

GENERAL LAWS OF RHODE ISLAND ANNOTATED, 1956
TITLE 9. COURTS AND CIVIL PROCEDURE -- PROCEDURE GENERALLY
CHAPTER 1. CAUSES OF ACTION
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Current through End of 1998 Reg. Sess.

9-1-28.1 Right to privacy -- Action for deprivation of right.

(a) Right to privacy created. It is the policy of this state that every person in this state shall have a right to privacy which shall be defined to include any of the following rights individually:

(1) The right to be secure from unreasonable intrusion upon one's physical solitude or seclusion;

(i) In order to recover for violation of this right, it must be established that:

(A) It was an invasion of something that is entitled to be private or would be expected to be private;

(B) The invasion was or is offensive or objectionable to a reasonable man; although,

(ii) The person who discloses the information need not benefit from the disclosure.

(2) The right to be secure from an appropriation of one's name or likeness;

(i) In order to recover for violation of this right, it must be established that:

(A) The act was done without permission of the claimant;

(B) The act is of a benefit to someone other than the claimant;

(ii) It need not be established that there was any publication.

(3) The right to be secure from unreasonable publicity given to one's private life;

(i) In order to recover for violation of this right, it must be established that:

(A) There has been some publication of a private fact;

(B) The fact which has been made public must be one which would be offensive or objectionable to a reasonable man of ordinary sensibilities;

(ii) The fact which has been disclosed need not be of any benefit to the discloser of the fact.

(4) The right to be secure from publicity that reasonably places another in a false light before the public;

(i) In order to recover for violation of this right, it must be established that:

(A) There has been some publication of a false or fictitious fact which implies an association which does not exist;

(B) The association which has been published or implied would be objectionable to the ordinary reasonable man under the circumstances;

(ii) The fact which was disclosed need not be of any benefit to the discloser.

(b) Right of action. Every person who subjects or causes to be subjected any citizen of this state or other person within the

jurisdiction thereof to a deprivation and/or violation of his or her right to privacy shall be liable to the party injured in an action at law, suit in equity, or any other appropriate proceedings for redress in either the superior court or district court of this state. The court having jurisdiction of an action brought pursuant to this section may award reasonable attorneys' fees and court costs to the prevailing party.

(c) Right of access. Nothing in this section shall be construed to limit or abridge any existing right of access at law or in equity of any party to the records kept by any agency of state or municipal government.

CREDIT

History of Section.

P.L. 1980, ch. 403, s 1.
HISTORICAL NOTES

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Reenactments.

The 1997 Reenactment (P.L. 1997, ch. 326, s 1) redesignated the subdivisions, inserted the head in subsection (c), made several substitutions for "such", and made minor punctuation changes throughout the section.

REFERENCES

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Cross References. Action for unauthorized use of name, portrait or picture, s 9-1-28.

Comparative Legislation. Right to privacy:
Mass. Ann. Laws, ch. 214, s 1B.
ANNOTATIONS

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Notes to Decisions.

Analysis.

0.5. Elements of claim.

1. College students.
2. Misappropriation of likeness.
3. False light claim.
4. Public records.
5. Divorce records.
6. Suicide.
7. Financial information.

0.5. Elements of Claim.

For a right to privacy action in tort to lie, plaintiffs must demonstrate that they actually expected a disclosed fact to remain private, and that society would recognize this expectation of privacy as reasonable and be willing to respect it. *Pontbriand v. Sundlun*, 699 A.2d 856 (R.I. 1997).

1. College Students.

A private college's continual inquiry into the progress of a student's diet and scrutiny of her personal weight-loss records constituted conduct which a trier of fact could reasonably find offensive or objectionable, and the college was therefore not entitled to summary judgment in the student's action for invasion of privacy. *Russell v. Salve Regina College*, 649 F. Supp. 391 (D.R.I. 1986), *aff'd*, 890 F.2d 484 (1st Cir. 1989), *rev'd on other grounds*, 499 U.S. 225, 111 S. Ct. 1217, 113 L. Ed. 2d 190 (1991).

A private college's conduct toward an overweight student, including a request that she withdraw from a college nursing program, did not constitute an invasion of privacy, where the student's obesity was a public fact, and the only area "invaded" was her psyche. *Russell v. Salve Regina College*, 890 F.2d 484 (1st Cir. 1989), *rev'd on other grounds*, 499 U.S. 225, 111 S. Ct. 1217, 113 L. Ed. 2d 190 (1991).

2. Misappropriation of Likeness.

In enacting subsection (a)(2) the legislature intended only to prohibit the misappropriation of likeness for noncommercial purposes, in view of the fact that s 9-1-28 already creates a cause of action for unauthorized uses for commercial purposes. *Mendonza v. Time Inc.*, 678 F. Supp. 967 (D.R.I. 1988).

3. False Light Claim.

A magazine photograph and a narrative describing schoolgirls as "amazons" who attacked boys did not support a false light claim

against the magazine publishers. *Fudge v. Penthouse Int'l, Ltd.*, 840 F.2d 1012 (1st Cir. 1988), cert. denied, 488 U.S. 821, 109 S. Ct. 65, 102 L. Ed. 2d 42 (1988).

4. Public Records.

The statutory right to privacy in Rhode Island does not extend to those records deemed public. *Doe v. Sherman*, 593 A.2d 457 (R.I. 1991).

5. Divorce Records.

Rhode Island's Privacy Act should not be interpreted to apply to the records of the family court concerning divorce. *Doe v. Sherman*, 593 A.2d 457 (R.I. 1991).

6. Suicide.

The right of privacy dies when the person who could claim it dies. *Cliff v. Narragansett Television*, 688 A.2d 805 (R.I. 1996).

7. Financial Information.

Since bank-deposit records possessed by the Governor were not acquired through any wrongful or improper means, plaintiffs did not state a cause of action under subsection (a)(1) even though their names, Social Security numbers, and deposit amounts were distributed to newspapers by the Governor's office. *Pontbriand v. Sundlun*, 699 A.2d 856 (R.I. 1997).

REFERENCES

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Collateral References.

"Caller ID" system, allowing telephone call recipient to ascertain number to telephone from which call originated, as violation of right to privacy, wiretapping statute, or similar protections. 9 A.L.R.5th 553.

Free exercise of religion clause of First Amendment as defense to tort liability. 93 A.L.R. Fed. 754.

Invasion of right of privacy. 33 A.L.R.4th 479.

What is "record" within meaning of Privacy Act of 1974 (5 USCS s 552a). 121 A.L.R. Fed. 465.

Gen. Laws, 1956, s 9-1-28.1

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REENACTMENT OF 1997

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