

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 447

(Delegate Rosenberg, *et al.*)

Judiciary

Judicial Proceedings

Defamation - Reputation for Chastity - Repeal

This bill extends the tort concerning slander of chastity to all persons. The bill also repeals the special cause of action for slander based on a woman's character or reputation for chastity.

The bill does not affect any common law action for defamation and only applies prospectively to causes of action arising after the bill's effective date.

Fiscal Summary

State Effect: None. The bill would not directly affect judicial operations or expenditures.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: Any word spoken falsely and maliciously and likely to injure a woman's character or reputation for chastity is slander.

An action against a person who defames a woman's character or reputation for chastity may be maintained by:

- a single or married woman whose reputation was defamed; or

- the husband of a married woman whose reputation, before or during the marriage, was defamed.

Background: Under common law, no verbal defamation concerning the chastity of a woman was considered slander *per se* and the victim of the defamation could not recover unless she proved that there was some actual or special damage because of the defamatory statement. Chapter 444 of 1888 was enacted specifically to change the common law. That enactment evolved into the current law.

Many states enacted similar laws to protect the chastity of women, but many of them have been repealed or extended to include men. Arkansas and California are two states that have extended their defamation of chastity laws to include men. The Arkansas law establishes a cause of action for claiming that someone has committed adultery or fornication. The California law establishes a cause of action for claiming that someone is impotent or has committed adultery.

In Washington, legislation has been proposed to repeal a statute that makes slander of a woman a crime. The law has not been used for decades. The last time it was upheld was in 1914 when the Washington Supreme Court upheld the conviction of woman who had been fined \$50 for slandering another woman.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Attorney General, Department of Legislative Services

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