science and Technology, if favorable, Judiciary II.

April 13, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A CURE FOR DEFAMATION THROUGH AN ELECTRONIC
3 MEDIUM.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 99 of the General Statutes is amended by adding a new
6 section to read:

7 "**§ 99-10. Defamation transmitted through an electronic medium.**

8 (a) Definitions. – The following definitions apply to this section:

9 (1) Communicate or communication. – The terms include the publication,
10 speaking, utterance, or conveyance by words, acts, or any other manner.

11 (2) Electronic medium. – The Internet and any computerized or electronic
12 information service. The term includes a bulletin board, a network, an online
13 service, electronic mail, a forum, a blog, or a news group.

14 (b) Request for Apology and Correction. – Before any action is brought for transmitting
15 a communication of any defamatory material through any electronic medium, the plaintiff shall
16 first give the person alleged to be responsible for communicating the defamatory material at
17 least 10 days to correct the defamatory material. The plaintiff shall request that the person
18 alleged to be responsible for communicating the defamatory material post an apology and
19 correct the material as provided by subsection (c) of this section. A request may be made by
20 mailing or delivering a written request to the person alleged to be responsible for
21 communicating the defamatory material or by placing the request at the location in the
22 electronic medium known to the plaintiff where the defamatory material was placed.

23 (c) Apology and Correction. – To correct the defamatory material, the person alleged to
24 be responsible for communicating the defamatory material shall, within 10 days after receiving
25 the request as provided by subsection (b) of this section, place an apology and correction in the
26 same location in the electronic medium as the defamatory material was placed. The person
27 alleged to be responsible for communicating the defamatory material shall maintain the
28 apology and correction at that location for a period similar to the time that the defamatory
29 material was at that location to the extent that the person can control the location and period of
30 that placement.

31 (d) Effect of Communication in Good Faith and Retraction. – The plaintiff shall recover
32 only actual damages if at trial it appears that (i) the material was communicated in good faith,
33 (ii) the falsity of the material was due to an honest mistake of the facts, (iii) the material was
34 communicated without prior knowledge or approval of the person who administers the facilities
35 for the electronic medium or, if with prior knowledge or approval, that there were reasonable
36 grounds for believing that the communications were true, and (iv) within 10 days after the
37 request for an apology and correction a full and fair correction, apology, and retraction were



1 added to the proper location in the electronic medium in a position and type as prominent as the
2 alleged defamatory material.

3 (e) Facilities Provider to Identify Communicator. – The person who administers or
4 provides facilities for the electronic medium involved in the alleged defamation shall disclose
5 any information regarding the identity of the communicator of the alleged defamation upon a
6 finding by the court that the plaintiff has enough evidence to survive a summary judgment
7 motion to dismiss the plaintiff's complaint.

8 (f) Facilities Provider Not Communicator. – The administrator or provider of the
9 facilities for the electronic medium involved in the alleged defamation shall not be treated as
10 the publisher or speaker of any information provided by another information content provider.
11 The administrator or provider of the facilities for the electronic medium remains responsible for
12 its own communications."

13 **SECTION 2.** This act becomes effective October 1, 2009, and applies to acts
14 committed on or after that date.