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09400SB2616sam002

LRB094 18609 AJ0 56056 a

1 AMENDMENT TO SENATE BILL 2616

2 AMENDMENT NO. _____. Amend Senate Bill 2616 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 adding Section 2-1120 as follows:

6 (735 ILCS 5/2-1120 new)

7 Sec. 2-1120. Defamation; actual damages.

8 (a) In all defamation actions, a request for the recovery
9 of presumed damages may be rebutted by the defendant presenting
10 a prima facie showing that the plaintiff has suffered no actual
11 damages. Upon a prima facie showing by the defendant that the
12 plaintiff has suffered no actual damages, there may be no
13 recovery of presumed damages and the plaintiff must prove
14 actual damages by a preponderance of the evidence in order to
15 recover any damages.

16 (b) In all cases where the plaintiff is entitled to recover
17 any presumed damages, the award and calculation of those
18 damages shall take the following factors into account: (1) the
19 sting of the allegedly defamatory statement; (2) whether
20 defendant made any correction or retraction of the allegedly
21 defamatory statement; (3) whether the plaintiff had access to
22 channels of communication to respond to the allegedly
23 defamatory statement; (4) whether the allegedly defamatory
24 statement was on a matter of public concern; (5) the nature of

1 the plaintiff's reputation in the community prior to the
2 communication of the allegedly defamatory statement, (6) how
3 promptly the plaintiff notified the defendant of the allegedly
4 defamatory statement, and (7) the pecuniary impact of the
5 allegedly defamatory statement on the plaintiff's business or
6 occupation. This list of factors is not exclusive, and the
7 court may allow evidence on other factors as required by the
8 facts of any particular case."