

CHAPTER NO. 569.

HOUSE BILL NO. 860

INTRODUCED BY JUDICIARY COMMITTEE

SCULLY, CHAIRMAN

IN THE HOUSE

February 17, 1979	Introduced and referred to Committee on Judiciary.
February 17, 1979	Committee recommend bill do pass. Report adopted.
February 22, 1979	Second reading, do pass. Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 21, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1979	Second reading, concurred in.
March 27, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 28, 1979	Returned from second house. Concurred in as amended.
March 31, 1979	Second reading, amendments adopted.
April 2, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 ~~House~~ BILL NO. 860  
 2 INTRODUCED BY Sen. Cox Scott  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A CLAIMANT  
 5 TO FIRST PERMIT AN ALLEGED LIBEL PUBLISHED IN OR BROADCAST  
 6 BY COMMUNICATIONS MEDIA TO BE CORRECTED BEFORE CLAIMING  
 7 PUNITIVE DAMAGES; PROVIDING A MEANS FOR SUCH CORRECTION AND  
 8 PROVIDING FOR THE USE OF SUCH CORRECTION AS A DEFENSE  
 9 AGAINST ALL BUT ACTUAL DAMAGES AND IN DETERMINING ACTUAL  
 10 DAMAGES."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Media management to be given opportunity to  
 14 publish correction prior to action for libel or slander. In  
 15 order to claim punitive damages because of any libelous or  
 16 defamatory publication in or broadcast on any newspaper,  
 17 magazine, periodical, radio or television station, or cable  
 18 television system, the libeled person shall first give those  
 19 alleged to be responsible or liable for the publication or  
 20 broadcast a reasonable opportunity to correct the libelous  
 21 or defamatory matter. Such opportunity shall be given by  
 22 notice in writing specifying the article or broadcast and  
 23 the statements therein which are claimed to be false and  
 24 defamatory and a statement of what are claimed to be the  
 25 true facts. The notice may also state the sources, if any,

1 from which the true facts may be ascertained with  
 2 definiteness and certainty.

3 Section 2. What constitutes a reasonable time for  
 4 correction. The first issue of a newspaper, magazine, or  
 5 periodical published after the expiration of 1 week from the  
 6 receipt of the notice provided for in [section 1] is within  
 7 a reasonable time for correction. In the case of radio and  
 8 television stations and cable television systems, a  
 9 broadcast made at the same time of day as the broadcast  
 10 complained of and of at least equal duration which is made  
 11 within 7 days following receipt of such notice is within a  
 12 reasonable time for correction.

13 Section 3. Content of correction. To the extent that  
 14 the true facts are, with reasonable diligence, ascertainable  
 15 with definiteness and certainty, only a retraction  
 16 constitutes a correction; otherwise the publication or  
 17 broadcast of the libeled person's statement of the true  
 18 facts or so much thereof as is not libelous of another,  
 19 scurrilous, or otherwise improper for publication or  
 20 broadcast, published or broadcast as his statement,  
 21 constitutes a correction within the meaning of [sections 1  
 22 through 3].

23 Section 4. Extent to which a correction is a defense  
 24 upon trial. If it appears upon trial that the publication or  
 25 broadcast was made under honest mistake or misapprehension,

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1 then a correction timely published or broadcast without  
2 comment in a position and type as prominent as the alleged  
3 libel or in a broadcast made at the same time of day as the  
4 broadcast complained of and of at least equal duration  
5 constitutes a defense against the recovery of any damages  
6 except actual damages, as well as being competent and  
7 material in mitigation of actual damages to the extent the  
8 correction published or broadcast does so mitigate them.

-End-

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 2 INTRODUCED BY Sen. Cas Sen. Scott  
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3 SCULLY, CHAIRMAN

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6 TO FIRST PERMIT AN ALLEGED LIBEL OR SLANDER PUBLISHED IN OR  
7 BROADCAST BY COMMUNICATIONS MEDIA TO BE CORRECTED BEFORE  
8 CLAIMING PUNITIVE DAMAGES; PROVIDING A MEANS FOR SUCH  
9 CORRECTION AND PROVIDING FOR THE USE OF SUCH CORRECTION AS A  
10 DEFENSE AGAINST ALL--BUT--ACTUAL PUNITIVE DAMAGES AND--IN  
11 DETERMINING--ACTUAL--DAMAGES."

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23 [sections 1 through 3].

24 Section 4. Extent to which a correction is a defense  
25 upon trial. If it appears upon trial that the publication or

1 broadcast ~~COMPLAINED OF~~ was made under honest mistake or  
2 misapprehension, then a correction timely published or  
3 broadcast without comment in a position and type as  
4 prominent as the alleged libel or in a broadcast made at the  
5 same time of day as the broadcast complained of and of at  
6 least equal duration constitutes a defense against the  
7 recovery of any ~~PUNITIVE~~ damages ~~except-actual-damages-as~~  
8 ~~well-as-being-competent-and-materist-in-mitigation-of-actual~~  
9 ~~damages-to-the-extent-the-correction-published-or--broadcast~~  
10 ~~does-so-mitigate-them.~~

-End-

March 21, 1979

SENATE STANDING COMMITTEE REPORT  
(Judiciary)

That House Bill No. 860, third reading bill, be amended as follows:

1. Title, line 5.  
Following: "LIBEL"  
Insert: "OR SLANDER"
2. Title, line 9.  
Following: "AGAINST"  
Strike: "ALL BUT ACTUAL"  
Insert: "PUNITIVE"
3. Title, lines 9 and 10.  
Strike: "AND IN DETERMINING ACTUAL DAMAGES"
4. Page 1, line 15.  
Strike: "libelous or"
5. Page 1, line 18.  
Following: "the"  
Strike: "libeled"  
Insert: "defamed"
6. Page 1, lines 20 and 21.  
Strike: "libelous or"
7. Page 2, line 17.  
Following: "broadcast of the"  
Strike: "libeled"  
Insert: "defamed"
8. Page 2, line 18.  
Following: "not"  
Strike: "libelous"  
Insert: "defamatory"
9. Page 2, line 22.  
Following: "through"  
Strike: "3"  
Insert: "4"
10. Page 2, line 25.  
Following: "broadcast"  
Insert: "complained of"  
Following: "mistake"  
Strike: "or misapprehension"
11. Page 3, line 5.  
Following: "of"  
Strike: "any"  
Insert: "punitive"
12. Page 3, lines 6 through 8.  
Following: line 5  
Strike: lines 6 through 8 in their entirety  
Insert: "."