

Retraction Statutes in the 50 states and the District of Columbia

ALABAMA: there is a retraction statute providing that a prominent retraction may be admitted in mitigation of damages; if such a retraction is made within 10 days of the date of publication the plaintiff will be limited to only actual damages; the plaintiff may only recover punitive damages upon proof of a retraction demand made at least five days prior to the commencement of the libel action.

ALASKA: there is no retraction statute and the only case on point held that a refusal to retract, without more, did not raise an inference of actual malice sufficient to preclude summary judgment.

ARIZONA: its retraction statute was declared unconstitutional because it abrogated the full availability of damages in a defamation action.

ARKANSAS: there is no retraction statute; retraction had been recognized as relevant to the mitigation of damages; however, the rule was overturned based on the doctrine of presumed damages.

CALIFORNIA: has a statute that appears to cover only newspapers and broadcasters but not magazine publishers and also evidently excludes Internet publications.

COLORADO: there is no retraction statute. However, publication of a retraction can, under the common law, be considered in mitigation of damages. Moreover failure to retract may be evidence supporting punitive damages.

CONNECTICUT: there is a retraction statute. The statute evidently does not provide detailed time periods, but it has been held that, to be effective under the statute, the demand for a retraction must be reasonably prompt – e. g., a request made 2 ½ months after publications was held to be too late.

DELAWARE: there is no retraction statute and one court has ruled that a publisher has no obligation to retract or correct a statement made after the initial publication.

DISTRICT OF COLUMBIA: there is no retraction statute but an immediate retraction may negate an inference of actual malice or remove the defamatory implication of an article. However, there is no duty to retract or correct the publication.

FLORIDA: there is a retraction statute whose terms must be complied with by a plaintiff (at least 5 days prior to initiating action), and failure to allege compliance will result in dismissal of the defamation complaint. The scope of the statute has been subject to some debate, but a 1976 amendment appears to have been ultimately broadly construed and has held, for example, that the term “or other medium” includes the Internet and Internet forums.

GEORGIA: has a retraction statute providing for a rather short time frame (7 days) for a retraction demand or response thereto. Two parts of the statute applied to written publications and broadcasts, with the broadcast timeframe even shorter – within three days of a demand.

HAWAII: there is no retraction statute and at least one court has held that failure to issue a timely correction or retraction may not be used as evidence of actual malice.

IDAHO: there is a retraction statute applicable to radio, television, or newspapers; plaintiff can only recover actual damages in the absence of a timely demand for a retraction and a subsequent failure by the publisher to retract, within three weeks.

ILLINOIS: there is no retraction statute.

INDIANA: there is a retraction statute applicable to radio, television, newspaper or news service publications; the potential plaintiff's notice must be provided at least four days before filing a complaint against a news service, six days against a daily newspaper, 11 days against a weekly newspaper, and three days against a radio or television station. The publication then has five days after such notice to publish a full and fair retraction, three days in the case of a news service, and ten days in the case of a weekly publication or a radio or television station.

IOWA: there is a retraction statute applicable to publishers or broadcasters, who must publish retractions within two weeks, upon demand, in as conspicuous a place and in the same typeface as the original statement or, in the case of a radio or television broadcaster, at a similarly favorable time period, also within two weeks of the demand.

KANSAS: there is no retraction statute, although under common law a retraction or apology may show a lack of malice in mitigation of damages.

KENTUCKY: there is a retraction statute covering newspapers, magazines and periodicals and another provision which concerns publications by visual or sound radio broadcast.

LOUISIANA: there is no retraction statute, but a retraction is recognized as a mitigating factor to be considered in fixing damages and may also tend to disprove ordinary, but not constitutional, malice.

MAINE: there is a retraction statute where the defendant may prove retraction within a reasonable time after publication in mitigation of damages.

MARYLAND: there is no retraction statute, although retraction may be considered in mitigation of damages.

MASSACHUSETTS: there is no retraction statute, per se, but evidence of a retraction may be submitted in mitigation of damages.

MICHIGAN: there is a retraction statute providing that a plaintiff cannot recover exemplary and punitive damages unless a retraction had been requested and that the publication of a retraction or correction is evidence of good faith in mitigation of exemplary or punitive damages.

MINNESOTA: there is a retraction statute applicable only to newspapers that limits the award of damages to special, actual damages unless the defendant had served the publisher with the demand for retraction and the publisher had refused to retract.

MISSISSIPPI: there is a retraction statute that has been interpreted to apply not only to newspapers and radio and television stations but also to wire services and other forms of news reporting services such as news magazines and cable or satellite news transmissions. Written demand for retraction must be given at least 10 days before suit is filed.

MISSOURI: there is no retraction statute but some cases appear to recognize a retraction as evidence in mitigation of damages.

MONTANA: there was a retraction statute but it was declared unconstitutional due to restriction on access to the courts. A new statute requires that the request for retraction is a condition precedent to recovery of punitive damages.

NEBRASKA: there is a retraction statute limiting the plaintiff to no more than special damages unless the retraction or correction was demanded but not published.

NEVADA: there is a retraction statute applicable to newspapers, radio or television broadcasts; the correction demand must be served within 90 days after knowledge of the publication and inadequate correction must be published or broadcast within 20 days of the demand.

NEW HAMPSHIRE: there is no retraction statute or case law on the topic.

NEW JERSEY: there is a retraction statute applicable to newspapers magazines periodicals cereals or other publications; the potential defendant must publish an effective retraction within a reasonable time after the plaintiffs demand.

NEW MEXICO: there is no retraction statute.

NEW YORK: there is no retraction statute but case law recognizes that a retraction may be evidence of lack of ill will in mitigation of damages but is insufficient to establish lack of actual malice as a matter of law.

NORTH CAROLINA: there is a retraction statute applicable to newspaper or radio or television stations; the demand for retraction must be made at least five days before instituting the action and the retraction must be published, and appropriate form and location, within 10 days of the demand.

NORTH DAKOTA: the state has enacted the Uniform Correction or Clarification of Defamation act; at least one court has ruled the UCCDA constitutional.

OHIO: there is no retraction statute but retractions are admissible for the purpose of mitigating damages and the failure to retract upon demand is not evidence of constitutional actual malice.

OKLAHOMA: there is a retraction statute covering newspapers and periodicals; if false and defamatory information is published as a result of "honest mistake", then only actual damages can be recovered unless a retraction is requested and refused.

OREGON: there is no retraction statute.

PENNSYLVANIA: there is no retraction statute, but evidence of retraction may be used to mitigate damages.

RHODE ISLAND: there is no retraction statute.

SOUTH CAROLINA: there is no retraction statute, and although retraction is considered in mitigation of damages it does not bar actual or punitive damages, but the refusal to retract may support a finding of actual malice and that an “clarification” that does not correct or retract may be viewed as a refusal to retract.

SOUTH DAKOTA: there is has a retraction statute applicable to newspapers; the plaintiff must serve demand for retraction at least three days prior to commencing an action and a daily newspaper has three days from receipt of the notice to publish a retraction.

TENNESSEE: there is a retraction statute applicable to newspapers or periodicals; an adequate retraction must be published within 10 days of notification of the plaintiff’s intent to sue, but such notice is not a precondition for instituting a defamation action.

TEXAS: there is a retraction statute newly enacted and effective as of June 14, 2013, but it does not adopt the UCCDA wholesale. It provides for corrections, retractions or clarifications. Demand for a correction, retraction or clarification is a prerequisite to pursuing an action and must be made within 90 days after the plaintiff has knowledge of the publication.

UTAH: there is a retraction statute that limits recovery to actual damages where a good faith publication or broadcast is made in response to a demand for a retraction.

VERMONT: there is no retraction statute or case law on retraction.

VIRGINIA: there does not appear to be a full-blown retraction statute; however, by statute Virginia provides that under certain circumstances an apology may be shown in mitigation of damages.

WASHINGTON STATE: in 2013 Washington state enacted the Uniform Correction or Clarification of Defamation Act.

WEST VIRGINIA: there is a retraction statutes providing solely that a prompt apology may be offered in evidence in mitigation of damages.

WISCONSIN: there is a retraction statute applicable to newspapers magazines or periodicals, and not to any other forms of publication, compliance with which is a prerequisite to suit. Publication of an adequate correction eliminates any claim for punitive or presumed damages and may be evidence of mitigation of actual damages.

WYOMING: there is no retraction statute; however, there is case law under the fair report privilege which finds the fact of a published retraction or clarification upon the plaintiff’s request to be pertinent to the action.