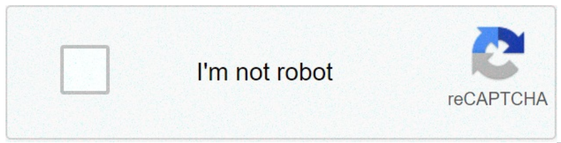

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Defamation of character criminal code

The law protects a person's reputation, but this protection can clash with other rights, such as the right to free expression. The law tries to balance these competing rights. Sometimes, even though someone makes a defamatory statement that harms a person's reputation, the law considers freedom of expression to be more worthy of protection. The following are defences to an action for defamation.A statement may hurt your reputation, but if the statement is true, that is a complete defence to an action for defamation. The person who made the statement can defend their statement by proving it is more likely true than not.Freedom of speech without fear of consequences is considered critical for the effective administration of justice. A statement made in judicial proceedings is protected by a defence of absolute privilege. This is a complete and unqualified defence to an action for defamation.This defence protects defamatory statements made in a civil lawsuit. It covers statements made in court, as well as all preparatory steps, including court filings and examinations for discovery. Absolute privilege also protects defamatory statements made in all stages of a criminal case. For example, a complaint to the police is protected by absolute privilege — as long as the complaint is not repeated to others.Absolute privilege also protects a person who makes a defamatory statement in a quasi-judicial proceeding, like a hearing before a professional regulatory body such as the Law Society of BC. And absolute privilege protects statements in Parliament.But absolute privilege does not protect a person who repeats their statement outside of the court or judicial process.A defamatory statement made in performing a public or private duty can be protected by qualified privilege. The protection only applies to statements made to people with a corresponding interest in receiving the statement. An example of qualified privilege is when a previous employer provides a bad reference to a potential employer. If the previous employer honestly believes what they are saying in providing the bad reference, then qualified privilege may protect them in giving the bad reference.The duty can be legal, social, or moral. The test is whether a person of ordinary intelligence would think a duty existed to communicate the information to the audience it was made to.There are no exact rules on when qualified privilege arises. It depends on the facts of a case. If the communication is made under qualified privilege, the defence applies even when very strong language is used, or the statement is false. It is hard to rely on this defence for statements made on the internet because the defence protects a person only if they limit their defamatory statements to people who have an interest in hearing the communication. Defamatory statements on the internet are not limited this way. Instead, they go to the public at large. So they do not meet this test unless it is a matter the public would be interested in, or the communication is on a members-only site or service and not open to the public.We all are free to comment — even harshly — about issues of public interest, as long as we are clear that our comments are:expressed in a way that shows they are opinion, not fact,based on facts that can be proven and those facts are either stated or otherwise known to readers or listeners, andnot made maliciously.For example, a newspaper columnist may write about a politician who says they support equality and equal rights, but are opposed to same-sex marriages. The columnist may write that the politician is hypocritical. If the politician sues the columnist for defamation, the columnist may put forward the defence of fair comment.A more recent defence to libel claims deals with reporting on matters of public interest. Journalists should be able to report statements and allegations — even if not true — if there's a public interest in distributing the information to a wide audience. This defence, which looks at the whole context of a situation, can apply if:the news was urgent, serious, and of public importance, andthe journalist used reliable sources, and tried to get and report the other side of the story.The courts have defined the term "journalist" widely to include bloggers and others publishing material of public interest in any medium.The defence of innocent dissemination is important in the internet era. Generally, a person who takes part in publishing a defamatory statement is responsible for its publication. This includes a writer, editor, printer, and distributor. But a person who acts only as a distributor may be able to rely on the defence of innocent dissemination if they:did not know they were distributing a defamatory statement, andwere not negligent in not knowing, and immediately removed the statement from their website or from distribution when they learned of the defamatory statement. SUBPART E. DEFAMATION §47. Defamation Defamation is the malicious publication or expression in any manner, to anyone other than the party defamed, of anything which tends: (1) To expose any person to hatred, contempt, or ridicule, or to deprive him of the benefit of public confidence or social intercourse; or (2) To expose the memory of one deceased to hatred, contempt, or ridicule; or (3) To injure any person, corporation, or association of persons in his or their business or occupation. Whoever commits the crime of defamation shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. Amended by Acts 1968, No. 647, §1. Disclaimer: These codes may not be the most recent version. Louisiana may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources. Previous PageTable of ContentsNext Page Marginal note:Definition298 (1) A defamatory libel is matter published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published.Marginal note:Mode of expression(2) A defamatory libel may be expressed directly or by insinuation or irony(a) in words legibly marked on any substance; or(b) by any object signifying a defamatory libel otherwise than by words. 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