

# **State Anti-SLAPP Statutes**

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# Table of Contents

<u>STATE</u>	<u>PAGE</u>
Arizona .....	1
Arkansas.....	3
California.....	7
Connecticut.....	12
Delaware.....	15
District of Columbia.....	17
Florida .....	20
Georgia .....	23
Guam .....	25
Hawaii .....	29
Illinois.....	32
Indiana .....	34
Kansas .....	37
Louisiana .....	41
Maine .....	43
Maryland .....	45
Massachusetts.....	47
Minnesota.....	49
Missouri.....	52
Nebraska .....	54
Nevada.....	56
New Mexico .....	60
New York.....	62
Oklahoma .....	64
Oregon .....	70
Pennsylvania.....	72
Rhode Island.....	74
Tennessee .....	76
Texas.....	78
Utah.....	84
Vermont.....	86
Virginia.....	88
Washington .....	89

# Arizona (2006)

Ariz. Rev. Stat. Ann. § 12-752

## § 12-752. Strategic lawsuits against public participation; motion to dismiss

**A.** In any legal action that involves a party's exercise of the right of petition, the defending party may file a motion to dismiss the action under this section. When possible, the court shall give calendar preference to an action that is brought under this subsection and shall conduct an expedited hearing after the motion is filed with the court and notice of the motion has been served as provided by court rule.

**B.** The court shall grant the motion unless the party against whom the motion is made shows that the moving party's exercise of the right of petition did not contain any reasonable factual support or any arguable basis in law and that the moving party's acts caused actual compensable injury to the responding party. In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating facts on which the liability or defense is based. At the request of the moving party, the court shall make findings whether the lawsuit was brought to deter or prevent the moving party from exercising constitutional rights and is thereby brought for an improper purpose, including to harass or to cause unnecessary delay or needless increase in the cost of litigation. If the court finds that the lawsuit was brought to deter or prevent the exercise of constitutional rights or otherwise brought for an improper purpose, the moving party is encouraged to pursue additional sanctions as provided by court rule.

**C.** The motion to dismiss may be filed within ninety days after the service of the complaint or, in the court's discretion, at any later time on terms that the court deems proper.

**D.** If the court grants the motion to dismiss, the court shall award the moving party costs and reasonable attorney fees, including those incurred for the motion. If the court finds that a motion to dismiss is frivolous or solely intended to delay, the court shall award costs and reasonable attorney fees to the prevailing party on the motion. For the purposes of this subsection, "costs" means all costs that are reasonably incurred in connection with a motion to dismiss pursuant to this section and includes filing fees, record preparation and document copying fees, documented time away from employment to confer with counsel or attend case related proceedings, expert witness fees, travel expenses and any other costs that the court deems appropriate.

**E.** This article does not:

1. Affect, limit or preclude the right of the moving party to any remedy otherwise authorized by law.

2. Apply to an enforcement action that is brought in the name of this state or a political subdivision of this state.
3. Create any privileges or immunities or otherwise affect, limit or preclude any privileges or immunities authorized by law.
4. Limit or preclude a legislative or executive body or a public agency from enforcing the rules of procedure and rules of order of the body or agency.

# Arkansas (2005)

Ark. Code Ann. § 16-63-501 through § 16-63-508

## § 16-63-501. Title

This subchapter shall be known as and may be cited as the “Citizen Participation in Government Act”.

## § 16-63-502. Legislative findings

The General Assembly finds and declares that:

- (1) It is in the public interest to encourage participation by the citizens of the State of Arkansas in matters of public significance through the exercise of their constitutional rights of freedom of speech and the right to petition government for a redress of grievances;
- (2) The valid exercise of the constitutional rights of freedom of speech and the right to petition government for a redress of grievances should not be chilled through abuse of the judicial process;
- (3) The threat of a civil action for damages in the form of a strategic lawsuit against political participation and the possibility of considerable legal costs can act as a deterrent to citizens who wish to report information to federal, state, or local agencies; and
- (4) Strategic lawsuits against political participation can effectively punish concerned citizens for exercising the constitutional right to speak and petition the government for a redress of grievances.

## § 16-63-503. Definitions

As used in this subchapter:

- (1) “An act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the United States Constitution or the Arkansas Constitution in connection with an issue of public interest or concern” includes, but is not limited to, any written or oral statement, writing, or petition made:
  - (A) Before or to a legislative, executive, or judicial proceeding, or other proceeding authorized by a state, regional, county, or municipal government; or

(B) In connection with an issue under consideration or review by a legislative, executive, or judicial body, or other body authorized by a state, regional, county, or municipal government; and

(2)(A) “Privileged communication” means a communication made:

- (i) In, to, or about an issue of public concern related to any legislative, executive, or judicial proceeding, or other proceeding authorized by a state, regional, county, or municipal government;
- (ii) In the proper discharge of an official duty; and
- (iii) By a fair and true report of any legislative, executive, or judicial proceeding, or other proceeding authorized by a state, regional, county, or municipal government, or anything said in the course of the proceeding.

(B) “Privileged communication” also includes:

- (i) All expressions of opinion or criticisms in regard to any legislative, executive, or judicial proceeding, or other proceeding authorized by a state, regional, county, or municipal government; and
- (ii) All criticisms of the official acts of any and all public officers.

(C) “Privileged communication” does not include a statement or report made with knowledge that it was false or with reckless disregard of whether it was false.

#### **§ 16-63-504. Immunity from suit**

Any person making a privileged communication or performing an act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the United States Constitution or the Arkansas Constitution in connection with an issue of public interest or concern shall be immune from civil liability, unless a statement or report was made with knowledge that it was false or with reckless disregard of whether it was false.

#### **§ 16-63-505. Verification requirement**

For any claim asserted against a person or entity arising from possible privileged communication or an act by that person or entity that could reasonably be construed as an act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the United States Constitution or the Arkansas Constitution in connection with an issue of public interest or concern, the party asserting the claim and the party’s attorney of record, if any, shall be required to file contemporaneously with the pleading containing the claim a written verification under oath certifying that:

- (1) The party and his or her attorney of record, if any, have read the claim;

(2) To the best of the knowledge, information, and belief formed after reasonable inquiry of the party or his or her attorney, the claim is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(3) The act forming the basis for the claim is not a privileged communication; and

(4) The claim is not asserted for any improper purpose such as to suppress the right of free speech or right to petition government of a person or entity, to harass, or to cause unnecessary delay or needless increase in the cost of litigation.

### **§ 16-63-506. Failure to properly verify**

(a) If a claim governed by § 16-63-505 is not verified as required by § 16-63-505, the claim shall be stricken unless it is verified within ten (10) days after the omission is called to the attention of the party asserting the claim or his or her attorney of record.

(b)(1) If a claim is verified in violation of § 16-63-505, the court, upon motion or upon its own initiative, shall impose upon the persons who signed the verification, a represented party, or both, an appropriate sanction, which may include dismissal of the claim and an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the claim, including a reasonable attorney's fee.

(2) Other compensatory damages may be recovered only upon the demonstration that the claim was commenced or continued for the purpose of harassing, intimidating, punishing, or maliciously inhibiting a person or entity from making a privileged communication or performing an act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the United States Constitution or the Arkansas Constitution in connection with an issue of public interest or concern.

### **§ 16-63-507. Procedure**

(a)(1) All discovery and any pending hearings or motions in an action for a claim governed by § 16-63-505 shall be stayed upon the filing of a motion to dismiss or a motion to strike under § 16-63-506.

(2) A hearing on a motion filed under § 16-63-506 shall be conducted not more than thirty (30) days after service unless emergency matters before the court require a later hearing.

(b) The court, upon motion and for good cause shown, may order that specified discovery or other hearings or motions be conducted notwithstanding the provisions of subsection (a) of this section.

**§ 16-63-508. Other remedies preserved**

Nothing in this subchapter shall affect or preclude the right of any party to any recovery otherwise authorized by common law, statute, or rule.



# California (1992)

Cal. Civ. Proc. Code § 425.16 through § 425.18

## § 425.16. Anti-SLAPP motion

(a) The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly.

(b)(1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

(2) In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(3) If the court determines that the plaintiff has established a probability that he or she will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

(c)(1) Except as provided in paragraph (2), in any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.

(2) A defendant who prevails on a special motion to strike in an action subject to paragraph (1) shall not be entitled to attorney's fees and costs if that cause of action is brought pursuant to Section 6259, 11130, 11130.3, 54960, or 54960.1 of the Government Code. Nothing in this paragraph shall be construed to prevent a prevailing defendant from recovering attorney's fees and costs pursuant to subdivision (d) of Section 6259, or Section 11130.5 or 54960.5, of the Government Code.

(d) This section shall not apply to any enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or city attorney, acting as a public prosecutor.

(e) As used in this section, “act in furtherance of a person’s right of petition or free speech under the United States or California Constitution in connection with a public issue” includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(f) The special motion may be filed within 60 days of the service of the complaint or, in the court’s discretion, at any later time upon terms it deems proper. The motion shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing.

(g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.

(h) For purposes of this section, “complaint” includes “cross-complaint” and “petition,” “plaintiff” includes “cross-complainant” and “petitioner,” and “defendant” includes “cross-defendant” and “respondent.”

(i) An order granting or denying a special motion to strike shall be appealable under Section 904.1.

(j)(1) Any party who files a special motion to strike pursuant to this section, and any party who files an opposition to a special motion to strike, shall, promptly upon so filing, transmit to the Judicial Council, by e-mail or facsimile, a copy of the endorsed, filed caption page of the motion or opposition, a copy of any related notice of appeal or petition for a writ, and a conformed copy of any order issued pursuant to this section, including any order granting or denying a special motion to strike, discovery, or fees.

(2) The Judicial Council shall maintain a public record of information transmitted pursuant to this subdivision for at least three years, and may store the information on microfilm or other appropriate electronic media.

**§ 425.17. Legislative findings and declarations regarding California Anti-SLAPP Law; application of § 425.16**

(a) The Legislature finds and declares that there has been a disturbing abuse of Section 425.16, the California Anti-SLAPP Law, which has undermined the exercise of the constitutional rights of freedom of speech and petition for the redress of grievances, contrary to the purpose and intent of Section 425.16. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process or Section 425.16.

(b) Section 425.16 does not apply to any action brought solely in the public interest or on behalf of the general public if all of the following conditions exist:

(1) The plaintiff does not seek any relief greater than or different from the relief sought for the general public or a class of which the plaintiff is a member. A claim for attorney's fees, costs, or penalties does not constitute greater or different relief for purposes of this subdivision.

(2) The action, if successful, would enforce an important right affecting the public interest, and would confer a significant benefit, whether pecuniary or nonpecuniary, on the general public or a large class of persons.

(3) Private enforcement is necessary and places a disproportionate financial burden on the plaintiff in relation to the plaintiff's stake in the matter.

(c) Section 425.16 does not apply to any cause of action brought against a person primarily engaged in the business of selling or leasing goods or services, including, but not limited to, insurance, securities, or financial instruments, arising from any statement or conduct by that person if both of the following conditions exist:

(1) The statement or conduct consists of representations of fact about that person's or a business competitor's business operations, goods, or services, that is made for the purpose of obtaining approval for, promoting, or securing sales or leases of, or commercial transactions in, the person's goods or services, or the statement or conduct was made in the course of delivering the person's goods or services.

(2) The intended audience is an actual or potential buyer or customer, or a person likely to repeat the statement to, or otherwise influence, an actual or potential buyer or customer, or the statement or conduct arose out of or within the context of a regulatory approval process, proceeding, or investigation, except where the statement or conduct was made by a telephone corporation in the course of a proceeding before the California Public Utilities Commission and is

the subject of a lawsuit brought by a competitor, notwithstanding that the conduct or statement concerns an important public issue.

- (d) Subdivisions (b) and (c) do not apply to any of the following:
  - (1) Any person enumerated in subdivision (b) of Section 2 of Article I of the California Constitution or Section 1070 of the Evidence Code, or any person engaged in the dissemination of ideas or expression in any book or academic journal, while engaged in the gathering, receiving, or processing of information for communication to the public.
  - (2) Any action against any person or entity based upon the creation, dissemination, exhibition, advertisement, or other similar promotion of any dramatic, literary, musical, political, or artistic work, including, but not limited to, a motion picture or television program, or an article published in a newspaper or magazine of general circulation.
  - (3) Any nonprofit organization that receives more than 50 percent of its annual revenues from federal, state, or local government grants, awards, programs, or reimbursements for services rendered.
  
- (e) If any trial court denies a special motion to strike on the grounds that the action or cause of action is exempt pursuant to this section, the appeal provisions in subdivision (i) of Section 425.16 and paragraph (13) of subdivision (a) of Section 904.1 do not apply to that action or cause of action.

**§ 425.18. SLAPPback actions; motion to strike; limitations periods; discovery; remedies**

- (a) The Legislature finds and declares that a SLAPPback is distinguishable in character and origin from the ordinary malicious prosecution action. The Legislature further finds and declares that a SLAPPback cause of action should be treated differently, as provided in this section, from an ordinary malicious prosecution action because a SLAPPback is consistent with the Legislature's intent to protect the valid exercise of the constitutional rights of free speech and petition by its deterrent effect on SLAPP (strategic lawsuit against public participation) litigation and by its restoration of public confidence in participatory democracy.
  
- (b) For purposes of this section, the following terms have the following meanings:
  - (1) "SLAPPback" means any cause of action for malicious prosecution or abuse of process arising from the filing or maintenance of a prior cause of action that has been dismissed pursuant to a special motion to strike under Section 425.16.
  - (2) "Special motion to strike" means a motion made pursuant to Section 425.16.

(c) The provisions of subdivisions (c), (f), (g), and (i) of Section 425.16, and paragraph (13) of subdivision (a) of Section 904.1, shall not apply to a special motion to strike a SLAPPback.

(d)(1) A special motion to strike a SLAPPback shall be filed within any one of the following periods of time, as follows:

(A) Within 120 days of the service of the complaint.

(B) At the court's discretion, within six months of the service of the complaint.

(C) At the court's discretion, at any later time in extraordinary cases due to no fault of the defendant and upon written findings of the court stating the extraordinary case and circumstance.

(2) The motion shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing.

(e) A party opposing a special motion to strike a SLAPPback may file an ex parte application for a continuance to obtain necessary discovery. If it appears that facts essential to justify opposition to that motion may exist, but cannot then be presented, the court shall grant a reasonable continuance to permit the party to obtain affidavits or conduct discovery or may make any other order as may be just.

(f) If the court finds that a special motion to strike a SLAPPback is frivolous or solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.

(g) Upon entry of an order denying a special motion to strike a SLAPPback claim, or granting the special motion to strike as to some but less than all causes of action alleged in a complaint containing a SLAPPback claim, an aggrieved party may, within 20 days after service of a written notice of the entry of the order, petition an appropriate reviewing court for a peremptory writ.

(h) A special motion to strike may not be filed against a SLAPPback by a party whose filing or maintenance of the prior cause of action from which the SLAPPback arises was illegal as a matter of law.

(i) This section does not apply to a SLAPPback filed by a public entity.

# Connecticut (2018)

Conn. Gen. Stat. Ann. P.A. 17-71, § 1

## § 1. Special motion to dismiss [Tentative name line supplied by publisher]

(a) As used in this section:

(1) “Matter of public concern” means an issue related to (A) health or safety, (B) environmental, economic or community well-being, (C) the government, zoning and other regulatory matters, (D) a public official or public figure, or (E) an audiovisual work;

(2) “Right of free speech” means communicating, or conduct furthering communication, in a public forum on a matter of public concern;

(3) “Right to petition the government” means (A) communication in connection with an issue under consideration or review by a legislative, executive, administrative, judicial or other governmental body, (B) communication that is reasonably likely to encourage consideration or review of a matter of public concern by a legislative, executive, administrative, judicial or other governmental body, or (C) communication that is reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, administrative, judicial or other governmental body;

(4) “Right of association” means communication among individuals who join together to collectively express, promote, pursue or defend common interests; and

(5) “Special motion to dismiss” means the motion permitted pursuant to this section.

(b) In any civil action in which a party files a complaint, counterclaim or cross claim against an opposing party that is based on the opposing party’s exercise of its right of free speech, right to petition the government, or right of association under the Constitution of the United States or the Constitution of the state in connection with a matter of public concern, such opposing party may file a special motion to dismiss the complaint, counterclaim or cross claim.

(c) Any party filing a special motion to dismiss shall file such motion not later than thirty days after the date of return of the complaint, or the filing of a counterclaim or cross claim described in subsection (b) of this section. The court, upon a showing of good cause by a party seeking to file a special motion to dismiss, may extend the time to file a special motion to dismiss.

(d) The court shall stay all discovery upon the filing of a special motion to dismiss. The stay of discovery shall remain in effect until the court grants or denies the special motion to dismiss and any interlocutory appeal thereof. Notwithstanding the entry of an order to stay discovery, the court, upon motion of a party and a showing of good cause, or upon its own motion, may order specified and limited discovery relevant to the special motion to dismiss.

(e) (1) The court shall conduct an expedited hearing on a special motion to dismiss. The expedited hearing shall be held not later than sixty days after the date of filing of such special motion to dismiss, unless, (A) the court orders specified and limited discovery pursuant to subsection (d) of this section, in which case, the expedited hearing shall be held not later than sixty days after the date on which such specified and limited discovery must be completed, (B) the parties agree to a hearing date that is beyond the sixty-day period, or (C) the court, for good cause shown, is unable to schedule the hearing during the sixty-day period.

(2) When ruling on a special motion to dismiss, the court shall consider pleadings and supporting and opposing affidavits of the parties attesting to the facts upon which liability or a defense, as the case may be, is based.

(3) The court shall grant a special motion to dismiss if the moving party makes an initial showing, by a preponderance of the evidence, that the opposing party's complaint, counterclaim or cross claim is based on the moving party's exercise of its right of free speech, right to petition the government, or right of association under the Constitution of the United States or the Constitution of the state in connection with a matter of public concern, unless the party that brought the complaint, counterclaim or cross claim sets forth with particularity the circumstances giving rise to the complaint, counterclaim or cross claim and demonstrates to the court that there is probable cause, considering all valid defenses, that the party will prevail on the merits of the complaint, counterclaim or cross claim.

(4) The court shall rule on a special motion to dismiss as soon as practicable.

(f) (1) If the court grants a special motion to dismiss under this section, the court shall award the moving party costs and reasonable attorney's fees, including such costs and fees incurred in connection with the filing of the special motion to dismiss.

(2) If the court denies a special motion to dismiss under this section and finds that such special motion to dismiss is frivolous and solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to the party opposing such special motion to dismiss.

(g) The findings or determinations made pursuant to subsections (e) and (f) of this section shall not be admitted into evidence at any later stage of the proceeding or in any subsequent action.

(h) The provisions of this section shall not: (1) Apply to an enforcement action that is brought in the name of the state or a political subdivision of the state by the Attorney General; (2) affect or limit the authority of a court to award sanctions, costs, attorney's fees or any other relief available under any statute, court rule or other authority; (3) affect, limit or preclude the right of a party filing a special motion to dismiss to any defense, remedy, immunity or privilege otherwise authorized by law; (4) affect the substantive law governing any asserted claim; (5) create a private right of action; or (6) apply to a common law or statutory claim for

bodily injury or wrongful death, except the exclusion provided in this subdivision shall not apply to claims for (A) emotional distress unrelated to bodily injury or wrongful death or conjoined with a cause of action other than for bodily injury or wrongful death, or (B) defamation, libel or slander. The provisions of this subdivision shall not prohibit a plaintiff who brings a claim for bodily injury or wrongful death from filing a special motion to dismiss a counterclaim under the provisions of this section.



## **Delaware (1992)**

Del. Code Ann. tit. 10, § 8136, through § 8138

### **§ 8136. Actions involving public petition and participation**

(a) For purposes of this section, the following terms shall have the meaning ascribed herein:

(1) An “action involving public petition and participation” is an action, claim, cross-claim or counterclaim for damages that is brought by a public applicant or permittee, and is materially related to any efforts of the defendant to report on, rule on, challenge or oppose such application or permission.

(2) “Communication” shall mean any statement, claim or allegation in a proceeding, decision, protest, writing, argument, contention or other expression.

(3) “Government body” shall mean the State and any county, city, town, village or any other political subdivision of the State; any public improvement or special district, public authority, commission, agency or public benefit corporation; any other separate corporate instrumentality or unit of State or local government; or the federal government.

(4) “Public applicant or permittee” shall mean any person who has applied for or obtained a permit, zoning change, lease, license, certificate or other entitlement for use or permission to act from any government body, or any person with an interest, connection or affiliation with such person that is materially related to such application or permission.

(b) In an action involving public petition and participation, damages may only be recovered if the plaintiff, in addition to all other necessary elements, shall have established by clear and convincing evidence that any communication which gives rise to the action was made with knowledge of its falsity or with reckless disregard of whether it was false, where the truth or falsity of such communication is material to the cause of action at issue.

(c) Nothing in this section shall be construed to limit any constitutional, statutory or common-law protection of defendants to actions involving public petition and participation.

### **§ 8137. Standards for motion to dismiss and summary judgment in certain cases involving public petition and participation**

(a) A motion to dismiss in which the moving party has demonstrated that the action, claim, cross-claim or counterclaim subject to the motion is an action involving public petition and participation as defined in § 8136 of this title shall be granted unless the party responding to the motion demonstrates that the cause of

action has a substantial basis in law or is supported by a substantial argument for an extension, modification or reversal of existing law. The court shall grant preference in the hearing of such motion.

(b) A motion for summary judgment in which the moving party has demonstrated that the action, claim, cross-claim or counterclaim subject to the action is an action involving public petition and participation as defined in § 8136 of this title shall be granted unless the party responding to the motion demonstrates that the cause of action has a substantial basis in fact and law or is supported by a substantial argument for an extension, modification or reversal of existing law. The court shall grant preference in the hearing of such motion.

### **§ 8138. Recovery of damages in actions involving public petition and participation**

(a) A defendant in an action involving public petition and participation, as defined in § 8136 of this title, may maintain an action, claim, cross-claim or counter-claim to recover damages, including costs and attorney's fees, from any person who commenced or continued such action; provided that:

(1) Costs, attorney's fees and other compensatory damages may be recovered upon a demonstration that the action involving public petition and participation was commenced or continued without a substantial basis in fact and law and could not be supported by a substantial argument for the extension, modification or reversal of existing law; and

(2) Punitive damages may only be recovered upon an additional demonstration that the action involving public petition and participation was commenced or continued for the purpose of harassing, intimidating, punishing or otherwise maliciously inhibiting the free exercise of speech, petition or association rights.

(b) The right to bring an action under this section can be waived only if it is waived specifically.

(c) Nothing in this section shall affect or preclude the right of any party to any recovery otherwise authorized by law.

# District of Columbia (2012)

D.C. Code § 16-5501 through § 16-5505

## § 16-5501. Definitions.

For the purposes of this chapter, the term:

(1) “Act in furtherance of the right of advocacy on issues of public interest” means:

(A) Any written or oral statement made:

(i) In connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law; or

(ii) In a place open to the public or a public forum in connection with an issue of public interest; or

(B) Any other expression or expressive conduct that involves petitioning the government or communicating views to members of the public in connection with an issue of public interest.

(2) “Claim” includes any civil lawsuit, claim, complaint, cause of action, cross-claim, counterclaim, or other civil judicial pleading or filing requesting relief.

(3) “Issue of public interest” means an issue related to health or safety; environmental, economic, or community well-being; the District government; a public figure; or a good, product, or service in the market place. The term “issue of public interest” shall not be construed to include private interests, such as statements directed primarily toward protecting the speaker’s commercial interests rather than toward commenting on or sharing information about a matter of public significance.

(4) “Personal identifying information” shall have the same meaning as provided in § 22-3227.01(3).

## § 16-5502. Special motion to dismiss.

(a) A party may file a special motion to dismiss any claim arising from an act in furtherance of the right of advocacy on issues of public interest within 45 days after service of the claim.

(b) If a party filing a special motion to dismiss under this section makes a prima facie showing that the claim at issue arises from an act in furtherance of the right of advocacy on issues of public interest, then the motion shall be granted unless the responding party demonstrates that the claim is likely to succeed on the merits, in which case the motion shall be denied.

(c)(1) Except as provided in paragraph (2) of this subsection, upon the filing of a special motion to dismiss, discovery proceedings on the claim shall be stayed until the motion has been disposed of.

(2) When it appears likely that targeted discovery will enable the plaintiff to defeat the motion and that the discovery will not be unduly burdensome, the court may order that specified discovery be conducted. Such an order may be conditioned upon the plaintiff paying any expenses incurred by the defendant in responding to such discovery.

(d) The court shall hold an expedited hearing on the special motion to dismiss, and issue a ruling as soon as practicable after the hearing. If the special motion to dismiss is granted, dismissal shall be with prejudice.

### **§ 16-5503. Special motion to quash.**

(a) A person whose personal identifying information is sought, pursuant to a discovery order, request, or subpoena, in connection with a claim arising from an act in furtherance of the right of advocacy on issues of public interest may make a special motion to quash the discovery order, request, or subpoena.

(b) If a person bringing a special motion to quash under this section makes a prima facie showing that the underlying claim arises from an act in furtherance of the right of advocacy on issues of public interest, then the motion shall be granted unless the party seeking his or her personal identifying information demonstrates that the underlying claim is likely to succeed on the merits, in which case the motion shall be denied.

### **§ 16-5504. Fees and costs.**

(a) The court may award a moving party who prevails, in whole or in part, on a motion brought under § 16-5502 or § 16-5503 the costs of litigation, including reasonable attorney fees.

(b) The court may award reasonable attorney fees and costs to the responding party only if the court finds that a motion brought under § 16-5502 or § 16-5503 is frivolous or is solely intended to cause unnecessary delay.

### **§ 16-5505. Exemptions.**

This chapter shall not apply to any claim for relief brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct from which the claim arises is:

(1) A representation of fact made for the purpose of promoting, securing, or completing sales or leases of, or commercial transactions in, the person's goods or services; and

(2) The intended audience is an actual or potential buyer or customer.

# Florida (2004, 2000)

Fla. Stat. Ann. §§ 720.304, 768.295

## **720.304. Right of owners to peaceably assemble; display of flag; SLAPP suits prohibited**

\* \* \*

(4) It is the intent of the Legislature to protect the right of parcel owners to exercise their rights to instruct their representatives and petition for redress of grievances before the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that “Strategic Lawsuits Against Public Participation” or “SLAPP” suits, as they are typically called, have occurred when members are sued by individuals, business entities, or governmental entities arising out of a parcel owner’s appearance and presentation before a governmental entity on matters related to the homeowners’ association. However, it is the public policy of this state that government entities, business organizations, and individuals not engage in SLAPP suits because such actions are inconsistent with the right of parcel owners to participate in the state’s institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by governmental entities, business entities, and individuals against parcel owners who address matters concerning their homeowners’ association will preserve this fundamental state policy, preserve the constitutional rights of parcel owners, and assure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts.

(a) As used in this subsection, the term “governmental entity” means the state, including the executive, legislative, and judicial branches of government, the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions, or any agencies of these branches which are subject to chapter 286.

(b) A governmental entity, business organization, or individual in this state may not file or cause to be filed through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against a parcel owner without merit and solely because such parcel owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(c) A parcel owner sued by a governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A parcel owner may petition the court for an order dismissing the action or granting final judgment in favor of that parcel owner. The petitioner may file a motion for summary judgment,

together with supplemental affidavits, seeking a determination that the governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this section. The governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of the governmental entity's, business organization's or individual's response. The court may award the parcel owner sued by the governmental entity, business organization, or individual actual damages arising from the governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing parcel owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(d) Homeowners' associations may not expend association funds in prosecuting a SLAPP suit against a parcel owner.

#### **768.295. Strategic Lawsuits Against Public Participation (SLAPP) prohibited**

(1) It is the intent of the Legislature to protect the right in Florida to exercise the rights of free speech in connection with public issues, and the rights to peacefully assemble, instruct representatives, and petition for redress of grievances before the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. It is the public policy of this state that a person or governmental entity not engage in SLAPP suits because such actions are inconsistent with the right of persons to exercise such constitutional rights of free speech in connection with public issues. Therefore, the Legislature finds and declares that prohibiting such lawsuits as herein described will preserve this fundamental state policy, preserve the constitutional rights of persons in Florida, and assure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts.

(2) As used in this section, the phrase or term:

(a) "Free speech in connection with public issues" means any written or oral statement that is protected under applicable law and is made before a governmental entity in connection with an issue under consideration or review by a governmental entity, or is made in or in connection with a play, movie, television program, radio broadcast, audiovisual work, book, magazine article, musical work, news report, or other similar work.

(b) "Governmental entity" or "government entity" means the state, including the executive, legislative, and the judicial branches of government and the

independent establishments of the state, counties, municipalities, corporations primarily acting as instrumentalities of the state, counties, or municipalities, districts, authorities, boards, commissions, or any agencies thereof.

(3) A person or governmental entity in this state may not file or cause to be filed, through its employees or agents, any lawsuit, cause of action, claim, cross-claim, or counterclaim against another person or entity without merit and primarily because such person or entity has exercised the constitutional right of free speech in connection with a public issue, or right to peacefully assemble, to instruct representatives of government, or to petition for redress of grievances before the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(4) A person or entity sued by a governmental entity or another person in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A person or entity may move the court for an order dismissing the action or granting final judgment in favor of that person or entity. The person or entity may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the claimant's or governmental entity's lawsuit has been brought in violation of this section. The claimant or governmental entity shall thereafter file a response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the motion, which shall be held at the earliest possible time after the filing of the claimant's or governmental entity's response. The court may award, subject to the limitations in s. 768.28, the party sued by a governmental entity actual damages arising from a governmental entity's violation of this section. The court shall award the prevailing party reasonable attorney fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(5) In any case filed by a governmental entity which is found by a court to be in violation of this section, the governmental entity shall report such finding and provide a copy of the court's order to the Attorney General no later than 30 days after such order is final. The Attorney General shall report any violation of this section by a governmental entity to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives. A copy of such report shall be provided to the affected governmental entity.



# Georgia (1996)

Ga. Code. Ann. § 9-11-11.1

## **§ 9-11-11.1. Certification that claim arising from act in furtherance of right of free speech or to petition government for redress of grievances is well grounded in fact and warranted by law**

(a) The General Assembly of Georgia finds and declares that it is in the public interest to encourage participation by the citizens of Georgia in matters of public significance and public interest through the exercise of their constitutional rights of petition and freedom of speech. The General Assembly of Georgia further finds and declares that the valid exercise of the constitutional rights of petition and freedom of speech should not be chilled through abuse of the judicial process. To accomplish the declarations provided for under this subsection, this Code section shall be construed broadly.

(b)(1) A claim for relief against a person or entity arising from any act of such person or entity which could reasonably be construed as an act in furtherance of the person's or entity's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Georgia in connection with an issue of public interest or concern shall be subject to a motion to strike unless the court determines that the nonmoving party has established that there is a probability that the nonmoving party will prevail on the claim.

(2) In making the determination as provided for in paragraph (1) of this subsection, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based; provided, however, that if there exists a claim that the nonmoving party is a public figure plaintiff, then the nonmoving party shall be entitled to discovery on the sole issue of actual malice whenever actual malice is relevant to the court's determination under paragraph (1) of this subsection.

(3) If the court determines that the nonmoving party under paragraph (1) of this subsection has established a probability that he or she would prevail on the claim, neither that determination nor the fact of such determination shall be admissible in evidence at any later stage of the case or in any subsequent action and no burden of proof or degree of proof otherwise applicable shall be affected by such determination in any later stage of the case or in any subsequent proceeding.

(b.1) In any action subject to subsection (b) of this Code section, a prevailing moving party on a motion to strike shall be granted the recovery of attorney's fees and expenses of litigation related to the action in an amount to be determined by the court based on the facts and circumstances of the case. If the court finds that a motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award attorney's fees and expenses of litigation to the nonmoving party prevailing on the motion for the attorney's fees and expenses of litigation associated

with the motion in an amount to be determined by the court based on the facts and circumstances of the case.

(c) As used in this Code section, the term “act in furtherance of the person’s or entity’s right of petition or free speech under the Constitution of the United States or the Constitution of the State of Georgia in connection with an issue of public interest or concern” shall include:

(1) Any written or oral statement or writing or petition made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law;

(2) Any written or oral statement or writing or petition made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law;

(3) Any written or oral statement or writing or petition made in a place open to the public or a public forum in connection with an issue of public interest or concern; or

(4) Any other conduct in furtherance of the exercise of the constitutional right of petition or free speech in connection with a public issue or an issue of public concern.

(d) All discovery and any pending hearings or motions in the action shall be stayed upon the filing of a motion to dismiss or a motion to strike made pursuant to subsection (b) of this Code section until a final decision on the motion. The motion shall be heard not more than 30 days after service unless the emergency matters before the court require a later hearing. The court, on noticed motion and for good cause shown, may order that specified discovery or other hearings or motions be conducted notwithstanding this subsection.

(e) An order granting or denying a motion to dismiss or a motion to strike shall be subject to direct appeal in accordance with subsection (a) of Code Section 5-6-34.

(f) Nothing in this Code section shall affect or preclude the right of any party to any recovery otherwise authorized by common law, statute, law, or rule.

(g) This Code section shall not apply to any action brought by the Attorney General or a prosecuting attorney, or a city attorney acting as a prosecutor, to enforce laws aimed at public protection.

(h) Attorney’s fees and expenses of litigation under this Code section shall be requested by motion at any time during the course of the action but not later than 45 days after the final disposition, including but not limited to dismissal by the plaintiff, of the action.

# Guam (1998)

Guam Code Ann. tit. 7, § 17101 through § 17109

## § 17101. Short Title.

This Chapter may be cited as the “Citizen Participation in Government Act of 1998.”

## § 17102. Legislative Findings and Declaration of Purposes.

(a) Findings. I Liheslaturan Guåhan [The Guam Legislature] finds and declares that:

(1) the framers of the United States Constitution, recognizing citizen participation in government as an inalienable right essential to the survival of democracy, secured its protection through the right to petition the government for redress of grievances in the First Amendment to the U.S. Constitution;

(2) the communications, information, opinions, reports, testimony, claims and arguments provided by citizens to their governments are essential to the making of wise government decisions and public policy; the public health, safety and welfare; effective law enforcement; the efficient operation of government programs; the credibility and trust afforded government; and the continuation of America's republican form of government through representative democracy in America;

(3) civil lawsuits and counterclaims, often claiming millions of dollars, have been, and are being, filed against thousands of citizens, businesses and organizations based on their valid exercise of their right to petition, including seeking relief, influencing action, informing, communicating, and otherwise participating with government bodies, officials, or employees or the electorate;

(4) such lawsuits, called “Strategic Lawsuits Against Public Participation” or “SLAPPs,” are typically dismissed as unconstitutional, but often not before the defendants are put to great expense, harassment and interruption of their productive activities;

(5) the number of SLAPPs has increased significantly over the past thirty (30) years;

(6) SLAPPs are an abuse of the judicial process; they are used to censor, chill, intimidate, or punish citizens, businesses and organizations for involving themselves in public affairs, and controlling SLAPPs will make a major contribution to lawsuit reform;

(7) the threat of financial liability, litigation costs, destruction of one's business, loss of one's home and other personal losses from groundless lawsuits seriously affects government, public welfare and individual rights by significantly diminishing public participation in government, in public issues and in voluntary service;

(8) while courts have recognized and discouraged SLAPPS, judicial protection of these important rights has not been uniform or comprehensive; and  
(9) while some citizen communications to government inevitably will be incorrect, unsound, self-interested or not in good faith, it is essential in our democracy that the constitutional rights of citizens to participate fully in the process of government be uniformly, consistently, and comprehensively protected and encouraged.

(b) Purposes. The purposes of this Chapter are:

(1) to protect and encourage citizen participation in government to the maximum extent permitted by law;

(2) to create a more equitable balance between the rights of persons to file lawsuits and to trial by jury, and the rights of other persons to petition, speak out, associate and otherwise participate in their governments;

(3) to support the operation of and assure the continuation of representative government in America, including the protection and regulation of public health, safety and welfare by protecting public participation in government programs, public policy decisions and other actions;

(4) to establish a balanced, uniform, comprehensive process for speedy adjudication of SLAPPs, as a major contribution to lawsuit reform; and

(5) to provide for attorneys fees, costs, sanctions and damages for persons whose citizen participation rights have been violated by the filing of a SLAPP against them.

### **§ 17103. Definitions.**

As used in this Chapter:

(a) “Government” includes a branch, department, agency, instrumentality, official, employee, agent or other person acting under color of law of the United States, a State, a Territory, or a subdivision of a State or Territory, including municipalities and their boards, commissions, and departments, or other public authority, including the electorate.

(b) “Person” includes any individual, corporation, association, organization, partnership, two (2) or more persons having a joint or common interest, or other legal entity.

(c) “Judicial claim” or “claim” includes any lawsuit, cause of action, claim, cross-claim, counterclaim, or other judicial pleading or filing requesting relief.

(d) “Motion” includes any motion to dismiss, for summary judgment, for judgment on the pleadings, to strike, demurrer, or any other judicial pleading filed to dispose of a judicial claim.

(e) “Moving party” means any person on whose behalf the motion described in § 17104 is filed seeking dismissal of the judicial claim.

(f) “Responding party” means any person against whom the motion described in § 17104 is filed.

#### **§ 17104. Immunity.**

Acts in furtherance of the Constitutional rights to petition, including seeking relief, influencing action, informing, communicating and otherwise participating in the processes of government, shall be immune from liability, regardless of intent or purpose, except where not aimed at procuring any government or electoral action, result or outcome.

#### **§ 17105. Applicability.**

This Chapter applies to any motion to dispose of a claim in a judicial proceeding on the grounds that the claim is based on, relates to or is in response to any act of the moving party in furtherance of the moving party's rights as described in § 17104.

#### **§ 17106. Required Procedures.**

On the filing of any motion as described in § 17105:

(a) the motion shall be treated as one for summary judgment:

(1) the trial court shall use a time period appropriate to preferred or expedited motions; and

(2) the moving party shall have a right of expedited appeal from a trial court order denying such a motion or from a trial court failure to rule on such a motion in expedited fashion;

(b) discovery shall be suspended, pending decision on the motion and appeals;

(c) the responding party shall have the burden of proof, of going forward with the evidence and of persuasion on the motion;

(d) the court shall make its determination based on the facts contained in pleadings and affidavits filed;

(e) the court shall grant the motion and dismiss the judicial claim, unless the responding party has produced clear and convincing evidence that the acts of the moving party are not immunized from liability by § 17104;

(f) any government body to which the moving party's acts were directed, or the Attorney General of this Island, may intervene, defend or otherwise support the moving party in the SLAPP;

(g) the court shall award a moving party who is dismissed, without regards to any limit under Guam law:

(1) costs of litigation, including reasonable attorney and expert witness fees, incurred in connection with the motion; and

(2) such additional sanctions upon the responding party, its attorneys or law firms as it determines will be sufficient to deter repetition of such conduct and comparable conduct by others similarly situated; and

(h) a person damaged or injured by reason of a claim filed in violation of their rights under § 17104 may seek relief in the form of a claim for actual or compensatory damages, as well as punitive damages, attorney's fees and costs, from the person or persons responsible.

#### **§ 17107. Relationship to Other Laws.**

Nothing in this Chapter shall limit or preclude any rights the moving party may have under any other constitutional, statutory, case or common law, or rule provisions.

#### **§ 17108. Rule of Construction.**

This Chapter shall be construed liberally to effectuate its purposes and intent fully.

#### **§ 17109. Separability of Provisions.**

If any provision of this Chapter or the application of any provision of this Chapter to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of this Chapter shall not be affected thereby.

# Hawaii (2002)

Haw. Rev. Stat. § 634F-1 through § 634F-4

## § 634F-1. Definitions

As used in this chapter, unless the context otherwise requires:

“Governmental body” includes a branch, department, agency, instrumentality, official, employee, agent, or other person acting under color of law of the United States, a state, or subdivision of a state or other public authority.

“Judicial claim” or “claim” includes any lawsuit, cause of action, claim, cross-claim, counterclaim, or other judicial pleading or filing requesting relief.

“Lacks substantial justification” means substantially frivolous, substantially groundless, or substantially vexatious.

“Motion” includes any motion to dismiss, for summary judgment, for judgment on the pleadings or to strike, a demurrer, or any other judicial pleading filed to dispose of a judicial claim.

“Moving party” means any person on whose behalf the motion described in section 634F-2 is filed seeking dismissal of the judicial claim.

“Person” includes any individual, corporation, association, organization, partnership, two or more persons having a joint or common interest, or other legal entity.

“Public participation” means any oral or written testimony submitted or provided to a governmental body during the course of a governmental proceeding.

“Responding party” means any person against whom the motion described in section 634F-2 is filed.

“SLAPP” means a strategic lawsuit against public participation and refers to a lawsuit that lacks substantial justification or is interposed for delay or harassment and that is solely based on the party’s public participation before a governmental body.

## **§ 634F-2. Required procedures; motion**

Notwithstanding any law to the contrary, including rules of court, upon the filing of any motion to dispose of a claim in a judicial proceeding on the grounds that the claim is based on, relates to, or involves public participation and is a SLAPP lawsuit:

(1) The motion shall be treated as a motion for judgment on the pleadings, matters outside the pleadings shall be excluded by the court, and the court shall expedite the hearing of the motion;

(2) The moving party shall have a right:

(A) To an immediate appeal from a court order denying the motion; and

(B) To file an application for a writ of mandamus if the court fails to rule on the motion in an expedited fashion;

(3) Discovery shall be suspended, pending decision on the motion and appeals;

(4) The responding party shall:

(A) Without leave of court, have seven days to amend its pleadings to be pled with specificity, and shall include such supporting particulars as are peculiarly within the supporting pleader's knowledge; and

(B) Have the burden of proof and persuasion on the motion;

(5) The court shall make its determination based upon the allegations contained in the pleadings;

(6) The court shall grant the motion and dismiss the judicial claim, unless the responding party has demonstrated that more likely than not, the respondent's allegations do not constitute a SLAPP lawsuit as defined in section 634F-1;

(7) Any governmental body to which the moving party's acts were directed or the attorney general in the case of a state governmental body, or the county attorney or corporation counsel in the case of a county governmental body may intervene to defend or otherwise support the moving party in the lawsuit;

(8) The court shall award a moving party who prevails on the motion, without regard to any limits under state law:

(A) Actual damages or \$5,000, whichever is greater;

(B) Costs of suit, including reasonable attorneys' and expert witness fees, incurred in connection with the motion; and

(C) Such additional sanctions upon the responding party, its attorneys, or law firms as the court determines shall be sufficient to deter repetition of the conduct and comparable conduct by others similarly situated; and



(9) Any person damaged or injured by reason of a claim filed in violation of their rights under this chapter may seek relief in the form of a claim for actual or compensatory damages, as well as punitive damages, attorneys' fees, and costs, from the person responsible.

### **§ 634F-3. Relationship to other laws**

Nothing in this chapter shall limit or preclude any rights the moving party may have under any other constitutional, statutory, case or common law, or rule provisions.

### **§ 634F-4. Rule of construction**

This chapter shall be construed liberally to fully effectuate its purposes and intent.

# Illinois (2007)

735 Ill. Comp. Stat. 110/15 through 110/99

## **110/15. Applicability**

§ 15. Applicability. This Act applies to any motion to dispose of a claim in a judicial proceeding on the grounds that the claim is based on, relates to, or is in response to any act or acts of the moving party in furtherance of the moving party's rights of petition, speech, association, or to otherwise participate in government.

Acts in furtherance of the constitutional rights to petition, speech, association, and participation in government are immune from liability, regardless of intent or purpose, except when not genuinely aimed at procuring favorable government action, result, or outcome.

## **110/20. Motion procedure and standards**

§ 20. Motion procedure and standards.

(a) On the filing of any motion as described in Section 15, a hearing and decision on the motion must occur within 90 days after notice of the motion is given to the respondent. An appellate court shall expedite any appeal or other writ, whether interlocutory or not, from a trial court order denying that motion or from a trial court's failure to rule on that motion within 90 days after that trial court order or failure to rule.

(b) Discovery shall be suspended pending a decision on the motion. However, discovery may be taken, upon leave of court for good cause shown, on the issue of whether the movants acts are not immunized from, or are not in furtherance of acts immunized from, liability by this Act.

(c) The court shall grant the motion and dismiss the judicial claim unless the court finds that the responding party has produced clear and convincing evidence that the acts of the moving party are not immunized from, or are not in furtherance of acts immunized from, liability by this Act.

## **110/25. Attorney's fees and costs**

§ 25. Attorney's fees and costs. The court shall award a moving party who prevails in a motion under this Act reasonable attorney's fees and costs incurred in connection with the motion.

### **110/30. Construction of Act**

§ 30. Construction of Act.

(a) Nothing in this Act shall limit or preclude any rights the moving party may have under any other constitutional, statutory, case or common law, or rule provisions.

(b) This Act shall be construed liberally to effectuate its purposes and intent fully.

### **110/35. Severability**

§ 35. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

### **110/99. Effective date**

§ 99. Effective date. This Act takes effect upon becoming law.

# Indiana (1998)

Ind. Code § 34-7-7-1 through § 34-7-7-10

## **34-7-7-1 Applicability**

Sec. 1. (a) This chapter applies to an act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue or an issue of public interest that arises after June 30, 1998. This chapter does not apply to an action that was filed and is pending before July 1, 1998.

(b) This chapter does not apply to an enforcement action brought in the name of the state of Indiana by the attorney general, a prosecuting attorney, or another attorney acting as a public prosecutor.

## **34-7-7-2 “Act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue” defined**

Sec. 2. As used in this chapter, “act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue” includes any conduct in furtherance of the exercise of the constitutional right of:

- (1) petition; or
- (2) free speech;

in connection with a public issue or an issue of public interest.

## **34-7-7-3 “Claim” defined**

Sec. 3. As used in this chapter, “claim” means:

- (1) a lawsuit;
  - (2) a cause of action;
  - (3) a petition;
  - (4) a complaint;
  - (5) a cross claim;
  - (6) a counterclaim; or
  - (7) any other judicial pleading or filing;
- that requests legal or equitable relief.

#### **34-7-7-4 “Person” defined**

Sec. 4. As used in this chapter, “person” means any of the following:

- (1) An individual.
- (2) Any other legal entity.

#### **34-7-7-5 Conditions under which rights of petition or free speech may be used as defense**

Sec. 5. It is a defense in a civil action against a person that the act or omission complained of is:

- (1) an act or omission of that person in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue; and
- (2) an act or omission taken in good faith and with a reasonable basis in law and fact.

#### **34-7-7-6 Discovery; stay pending motion to dismiss**

Sec. 6. All discovery proceedings in the action are stayed upon the filing of a motion to dismiss made under this chapter, except for discovery relevant to the motion.

#### **34-7-7-7 Costs and attorney fees; defendant successful in motion to dismiss**

Sec. 7. A prevailing defendant on a motion to dismiss made under this chapter is entitled to recover reasonable attorney's fees and costs.

#### **34-7-7-8 Costs and attorney fees; defendant unsuccessful in motion to dismiss**

Sec. 8. If a court finds that a motion to dismiss made under this chapter is:

- (1) frivolous; or
  - (2) solely intended to cause unnecessary delay;
- the plaintiff is entitled to recover reasonable attorney's fees and costs to answer the motion.

### **34-7-7-9 Motion to dismiss; procedures and determination**

Sec. 9. (a) If a person files a motion to dismiss under this chapter, the court in which the motion is filed shall do the following:

- (1) Treat the motion as a motion for summary judgment.
- (2) Establish a reasonable time period, not to exceed one hundred eighty (180) days, to expedite and rule on the motion.
- (3) Specify time limits for the discovery of evidence to respond to material issues raised in the motion.

(b) The person who files a motion to dismiss must state with specificity the public issue or issue of public interest that prompted the act in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana.

(c) The court shall make its determination based on the facts contained in the pleadings and affidavits filed and discovered under the expedited proceeding.

(d) The motion to dismiss shall be granted if the court finds that the person filing the motion has proven, by a preponderance of the evidence, that the act upon which the claim is based is a lawful act in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana.

(e) The court must act on the motion to dismiss within thirty (30) days from the submission of evidence made by motion to the court that is discovered within the specific expedited time period allowed.

(f) If a court does not act within the thirty (30) days provided in subsection (e), the person filing the motion may appeal the matter based on the court's failure to rule on the motion.

### **34-7-7-10 Remedy in addition to other remedies provided by law**

Sec. 10. The remedy provided by this chapter is in addition to other remedies provided by law.

# Kansas (2016)

Kan. Stat. Ann § 60-5320

## **60-5320. Public speech protection act**

(a) This section shall be known and may be cited as the public speech protection act.

(b) The purpose of the public speech protection act is to encourage and safeguard the constitutional rights of a person to petition, and speak freely and associate freely, in connection with a public issue or issue of public interest to the maximum extent permitted by law while, at the same time, protecting the rights of a person to file meritorious lawsuits for demonstrable injury.

(c) As used in the public speech protection act:

(1) “Claim” means any lawsuit, cause of action, claim, cross-claim, counterclaim or other judicial pleading or filing requesting relief.

(2) “Communication” means the making or submitting of a statement or document in any form or medium, including oral, visual, written or electronic.

(3) “Exercise of the right of association” means a communication between individuals who join together to collectively express, promote, pursue or defend common interests.

(4) “Exercise of the right of free speech” means a communication made in connection with a public issue or issue of public interest.

(5) “Exercise of the right to petition” means any of the following:

(A) A communication in or pertaining to:

(i) A judicial proceeding;

(ii) an official proceeding, other than a judicial proceeding, to administer the law;

(iii) an executive or other proceeding before a department of the state, federal government, or other political subdivision of the state;

(iv) a legislative proceeding, including a proceeding of a legislative committee;

(v) a proceeding before an entity that requires by rule that public notice be given before proceedings of such entity;

(vi) a proceeding in or before a managing board of an educational institution supported directly or indirectly from public revenue;

(vii) a proceeding of the governing body of any political subdivision of this state;

(viii) a report of or debate and statements made in a proceeding described by subsection (c)(5)(A)(iii), (iv), (v), (vi) or (vii); or

(ix) a public meeting dealing with a public purpose, including statements and discussions at the meeting or other public issues or issues of public interest occurring at the meeting;

(B) a communication in connection with an issue under consideration or review by a legislative, executive, judicial or other governmental or official proceeding;

(C) a communication that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, judicial or other governmental or official proceeding;

(D) a communication reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, judicial or other governmental or official proceeding; and

(E) any other communication or conduct that falls within the protection of the right to petition the government under the constitution of the United States or the constitution of the state of Kansas.

(6) “Governmental proceeding” means a proceeding, other than a judicial proceeding, by an officer, official or body or political subdivision of this state, including a board or commission, or by an officer, official or body of the federal government.

(7) “Public issue or issue of public interest” includes an issue related to:

(A) Health or safety;

(B) environmental, economic or community well-being;

(C) the government;

(D) a public official or public figure; or

(E) a good, product or service in the marketplace.

(8) “Moving party” means any person on whose behalf the motion to strike is filed seeking to strike a claim.

(9) “Official proceeding” means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant.

(10) “Public servant” means a person elected, selected, appointed, employed or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed the person’s duties:

(A) An officer, employee or agent of government;

(B) a juror;

(C) an arbitrator, mediator or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;

(D) an attorney or notary public when participating in the performance of a governmental function; or

(E) a person who is performing a governmental function under a claim of right but is not legally qualified to do so.

(d) A party may bring a motion to strike the claim if a claim is based on, relates to or is in response to a party’s exercise of the right of free speech, right to petition or right of association. A party bringing the motion to strike has the initial burden of making a prima facie case showing the claim against which the motion is based concerns a party’s exercise of the right of free speech, right to petition or right of association. If the moving party meets the burden, the burden shifts to the



responding party to establish a likelihood of prevailing on the claim by presenting substantial competent evidence to support a prima facie case. If the responding party meets the burden, the court shall deny the motion. In making its determination, the court shall consider pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based. If the court determines the responding party established a likelihood of prevailing on the claim: (1) The fact that the court made that determination and the substance of the determination may not be admitted into evidence later in the case; and (2) the determination does not affect the burden or standard of proof in the proceeding. The motion to strike made under this subsection may be filed within 60 days of the service of the most recent complaint or, in the court's discretion, at any later time upon terms it deems proper. A hearing shall be held on the motion not more than 30 days after the service of the motion.

(e)(1) On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion. (2) Except as provided by subsection (e)(1), all discovery, motions or other pending hearings shall be stayed upon the filing of the motion to strike. The stay of discovery shall remain in effect until the entry of the order ruling on the motion except that the court, on motion and for good cause shown, may order that specified discovery, motions or other pending hearings be conducted.

(f) The movant in a motion to strike has the right to: (1) Petition for a writ of mandamus if the trial court fails to rule on the motion in an expedited fashion; or (2) file an interlocutory appeal from a trial court order denying the motion to strike, if notice of appeal is filed within 14 days after entry of such order. However, under subsections (f)(1) and (2), further proceedings in the trial court shall be stayed pending determination of the appeal.

(g) The court shall award the defending party, upon a determination that the moving party has prevailed on its motion to strike, without regard to any limits under state law: (1) Costs of litigation and reasonable attorney fees; and (2) such additional relief, including sanctions upon the responding party and its attorneys and law firms, as the court determines necessary to deter repetition of the conduct by others similarly situated. If the court finds that the motion to strike is frivolous or solely intended to cause delay, the court shall award to the responding party reasonable attorney fees and costs related to the motion.

(h) This section does not apply to:

- (1) An enforcement action that is brought in the name of this state or a political subdivision of this state by the attorney general or a district or county attorney;
- (2) a claim brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct arises out of the sale or lease of goods, services or an insurance product, insurance services or a

commercial transaction in which the intended audience is an actual or potential buyer or customer, except as provided in subsection (i); or  
(3) a claim brought under the Kansas insurance code or arising out of an insurance contract.

(i) Subsection (h)(2) shall not apply to any action against any person or entity based upon the creation, dissemination, exhibition, advertisement or other similar promotion of any dramatic, literary, musical, political or artistic work, including, but not limited to, a motion picture or television program, or an article published in a newspaper or magazine of general circulation.

(j) In any case filed by a government contractor that is found by a court to be in violation of this section, the court shall provide for its ruling to be sent to the head of the relevant governmental entity doing business with the contractor.

(k) The provisions of the public speech protection act shall be applied and construed liberally to effectuate its general purposes. If any provision of the public speech protection act or its application is held invalid, the invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

**Louisiana (1999)**  
La. Code Civ. Proc. Ann. art. 971

**Art. 971. Special motion to strike**

A. (1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or Louisiana Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established a probability of success on the claim.

(2) In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(3) If the court determines that the plaintiff has established a probability of success on the claim, that determination shall be admissible in evidence at any later stage of the proceeding.

B. In any action subject to Paragraph A of this Article, a prevailing party on a special motion to strike shall be awarded reasonable attorney fees and costs.

C. (1) The special motion may be filed within ninety days of service of the petition, or in the court's discretion, at any later time upon terms the court deems proper.

(2) If the plaintiff voluntarily dismisses the action prior to the running of the delays for filing an answer, the defendant shall retain the right to file a special motion to strike within the delays provided by Subparagraph (1) of this Paragraph, and the motion shall be heard pursuant to the provisions of this Article.

(3) The motion shall be noticed for hearing not more than thirty days after service unless the docket conditions of the court require a later hearing.

D. All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this Article. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. Notwithstanding the provisions of this Paragraph, the court, on noticed motion and for good cause shown, may order that specified discovery be conducted.

E. This Article shall not apply to any enforcement action brought on behalf of the state of Louisiana by the attorney general, district attorney, or city attorney acting as a public prosecutor.

F. As used in this Article, the following terms shall have the meanings ascribed to them below, unless the context clearly indicates otherwise:

(1) “Act in furtherance of a person's right of petition or free speech under the United States or Louisiana Constitution in connection with a public issue” includes but is not limited to:

(a) Any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law.

(b) Any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official body authorized by law.

(c) Any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest.

(d) Any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(2) “Petition” includes either a petition or a reconventional demand.

(3) “Plaintiff” includes either a plaintiff or petitioner in a principal action or a plaintiff or petitioner in reconvention.

(4) “Defendant” includes either a defendant or respondent in a principal action or a defendant or respondent in reconvention.

## Maine (1995)

Me. Rev. Stat. Ann. tit. 14, § 556

### § 556. Special motion to dismiss

When a moving party asserts that the civil claims, counterclaims or cross claims against the moving party are based on the moving party's exercise of the moving party's right of petition under the Constitution of the United States or the Constitution of Maine, the moving party may bring a special motion to dismiss. The special motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The court shall grant the special motion, unless the party against whom the special motion is made shows that the moving party's exercise of its right of petition was devoid of any reasonable factual support or any arguable basis in law and that the moving party's acts caused actual injury to the responding party. In making its determination, the court shall consider the pleading and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

The Attorney General on the Attorney General's behalf or on behalf of any government agency or subdivision to which the moving party's acts were directed may intervene to defend or otherwise support the moving party on the special motion.

All discovery proceedings are stayed upon the filing of the special motion under this section, except that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery remains in effect until notice of entry of the order ruling on the special motion. The special motion to dismiss may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms the court determines proper.

If the court grants a special motion to dismiss, the court may award the moving party costs and reasonable attorney's fees, including those incurred for the special motion and any related discovery matters. This section does not affect or preclude the right of the moving party to any remedy otherwise authorized by law. As used in this section, "a party's exercise of its right of petition" means any written or oral statement made before or submitted to a legislative, executive or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to enlist public participation in an effort to effect such consideration; or any

other statement falling within constitutional protection of the right to petition government.

# **Maryland (2004)**

Md. Code Ann., Cts. & Jud. Proc. § 5-807

## **§ 5-807. Strategic lawsuits against public participation (SLAPP)**

### **SLAPP suit defined**

(a) In this section, “SLAPP suit” means a strategic lawsuit against public participation.

### **SLAPP suits, generally**

(b) A lawsuit is a SLAPP suit if it is:

- (1) Brought in bad faith against a party who has communicated with a federal, State, or local government body or the public at large to report on, comment on, rule on, challenge, oppose, or in any other way exercise rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body or any issue of public concern;
- (2) Materially related to the defendant's communication; and
- (3) Intended to inhibit or inhibits the exercise of rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights.

### **Communications with federal, State, or local government bodies or the public**

(c) A defendant in a SLAPP suit is not civilly liable for communicating with a federal, State, or local government body or the public at large, if the defendant, without constitutional malice, reports on, comments on, rules on, challenges, opposes, or in any other way exercises rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body or any issue of public concern.

### **Motions to dismiss or stay proceedings**

(d) A defendant in an alleged SLAPP suit may move to:

- (1) Dismiss the alleged SLAPP suit, in which case the court shall hold a hearing on the motion to dismiss as soon as practicable; or
- (2) Stay all court proceedings until the matter about which the defendant communicated to the government body or the public at large is resolved.

### **Construction and application of section**

(e) This section:

- (1) Is applicable to SLAPP suits notwithstanding any other law or rule; and

(2) Does not diminish any equitable or legal right or remedy otherwise available to a defendant in a SLAPP suit.



# Massachusetts (1994)

Mass. Gen. Laws ch. 231, §59H

## **§ 59H. Strategic litigation against public participation; special motion to dismiss**

In any case in which a party asserts that the civil claims, counterclaims, or cross claims against said party are based on said party's exercise of its right of petition under the constitution of the United States or of the commonwealth, said party may bring a special motion to dismiss. The court shall advance any such special motion so that it may be heard and determined as expeditiously as possible. The court shall grant such special motion, unless the party against whom such special motion is made shows that: (1) the moving party's exercise of its right to petition was devoid of any reasonable factual support or any arguable basis in law and (2) the moving party's acts caused actual injury to the responding party. In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

The attorney general, on his behalf or on behalf of any government agency or subdivision to which the moving party's acts were directed, may intervene to defend or otherwise support the moving party on such special motion.

All discovery proceedings shall be stayed upon the filing of the special motion under this section; provided, however, that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery shall remain in effect until notice of entry of the order ruling on the special motion.

Said special motion to dismiss may be filed within sixty days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. If the court grants such special motion to dismiss, the court shall award the moving party costs and reasonable attorney's fees, including those incurred for the special motion and any related discovery matters. Nothing in this section shall affect or preclude the right of the moving party to any remedy otherwise authorized by law.

As used in this section, the words "a party's exercise of its right of petition" shall mean any written or oral statement made before or submitted to a legislative, executive, or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other governmental proceeding; any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive, or judicial body or any other governmental proceeding; any statement reasonably likely to enlist public participation in an effort to effect such

consideration; or any other statement falling within constitutional protection of the right to petition government.

# Minnesota (1994)

Minn. Stat. § 554.01 through § 554.06

Held unconstitutional by *Leiendecker v. Asian Women United of Minnesota*,  
895 N.W.2d 623, 635-37 (Minn. 2017)

## 554.01. Definitions

**Subdivision 1. Scope.** The definitions in this section apply to this chapter.

**Subd. 2. Government.** “Government” includes a branch, department, agency, official, employee, agent, or other person with authority to act on behalf of the federal government, this state, or any political subdivision of this state, including municipalities and their boards, commissions, and departments, or other public authority.

**Subd. 3. Judicial claim; claim.** “Judicial claim” or “claim” includes any civil lawsuit, cause of action, claim, cross-claim, counterclaim, or other judicial pleading or filing seeking damages for an alleged injury. “Judicial claim” does not include a claim solely for injunctive relief.

**Subd. 4. Motion.** “Motion” includes any motion to dismiss, motion for summary judgment, or any other judicial pleading filed to dispose of a judicial claim.

**Subd. 5. Moving party.** “Moving party” means any person on whose behalf the motion described in section 554.02, subdivision 1, is filed seeking dismissal of an action under this chapter.

**Subd. 6. Public participation.** “Public participation” means speech or lawful conduct that is genuinely aimed in whole or in part at procuring favorable government action, including but not limited to:

- (1) seeking assistance from, or reporting suspected unlawful conduct to, law enforcement;
- (2) speaking before a zoning board regarding a real estate development project;
- (3) communicating with an elected official concerning a change in law;
- (4) demonstrating peacefully for or against a government action; and
- (5) filing a complaint with a government entity regarding safety, sexual harassment, civil rights, or equal employment rights.

**Subd. 7. Responding party.** “Responding party” means any person against whom a motion described in section 554.02, subdivision 1, is filed.

## **554.02. Protection of citizens to participate in government**

**Subdivision 1. Applicability.** This section applies to any motion in a judicial proceeding to dispose of a judicial claim on the grounds that the claim materially relates to an act of the moving party that involves public participation.

**Subd. 2. Procedure.** On the filing of any motion described in subdivision 1:

- (1) discovery must be suspended pending the final disposition of the motion, including any appeal; provided that the court may, on motion and after a hearing and for good cause shown, order that specified and limited discovery be conducted;
- (2) the responding party has the burden of proof, of going forward with the evidence, and of persuasion on the motion;
- (3) the court shall grant the motion and dismiss the judicial claim unless the court finds that the responding party has produced clear and convincing evidence that the acts of the moving party are not immunized from liability under section 554.03; and
- (4) any governmental body to which the moving party's acts were directed or the attorney general's office may intervene in, defend, or otherwise support the moving party.

## **554.03. Immunity**

Lawful conduct or speech that is genuinely aimed in whole or in part at procuring favorable government action is immune from liability, unless the conduct or speech constitutes a tort or a violation of a person's constitutional rights.

## **554.04. Fees and damages**

**Subdivision 1. Attorney fees and costs.** The court shall award a moving party who prevails in a motion under this chapter reasonable attorney fees and costs associated with the bringing of the motion.

**Subd. 2. Damages.** (a) A moving party may petition the court for damages under this section in conjunction with a motion under this chapter.

(b) If a motion under this chapter is granted and the moving party demonstrates that the respondent brought the cause of action in the underlying lawsuit for the purpose of harassment, to inhibit the moving party's public participation, to interfere with the moving party's exercise of protected constitutional rights, or otherwise wrongfully injure the moving party, the court shall award the moving

party actual damages. The court may award the moving party punitive damages under section 549.20. A motion to amend the pleadings under section 549.191 is not required under this section, but the claim for punitive damages must meet all other requirements of section 549.191.

#### **554.045. Action in district court**

A person may bring an action under this section in state district court against a respondent who has brought a claim in federal court that materially relates to public participation by the person. If the person demonstrates that the respondent's action in federal court was brought for the purpose of harassment, to inhibit the person's public participation, to interfere with the person's exercise of protected constitutional rights, or otherwise wrongfully injure the person, the court shall award the person actual damages and reasonable attorney fees and costs. The court may award the person punitive damages under section 549.20.

#### **554.05. Relationships to other law**

Nothing in this chapter limits or precludes any rights the moving party or responding party may have under any other constitutional, statutory, case, or common law, or rule. Nothing in this chapter exempts individuals from their professional obligations of confidentiality.

#### **554.06. Rule of construction**

This chapter shall be construed liberally to effectuate its purposes and intent.

# Missouri (2004)

Mo. Rev. Stat. § 537.528

## **537.528. Actions for conduct or speech at public hearings and meetings to be considered on expedited basis—procedural issues**

1. Any action against a person for conduct or speech undertaken or made in connection with a public hearing or public meeting, in a quasi-judicial proceeding before a tribunal or decision-making body of the state or any political subdivision of the state is subject to a special motion to dismiss, motion for judgment on the pleadings, or motion for summary judgment that shall be considered by the court on a priority or expedited basis to ensure the early consideration of the issues raised by the motion and to prevent the unnecessary expense of litigation. Upon the filing of any special motion described in this subsection, all discovery shall be suspended pending a decision on the motion by the court and the exhaustion of all appeals regarding the special motion.

2. If the rights afforded by this section are raised as an affirmative defense and if a court grants a motion to dismiss, a motion for judgment on the pleadings or a motion for summary judgment filed within ninety days of the filing of the moving party's answer, the court shall award reasonable attorney fees and costs incurred by the moving party in defending the action. If the court finds that a special motion to dismiss or motion for summary judgment is frivolous or solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney fees to the party prevailing on the motion.

3. Any party shall have the right to an expedited appeal from a trial court order on the special motions described in subsection 2 of this section or from a trial court's failure to rule on the motion on an expedited basis.

4. As used in this section, a “**public meeting in a quasi-judicial proceeding**” means and includes any meeting established and held by a state or local governmental entity, including without limitations meetings or presentations before state, county, city, town or village councils, planning commissions, review boards or commissions.

5. Nothing in this section limits or prohibits the exercise of a right or remedy of a party granted pursuant to another constitutional, statutory, common law or administrative provision, including civil actions for defamation.

6. If any provision of this section or the application of any provision of this section to a person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

7. The provisions of this section shall apply to all causes of actions.

## **Nebraska (1994)**

Neb. Rev. Stat. § 25-21,243 through § 25-21,246

### **25-21,243. Defendant in action involving public petition and participation; action authorized; costs, attorney's fees, and damages; authorized; waiver; section, how construed**

(1) A defendant in an action involving public petition and participation may maintain an action, claim, cross-claim, or counterclaim to recover damages, including costs and attorney's fees, from any person who commenced or continued such action. Costs and attorney's fees may be recovered upon a demonstration that the action involving public petition and participation was commenced or continued without a substantial basis in fact and law and could not be supported by a substantial argument for the extension, modification, or reversal of existing law. Other compensatory damages may only be recovered upon an additional demonstration that the action involving public petition and participation was commenced or continued for the purpose of harassing, intimidating, punishing, or otherwise maliciously inhibiting the free exercise of petition, speech, or association rights.

(2) The right to bring an action, claim, cross-claim, or counterclaim under this section may be waived only if it is waived specifically.

(3) Nothing in this section shall affect or preclude the right of any party to any recovery otherwise authorized by common law or by statute, rule, or regulation.

### **25-21,244. Action involving public petition and participation; damages; standard of proof; section, how construed**

(1) In an action involving public petition and participation, the plaintiff may recover damages, including costs and attorney's fees, only if he or she, in addition to all other necessary elements, has established by clear and convincing evidence that any communication which gives rise to the action was made with knowledge of its falsity or with reckless disregard of whether it was false, if the truth or falsity of such communication is material to the cause of action at issue.

(2) Nothing in this section shall be construed to limit any constitutional, statutory, or common-law protections of defendants to actions involving public petition and participation.



**25-21,245. Action involving public petition and participation; motion to dismiss; when granted; duty to expedite**

A motion to dismiss based on a failure to state a cause of action shall be granted when the moving party demonstrates that the action, claim, cross-claim, or counterclaim subject to the motion is an action involving public petition and participation unless the party responding to the motion demonstrates that the cause of action has a substantial basis in law or is supported by a substantial argument for an extension, modification, or reversal of existing law. The court shall expedite and grant preference in the hearing of such motion.

**25-21,246. Action involving public petition and participation; motion for summary judgment; when granted**

A motion for summary judgment shall be granted when the moving party has demonstrated that the action, claim, cross-claim, or counterclaim subject to the motion is an action involving public petition and participation unless the party responding to the motion demonstrates that the action, claim, cross-claim, or counterclaim has a substantial basis in fact and law or is supported by a substantial argument for an extension, modification, or reversal of existing law. The court shall grant preference in the hearing of such motion.

# Nevada (1997)

Nev. Rev. Stat. § 41.635 through 41.670

## **41.635. Definitions**

As used in NRS 41.635 to 41.670, inclusive, unless the context otherwise requires, the words and terms defined in NRS 41.637 and 41.640 have the meanings ascribed to them in those sections.

### **41.637. “Good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern” defined**

“Good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern” means any:

1. Communication that is aimed at procuring any governmental or electoral action, result or outcome;
2. Communication of information or a complaint to a Legislator, officer or employee of the Federal Government, this state or a political subdivision of this state, regarding a matter reasonably of concern to the respective governmental entity;
3. Written or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law; or
4. Communication made in direct connection with an issue of public interest in a place open to the public or in a public forum,

which is truthful or is made without knowledge of its falsehood.

### **41.640. “Political subdivision” defined**

“Political subdivision” has the meaning ascribed to it in NRS 41.0305.

#### **41.650. Limitation of liability**

A person who engages in a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from any civil action for claims based upon the communication.

#### **41.660. Attorney General or chief legal officer of political subdivision may defend or provide support to person sued for engaging in right to petition or free speech in direct connection with an issue of public concern; special counsel; filing special motion to dismiss; stay of discovery; adjudication upon merits**

1. If an action is brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern:

(a) The person against whom the action is brought may file a special motion to dismiss; and

(b) The Attorney General or the chief legal officer or attorney of a political subdivision of this State may defend or otherwise support the person against whom the action is brought. If the Attorney General or the chief legal officer or attorney of a political subdivision has a conflict of interest in, or is otherwise disqualified from, defending or otherwise supporting the person, the Attorney General or the chief legal officer or attorney of a political subdivision may employ special counsel to defend or otherwise support the person.

2. A special motion to dismiss must be filed within 60 days after service of the complaint, which period may be extended by the court for good cause shown.

3. If a special motion to dismiss is filed pursuant to subsection 2, the court shall:

(a) Determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern;

(b) If the court determines that the moving party has met the burden pursuant to paragraph (a), determine whether the plaintiff has demonstrated with prima facie evidence a probability of prevailing on the claim;

(c) If the court determines that the plaintiff has established a probability of prevailing on the claim pursuant to paragraph (b), ensure that such determination will not:

(1) Be admitted into evidence at any later stage of the underlying action or subsequent proceeding; or

(2) Affect the burden of proof that is applied in the underlying action or subsequent proceeding;

- (d) Consider such evidence, written or oral, by witnesses or affidavits, as may be material in making a determination pursuant to paragraphs (a) and (b);
- (e) Except as otherwise provided in subsection 4, stay discovery pending:
  - (1) A ruling by the court on the motion; and
  - (2) The disposition of any appeal from the ruling on the motion; and
- (f) Rule on the motion within 20 judicial days after the motion is served upon the plaintiff.

4. Upon a showing by a party that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the possession of another party or a third party and is not reasonably available without discovery, the court shall allow limited discovery for the purpose of ascertaining such information.

5. If the court dismisses the action pursuant to a special motion to dismiss filed pursuant to subsection 2, the dismissal operates as an adjudication upon the merits.

6. The court shall modify any deadlines pursuant to this section or any other deadlines relating to a complaint filed pursuant to this section if such modification would serve the interests of justice.

7. As used in this section:

- (a) “Complaint” means any action brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, including, without limitation, a counterclaim or cross-claim.
- (b) “Plaintiff” means any person asserting a claim, including, without limitation, a counterclaim or cross-claim.

#### **41.665. Legislative findings and declaration regarding plaintiff’s burden of proof under NRS 41.660**

The Legislature finds and declares that:

1. NRS 41.660 provides certain protections to a person against whom an action is brought, if the action is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.

2. When a plaintiff must demonstrate a probability of success of prevailing on a claim pursuant to NRS 41.660, the Legislature intends that in determining whether the plaintiff “has demonstrated with prima facie evidence a probability of prevailing on the claim” the plaintiff must meet the same burden of proof that a plaintiff has

been required to meet pursuant to California's anti-Strategic Lawsuits Against Public Participation law as of June 8, 2015.

**41.670. Award of reasonable costs, attorney's fees and monetary relief under certain circumstances; separate action for damages; sanctions for frivolous or vexatious special motion to dismiss; interlocutory appeal**

1. If the court grants a special motion to dismiss filed pursuant to NRS 41.660:
  - (a) The court shall award reasonable costs and attorney's fees to the person against whom the action was brought, except that the court shall award reasonable costs and attorney's fees to this State or to the appropriate political subdivision of this State if the Attorney General, the chief legal officer or attorney of the political subdivision or special counsel provided the defense for the person pursuant to NRS 41.660.
  - (b) The court may award, in addition to reasonable costs and attorney's fees awarded pursuant to paragraph (a), an amount of up to \$10,000 to the person against whom the action was brought.
  - (c) The person against whom the action is brought may bring a separate action to recover:
    - (1) Compensatory damages;
    - (2) Punitive damages; and
    - (3) Attorney's fees and costs of bringing the separate action.
2. If the court denies a special motion to dismiss filed pursuant to NRS 41.660 and finds that the motion was frivolous or vexatious, the court shall award to the prevailing party reasonable costs and attorney's fees incurred in responding to the motion.
3. In addition to reasonable costs and attorney's fees awarded pursuant to subsection 2, the court may award:
  - (a) An amount of up to \$10,000; and
  - (b) Any such additional relief as the court deems proper to punish and deter the filing of frivolous or vexatious motions.
4. If the court denies the special motion to dismiss filed pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court.

## **New Mexico (2001)**

N.M. Stat. § 38-2-9.1 through § 38-2-9.2

### **§ 38-2-9.1. Special motion to dismiss unwarranted or specious lawsuits; procedures; sanctions; severability**

A. Any action seeking money damages against a person for conduct or speech undertaken or made in connection with a public hearing or public meeting in a quasi-judicial proceeding before a tribunal or decision-making body of any political subdivision of the state is subject to a special motion to dismiss, motion for judgment on the pleadings, or motion for summary judgment that shall be considered by the court on a priority or expedited basis to ensure the early consideration of the issues raised by the motion and to prevent the unnecessary expense of litigation.

B. If the rights afforded by this section are raised as an affirmative defense and if a court grants a motion to dismiss, a motion for judgment on the pleadings or a motion for summary judgment filed within ninety days of the filing of the moving party's answer, the court shall award reasonable attorney fees and costs incurred by the moving party in defending the action. If the court finds that a special motion to dismiss or motion for summary judgment is frivolous or solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney fees to the party prevailing on the motion.

C. Any party shall have the right to an expedited appeal from a trial court order on the special motions described in Subsection B of this section or from a trial court's failure to rule on the motion on an expedited basis.

D. As used in this section, a "public meeting in a quasi-judicial proceeding" means and includes any meeting established and held by a state or local governmental entity, including without limitations, meetings or presentations before state, city, town or village councils, planning commissions, review boards or commissions.

E. Nothing in this section limits or prohibits the exercise of a right or remedy of a party granted pursuant to another constitutional, statutory, common law or administrative provision, including civil actions for defamation or malicious abuse of process.

F. If any provision of this section or the application of any provision of this section to a person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

### **§ 38-2-9.2. Findings and purpose**

The legislature declares that it is the public policy of New Mexico to protect the rights of its citizens to participate in quasi-judicial proceedings before local and state governmental tribunals. Baseless civil lawsuits seeking or claiming millions of dollars have been filed against persons for exercising their right to petition and to participate in quasi-judicial proceedings before governmental tribunals. Such lawsuits can be an abuse of the legal process and can impose an undue financial burden on those having to respond to and defend such lawsuits and may chill and punish participation in public affairs and the institutions of democratic government. These lawsuits should be subject to prompt dismissal or judgment to prevent the abuse of the legal process and avoid the burden imposed by such baseless lawsuits.

## **New York (1992)**

NY. Civ. Rights Law § 70-a and § 76-a

### **§ 70-a. Actions involving public petition and participation; recovery of damages**

1. A defendant in an action involving public petition and participation, as defined in paragraph (a) of subdivision one of section seventy-six-a of this article, may maintain an action, claim, cross claim or counterclaim to recover damages, including costs and attorney's fees, from any person who commenced or continued such action; provided that:

(a) costs and attorney's fees may be recovered upon a demonstration that the action involving public petition and participation was commenced or continued without a substantial basis in fact and law and could not be supported by a substantial argument for the extension, modification or reversal of existing law;

(b) other compensatory damages may only be recovered upon an additional demonstration that the action involving public petition and participation was commenced or continued for the purpose of harassing, intimidating, punishing or otherwise maliciously inhibiting the free exercise of speech, petition or association rights; and

(c) punitive damages may only be recovered upon an additional demonstration that the action involving public petition and participation was commenced or continued for the sole purpose of harassing, intimidating, punishing or otherwise maliciously inhibiting the free exercise of speech, petition or association rights.

2. The right to bring an action under this section can be waived only if it is waived specifically.

3. Nothing in this section shall affect or preclude the right of any party to any recovery otherwise authorized by common law, or by statute, law or rule.

### **§ 76-a. Actions involving public petition and participation; when actual malice to be proven**

1. For purposes of this section:

(a) An "action involving public petition and participation" is an action, claim, cross claim or counterclaim for damages that is brought by a public applicant or permittee, and is materially related to any efforts of the defendant to report on, comment on, rule on, challenge or oppose such application or permission.

(b) "Public applicant or permittee" shall mean any person who has applied for or obtained a permit, zoning change, lease, license, certificate or other entitlement for use or permission to act from any government body, or any person with an interest,



connection or affiliation with such person that is materially related to such application or permission.

(c) "Communication" shall mean any statement, claim, allegation in a proceeding, decision, protest, writing, argument, contention or other expression.

(d) "Government body" shall mean any municipality, the state, any other political subdivision or agency of such, the federal government, any public benefit corporation, or any public authority, board, or commission.

2. In an action involving public petition and participation, damages may only be recovered if the plaintiff, in addition to all other necessary elements, shall have established by clear and convincing evidence that any communication which gives rise to the action was made with knowledge of its falsity or with reckless disregard of whether it was false, where the truth or falsity of such communication is material to the cause of action at issue.

3. Nothing in this section shall be construed to limit any constitutional, statutory or common law protections of defendants to actions involving public petition and participation.

# Oklahoma (2014)

Okla. Stat. tit. 12, § 1430 through § 1440

## § 1430. Short title--Oklahoma Citizens Participation Act

A. This act may be known and shall be cited as the “Oklahoma Citizens Participation Act”.

B. The purpose of the Oklahoma Citizens Participation Act is to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely and otherwise participate in government to the maximum extent permitted by law and, at the same time, protect the rights of a person to file meritorious lawsuits for demonstrable injury.

## § 1431. Definitions

As used in the Oklahoma Citizens Participation Act:

1. “Communication” means the making or submitting of a statement or document in any form or medium, including oral, visual, written, audiovisual or electronic;
2. “Exercise of the right of association” means a communication between individuals who join together to collectively express, promote, pursue or defend common interests;
3. “Exercise of the right of free speech” means a communication made in connection with a matter of public concern;
4. “Exercise of the right to petition” means any of the following:
  - a. a communication in or pertaining to:
    - (1) a judicial proceeding,
    - (2) an official proceeding, other than a judicial proceeding, to administer the law,
    - (3) an executive or other proceeding before a department or agency of the state or federal government or a political subdivision of the state or federal government,
    - (4) a legislative proceeding, including a proceeding of a legislative committee,
    - (5) a proceeding before an entity that requires by rule that public notice be given before proceedings of that entity,
    - (6) a proceeding in or before a managing board of an educational or eleemosynary institution supported directly or indirectly from public revenue,

(7) a proceeding of the governing body of any political subdivision of this state,

(8) a report of or debate and statements made in a proceeding described by division (3), (4), (5), (6) or (7) of this subparagraph, or

(9) a public meeting dealing with a public purpose, including statements and discussions at the meeting or other matters of public concern occurring at the meeting,

b. a communication in connection with an issue under consideration or review by a legislative, executive, judicial or other governmental body or in another governmental or official proceeding,

c. a communication that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, judicial or other governmental body or in another governmental or official proceeding,

d. a communication reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, judicial or other governmental body or in another governmental or official proceeding, and

e. any other communication that falls within the protection of the right to petition government under the Constitution of the United States or the Oklahoma Constitution;

5. "Governmental proceeding" means a proceeding, other than a judicial proceeding, by an officer, official or body of this state or a political subdivision of this state, including an agency, board or commission, or by an officer, official or body of the federal government;

6. "Legal action" means a lawsuit, cause of action, petition, complaint, cross-claim, counterclaim or any other judicial pleading or filing that requests legal or equitable relief;

7. "Matter of public concern" means an issue related to:

a. health or safety,

b. environmental, economic or community well-being,

c. the government,

d. a public official or public figure, or

e. a good, product or service in the marketplace;

8. "Official proceeding" means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant; and

9. "Public servant" means a person elected, selected, appointed, employed or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed the person's duties:

a. an officer, employee or agent of government,

b. a juror,

- c. an arbitrator, referee or other person who is authorized by law or private written agreement to hear or determine a cause or controversy,
- d. an attorney or notary public when participating in the performance of a governmental function, or
- e. a person who is performing a governmental function under a claim of right but is not legally qualified to do so.

**§ 1432. Motion to dismiss legal actions--Time limit for filing--Suspension of discovery**

A. If a legal action is based on, relates to or is in response to a party's exercise of the right of free speech, right to petition or right of association, that party may file a motion to dismiss the legal action.

B. A motion to dismiss a legal action under this section shall be filed no later than sixty (60) days after the date of service of the legal action. The court may extend the time to file a motion under this section on a showing of good cause.

C. Except as provided in Section 6 of the Oklahoma Citizens Participation Act, on the filing of a motion under subsection A of this section, all discovery in the legal action shall be suspended until the court has ruled on the motion to dismiss.

**§ 1433. Time limits for hearing on motion to dismiss**

A. A hearing on a motion filed pursuant to Section 3 of the Oklahoma Citizens Participation Act shall be set no later than sixty (60) days after the date of service of the motion unless the docket conditions of the court require a later hearing, upon a showing of good cause, or by agreement of the parties, but in no event shall the hearing occur more than ninety (90) days after service of the motion to dismiss, except as provided by subsection C of this section.

B. In the event that the court cannot hold a hearing in the time required by subsection A of this section, the court may take judicial notice that court docket conditions required a hearing at a later date, but in no event shall the hearing occur more than ninety (90) days after service of the motion to dismiss, except as provided by subsection C of this section.

C. If the court allows discovery under subsection B of Section 6 of this act, the court may extend the hearing date to allow discovery under that subsection, but in no event shall the hearing occur more than one hundred twenty (120) days after the service of the motion to dismiss.

**§ 1434. Time limit for ruling on motion--Standard of proof**

A. The court shall rule on a motion filed pursuant to Section 3 of the Oklahoma Citizens Participation Act no later than thirty (30) days following the date of the hearing on the motion.

B. Except as provided by subsection C of this section, on the motion of a party filed pursuant to Section 3 of this act, a court shall dismiss a legal action against the moving party if the moving party shows by a preponderance of the evidence that the legal action is based on, relates to or is in response to the party's exercise of:

1. The right of free speech;
2. The right to petition; or
3. The right of association.

C. The court shall not dismiss a legal action under this section if the party filing the legal action establishes by clear and specific evidence a prima facie case for each essential element of the claim in question.

D. Notwithstanding the provisions of subsection C of this section, the court shall dismiss a legal action against the moving party if the moving party establishes by a preponderance of the evidence each essential element of a valid defense to the nonmovant's claim.

**§ 1435. Evidence to consider by court--Limited discovery**

A. In determining whether a legal action shall be dismissed under the Oklahoma Citizens Participation Act, the court shall consider the pleadings and supporting and opposing affidavits stating the facts on which the liability or defense is based.

B. On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion to dismiss.

**§ 1436. Request for findings--Time limit to issue findings**

A. At the request of a party making a motion filed pursuant to Section 3 of the Oklahoma Citizens Participation Act, the court shall issue findings regarding whether the legal action was brought to deter or prevent the moving party from exercising constitutional rights and is brought for an improper purpose, including to harass or to cause unnecessary delay or to increase the cost of litigation.

B. The court shall issue findings under subsection A of this section no later than thirty (30) days after the date a request is made under subsection A of this section.

**§ 1437. Failure to rule on motion—Expedited appeals**

A. If a court does not rule on a motion to dismiss filed pursuant to Section 3 of the Oklahoma Citizens Participation Act in the time prescribed by Section 5 of the act, the motion shall be considered denied by operation of law and the moving party may appeal.

B. An appellate court shall expedite an appeal or other writ, whether interlocutory or not, from a trial court order on a motion to dismiss a legal action filed pursuant to Section 3 of this act or from a trial court's failure to rule on that motion in the time prescribed by Section 5 of this act.

**§ 1438. Costs and fees—Sanctions**

A. If the court orders dismissal of a legal action under the Oklahoma Citizens Participation Act, the court shall award to the moving party:

1. Court costs, reasonable attorney fees and other expenses incurred in defending against the legal action as justice and equity may require; and
2. Sanctions against the party who brought the legal action as the court determines sufficient to deter the party who brought the legal action from bringing similar actions described in the Oklahoma Citizens Participation Act.

B. If the court finds that a motion to dismiss filed under the Oklahoma Citizens Participation Act is frivolous or solely intended to delay, the court may award court costs and reasonable attorney fees to the responding party.

**§ 1439. Actions excluded**

The Oklahoma Citizens Participation Act shall not apply to:

1. An enforcement action that is brought in the name of this state or a political subdivision of this state by the Attorney General or a district attorney;
2. A legal action brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct the action is based upon arises out of the sale or lease of goods, services, or an insurance product, insurance services, or a commercial transaction in which the intended audience is an actual or potential buyer or customer;

3. A legal action seeking recovery for bodily injury, wrongful death or survival or to statements made regarding that legal action; or

4. A legal action brought under the Oklahoma Insurance Code or arising out of an insurance contract.

**§ 1440. Application with other laws--Construction**

A. The Oklahoma Citizens Participation Act shall not abrogate or lessen any other defense, remedy, immunity or privilege available under other constitutional, statutory, case or common law or rule provisions.

B. The Oklahoma Citizens Participation Act shall be construed liberally to effectuate its purpose and intent fully.

## Oregon (2001)

Or. Rev. Stat. § 31.150 through § 31.155

### **31.150. Special motion to strike; availability; burden of proof**

(1) A defendant may make a special motion to strike against a claim in a civil action described in subsection (2) of this section. The court shall grant the motion unless the plaintiff establishes in the manner provided by subsection (3) of this section that there is a probability that the plaintiff will prevail on the claim. The special motion to strike shall be treated as a motion to dismiss under ORCP 21 A but shall not be subject to ORCP 21 F. Upon granting the special motion to strike, the court shall enter a judgment of dismissal without prejudice. If the court denies a special motion to strike, the court shall enter a limited judgment denying the motion.

(2) A special motion to strike may be made under this section against any claim in a civil action that arises out of:

- (a) Any oral statement made, or written statement or other document submitted, in a legislative, executive or judicial proceeding or other proceeding authorized by law;
- (b) Any oral statement made, or written statement or other document submitted, in connection with an issue under consideration or review by a legislative, executive or judicial body or other proceeding authorized by law;
- (c) Any oral statement made, or written statement or other document presented, in a place open to the public or a public forum in connection with an issue of public interest; or
- (d) Any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(3) A defendant making a special motion to strike under the provisions of this section has the initial burden of making a prima facie showing that the claim against which the motion is made arises out of a statement, document or conduct described in subsection (2) of this section. If the defendant meets this burden, the burden shifts to the plaintiff in the action to establish that there is a probability that the plaintiff will prevail on the claim by presenting substantial evidence to support a prima facie case. If the plaintiff meets this burden, the court shall deny the motion.

(4) In making a determination under subsection (1) of this section, the court shall consider pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(5) If the court determines that the plaintiff has established a probability that the plaintiff will prevail on the claim:



- (a) The fact that the determination has been made and the substance of the determination may not be admitted in evidence at any later stage of the case; and
- (b) The determination does not affect the burden of proof or standard of proof that is applied in the proceeding.

### **31.152. Time for special motion to strike; discovery; attorney fees**

(1) A special motion to strike under ORS 31.150 must be filed within 60 days after the service of the complaint or, in the court's discretion, at any later time. A hearing shall be held on the motion not more than 30 days after the filing of the motion unless the docket conditions of the court require a later hearing.

(2) All discovery in the proceeding shall be stayed upon the filing of a special motion to strike under ORS 31.150. The stay of discovery shall remain in effect until entry of the judgment. The court, on motion and for good cause shown, may order that specified discovery be conducted notwithstanding the stay imposed by this subsection.

(3) A defendant who prevails on a special motion to strike made under ORS 31.150 shall be awarded reasonable attorney fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney fees to a plaintiff who prevails on a special motion to strike.

(4) The purpose of the procedure established by this section and ORS 31.150 and 31.155 is to provide a defendant with the right to not proceed to trial in cases in which the plaintiff does not meet the burden specified in ORS 31.150 (3). This section and ORS 31.150 and 31.155 are to be liberally construed in favor of the exercise of the rights of expression described in ORS 31.150 (2).

### **31.155. Exempt actions; effect upon substantive law**

(1) ORS 31.150 and 31.152 do not apply to an action brought by the Attorney General, a district attorney, a county counsel or a city attorney acting in an official capacity.

(2) ORS 31.150 and 31.152 create a procedure for seeking dismissal of claims described in ORS 31.150 (2) and do not affect the substantive law governing those claims.

# Pennsylvania (2000)

27 Pa. Consol. Stat. § 8301 through § 8305, and § 7707

## § 8301. Definitions

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**“Communication to the government.”** A written or oral statement or writing made:

- (1) before a legislative, executive or judicial proceeding or any other official proceeding authorized by law;
- (2) in connection with an issue under consideration or review by a legislative, executive or judicial body or any other official proceeding authorized by law; or
- (3) to a government agency in connection with the implementation and enforcement of environmental law and regulations.

**“Enforcement of environmental law and regulation.”** Activity relating to the identification and elimination of violations of environmental laws and regulations, including investigations of alleged violations, inspections of activities subject to regulation under environmental law and regulations and responses taken to produce correction of the violations.

**“Government agency.”** The Federal Government, the Commonwealth and any of the Commonwealth's departments, commissions, boards, agencies, authorities, political subdivisions or their departments, commissions, boards, agencies or authorities.

**“Implementation of environmental law and regulation.”** Activity relating to the development and administration of environmental programs developed under environmental law and regulations.

## § 8302. Immunity

(a) General rule.--Except as provided in subsection (b), a person that, pursuant to Federal or State law, files an action in the courts of this Commonwealth to enforce an environmental law or regulation or that makes an oral or written communication to a government agency relating to enforcement or implementation of an environmental law or regulation shall be immune from civil liability in any resulting legal proceeding for damages where the action or communication is aimed at procuring favorable governmental action.

(b) Exceptions.--A person shall not be immune under this section if the allegation in the action or any communication to the government is not relevant or material to the enforcement or implementation of an environmental law or regulation and:

- (1) the allegation in the action or communication is knowingly false, deliberately misleading or made with malicious and reckless disregard for the truth or falsity;
- (2) the allegation in the action or communication is made for the sole purpose of interfering with existing or proposed business relationships; or
- (3) the oral or written communication to a government agency relating to enforcement or implementation of an environmental law or regulation is later determined to be a wrongful use of process or an abuse of process.

### **§ 8303. Right to a hearing**

A person who wishes to raise the defense of immunity from civil liability under this chapter may file a motion with the court requesting the court to conduct a hearing to determine the preliminary issue of immunity. If a motion is filed, the court shall then conduct a hearing and if the motion is denied, the moving party shall have an interlocutory appeal of right to the Commonwealth Court, during which time all discovery shall be stayed.

### **§ 8304. Intervention**

A government agency has the right to petition to intervene or otherwise participate as an amicus curiae in the action involving public petition and participation.

### **§ 8305. Construction**

Nothing in this chapter shall be construed to limit any constitutional, statutory or common law protections of defendants to actions involving public petition and participation.

### **§ 7707. Participation in environmental law or regulation**

A person that successfully defends against an action under Chapter 83 (relating to participation in environmental law or regulation) shall be awarded reasonable attorney fees and the costs of litigation. If the person prevails in part, the court may make a full award or a proportionate award.

# Rhode Island (1993)

R.I. Gen. Laws § 9-33-1 through § 9-33-4

## § 9-33-1. Findings

The legislature finds and declares that full participation by persons and organizations and robust discussion of issues of public concern before the legislative, judicial, and administrative bodies and in other public fora are essential to the democratic process, that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances; that such litigation is disfavored and should be resolved quickly with minimum cost to citizens who have participated in matters of public concern.

## § 9-33-2. Conditional immunity

(a) A party's exercise of his or her right of petition or of free speech under the United States or Rhode Island constitutions in connection with a matter of public concern shall be conditionally immune from civil claims, counterclaims, or cross-claims. Such immunity will apply as a bar to any civil claim, counterclaim, or cross-claim directed at petition or free speech as defined in subsection (e) of this section, except if the petition or free speech constitutes a sham. The petition or free speech constitutes a sham only if it is not genuinely aimed at procuring favorable government action, result, or outcome, regardless of ultimate motive or purpose. The petition or free speech will be deemed to constitute a sham as defined in the previous sentence only if it is both:

- (1) Objectively baseless in the sense that no reasonable person exercising the right of speech or petition could realistically expect success in procuring the government action, result, or outcome, and
- (2) Subjectively baseless in the sense that it is actually an attempt to use the governmental process itself for its own direct effects. Use of outcome or result of the governmental process shall not constitute use of the governmental process itself for its own direct effects.

(b) The court shall stay all discovery proceedings in the action upon the filing of a motion asserting the immunity established by this section; provided, however, that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion.

(c) The immunity established by this section may be asserted by an appropriate motion or by other appropriate means under the applicable rules of civil procedure.

(d) If the court grants the motion asserting the immunity established by this section, or if the party claiming lawful exercise of his or her right of petition or of free speech under the United States or Rhode Island constitutions in connection with a matter of public concern is, in fact, the eventual prevailing party at trial, the court shall award the prevailing party costs and reasonable attorney's fees, including those incurred for the motion and any related discovery matters. The court shall award compensatory damages and may award punitive damages upon a showing by the prevailing party that the responding party's claims, counterclaims, or cross-claims were frivolous or were brought with an intent to harass the party or otherwise inhibit the party's exercise of its right to petition or free speech under the United States or Rhode Island constitution. Nothing in this section shall affect or preclude the right of the party claiming lawful exercise of his or her right of petition or of free speech under the United States or Rhode Island constitutions to any remedy otherwise authorized by law.

(e) As used in this section, "a party's exercise of its right of petition or of free speech" shall mean any written or oral statement made before or submitted to a legislative, executive, or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other governmental proceeding; or any written or oral statement made in connection with an issue of public concern.

### **§ 9-33-3. Intervention**

Any governmental agency or subdivision to which the party's petition or free speech were directed or the attorney general may intervene to defend or otherwise support the party claiming lawful exercise of its right of petition or of free speech under United States or Rhode Island constitution.

### **§ 9-33-4. Construction of chapter**

Nothing contained in this chapter shall be construed to limit or affect any additional constitutional, statutory, or common law protections of defendants in actions involving their exercise of rights of petition or of free speech.

# **Tennessee (1997)**

Tenn. Code. Ann. § 4-21-1001 through § 4-21-1004

## **§ 4-21-1001. Short title**

This part shall be known and may be cited as the “Tennessee Anti-Slapp Act of 1997.”

## **§ 4-21-1002. Intent and findings**

(a) It is the intent of the general assembly to provide protection for individuals who make good faith reports of wrongdoing to appropriate governmental bodies. Information provided by citizens concerning potential misdeeds is vital to effective law enforcement and the efficient operation of government.

(b) The general assembly finds that the threat of a civil action for damages in the form of a “strategic lawsuit against political participation” (SLAPP), and the possibility of considerable legal costs, can act as a deterrent to citizens who wish to report information to federal, state, or local agencies. SLAPP suits can effectively punish concerned citizens for exercising the constitutional right to speak and petition the government for redress of grievances.

## **§ 4-21-1003. Immunity; recovery of costs**

(a) Any person who in furtherance of such person's right of free speech or petition under the Tennessee or United States Constitution in connection with a public or governmental issue communicates information regarding another person or entity to any agency of the federal, state or local government regarding a matter of concern to that agency shall be immune from civil liability on claims based upon the communication to the agency.

(b) The immunity conferred by this section shall not attach if the person communicating such information:

- (1) Knew the information to be false;
- (2) Communicated information in reckless disregard of its falsity; or
- (3) Acted negligently in failing to ascertain the falsity of the information if such information pertains to a person or entity other than a public figure.

(c) A person prevailing upon the defense of immunity provided for in this section shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense.

**§ 4-21-1004. Intervention; governmental agency; attorney general**

(a) In order to protect the free flow of information from citizens to their government, an agency receiving a complaint or information under § 4-21-1003 may intervene and defend against any suit precipitated by the communication to the agency. In the event that a local government agency does not intervene in and defend against a suit arising from any communication protected under this part, the office of the attorney general and reporter may intervene in and defend against the suit.

(b) An agency prevailing upon the defense of immunity provided for in § 4-21-1003 shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense. If the agency fails to establish such defense, the party bringing such action shall be entitled to recover from the agency costs and reasonable attorneys' fees incurred in proving the defense inapplicable or invalid.

# Texas (2011)

Tex. Civ. Prac. & Rem. Code § 27.001 through § 27.011

## § 27.001. Definitions

In this chapter:

- (1) “Communication” includes the making or submitting of a statement or document in any form or medium, including oral, visual, written, audiovisual, or electronic.
- (2) “Exercise of the right of association” means a communication between individuals who join together to collectively express, promote, pursue, or defend common interests.
- (3) “Exercise of the right of free speech” means a communication made in connection with a matter of public concern.
- (4) “Exercise of the right to petition” means any of the following:
  - (A) a communication in or pertaining to:
    - (i) a judicial proceeding;
    - (ii) an official proceeding, other than a judicial proceeding, to administer the law;
    - (iii) an executive or other proceeding before a department of the state or federal government or a subdivision of the state or federal government;
    - (iv) a legislative proceeding, including a proceeding of a legislative committee;
    - (v) a proceeding before an entity that requires by rule that public notice be given before proceedings of that entity;
    - (vi) a proceeding in or before a managing board of an educational or eleemosynary institution supported directly or indirectly from public revenue;
    - (vii) a proceeding of the governing body of any political subdivision of this state;
    - (viii) a report of or debate and statements made in a proceeding described by Subparagraph (iii), (iv), (v), (vi), or (vii); or
    - (ix) a public meeting dealing with a public purpose, including statements and discussions at the meeting or other matters of public concern occurring at the meeting;
  - (B) a communication in connection with an issue under consideration or review by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding;
  - (C) a communication that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding;



(D) a communication reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding; and  
(E) any other communication that falls within the protection of the right to petition government under the Constitution of the United States or the constitution of this state.

(5) “Governmental proceeding” means a proceeding, other than a judicial proceeding, by an officer, official, or body of this state or a political subdivision of this state, including a board or commission, or by an officer, official, or body of the federal government.

(6) “Legal action” means a lawsuit, cause of action, petition, complaint, cross-claim, or counterclaim or any other judicial pleading or filing that requests legal or equitable relief.

(7) “Matter of public concern” includes an issue related to:  
(A) health or safety;  
(B) environmental, economic, or community well-being;  
(C) the government;  
(D) a public official or public figure; or  
(E) a good, product, or service in the marketplace.

(8) “Official proceeding” means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant.

(9) “Public servant” means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed the person’s duties:  
(A) an officer, employee, or agent of government;  
(B) a juror;  
(C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;  
(D) an attorney or notary public when participating in the performance of a governmental function; or  
(E) a person who is performing a governmental function under a claim of right but is not legally qualified to do so.

## **§ 27.002. Purpose**

The purpose of this chapter is to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in

government to the maximum extent permitted by law and, at the same time, protect the rights of a person to file meritorious lawsuits for demonstrable injury.

### **§ 27.003. Motion to Dismiss**

(a) If a legal action is based on, relates to, or is in response to a party's exercise of the right of free speech, right to petition, or right of association, that party may file a motion to dismiss the legal action.

(b) A motion to dismiss a legal action under this section must be filed not later than the 60th day after the date of service of the legal action. The court may extend the time to file a motion under this section on a showing of good cause.

(c) Except as provided by Section 27.006(b), on the filing of a motion under this section, all discovery in the legal action is suspended until the court has ruled on the motion to dismiss.

### **§ 27.004. Hearing**

(a) A hearing on a motion under Section 27.003 must be set not later than the 60th day after the date of service of the motion unless the docket conditions of the court require a later hearing, upon a showing of good cause, or by agreement of the parties, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c).

(b) In the event that the court cannot hold a hearing in the time required by Subsection (a), the court may take judicial notice that the court's docket conditions required a hearing at a later date, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c).

(c) If the court allows discovery under Section 27.006(b), the court may extend the hearing date to allow discovery under that subsection, but in no event shall the hearing occur more than 120 days after the service of the motion under Section 27.003.

### **§ 27.005. Ruling**

(a) The court must rule on a motion under Section 27.003 not later than the 30th day following the date of the hearing on the motion.

(b) Except as provided by Subsection (c), on the motion of a party under Section 27.003, a court shall dismiss a legal action against the moving party if the moving party shows by a preponderance of the evidence that the legal action is based on, relates to, or is in response to the party's exercise of:

- (1) the right of free speech;
- (2) the right to petition; or
- (3) the right of association.

(c) The court may not dismiss a legal action under this section if the party bringing the legal action establishes by clear and specific evidence a prima facie case for each essential element of the claim in question.

(d) Notwithstanding the provisions of Subsection (c), the court shall dismiss a legal action against the moving party if the moving party establishes by a preponderance of the evidence each essential element of a valid defense to the nonmovant's claim.

#### **§ 27.006. Evidence**

(a) In determining whether a legal action should be dismissed under this chapter, the court shall consider the pleadings and supporting and opposing affidavits stating the facts on which the liability or defense is based.

(b) On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion.

#### **§ 27.007. Additional Findings**

(a) At the request of a party making a motion under Section 27.003, the court shall issue findings regarding whether the legal action was brought to deter or prevent the moving party from exercising constitutional rights and is brought for an improper purpose, including to harass or to cause unnecessary delay or to increase the cost of litigation.

(b) The court must issue findings under Subsection (a) not later than the 30th day after the date a request under that subsection is made.

#### **§ 27.008. Appeal**

(a) If a court does not rule on a motion to dismiss under Section 27.003 in the time prescribed by Section 27.005, the motion is considered to have been denied by operation of law and the moving party may appeal.

(b) An appellate court shall expedite an appeal or other writ, whether interlocutory or not, from a trial court order on a motion to dismiss a legal action under Section 27.003 or from a trial court's failure to rule on that motion in the time prescribed by Section 27.005.

(c) Repealed by Acts 2013, 83rd Leg., ch. 1042 (H.B. 2935), § 5.

### **§ 27.009. Damages and Costs**

(a) If the court orders dismissal of a legal action under this chapter, the court shall award to the moving party:

(1) court costs, reasonable attorney's fees, and other expenses incurred in defending against the legal action as justice and equity may require; and

(2) sanctions against the party who brought the legal action as the court determines sufficient to deter the party who brought the legal action from bringing similar actions described in this chapter.

(b) If the court finds that a motion to dismiss filed under this chapter is frivolous or solely intended to delay, the court may award court costs and reasonable attorney's fees to the responding party.

### **§ 27.010. Exemptions**

(a) This chapter does not apply to an enforcement action that is brought in the name of this state or a political subdivision of this state by the attorney general, a district attorney, a criminal district attorney, or a county attorney.

(b) This chapter does not apply to a legal action brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct arises out of the sale or lease of goods, services, or an insurance product, insurance services, or a commercial transaction in which the intended audience is an actual or potential buyer or customer.

(c) This chapter does not apply to a legal action seeking recovery for bodily injury, wrongful death, or survival or to statements made regarding that legal action.

(d) This chapter does not apply to a legal action brought under the Insurance Code or arising out of an insurance contract.

**§ 27.011. Construction**

(a) This chapter does not abrogate or lessen any other defense, remedy, immunity, or privilege available under other constitutional, statutory, case, or common law or rule provisions.

(b) This chapter shall be construed liberally to effectuate its purpose and intent fully.

# Utah (2008)

Utah Code § 78B-6-1401 through § 78B-6-1405

## § 78B-6-1401. Title

This part is known as the “Citizen Participation in Government Act.”

## § 78B-6-1402. Definitions

As used in this part:

(1) “Action involving public participation in the process of government” means any lawsuit, cause of action, claim, cross-claim, counterclaim, or other judicial pleading or filing requesting relief to which this act applies.

(2) “Government” includes a branch, department, agency, instrumentality, official, employee, agent, or other person acting under color of law of the United States, a state, or subdivision of a state or other public authority.

(3) “Moving party” means any person on whose behalf the motion is filed.

(4) “Process of government” means the mechanisms and procedures by which the legislative and executive branches of government make decisions, and the activities leading up to the decisions, including the exercise by a citizen of the right to influence those decisions under the First Amendment to the U.S. Constitution.

(5) “Responding party” means any person against whom the motion described in Section 78B-6-1403 is filed.

## § 78B-6-1403. Applicability

(1) A defendant in an action who believes that the action is primarily based on, relates to, or is in response to an act of the defendant while participating in the process of government and is done primarily to harass the defendant, may file:

(a) an answer supported by an affidavit of the defendant detailing his belief that the action is designed to prevent, interfere with, or chill public participation in the process of government, and specifying in detail the conduct asserted to be the participation in the process of government believed to give rise to the complaint; and

(b) a motion for judgment on the pleadings in accordance with the Utah Rules of Civil Procedure Rule 12(c).

(2) Affidavits detailing activity not adequately detailed in the answer may be filed with the motion.

#### **§ 78B-6-1404. Procedures**

- (1) On the filing of a motion for judgment on the pleadings:
  - (a) all discovery shall be stayed pending resolution of the motion unless the court orders otherwise;
  - (b) the trial court shall hear and determine the motion as expeditiously as possible with the moving party providing by clear and convincing evidence that the primary reason for the filing of the complaint was to interfere with the first amendment right of the defendant; and
  - (c) the moving party shall have a right to seek interlocutory appeal from a trial court order denying the motion or from a trial court failure to rule on the motion in expedited fashion.
- (2) The court shall grant the motion and dismiss the action upon a finding that the primary purpose of the action is to prevent, interfere with, or chill the moving party's proper participation in the process of government.
- (3) Any government body to which the moving party's acts were directed or the attorney general may intervene to defend or otherwise support the moving party.

#### **§ 78B-6-1405. Counter actions--Attorney fees--Damages**

- (1) A defendant in an action involving public participation in the process of government may maintain an action, claim, cross-claim, or counterclaim to recover:
  - (a) costs and reasonable attorney fees, upon a demonstration that the action involving public participation in the process of government was commenced or continued without a substantial basis in fact and law and could not be supported by a substantial argument for the extension, modification, or reversal of existing law; and
  - (b) other compensatory damages upon an additional demonstration that the action involving public participation in the process of government was commenced or continued for the purpose of harassing, intimidating, punishing, or otherwise maliciously inhibiting the free exercise of rights granted under the First Amendment to the U.S. Constitution.
- (2) Nothing in this section shall affect or preclude the right of any party to any recovery otherwise authorized by law.

**Vermont (2005)**  
Vt. Stat. Ann. tit. 12 § 1041

**§ 1041. Exercise of rights to free speech and to petition government for redress of grievances; special motion to strike**

(a) A defendant in an action arising from the defendant's exercise, in connection with a public issue, of the right to freedom of speech or to petition the government for redress of grievances under the U.S. or Vermont Constitution may file a special motion to strike under this section.

(b) A special motion to strike under this section shall be filed with the court and served on all parties not more than 60 days after the filing of the complaint. A party may file a response to the motion not more than 15 days after the motion is served on the party. The court may extend the time limits of this subsection for good cause shown.

(c)(1) The filing of a special motion to strike under this section shall stay all discovery proceedings in the action. Except as provided in subdivision (2) of this subsection, the stay of discovery shall remain in effect until the court rules on the special motion to strike.

(2) The court, on motion and for good cause shown, may order that limited discovery be conducted for the purpose of assisting its decision on the special motion to strike.

(d) The court shall hold a hearing on a special motion to strike not more than 30 days after service of the motion unless good cause exists for an extension.

(e)(1) The court shall grant the special motion to strike, unless the plaintiff shows that:

(A) the defendant's exercise of his or her right to freedom of speech and to petition was devoid of any reasonable factual support and any arguable basis in law; and

(B) the defendant's acts caused actual injury to the plaintiff.

(2) In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(f)(1) If the court grants the special motion to strike, the court shall award costs and reasonable attorney's fees to the defendant. If the court denies the special motion to strike and finds the motion is frivolous or is intended solely to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to the plaintiff.

(2) Neither the court's ruling on the special motion to strike nor the fact that it made such a ruling shall be admissible in evidence at any later stage of the case,



and no burden of proof or degree of proof otherwise applicable shall be affected by the ruling.

(g) An order granting or denying a special motion to strike shall be appealable in the same manner as an interlocutory order under Rule 5 of the Vermont Rules of Appellate Procedure.

(h) This section shall not apply to any enforcement action or criminal proceeding brought by the State of Vermont or any political subdivision thereof.

(i) As used in this section, “the exercise, in connection with a public issue, of the right to freedom of speech or to petition the government for redress of grievances under the U.S. or Vermont Constitution” includes:

- (1) any written or oral statement made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law;
- (2) any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law;
- (3) any written or oral statement concerning an issue of public interest made in a public forum or a place open to the public; or
- (4) any other statement or conduct concerning a public issue or an issue of public interest which furthers the exercise of the constitutional right of freedom of speech or the constitutional right to petition the government for redress of grievances.

# **Virginia (2007)**

Va. Code Ann. § 8.01-223.2

## **§ 8.01-223.2. Immunity of persons for statements made at public hearing or communicated to third party**

A. A person shall be immune from civil liability for a violation of § 18.2-499, a claim of tortious interference with an existing contract or a business or contractual expectancy, or a claim of defamation based solely on statements (i) regarding matters of public concern that would be protected under the First Amendment to the United States Constitution made by that person that are communicated to a third party or (ii) made at a public hearing before the governing body of any locality or other political subdivision, or the boards, commissions, agencies and authorities thereof, and other governing bodies of any local governmental entity concerning matters properly before such body. The immunity provided by this section shall not apply to any statements made with actual or constructive knowledge that they are false or with reckless disregard for whether they are false.

B. Any person who has a suit against him dismissed pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs.

## **Washington (1989, 2010)**

Wash. Rev. Code § 4.24.500 through § 4.24.525

Held unconstitutional by *Davis v. Cox*, 351 P.3d 862, 875 (Wash. 2015)

### **4.24.500. Good faith communication to government agency--Legislative findings--Purpose**

Information provided by citizens concerning potential wrongdoing is vital to effective law enforcement and the efficient operation of government. The legislature finds that the threat of a civil action for damages can act as a deterrent to citizens who wish to report information to federal, state, or local agencies. The costs of defending against such suits can be severely burdensome. The purpose of RCW 4.24.500 through 4.24.520 is to protect individuals who make good-faith reports to appropriate governmental bodies.

### **4.24.510. Communication to government agency or self-regulatory organization--Immunity from civil liability**

A person who communicates a complaint or information to any branch or agency of federal, state, or local government, or to any self-regulatory organization that regulates persons involved in the securities or futures business and that has been delegated authority by a federal, state, or local government agency and is subject to oversight by the delegating agency, is immune from civil liability for claims based upon the communication to the agency or organization regarding any matter reasonably of concern to that agency or organization. A person prevailing upon the defense provided for in this section is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense and in addition shall receive statutory damages of ten thousand dollars. Statutory damages may be denied if the court finds that the complaint or information was communicated in bad faith.

### **4.24.520. Good faith communication to government agency--When agency or attorney general may defend against lawsuit--Costs and fees**

In order to protect the free flow of information from citizens to their government, an agency receiving a complaint or information under RCW 4.24.510 may intervene in and defend against any suit precipitated by the communication to the agency. In the event that a local governmental agency does not intervene in and defend against a suit arising from any communication protected under chapter 234, Laws of 1989, the office of the attorney general may intervene in and defend against the suit. An agency prevailing upon the defense provided for in RCW 4.24.510 shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense.

If the agency fails to establish the defense provided for in RCW 4.24.510, the party bringing the action shall be entitled to recover from the agency costs and reasonable attorney's fees incurred in proving the defense inapplicable or invalid.

#### **4.24.525. Public participation lawsuits--Special motion to strike claim--Damages, costs, attorneys' fees, other relief--Definitions**

(1) As used in this section:

- (a) "Claim" includes any lawsuit, cause of action, claim, cross-claim, counterclaim, or other judicial pleading or filing requesting relief;
- (b) "Government" includes a branch, department, agency, instrumentality, official, employee, agent, or other person acting under color of law of the United States, a state, or subdivision of a state or other public authority;
- (c) "Moving party" means a person on whose behalf the motion described in subsection (4) of this section is filed seeking dismissal of a claim;
- (d) "Other governmental proceeding authorized by law" means a proceeding conducted by any board, commission, agency, or other entity created by state, county, or local statute or rule, including any self-regulatory organization that regulates persons involved in the securities or futures business and that has been delegated authority by a federal, state, or local government agency and is subject to oversight by the delegating agency.
- (e) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity;
- (f) "Responding party" means a person against whom the motion described in subsection (4) of this section is filed.

(2) This section applies to any claim, however characterized, that is based on an action involving public participation and petition. As used in this section, an "action involving public participation and petition" includes:

- (a) Any oral statement made, or written statement or other document submitted, in a legislative, executive, or judicial proceeding or other governmental proceeding authorized by law;
- (b) Any oral statement made, or written statement or other document submitted, in connection with an issue under consideration or review by a legislative, executive, or judicial proceeding or other governmental proceeding authorized by law;
- (c) Any oral statement made, or written statement or other document submitted, that is reasonably likely to encourage or to enlist public participation in an effort to effect consideration or review of an issue in a legislative, executive, or judicial proceeding or other governmental proceeding authorized by law;

(d) Any oral statement made, or written statement or other document submitted, in a place open to the public or a public forum in connection with an issue of public concern; or

(e) Any other lawful conduct in furtherance of the exercise of the constitutional right of free speech in connection with an issue of public concern, or in furtherance of the exercise of the constitutional right of petition.

(3) This section does not apply to any action brought by the attorney general, prosecuting attorney, or city attorney, acting as a public prosecutor, to enforce laws aimed at public protection.

(4)(a) A party may bring a special motion to strike any claim that is based on an action involving public participation and petition, as defined in subsection (2) of this section.

(b) A moving party bringing a special motion to strike a claim under this subsection has the initial burden of showing by a preponderance of the evidence that the claim is based on an action involving public participation and petition. If the moving party meets this burden, the burden shifts to the responding party to establish by clear and convincing evidence a probability of prevailing on the claim. If the responding party meets this burden, the court shall deny the motion.

(c) In making a determination under (b) of this subsection, the court shall consider pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(d) If the court determines that the responding party has established a probability of prevailing on the claim:

(i) The fact that the determination has been made and the substance of the determination may not be admitted into evidence at any later stage of the case; and

(ii) The determination does not affect the burden of proof or standard of proof that is applied in the underlying proceeding.

(e) The attorney general's office or any government body to which the moving party's acts were directed may intervene to defend or otherwise support the moving party.

(5)(a) The special motion to strike may be filed within sixty days of the service of the most recent complaint or, in the court's discretion, at any later time upon terms it deems proper. A hearing shall be held on the motion not later than thirty days after the service of the motion unless the docket conditions of the court require a later hearing. Notwithstanding this subsection, the court is directed to hold a hearing with all due speed and such hearings should receive priority.

(b) The court shall render its decision as soon as possible but no later than seven days after the hearing is held.

(c) All discovery and any pending hearings or motions in the action shall be stayed upon the filing of a special motion to strike under subsection (4) of this section. The stay of discovery shall remain in effect until the entry of the order ruling on the motion. Notwithstanding the stay imposed by this subsection, the court, on motion and for good cause shown, may order that specified discovery or other hearings or motions be conducted.

(d) Every party has a right of expedited appeal from a trial court order on the special motion or from a trial court's failure to rule on the motion in a timely fashion.

(6)(a) The court shall award to a moving party who prevails, in part or in whole, on a special motion to strike made under subsection (4) of this section, without regard to any limits under state law:

- (i) Costs of litigation and any reasonable attorneys' fees incurred in connection with each motion on which the moving party prevailed;
- (ii) An amount of ten thousand dollars, not including the costs of litigation and attorney fees; and
- (iii) Such additional relief, including sanctions upon the responding party and its attorneys or law firms, as the court determines to be necessary to deter repetition of the conduct and comparable conduct by others similarly situated.

(b) If the court finds that the special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award to a responding party who prevails, in part or in whole, without regard to any limits under state law:

- (i) Costs of litigation and any reasonable attorneys' fees incurred in connection with each motion on which the responding party prevailed;
- (ii) An amount of ten thousand dollars, not including the costs of litigation and attorneys' fees; and
- (iii) Such additional relief, including sanctions upon the moving party and its attorneys or law firms, as the court determines to be necessary to deter repetition of the conduct and comparable conduct by others similarly situated.

(7) Nothing in this section limits or precludes any rights the moving party may have under any other constitutional, statutory, case or common law, or rule provisions.