

February 3, 2009

S 46. INTERNET LIBEL/CIVIL AND CRIM. OFFENSE. Filed 2/3/09. *TO MAKE IT UNLAWFUL TO COMMUNICATE FALSE, DEFAMATORY MATERIAL THAT IS LIBELOUS OR SLANDEROUS THROUGH AN ELECTRONIC MEDIUM.*

Enacts new GS 14-47.1 making it unlawful for any person to communicate any false, defamatory statement that is libelous or slanderous through the use of an electronic medium, defined as the internet and any computerized or electronic information service. Violations are a Class 2 misdemeanor. Provides that the offense is committed in the state for purposes of jurisdiction if the transmission that constitutes the offense originates in the state or is reviewed or viewed in the state.

Enacts new GS 99-10 requiring a plaintiff or prosecutor to give the person alleged to be responsible for the communication of the libelous or slanderous material at least 5 days to correct the material before taking any civil or criminal action against the individual. Requires the plaintiff or prosecutor to request that the individual post an apology and correct the material; the request may be made by mailing or delivering a written request to the individual or by placing the request at one of the locations in the electronic medium known to the plaintiff or prosecutor where the libelous or slanderous material was placed. In order to correct the libelous or slanderous material, the person alleged to be responsible for communicating the material must place an apology and correction in the same location as the material was placed within 10 days after receiving the request. The apology or correction must be posted for a period of time similar to the amount of time that the libelous or slanderous material was posted for.

Provides that if at trial it appears that (1) the material was communicated in good faith, (2) that the falsity of the material was because of an honest mistake of the facts, (3) that the material was communicated without the prior knowledge of the person who administers the facilities for the electronic medium (or, if there was prior knowledge that there were reasonable grounds for believing that the communications were true); *and* that within 10 days after the request for an apology and correction a full and fair correction, apology, and retraction were added to the proper location then: (1) the plaintiff only recovers actual damages if the action is a civil action, and (2) the defendant is only fined a penny and costs if the action is a criminal proceeding and a guilty verdict is rendered.

Prohibits the person administering or providing facilities for the electronic medium involved in the alleged libel or slander from being held liable unless the person is guilty of negligence in allowing the material to be placed in the electronic medium or in allowing the material to remain in the electronic medium after the person became aware that the material was false and defamatory

Provides that the statute does not apply to anonymous communications.

Effective for offenses committed on or after December 1, 2009.

Intro. by Goss.

GS 14, 99