

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 139

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO FOREIGN DEFAMATION JUDGMENTS; AMENDING TITLE 6, IDAHO CODE, BY
THE ADDITION OF A NEW CHAPTER 32, TITLE 6, IDAHO CODE, TO DEFINE TERMS,
TO PROVIDE FOR FOREIGN DEFAMATION JUDGMENTS, AND TO PROVIDE PROCEDURES.

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

SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended
by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
ter 32, Title 6, Idaho Code, and to read as follows:

CHAPTER 32

FOREIGN DEFAMATION JUDGMENTS

6-3201. DEFINITIONS. For purposes of this chapter:

(1) "Foreign defamation action" means a legal proceeding instituted in
a jurisdiction outside of any state or territory of the United States which
was founded on a cause of action arising from allegations of defamation, li-
bel, or slander.

(2) "Foreign defamation judgment" means a judgment or decree rendered
in a jurisdiction outside of any state or territory of the United States
which was founded on a cause of action arising from allegations of defama-
tion, libel, or slander.

6-3202. FOREIGN DEFAMATION JUDGMENT. (1) A foreign defamation judg-
ment is not conclusive if any of the following apply:

(a) The judgment was rendered under a system which does not provide im-
partial tribunals or procedures compatible with the requirements of due
process of law;

(b) The foreign court did not have personal jurisdiction over the de-
fendant; or

(c) The foreign court did not have jurisdiction over the subject mat-
ter.

(2) A foreign defamation judgment shall not be recognized, granted
comity, or operate as res judicata or collateral estoppel if any of the fol-
lowing apply:

(a) The defendant in the proceedings in the foreign court did not re-
ceive notice of the proceedings in sufficient time to enable him to pro-
vide a defense;

(b) The judgment was obtained by fraud;

(c) The cause of action or claim for relief on which the judgment is
based is repugnant to the public policy of this state;

(d) The judgment conflicts with another final and conclusive order;

1 (e) The proceeding in the foreign court was contrary to an agreement be-
2 tween the parties under which the dispute in question was to be settled
3 other than by proceedings in that court;

4 (f) In the case of jurisdiction based only on personal service, the for-
5 eign court was an inconvenient forum for the trial of the action;

6 (g) The foreign jurisdiction where judgment was rendered would not give
7 recognition to a similar judgment rendered in this state; or

8 (h) The court sitting in this state before which the matter is brought
9 determines that the defamation law applied in the adjudication by the
10 foreign court failed to provide at least as much protection for freedom
11 of speech and press in that case as would be provided by the constitu-
12 tions of this state and the United States.

13 (3) Any person against whom a foreign defamation judgment is entered,
14 whether the foreign defamation judgment is final or appealable, may bring
15 an action in district court for a declaration with respect to the liability
16 of a person for the judgment and determining whether the foreign defamation
17 judgment should be deemed unenforceable pursuant to any reason enumerated in
18 subsection (2) of this section.

19 (4) For the purposes of rendering declaratory relief, the courts of
20 this state shall have personal jurisdiction over any person who obtains a
21 judgment in a defamation proceeding outside the United States against any of
22 the following persons:

23 (a) A resident of this state;

24 (b) A person or entity amenable to the jurisdiction of this state;

25 (c) A person who has assets in this state; or

26 (d) A person who may have to take action in this state to comply with the
27 judgment.

28 (5) Any person against whom a foreign defamation action has been insti-
29 tuted may bring an action for an injunction where the foreign defamation ac-
30 tion would:

31 (a) Frustrate a policy of the state, the guarantee of due process, and
32 the protection of freedom of speech;

33 (b) Be vexatious or oppressive; or

34 (c) Prejudice other equitable considerations.

35 (6) For the purposes of rendering injunctive relief, the courts of this
36 state shall have personal jurisdiction over any person who institutes a
37 defamation proceeding outside the United States against any of the following
38 persons:

39 (a) A resident of this state;

40 (b) A person or entity amenable to the jurisdiction of this state;

41 (c) A person who has assets in this state; or

42 (d) A person who may have to take action in this state to comply with the
43 judgment.

44 (7) No Idaho court shall sustain a dilatory exception of "lis pendens"
45 asserted in a declaratory or injunctive proceeding under this section that
46 was filed in an Idaho court subsequent to the foreign defamation action.

47 (8) An action brought for declaratory or injunctive relief pursuant to
48 this section may be brought in a court of proper venue in either the county
49 where the plaintiff resides or the county where the plaintiff has assets.