

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 306

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CRIMINAL LIBEL; REPEALING CHAPTER 48, TITLE 18, IDAHO CODE, RELATING TO LIBEL; AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 18, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT, TO PROVIDE FOR THE CRIME OF CRIMINAL LIBEL AND TO DEFINE TERMS, TO PROVIDE PENALTIES, TO PROVIDE FOR RESTITUTION TO A VICTIM, AND TO PROVIDE FOR JURISDICTION TO PROSECUTE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 48, Title 18, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 48, Title 18, Idaho Code, and to read as follows:

CHAPTER 48
CRIMINAL LIBEL

18-4801. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds and declares that:

(a) Malicious lies meant to destroy a person's reputation are easy to spread in the age of social media;

(b) Idahoans may have their careers and even their safety threatened as a result of malicious lies;

(c) Traditional tort law has limited the deterrent effect in stopping the spread of malicious lies;

(d) The supreme court of the United States recognized in the case *Garrison v. State of Louisiana*, 379 U.S. 64 (1964), that malicious lies do not enjoy constitutional protection;

(e) The court observed in the *Garrison* case that malicious lies are "at odds with the premises of democratic government and with the orderly manner in which economic, social, or political change is to be effected"; and

(f) The court further observed that malicious lies are of such "slight social value ... that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

(2) In enacting this chapter, it is the intent of the legislature to protect Idahoans from the damage that can be wrought by malicious lies.

18-4802. CRIMINAL LIBEL. (1) A person who, with actual malice, publishes a false statement about another person shall be guilty of criminal libel.

(2) For purposes of this section:

- 1 (a) "Publish" means to communicate to a person or persons.
2 (b) "With actual malice" means with knowledge that a statement is false
3 or with reckless disregard as to whether or not a statement is false.

4 18-4803. PENALTY FOR CRIMINAL LIBEL. A person who commits criminal li-
5 bel shall be guilty of a felony, punishable by:

- 6 (1) A fine not exceeding one hundred thousand dollars (\$100,000);
7 (2) Confinement in the state penitentiary for a period not exceeding
8 five (5) years; or
9 (3) Both such fine and imprisonment.

10 18-4804. RESTITUTION TO VICTIM. A person convicted of criminal libel
11 may be ordered by the court to provide restitution to the victim for specific
12 costs incurred as a result of injury or loss incurred by the criminal libel.

13 18-4805. JURISDICTION TO PROSECUTE. (1) Except as provided in sub-
14 section (2) of this section, the prosecuting attorney for a county in which
15 venue is appropriate shall have jurisdiction to prosecute criminal libel.

16 (2) The attorney general shall have jurisdiction to prosecute crimi-
17 nal libel if the libel is made against a state officer or state employee and
18 concerns the officer's or employee's official conduct. For purposes of this
19 subsection:

- 20 (a) "State employee" means a person:
21 (i) Holding an appointed position in the executive, judicial, or
22 legislative department of the state of Idaho; or
23 (ii) Employed by a department, division, bureau, board, commis-
24 sion, or institution of the state of Idaho.
25 (b) "State officer" means a person holding an elected position in the
26 executive, judicial, or legislative department of the state of Idaho.

27 SECTION 3. An emergency existing therefor, which emergency is hereby
28 declared to exist, this act shall be in full force and effect on and after
29 July 1, 2025.