

2018 Regular Session

SENATE BILL NO. 147

BY SENATOR MORRELL AND REPRESENTATIVE MORENO

CRIMINAL JUSTICE. Provides relative to a defamation claim brought by an alleged perpetrator of sexual misconduct against the alleged victim. (8/1/18)

1 AN ACT

2 To enact Chapter 12-A of Title 13 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 13:3381 and 3382, relative to certain claims initiated by alleged  
4 perpetrators of sexual misconduct; to provide for special procedures when claims are  
5 against the alleged victim; to provide for waivers; to provide for damages; and to  
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 12-A of Title 13 of the Louisiana Revised Statutes of 1950,  
9 comprised of R.S. 13:3381 and 3382, is hereby enacted to read as follows:

10 **CHAPTER 12-A. SLANDER, DEFAMATION, OR LIBEL PROCEEDINGS**

11 **RELATED TO SEXUAL MISCONDUCT**

12 **§3381. Stay of proceedings**

13 **A.(1) Notwithstanding any provision of law to the contrary, upon the**  
14 **filing of a motion to stay by the defendant, the court shall stay the proceedings**  
15 **on a claim for defamation of character, libel, slander, or damage to reputation**  
16 **when the plaintiff is an alleged perpetrator of sexual misconduct against the**  
17 **defendant who is the alleged victim until such time as all civil or criminal**

1 investigations, administrative hearings, or any other hearing or legal proceeding  
2 regarding the allegations of sexual misconduct are complete and final.

3 (2) For purposes of this Subsection, the motion to stay shall identify the  
4 forum of the pending investigation, hearing, or proceeding.

5 (3) For purposes of this Chapter, a plaintiff is "an alleged perpetrator  
6 of sexual misconduct" if there is a pending claim of unwelcome behavior of a  
7 sexual nature that was allegedly committed without consent or by force,  
8 intimidation, coercion, or manipulation and the victim of the unwelcome  
9 behavior is the defendant.

10 B.(1) Notwithstanding any provision of law to the contrary, if the claim  
11 for defamation of character, libel, slander, or damage to reputation referred to  
12 in Subsection A of this Section is determined by the court to be fraudulent or  
13 frivolous, the defendant in such matter shall be entitled to exemplary damages  
14 from the plaintiff.

15 (2) For the purposes of this Section, "fraudulent" and "frivolous" shall  
16 have the same meaning as provided in R.S. 13:5241.

17 (3) The amount of exemplary damages that may be awarded to the  
18 defendant by the court pursuant to Paragraph (1) of this Subsection shall be at  
19 the court's discretion and shall not be subject to any cap or similar limitation  
20 provided by law.

21 §3382. Waiver

22 A. Notwithstanding any provision of law to the contrary, a plaintiff filing  
23 a claim for defamation of character, libel, slander, or damage to reputation  
24 referenced in R.S. 13:3381, waives all privileges and protections relating to the  
25 civil or criminal investigations, administrative hearings, or any other hearing  
26 or legal proceeding regarding the alleged sexual misconduct.

27 B. Such waiver shall apply but not be limited to all evidence, records,  
28 testimony, and findings of an investigation, hearing, or proceeding.

29 C. Such waiver shall not be construed to waive the attorney-client

