

By: Senator(s) McDaniel

To: Judiciary, Division A

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2860

1 AN ACT ENTITLED THE "STOP GUILT BY ACCUSATION ACT" RELATING  
2 TO DEFAMATION BY MEDIA OUTLETS AND SELECTIVE REPORTING BY MEDIA  
3 OUTLETS; TO REQUIRE MEDIA OUTLETS TO REPORT ON THE OUTCOME OF A  
4 CASE AND CONTROVERSY AFTER REPORTING ON THE INITIAL FILING WHERE  
5 THE PETITIONER RECEIVED LESS RELIEF THAN ORIGINALLY SOUGHT OR  
6 WHERE THE ACCUSED SENDS A NOTICE TO THE MEDIA OUTLET AFTER THE  
7 VERDICT DEMANDING THAT THE FINAL DISPOSITION BE REPORTED; TO  
8 AUTHORIZE A CAUSE OF ACTION BY THE ACCUSED PARTY IF THE MEDIA  
9 OUTLET FAILS TO COMPLY WITH THE NOTICE DEMAND AND TO PRESCRIBE  
10 DAMAGES; TO PROVIDE EXEMPTIONS FROM LIABILITY; TO DECLARE INTENT  
11 OF THIS ACT; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** This act shall be known and may be cited as the  
14 "Stop Guilt By Accusation Act."

15 **SECTION 2.** (1) The Legislature finds that:

16 (a) The First Amendment of the United States  
17 Constitution asserts that the government "shall make no law  
18 abridging the freedom of the press."

19 (b) Freedom of the press in the United States is not  
20 absolute and is subject to certain restrictions, such as  
21 defamation law.



22 (c) The state has a compelling interest to compel the  
23 press to promote the objective truth for the sake of the viability  
24 of democracy and for the safety, health, and welfare of our  
25 communities and in keeping with the spirit of the Due Process  
26 Clause of the Fourteenth Amendment and to stop the press from  
27 serving as a slander machine.

28 (d) There has been a growing trend for individuals to  
29 abuse process and maliciously prosecute someone they disagree with  
30 ideologically by filing spurious cases and controversies in  
31 various government venues for ulterior motives, knowing that  
32 certain segments of the media that align with their ideology would  
33 serve as an accomplice by engaging in a form of defamation in-kind  
34 by selectively reporting on the facts of the original case but not  
35 on the actual outcome in actions where the petitioner received  
36 less relief than originally sought, which cultivates an unjust  
37 prejudicial conviction in the court of public opinion causing the  
38 cause to be shunned, avoided, and marginalized and the media  
39 outlet guilty of defamation in-kind to the point that it unduly  
40 decreases the quality of life for the accused.

41 (e) The pattern of media outlets only reporting on the  
42 facts of a case and controversy but not the outcome has  
43 incentivized the abuse of our institutions of justice to the point  
44 that it threatens to erode the community's trust in the integrity  
45 of different government institutions, while giving license to an



46 unaccountable members of the press to abuse their position with  
47 impunity by trampling civil liberties.

48 (f) The state has a compelling interest to compel the  
49 press to promote the truth because without truth, there is no  
50 freedom, freedom comes from the truth.

51 **SECTION 3.** As used in this act:

52 (a) "Abuse of process" means the act of bringing and  
53 following through with a civil or criminal action or case and  
54 controversy for a purpose known to be different from the purpose  
55 for which the action was designed. The term includes proceedings  
56 that are brought for ulterior reasons than sought on the surface.

57 (b) "Accused" means a person who is blamed for a  
58 wrongdoing before a civil court, ethics commission, criminal  
59 court, administrative court, or a military tribunal. The term  
60 includes a person who has been arrested or formally charged by an  
61 indictment, information, or presentment with a crime or ethical  
62 violation. The term means the suspect, respondent, or defendant.

63 (c) "Case and controversy" means any civil, criminal,  
64 or ethical proceedings before any governmental, state, federal,  
65 and administrative court, ethics commission, military tribunal, or  
66 legislative body.

67 (d) "Court of public opinion" means the general  
68 community consensus or opinion.



69 (e) "Defamation" means a false and unprivileged  
70 statement of fact that is harmful to someone's reputation, and  
71 published with fault, meaning as a result of negligence or malice.

72 (f) "Defamation in-kind" means the failure of a media  
73 outlet to report on the outcome of a case and controversy after it  
74 reported on the initial filings of a case and controversy in which  
75 the petitioner ended up receiving less relief than originally  
76 sought or could have obtained, which could reasonably cultivate in  
77 a conviction in the court of public opinion by placing the accused  
78 in a false light that causes him to be avoided, marginalized, and  
79 shunned by the general public.

80 (g) "False light" means an untrue or misleading  
81 portrayal.

82 (h) "Malicious prosecution" means initiating a criminal  
83 prosecution or civil suit or other proceedings against another  
84 party with malice and without probable cause.

85 (i) "Media outlet" means a publication or broadcast  
86 program that provides news and feature stories to the public  
87 through various distribution channels. Media outlets include  
88 newspapers, magazines, radio stations, television stations, and  
89 certain websites on the internet and are part of the press. A  
90 media outlet does not involve a person who does not work in the  
91 press as a profession or who does not regularly engage in the  
92 business of reporting.



93 (j) "Mug shot" means an official photograph taken after  
94 the accused suspect is arrested for an alleged criminal violation.  
95 The intended purpose of the mug shot is to allow law enforcement  
96 to have a photographic record of the arrested individual. Mug  
97 shots are also intended to be used for identification by victims  
98 and investigators. Usually, mug shots are two-part, one (1)  
99 side-view photo, and another front-view.

100 (k) "Petitioner" means a person or government body who  
101 presents a petition to a government authority in respect of a  
102 particular cause. The term means plaintiffs, claimant, or  
103 complainant.

104 (l) "Press" means the people such as reporters and  
105 photographers who work for newspapers, magazines, television,  
106 websites, and radio outlets.

107 **SECTION 4.** (1) A media outlet is required to provide equal  
108 coverage in comparable time, place, magnitude, prominence, scale  
109 and manner in the same format as the original reporting of a case  
110 and controversy, if and only if:

111 (a) The media outlet reported on the facts of a case  
112 and controversy and the final verdict provided less relief against  
113 the accused than originally sought by the petitioner or less than  
114 could have been obtained by the petitioner; and

115 (b) The accused or the authorized agent of the accused  
116 sends an electronic or written notice demand to an authorized  
117 agent of the media outlet within twenty (20) days after the



118 verdict or outcome, demanding that the facts surrounding the final  
119 and actual decision or outcome be reported and published as a  
120 follow-up to the original reporting.

121 (2) In the written notification described in subsection (1)  
122 of this section, the accused or the authorized agent of the  
123 accused must include:

124 (a) The date and source of the first reporting by the  
125 media outlet;

126 (b) A short description of the original allegations,  
127 the original relief sought by the petitioner, or the amount of  
128 relief that could have been obtained, and a short description of  
129 the final outcome and the relief actually awarded;

130 (c) The location of the venue where the case and  
131 controversy was resolved and the docket number of the case and  
132 controversy, if one was assigned;

133 (d) An acknowledgment that the positions asserted in  
134 the notice demand are declared under oath under the penalty of  
135 perjury pursuant to 28 USC Section 1746;

136 (3) In the notice demand described in subsection (1) of this  
137 section, the accused or the authorized agent of the accused may  
138 include:

139 (a) A photograph of the accused that authorizes the  
140 media outlet to use at its discretion;

141 (b) Links to or a hard copy of the original coverage  
142 published by the media outlet;



143 (c) A demand to take down any unflattering pictures or  
144 mug shot of the accused that were used in the original  
145 publication; and

146 (d) Any other facts or pertinent information that could  
147 be relevant.

148 (4) If a media outlet reports on the facts of a case and  
149 controversy and displays the mug shot of the accused, and the  
150 accused is acquitted, enters into a plea of no contest, or  
151 receives an outcome more favorable than originally sought by the  
152 petitioner or available to the petitioner:

153 (a) The media outlet shall take down or remove the mug  
154 shot from any digital publication if possible.

155 (b) The media outlet shall not display the mug shot in  
156 the follow-up publication that reports on the actual outcome of  
157 the case and controversy and shall only display images that it has  
158 the authorization to use.

159 (5) If the result of a civil trial is settled under the  
160 terms of a private settlement agreement, the accused is not  
161 required to provide the terms of the private settlement agreement  
162 but can alert the media outlet that the case and controversy was  
163 settled.

164 **SECTION 5.** (1) After receiving the notice demand by the  
165 accused described in Section 4(1) of this act, a media outlet that  
166 reported on the facts of the case and controversy prior to its  
167 resolution has ten (10) days to comply with Section 4(1) of this



168 act, by publishing the follow-up story that reports on the actual  
169 outcome. The accused will have the burden of proof at a civil  
170 trial to show that the notice was timely served on the media  
171 outlet and met the requirements of Section 4(2) of this act.

172 (2) If the media outlet fails to comply with the notice  
173 demand within ten (10) days, the accused has one (1) year to file  
174 suit from the day of noncompliance and can seek the following  
175 relief in the court of competent jurisdiction against the media  
176 outlet:

177 (a) Statutory damages of Ten Thousand Dollars  
178 (\$10,000.00) or actual damages;

179 (b) Attorney's fees and costs;

180 (c) Actual damages; and

181 (d) Other forms of equitable and injunctive relief.

182 (3) If multiple media outlets fail to comply with the notice  
183 demand subjected to the jurisdiction of this court, they can be  
184 added as co-defendants in a consolidated case to conserve judicial  
185 economy.

186 (4) If the media outlet displayed the mug shot of the  
187 accused in the original publication as described in Section 4(4)  
188 of this act in a digital format, the accused can seek injunctive  
189 relief to have the media outlet remove the image.

190 **SECTION 6.** (1) Media outlet is immune and exempt from  
191 liability under this act if it:





192 (a) Is known to publish satire or parody or admits that  
193 it is a fake news outlet that is purposed to traffic in fiction  
194 peddling for comedic or entertainment purposes;

195 (b) Reports on the facts of the outcome in comparable  
196 time, place, magnitude, prominence, scale and manner of the  
197 original publication prior to receiving the notice demand from the  
198 accused;

199 (c) Receives an untimely notice demand twenty (20) days  
200 after the day of the verdict by the accused; and

201 (d) Never reported on the case and controversy prior to  
202 the decision being reached.

203 (2) The petitioner has no standing under this statute to  
204 make a media outlet report on the outcome of a case and  
205 controversy regardless of the outcome. Neither the petitioner nor  
206 the accused have standing to compel a media outlet to report on  
207 the case and controversy after it is filed.

208 (3) If a media outlet reported on a case of controversy  
209 involving one or more felony charges and the accused was convicted  
210 or pled guilty to one (1) felony count, the accused lacks standing  
211 to enforce this act.

212 (4) This act does not apply to a media outlet that publishes  
213 a documentary, film, or an extensive investigative report  
214 regarding a case and controversy.

215 **SECTION 7.** (1) An accused has the right to waive his rights  
216 under this act as a part of a negotiated settlement.



217 (2) A court of competent jurisdiction has the discretion to  
218 not acknowledge that waiver of rights described in subsection (1)  
219 of this section if there is any evidence that the waiver was  
220 undertaken under coercion.

221 **SECTION 8.** The purpose of this act is to:

222 (a) Prevent unchecked media outlets from acting as  
223 slander machines by engaging in defamation in-kind, abusing the  
224 general public, and degrading the integrity of our institutions of  
225 justice through selective reporting on cases and controversies  
226 that cultivates false narratives to the point that it unduly  
227 injures the accused by eroding their civil liberties causing them  
228 to be shunned and avoided by the general public due to a cloud of  
229 suspicion of wrongdoing that does not exactly align with the  
230 original allegations or the relief provided in a case and  
231 controversy lodged before a government body;

232 (b) Protect the integrity of the press and encourage  
233 good character of the members of the press corps;

234 (c) Deter malicious prosecution, abuse of process in  
235 general, prosecutors from overcharging defendants, and plaintiffs  
236 from seeking excessive reliefs in the original cause complaint;

237 (d) Promote a mercy centric justice system because no  
238 human is perfect; and

239 (e) Deter convictions in the court of public opinion  
240 that do not necessarily align with convictions by our institutions  
241 of justice.



242           **SECTION 9.** This act shall take effect and be in force from  
243 and after July 1, 2020.

