

10466

I N A S S E M B L Y

May 27, 2016

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the civil rights law and the civil practice law and rules, in relation to creating the right to be forgotten act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The civil rights law is amended by adding a new section
2 50-f to read as follows:

3 S 50-F. RIGHT TO BE FORGOTTEN ACT. 1. UPON THE REQUEST FROM AN INDI-
4 VIDUAL, ALL SEARCH ENGINES, INDEXERS, PUBLISHERS AND ANY OTHER PERSONS
5 OR ENTITIES THAT MAKE AVAILABLE, ON OR THROUGH THE INTERNET OR OTHER
6 WIDELY USED COMPUTER-BASED NETWORK, PROGRAM OR SERVICE, INFORMATION
7 ABOUT THE REQUESTER, SHALL REMOVE INFORMATION, ARTICLES, IDENTIFYING
8 INFORMATION AND OTHER CONTENT ABOUT SUCH INDIVIDUAL, AND LINKS OR
9 INDEXES TO ANY OF THE SAME, THAT IS "INACCURATE", "IRRELEVANT", "INADE-
10 QUATE" OR "EXCESSIVE" WITHIN THIRTY DAYS OF SUCH REQUEST, AND WITHOUT
11 REPLACING SUCH REMOVED INFORMATION, ARTICLE OR CONTENT WITH ANY
12 DISCLAIMER, TAKEDOWN NOTICE, HYPERLINK, OR OTHER REPLACEMENT NOTICE,
13 INFORMATION OR CONTENT, OR COOPERATING WITH ANY OTHER PERSON OR ENTITY
14 WHO DOES ANY OF THE FOREGOING. FOR PURPOSES OF THIS SECTION, "INACCU-
15 RATE", "IRRELEVANT", "INADEQUATE", OR "EXCESSIVE" SHALL MEAN CONTENT,
16 WHICH AFTER A SIGNIFICANT LAPSE IN TIME FROM ITS FIRST PUBLICATION, IS
17 NO LONGER MATERIAL TO CURRENT PUBLIC DEBATE OR DISCOURSE, ESPECIALLY
18 WHEN CONSIDERED IN LIGHT OF THE FINANCIAL, REPUTATIONAL AND/OR DEMON-
19 STRABLE OTHER HARM THAT THE INFORMATION, ARTICLE OR OTHER CONTENT IS
20 CAUSING TO THE REQUESTER'S PROFESSIONAL, FINANCIAL, REPUTATIONAL OR
21 OTHER INTEREST, WITH THE EXCEPTION OF CONTENT RELATED TO CONVICTED FELO-
22 NIES, LEGAL MATTERS RELATING TO VIOLENCE, OR A MATTER THAT IS OF SIGNIF-
23 ICANT CURRENT PUBLIC INTEREST, AND AS TO WHICH THE REQUESTER'S ROLE WITH
24 REGARD TO THE MATTER IS CENTRAL AND SUBSTANTIAL.

25 2. SEARCH ENGINES, INDEXERS, PUBLISHERS AND ANY OTHER PERSONS OR ENTI-
26 TIES THAT MAKE AVAILABLE, ON THE INTERNET OR OTHER WIDELY USED COMPU-
27 TER-BASED NETWORK, PROGRAM OR SERVICE, CONTENT ABOUT AN INDIVIDUAL
28 WHICH, WITHIN THIRTY DAYS AFTER RECEIVING A REMOVAL REQUEST, HAVE NOT

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 REMOVED ALL REQUESTED INFORMATION AND CONTENT THAT IS INACCURATE, IRREL-
2 EVANT, INADEQUATE OR EXCESSIVE, AND WITHOUT REPLACING SUCH REMOVED
3 INFORMATION OR CONTENT WITH ANY DISCLAIMER, TAKEDOWN NOTICE, HYPERLINK,
4 OR OTHER REPLACEMENT NOTICE, INFORMATION OR CONTENT, OR COOPERATING WITH
5 ANY OTHER PERSON OR ENTITY WHO DOES ANY OF THE FOREGOING, SHALL BE
6 SUBJECT TO, AS ADMINISTERED BY THE SECRETARY OF STATE, EITHER AN ACTION
7 FOR ACTUAL MONETARY LOSS FOR EACH SUCH VIOLATION, OR STATUTORY DAMAGES
8 IN THE AMOUNT OF TWO HUNDRED FIFTY DOLLARS AFTER SUCH REMOVAL REQUEST
9 FOR EACH DAY OF SUCH VIOLATION, WHICHEVER IS GREATER. IN ADDITION TO
10 SUCH PENALTY, ANY SUCH PARTY WHO DOES NOT TIMELY REMOVE ANY SUCH INFOR-
11 MATION, ARTICLE, CONTENT, LINKS OR INDEXES ALSO SHALL BE LIABLE TO AND
12 SHALL PAY TO THE REQUESTER ANY AND ALL COSTS AND ATTORNEY'S FEES
13 INCURRED WHILE ENFORCING HIS OR HER RIGHTS UNDER THIS ACT.

14 3. THE SECRETARY OF STATE SHALL OVERSEE ALL RIGHT TO BE FORGOTTEN
15 REQUESTS, FILINGS, TAKEDOWNS AND IF APPLICABLE, ANY PENALTIES, JUDG-
16 MENTS, COSTS AND/OR ATTORNEY'S FEES.

17 S 2. Subdivision 3 of section 215 of the civil practice law and rules
18 is amended and a new subdivision 9 is added to read as follows:

19 3. an action to recover damages for assault, battery, false imprison-
20 ment, malicious prosecution, libel, EXCEPT LIBEL AS DEFINED UNDER SUBDI-
21 VISION NINE OF THIS SECTION, slander, false words causing special
22 damages, or a violation of the right of privacy under section fifty-one
23 of the civil rights law;

24 9. AN ACTION FOR LIBEL FOR PUBLICATIONS ON THE INTERNET OR OTHER WIDE-
25 LY USED COMPUTER-BASED NETWORK, PROGRAM OR SERVICE. THE STATUTE OF LIMI-
26 TATIONS SHALL BEGIN TO ACCRUE WHEN THE INFORMATION, ARTICLE OR OTHER
27 CONTENT IS COMPLETELY REMOVED FROM THE INTERNET OR OTHER WIDELY USED
28 COMPUTER-BASED NETWORK, PROGRAM OR SERVICE, REGARDLESS OF WHETHER SUCH
29 CONTENT ALSO WAS OR IS PUBLISHED ELSEWHERE, AND REGARDLESS OF WHEN SUCH
30 CONTENT WAS FIRST PUBLISHED ON THE INTERNET OR OTHERWISE.

31 S 3. Each and all of the sections and provisions of this act, shall
32 apply to all articles and other content that either is presently being
33 made available on the internet, or other widely used computer-based
34 network, program or service, regardless of when such articles and other
35 content was first so or otherwise posted, published or otherwise made
36 available, or is so made available at a future date, and regardless of
37 whether the respondent search engine, indexer, publisher or other person
38 or entity is located within or without the state of New York or the
39 United States of America, to the fullest extent permitted by the United
40 States Constitution.

41 S 4. This act shall take effect immediately.