

# HOUSE BILL No. 4585

May 12, 2015, Introduced by Reps. Hooker, Barrett, Chatfield, Outman, LaVoy, Courser and Glenn and referred to the Committee on Judiciary.

A bill to provide remedies related to defamation judgments entered in foreign countries.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the "free  
2 speech defense act".

3           Sec. 2. As used in this act:

4           (a) "Foreign country" means that term as defined in section 2  
5 of the uniform foreign-country money judgments recognition act,  
6 2008 PA 20, MCL 691.1132.

7           (b) "Foreign defamation action" means a legal proceeding  
8 instituted in a court of a foreign country that asserts a cause of  
9 action arising from allegations of defamation, libel, or slander.

10           (c) "Foreign defamation judgment" means a judgment rendered in  
11 a court in a foreign country that was entered in a foreign

1 defamation action.

2       Sec. 3. (1) A foreign defamation judgment is not conclusive if  
3 any of the following apply:

4       (a) The judgment was rendered under a system that does not  
5 provide impartial tribunals or procedures compatible with the  
6 requirements of due process of law.

7       (b) The foreign court did not have personal jurisdiction over  
8 the defendant.

9       (c) The foreign court did not have jurisdiction over the  
10 subject matter.

11       (2) A court of this state shall not recognize, grant comity  
12 to, treat as res judicata, or use as the basis for collateral  
13 estoppel a foreign defamation judgment if any of the following  
14 apply:

15       (a) The defendant in the proceedings in the foreign court did  
16 not receive notice of the proceedings in sufficient time to enable  
17 the defendant to provide a defense.

18       (b) The judgment was obtained by fraud.

19       (c) The cause of action or claim for relief on which the  
20 judgment is based is repugnant to the public policy of this state.

21       (d) The judgment conflicts with another final and conclusive order.

22       (e) The proceeding in the foreign court was contrary to an  
23 agreement between the parties under which the dispute in question  
24 was to be settled otherwise than by proceedings in that court.

25       (f) If jurisdiction was based only on personal service, the  
26 foreign court was an inconvenient forum for the trial of the  
27 action.

1 (g) The foreign country where judgment was rendered would not  
2 give recognition to a similar judgment rendered in this state.

3 (h) The court sitting in this state before which the matter is  
4 brought determines that the defamation law applied in the foreign  
5 defamation action by the foreign court failed to provide at least  
6 as much protection for freedom of speech and press as would be  
7 provided by the constitutions of this state and the United States.

8 Sec. 4. (1) A person against whom a foreign defamation action  
9 is brought, regardless of how far the action has progressed, may  
10 bring an action in the circuit court for a declaratory judgment  
11 with respect to the liability of the person as alleged in the  
12 action and to determine whether a judgment that could ultimately be  
13 entered in the action would be unenforceable for any reason  
14 enumerated in section 3(2).

15 (2) A person against whom a foreign defamation judgment is  
16 entered, whether the foreign defamation judgment is final or  
17 appealable, may bring an action in the circuit court for a  
18 declaratory judgment with respect to the liability of the person  
19 for the judgment and determining whether the judgment is  
20 unenforceable for any reason enumerated in section 3(2).

21 (3) For purposes of rendering declaratory relief under this  
22 act, the courts of this state have personal jurisdiction over a  
23 person who brings a foreign defamation action or obtains a foreign  
24 defamation judgment against any of the following:

25 (a) A resident of this state.

26 (b) A person or entity amenable to the jurisdiction of this  
27 state.

1 (c) A person who has assets in this state.

2 (d) A person who may have to take action in this state to  
3 comply with the judgment.

4 Sec. 5. (1) A person against whom a foreign defamation action  
5 has been instituted may bring an action for an injunction if the  
6 foreign defamation action would do any of the following:

7 (a) Frustrate a policy of this state, the guarantee of due  
8 process, or the protection of freedom of speech.

9 (b) Be vexatious or oppressive.

10 (c) Prejudice other equitable considerations.

11 (2) For purposes of rendering injunctive relief under this  
12 act, the courts of this state have personal jurisdiction over a  
13 person who institutes a foreign defamation action against any of  
14 the following:

15 (a) A resident of this state.

16 (b) A person or entity amenable to the jurisdiction of this  
17 state.

18 (c) A person who has assets in this state.

19 (d) A person why may have to take action in this state to  
20 comply with the judgment.

21 Sec. 6. The existence of a previously filed foreign defamation  
22 action is not an affirmative defense to an action for declaratory  
23 or injunctive relief under this act.

24 Sec. 7. An action for declaratory or injunctive relief under  
25 this act may be brought in any of the following:

26 (a) The county in which the plaintiff resides.

27 (b) A county in which the plaintiff has assets.

1 (c) Any other county in which venue is proper under other  
2 applicable law of this state.

3 Sec. 8. A person who brings an action under this act and who  
4 prevails in the action is entitled to reasonable attorney fees and  
5 actual costs incurred in relation to the action.

6 Enacting section 1. This act takes effect 90 days after the  
7 date it is enacted into law.

8 Enacting section 2. This act does not take effect unless  
9 Senate Bill No. \_\_\_\_ or House Bill No. 4584 (request no.  
10 01719'15 a \*) of the 98th Legislature is enacted into law.