

SENATE BILL No. 887

November 10, 1999, Introduced by Senator DINGELL and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 5805 (MCL 600.5805), as amended by 1988 PA 115, and by adding sections 2981, 2982, 2983, 2984, 2985, 2986, 2987, 2988, 2989, 2990, 2991, and 2992; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2981. (1) SECTIONS 2981 TO 2992 SHALL BE KNOWN AND MAY
2 BE CITED AS THE "UNIFORM CORRECTION OR CLARIFICATION OF DEFAMA-
3 TION LAW".

4 (2) AS USED IN SECTIONS 2981 TO 2992:

5 (A) "DEFAMATORY" MEANS TENDING TO HARM REPUTATION.

6 (B) "ECONOMIC LOSS" MEANS SPECIAL, PECUNIARY LOSS CAUSED BY
7 A FALSE AND DEFAMATORY PUBLICATION.

1 (C) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS
2 TRUST, ESTATE, TRUST, PARTNERSHIP, ASSOCIATION, JOINT VENTURE, OR
3 OTHER LEGAL OR COMMERCIAL ENTITY. PERSON DOES NOT INCLUDE A GOV-
4 ERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY.

5 SEC. 2982. (1) SECTIONS 2981 TO 2992 APPLY TO AN ACTION FOR
6 DAMAGES ARISING OUT OF HARM TO A PERSONAL REPUTATION CAUSED BY
7 THE FALSE CONTENT OF A PUBLICATION THAT IS PUBLISHED ON OR AFTER
8 THE EFFECTIVE DATE OF THIS AMENDATORY ACT.

9 (2) SECTIONS 2981 TO 2992 APPLY TO ALL PUBLICATIONS, INCLUD-
10 ING, BUT NOT LIMITED TO, A WRITING, BROADCAST, ORAL COMMUNICA-
11 TION, ELECTRONIC TRANSMISSION, OR OTHER FORM OF TRANSMITTING
12 INFORMATION.

13 SEC. 2983. (1) A PERSON MAY MAINTAIN AN ACTION FOR DEFAMA-
14 TION ONLY IF 1 OF THE FOLLOWING IS TRUE:

15 (A) THE PERSON HAS MADE A TIMELY AND ADEQUATE REQUEST FOR
16 CORRECTION OR CLARIFICATION FROM THE DEFENDANT.

17 (B) THE DEFENDANT HAS MADE A CORRECTION OR CLARIFICATION.

18 (2) A REQUEST FOR CORRECTION OR CLARIFICATION IS TIMELY IF
19 MADE WITHIN THE PERIOD OF LIMITATION FOR COMMENCEMENT OF AN
20 ACTION FOR DEFAMATION. A PERSON WHO, WITHIN 90 DAYS AFTER KNOWL-
21 EDGE OF THE PUBLICATION, FAILS TO MAKE A GOOD-FAITH ATTEMPT TO
22 REQUEST A CORRECTION OR CLARIFICATION MAY RECOVER ONLY ECONOMIC
23 LOSS.

24 (3) A REQUEST FOR CORRECTION OR CLARIFICATION IS ADEQUATE
25 ONLY IF IT COMPLIES WITH ALL OF THE FOLLOWING:

26 (A) THE REQUEST IS IN WRITING AND REASONABLY IDENTIFIES THE
27 PERSON MAKING THE REQUEST.

1 (B) THE REQUEST SPECIFIES WITH PARTICULARITY THE PUBLICATION
2 ALLEGED TO BE FALSE AND DEFAMATORY AND, TO THE EXTENT KNOWN, THE
3 TIME AND PLACE OF PUBLICATION.

4 (C) THE REQUEST ALLEGES THE DEFAMATORY MEANING OF THE
5 PUBLICATION.

6 (D) THE REQUEST SPECIFIES THE CIRCUMSTANCES GIVING RISE TO A
7 DEFAMATORY MEANING OF THE PUBLICATION THAT ARISES FROM OTHER THAN
8 THE EXPRESS LANGUAGE OF THE PUBLICATION.

9 (E) THE REQUEST STATES THAT THE ALLEGED DEFAMATORY MEANING
10 OF THE PUBLICATION IS FALSE.

11 (4) IN THE ABSENCE OF A PREVIOUS ADEQUATE REQUEST, SERVICE
12 OF A SUMMONS AND COMPLAINT STATING AN ACTION FOR DEFAMATION AND
13 CONTAINING THE INFORMATION REQUIRED IN SUBSECTION (3) CONSTITUTES
14 AN ADEQUATE REQUEST FOR CORRECTION OR CLARIFICATION.

15 (5) THE STATUTE OF LIMITATIONS FOR COMMENCEMENT OF A DEFAMA-
16 TION ACTION IS TOLLED DURING THE PERIOD ALLOWED IN SECTION 2986
17 FOR RESPONDING TO A REQUEST FOR CORRECTION OR CLARIFICATION.

18 SEC. 2984. (1) A PERSON WHO HAS BEEN REQUESTED TO MAKE A
19 CORRECTION OR CLARIFICATION MAY ASK THE REQUESTER TO DISCLOSE
20 REASONABLY AVAILABLE INFORMATION MATERIAL TO THE FALSITY OF THE
21 ALLEGEDLY DEFAMATORY PUBLICATION.

22 (2) IF A CORRECTION OR CLARIFICATION IS NOT MADE, A PERSON
23 WHO UNREASONABLY FAILS TO DISCLOSE THE INFORMATION AFTER A
24 REQUEST UNDER SUBSECTION (1) MAY RECOVER ONLY ECONOMIC LOSS.

25 (3) A CORRECTION OR CLARIFICATION IS TIMELY IF PUBLISHED
26 WITHIN 25 DAYS AFTER RECEIPT OF INFORMATION DISCLOSED PURSUANT TO

1 SUBSECTION (1) OR 45 DAYS AFTER RECEIPT OF A REQUEST FOR
2 CORRECTION OR CLARIFICATION, WHICHEVER IS LATER.

3 SEC. 2985. IF A TIMELY AND SUFFICIENT CORRECTION OR CLARI-
4 FICATION IS MADE, A PERSON MAY RECOVER ONLY ECONOMIC LOSS, AS
5 MITIGATED BY THE CORRECTION OR CLARIFICATION.

6 SEC. 2986. (1) A CORRECTION OR CLARIFICATION IS TIMELY IF
7 IT IS PUBLISHED BEFORE, OR WITHIN 45 DAYS AFTER, RECEIPT OF A
8 REQUEST FOR CORRECTION OR CLARIFICATION, UNLESS THE PERIOD IS
9 EXTENDED UNDER SECTION 2984.

10 (2) A CORRECTION OR CLARIFICATION IS SUFFICIENT IF IT COM-
11 PLIES WITH ALL OF THE FOLLOWING:

12 (A) THE CORRECTION OR CLARIFICATION IS PUBLISHED PROMINENTLY
13 AND IN A MANNER AND MEDIUM REASONABLY LIKELY TO REACH SUBSTAN-
14 TIALY THE SAME AUDIENCE AS THE PUBLICATION COMPLAINED OF.

15 (B) THE CORRECTION OR CLARIFICATION REFERS TO THE PUBLICA-
16 TION BEING CORRECTED OR CLARIFIED AND DOES AT LEAST 1 OF THE
17 FOLLOWING:

18 (i) CORRECTS THE PUBLICATION.

19 (ii) IN THE CASE OF DEFAMATORY MEANING ARISING FROM OTHER
20 THAN THE EXPRESS LANGUAGE OF THE PUBLICATION, DISCLAIMS AN INTENT
21 TO COMMUNICATE THAT MEANING OR TO ASSERT ITS TRUTH.

22 (iii) IN THE CASE OF A PUBLICATION ATTRIBUTED TO ANOTHER
23 PERSON, IDENTIFIES THE PERSON AND DISCLAIMS AN INTENT TO ASSERT
24 THE TRUTH OF THE PUBLICATION.

25 (C) THE CORRECTION OR CLARIFICATION IS COMMUNICATED TO THE
26 PERSON WHO HAS MADE A REQUEST FOR CORRECTION OR CLARIFICATION.

1 (3) A CORRECTION OR CLARIFICATION IS PUBLISHED IN A MEDIUM
2 REASONABLY LIKELY TO REACH SUBSTANTIALLY THE SAME AUDIENCE AS THE
3 PUBLICATION COMPLAINED OF IF IT IS PUBLISHED IN A LATER ISSUE,
4 EDITION, OR BROADCAST OF THE ORIGINAL PUBLICATION.

5 (4) IF A LATER ISSUE, EDITION, OR BROADCAST OF THE ORIGINAL
6 PUBLICATION WILL NOT BE PUBLISHED WITHIN THE TIME LIMITS ESTAB-
7 LISHED FOR A TIMELY CORRECTION OR CLARIFICATION, A CORRECTION OR
8 CLARIFICATION IS PUBLISHED IN A MANNER AND MEDIUM REASONABLY
9 LIKELY TO REACH SUBSTANTIALLY THE SAME AUDIENCE AS THE PUBLICA-
10 TION COMPLAINED OF IF ALL OF THE FOLLOWING ARE TRUE:

11 (A) THE CORRECTION OR CLARIFICATION IS TIMELY PUBLISHED IN A
12 REASONABLY PROMINENT MANNER AND COMPLIES WITH EITHER OF THE
13 FOLLOWING:

14 (i) THE CORRECTION OR CLARIFICATION IS PUBLISHED IN ANOTHER
15 MEDIUM LIKELY TO REACH AN AUDIENCE REASONABLY EQUIVALENT TO THE
16 ORIGINAL PUBLICATION.

17 (ii) IF THE PARTIES CANNOT AGREE ON ANOTHER MEDIUM, THE COR-
18 RECTION OR CLARIFICATION IS PUBLISHED IN THE NEWSPAPER WITH THE
19 LARGEST GENERAL CIRCULATION IN THE REGION IN WHICH THE ORIGINAL
20 PUBLICATION WAS DISTRIBUTED.

21 (B) REASONABLE STEPS ARE TAKEN TO CORRECT UNDISTRIBUTED
22 COPIES OF THE ORIGINAL PUBLICATION.

23 (C) THE CORRECTION OR CLARIFICATION IS PUBLISHED IN THE NEXT
24 PRACTICABLE ISSUE, EDITION, OR BROADCAST, IF ANY, OF THE ORIGINAL
25 PUBLICATION.

1 (5) A CORRECTION OR CLARIFICATION IS TIMELY AND SUFFICIENT
2 IF THE PARTIES AGREE IN WRITING THAT IT IS TIMELY AND
3 SUFFICIENT.

4 SEC. 2987. (1) IF A DEFENDANT IN AN ACTION GOVERNED BY SEC-
5 TIONS 2981 TO 2992 INTENDS TO RELY ON A TIMELY AND SUFFICIENT
6 CORRECTION OR CLARIFICATION, THE DEFENDANT'S INTENTION TO DO SO,
7 AND THE CORRECTION OR CLARIFICATION RELIED UPON, MUST BE SET
8 FORTH IN A NOTICE SERVED ON THE PLAINTIFF WITHIN 63 DAYS AFTER
9 SERVICE OF THE ACTION OR 14 DAYS AFTER THE CORRECTION OR CLARIFI-
10 CATION IS MADE, WHICHEVER IS LATER. A CORRECTION OR CLARIFICA-
11 TION IS CONSIDERED TIMELY AND SUFFICIENT UNLESS THE PLAINTIFF
12 CHALLENGES ITS TIMELINESS OR SUFFICIENCY WITHIN 21 DAYS AFTER THE
13 NOTICE IS SERVED.

14 (2) IF A DEFENDANT IN AN ACTION GOVERNED BY SECTIONS 2981 TO
15 2992 INTENDS TO CHALLENGE THE ADEQUACY OR TIMELINESS OF A REQUEST
16 FOR CORRECTION OR CLARIFICATION, THE DEFENDANT MUST SET FORTH THE
17 CHALLENGE IN A MOTION TO DECLARE THE REQUEST INADEQUATE OR
18 UNTIMELY SERVED WITHIN 63 DAYS AFTER SERVICE OF THE ACTION. THE
19 COURT SHALL RULE ON THE MOTION AT THE EARLIEST APPROPRIATE TIME
20 BEFORE TRIAL.

21 SEC. 2988. (1) IF A TIMELY CORRECTION OR CLARIFICATION IS
22 NO LONGER POSSIBLE, THE PUBLISHER OF AN ALLEGED DEFAMATORY PUBLI-
23 CATION MAY OFFER, AT ANY TIME BEFORE TRIAL, TO MAKE A CORRECTION
24 OR CLARIFICATION. THE OFFER MUST BE MADE IN WRITING TO THE
25 PERSON ALLEGEDLY DEFAMED BY THE PUBLICATION AND COMPLY WITH BOTH
26 OF THE FOLLOWING:

1 (A) THE WRITING MUST CONTAIN THE PUBLISHER'S OFFER TO DO
2 BOTH THE FOLLOWING:

3 (i) PUBLISH, AT THE PERSON'S REQUEST, A SUFFICIENT CORREC-
4 TION OR CLARIFICATION.

5 (ii) PAY THE PERSON'S REASONABLE LITIGATION EXPENSES,
6 INCLUDING ATTORNEY FEES, INCURRED BEFORE PUBLICATION OF THE COR-
7 RECTION OR CLARIFICATION.

8 (B) A COPY OF THE PROPOSED CORRECTION OR CLARIFICATION AND
9 THE PLAN FOR ITS PUBLICATION MUST ACCOMPANY THE WRITING.

10 (2) IF THE PERSON ACCEPTS IN WRITING AN OFFER TO CORRECT OR
11 CLARIFY MADE UNDER SUBSECTION (1), 1 OF THE FOLLOWING RESULTS:

12 (A) THE PERSON IS BARRED FROM COMMENCING AN ACTION AGAINST
13 THE PUBLISHER BASED ON THE PUBLICATION.

14 (B) IF AN ACTION HAS BEEN COMMENCED, THE COURT SHALL DISMISS
15 THE ACTION AGAINST THE DEFENDANT WITH PREJUDICE AFTER THE
16 DEFENDANT COMPLIES WITH THE TERMS OF THE OFFER.

17 (3) A PERSON WHO DOES NOT ACCEPT AN OFFER MADE IN CON-
18 FORMANCE WITH SUBSECTION (1) MAY RECOVER ONLY THE FOLLOWING DAM-
19 AGES IN AN ACTION BASED ON THE PUBLICATION:

20 (A) DAMAGES FOR ECONOMIC LOSS.

21 (B) REASONABLE LITIGATION EXPENSES, INCLUDING ATTORNEY FEES,
22 INCURRED BEFORE THE OFFER, UNLESS THE PERSON FAILED TO MAKE A
23 GOOD-FAITH ATTEMPT TO REQUEST A CORRECTION OR CLARIFICATION IN
24 ACCORDANCE WITH SECTION 2983(2) OR FAILED TO DISCLOSE INFORMATION
25 IN ACCORDANCE WITH SECTION 2984.

1 (4) IF AN ACTION HAS BEEN COMMENCED, ON REQUEST OF EITHER
2 PARTY, THE COURT SHALL PROMPTLY DETERMINE THE SUFFICIENCY OF THE
3 OFFERED CORRECTION OR CLARIFICATION.

4 (5) THE COURT SHALL DETERMINE THE AMOUNT OF REASONABLE LITI-
5 GATION EXPENSES, INCLUDING ATTORNEY FEES, SPECIFIED IN SUBSEC-
6 TIONS (1)(A)(ii) AND (3)(B).

7 SEC. 2989. A TIMELY AND SUFFICIENT CORRECTION OR CLARIFICA-
8 TION MADE BY A PERSON RESPONSIBLE FOR A PUBLICATION CONSTITUTES A
9 CORRECTION OR CLARIFICATION MADE BY ALL PERSONS RESPONSIBLE FOR
10 THAT PUBLICATION OTHER THAN A REPUBLISHER. HOWEVER, A CORRECTION
11 OR CLARIFICATION THAT IS SUFFICIENT ONLY BECAUSE OF THE OPERATION
12 OF SECTION 2986(2)(B)(iii) DOES NOT CONSTITUTE A CORRECTION OR
13 CLARIFICATION MADE BY THE PERSON TO WHOM THE PUBLICATION IS
14 ATTRIBUTED.

15 SEC. 2990. (1) THE FACT THAT A REQUEST FOR CORRECTION OR
16 CLARIFICATION WAS MADE UNDER SECTIONS 2981 TO 2992, THE CONTENTS
17 OF THE REQUEST, AND ITS ACCEPTANCE OR REFUSAL ARE NOT ADMISSIBLE
18 IN EVIDENCE AT TRIAL.

19 (2) THE FACT THAT A CORRECTION OR CLARIFICATION WAS MADE
20 UNDER SECTIONS 2981 TO 2992 AND THE CONTENTS OF THE CORRECTION OR
21 CLARIFICATION ARE NOT ADMISSIBLE IN EVIDENCE AT TRIAL EXCEPT IN
22 MITIGATION OF DAMAGES PURSUANT TO SECTION 2985. IF THE FACT THAT
23 A CORRECTION OR CLARIFICATION WAS MADE UNDER SECTIONS 2981 TO
24 2992 OR THE CONTENTS OF THE CORRECTION OR CLARIFICATION ARE
25 RECEIVED IN EVIDENCE, THE FACT OF THE REQUEST MAY ALSO BE
26 RECEIVED.

1 (3) THE FACT OF AN OFFER OF CORRECTION OR CLARIFICATION, OR
2 THE FACT OF ITS REFUSAL, AND THE CONTENTS OF THE OFFER ARE NOT
3 ADMISSIBLE IN EVIDENCE AT TRIAL.

4 SEC. 2991. SECTIONS 2981 TO 2992 SHALL BE APPLIED AND CON-
5 STRUED TO EFFECTUATE ITS GENERAL PURPOSE TO MAKE UNIFORM THE LAW
6 WITH RESPECT TO THE SUBJECT OF SECTIONS 2981 TO 2992 AMONG STATES
7 ENACTING IT.

8 Sec. 5805. (1) A person shall not bring or maintain an
9 action to recover damages for injuries to persons or property
10 unless, after the claim first accrued to the plaintiff or to
11 someone through whom the plaintiff claims, the action is com-
12 menced within the periods of time prescribed by this section.

13 (2) The period of limitations is 2 years for an action
14 charging assault, battery, or false imprisonment.

15 (3) The period of limitations is 2 years for an action
16 charging malicious prosecution.

17 (4) Except as otherwise provided in this chapter, the period
18 of limitations is 2 years for an action charging malpractice.

19 (5) The period of limitations is 2 years for an action
20 against a sheriff charging misconduct or neglect of office by the
21 sheriff or the sheriff's deputies.

22 (6) The period of limitations is 2 years after the expira-
23 tion of the year for which a constable was elected for actions
24 based on the constable's negligence or misconduct as constable.

25 (7) The period of limitations is 1 year for an action
26 ~~charging libel~~ FOR DEFAMATION or slander.

1 (8) The period of limitations is 3 years after the time of
2 the death or injury for all other actions to recover damages for
3 the death of a person, or for injury to a person or property.

4 (9) The period of limitations is 3 years for a products
5 liability action. However, in the case of a product which has
6 been in use for not less than 10 years, the plaintiff, in proving
7 a prima facie case, shall be required to do so without benefit of
8 any presumption.

9 (10) The period of limitations for an action against a state
10 licensed architect, professional engineer, land surveyor, or con-
11 tractor based on an improvement to real property shall be as pro-
12 vided in section 5839.

13 Enacting section 1. Section 2911 of the revised judicature
14 act of 1961, 1961 PA 236, MCL 600.2911, is repealed.

15 Enacting section 2. This amendatory act takes effect
16 January 1, 2000.