

HOUSE BILL NO. HB0223

Preventing strategic lawsuits against public participation.

Sponsored by: Representative(s) Ottman, Angelos, Bear, Guggenmos, Hoeft, Lucas, McCann, Singh, Smith, S, Wasserburger, Webb and Webber and Senator(s) Pearson

A BILL

for

1 AN ACT relating to civil procedure; providing immunity from
2 lawsuits based on the constitutional rights of freedom of
3 petition, expression or speech; specifying procedures and
4 limitations for lawsuits based on public participation;
5 specifying applicability; and providing for an effective
6 date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 1-44-101 through 1-44-105 are created
11 to read:

12

13

CHAPTER 44

14

LAWSUITS AGAINST PUBLIC PARTICIPATION

1

2 **1-44-101. Short title; definitions; purposes.**

3

4 (a) This act shall be known and may be cited as the
5 "Wyoming Anti-SLAPP Act."

6

7 (b) As used in this act:

8

9 (i) "Strategic lawsuit" means a strategic
10 lawsuit against public participation;

11

12 (ii) "This act" means W.S. 1-44-101 through
13 1-44-105.

14

15 (c) The purposes of this act are to:

16

17 (i) Ensure full participation by persons in the
18 robust discussion of issues in furtherance of the
19 constitutional rights of freedom of petition, freedom of
20 speech and freedom of expression in connection with any
21 matter of public concern. The concept of public concern
22 shall be construed broadly, excluding only matters of
23 purely private concern;

1

2 (ii) Recognize that litigation that hinders
3 those constitutional rights is disfavored and should be
4 resolved quickly with minimum cost to those exercising
5 those constitutional rights that are protected by the First
6 Amendment to the United States constitution and article 1,
7 section 20 of the Wyoming constitution.

8

9 **1-44-102. Strategic lawsuits; immunity; procedure.**

10

11 (a) All laws in this state shall be construed to
12 grant qualified immunity from suit, prosecution and civil
13 liability for any person in any action, case, claim,
14 administrative proceeding, arbitration or other legal
15 process that impacts the person's constitutional rights
16 under the First Amendment to the United States
17 constitution.

18

19 (b) A person may invoke the qualified immunity
20 provided under subsection (a) of this section at any time.
21 For purposes of this section, the qualified immunity
22 provided under subsection (a) of this section may be waived
23 if a person substantially litigates the case beyond a

1 jurisdictional challenge before raising the immunity,
2 unless facts or circumstances are later discovered
3 demonstrating that the qualified immunity applies and the
4 facts were not available or reasonably discoverable by the
5 person earlier in the case.

6

7 (c) In any case or lawsuit in which a person asserts
8 that the claims, counterclaims, crossclaims or discovery
9 against a person are based, either in whole or in part, on
10 the person's exercise of the constitutional right of
11 petition, freedom of speech or freedom of expression in
12 connection with any matter of public concern under the
13 United States or Wyoming constitutions, the person may move
14 to dismiss or otherwise dispose of the case or lawsuit as
15 expeditiously as possible based on the immunity provided in
16 subsection (a) of this section. For purposes of this
17 subsection:

18

19 (i) A person may invoke the immunity by showing
20 that a claim, counterclaim or crossclaim is based on the
21 person's use of the rights afforded under the First
22 Amendment to the United States constitution or article 1,
23 section 20 of the Wyoming constitution;

1

2 (ii) The immunity may be invoked if a claim,
3 action, proceeding, counterclaim or crossclaim is based on
4 at least one (1) action in furtherance of those rights,
5 even if the claim, action, proceeding, counterclaim or
6 crossclaim is also based on actions not in furtherance of
7 those constitutional rights;

8

9 (iii) The immunity shall be afforded to a person
10 if the responding party:

11

12 (A) Fails to present evidence or
13 supportable allegations, sufficient as a matter of law to
14 establish a prima facie case regarding each element of the
15 claim to survive a motion to dismiss or a judgment on the
16 pleadings; or

17

18 (B) Has presented evidence or supportable
19 allegations establishing a prima facie case regarding each
20 element of the claim, but a moving party has established
21 that there is no genuine issue of material fact and the
22 moving party is entitled to judgment as a matter of law on
23 the claim, as if the court were evaluating a motion for

1 summary judgment. Neither this subparagraph or subparagraph
2 (A) of this paragraph shall require the court to usurp the
3 role of the jury in evaluation of evidence or credibility
4 of evidence beyond what a court would do if evaluating a
5 motion to dismiss, a motion for judgment on the pleadings,
6 a motion for summary judgment or a motion for a directed
7 verdict. In all other respects, the right to trial by jury
8 will remain sacrosanct.

9

10 (d) Any denial of a motion to dismiss based on the
11 immunity provided under this section shall be immediately
12 appealable in accordance with the Wyoming Rules of
13 Appellate Procedure.

14

15 (e) If a motion to dismiss is denied under this
16 section, a person may bring a counterclaim to assert the
17 immunity provided under this section. If the finder of fact
18 finds that the initial claim was without merit and had the
19 effect or intent of suppressing rights protected under the
20 First Amendment to the United States constitution or
21 article 1, section 20 of the Wyoming constitution, the
22 court shall award compensatory damages, all costs and
23 reasonable attorney fees to the counterclaimant.

1

2 (f) If a person successfully invokes the immunity
3 provided under this section, whether on a motion to dismiss
4 or at trial, the person shall be entitled to all costs and
5 reasonable attorney fees for defending the case. If an
6 immunity decision is appealed and the person invoking
7 immunity prevails on appeal, the person shall be entitled
8 to all costs and reasonable attorney fees incurred while
9 defending the appeal. For purposes of this subsection:

10

11 (i) The state of Wyoming and its political
12 subdivisions shall be responsible for all damages, costs
13 and fees specified in this subsection, if the state or a
14 political subdivision is the plaintiff in the case;

15

16 (ii) A person may only recover costs and fees
17 for claims for which immunity is granted if all claims or
18 counterclaims are not dismissed under this section.

19

20 **1-44-103. Strategic lawsuits; procedures.**

21

22 (a) In federal courts and in foreign jurisdictions,
23 these procedural rules are severable from the immunity

1 established in W.S. 1-44-102. In Wyoming state courts and
2 wherever these rules are not in conflict with those of the
3 tribunal, if an action is brought against a person in
4 violation of the immunity from litigation, the person
5 against whom the action is brought may bring a special
6 motion to dismiss or a counterclaim, or both.

7

8 (b) A motion to dismiss based on the immunity
9 provided in W.S. 1-44-102 shall be filed not less than
10 seven (7) days after a notice of intent to file a motion to
11 dismiss is served on the opposing party.

12

13 (c) Upon the filing of a motion to dismiss based on
14 the immunity provided in W.S. 1-44-102, the court shall:

15

16 (i) Determine whether the moving party has
17 established by a preponderance of the evidence that the
18 claim is entitled to immunity under W.S. 1-44-102;

19

20 (ii) If the court determines that the moving
21 party has shown its entitlement to immunity, determine
22 whether the nonmoving party has demonstrated, with

1 sufficient evidence, a probability of prevailing on the
2 claim;

3

4 (iii) If the court determines that the nonmoving
5 party has established its burden under paragraph (ii) of
6 this subsection, ensure that the determination shall not:

7

8 (A) Be admitted into evidence at any
9 subsequent stage of the proceeding;

10

11 (B) Affect the burden of proof that is
12 applied in the underlying action or proceeding.

13

14 (iv) Consider any evidence that may be material
15 in making the required determinations under this
16 subsection;

17

18 (v) Except as otherwise provided in paragraph
19 (iv) of this subsection, stay all other actions and
20 activities in the case, including discovery and motions
21 pending a ruling by the court on the immunity motion and
22 the disposition of any appeal from the ruling on the
23 immunity motion;

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2 (vi) Rule on the immunity motion not later than
3 thirty (30) business days after the motion is filed. The
4 deadline specified in this paragraph may be extended by a
5 showing of good cause.

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7 (d) Upon a showing that information necessary to
8 support or oppose the motion to dismiss is in the
9 possession of another person and is not reasonably
10 available without discovery, the court shall allow limited
11 discovery for purposes of obtaining that information. For
12 purposes of this subsection:

13

14 (i) A separate motion shall be filed to seek
15 limited discovery under this subsection and must be
16 accompanied by an affidavit signed under penalty of
17 perjury;

18

19 (ii) The motion for limited discovery shall
20 include, with specificity, the discovery requested, the
21 reason the discovery is necessary and why the information
22 cannot be obtained in any other way;

23

1 (iii) If the motion lacks specificity, the
2 motion shall be denied, and the nonmoving party shall be
3 entitled to reasonable attorney fees for responding to the
4 motion;

5
6 (iv) Before bringing a motion for limited
7 discovery under this subsection, the moving party shall
8 meet and confer with the opposing party to resolve the
9 matter without a motion. If the nonmoving party has
10 unreasonably declined to agree to the discovery, the moving
11 party shall be entitled to reasonable attorney fees
12 incurred by bringing the motion.

13
14 (e) If the court dismisses an action under a motion
15 to dismiss based on the immunity provided in W.S. 1-44-102,
16 the dismissal shall be treated as an adjudication on the
17 merits.

18
19 (f) If the plaintiff in a strategic lawsuit moves to
20 dismiss the action or files notice of intent to dismiss the
21 action, or if the plaintiff seeks to amend the complaint,
22 after a motion to dismiss based on the immunity provided in
23 W.S. 1-44-102 is filed:

1

2 (i) The plaintiff's motion to dismiss or notice
3 shall function as an admission that the immunity motion is
4 meritorious, and the court shall grant the immunity motion;

5

6 (ii) The plaintiff's motion to amend shall
7 function as an admission that the immunity motion is
8 meritorious as to any claims that the motion to amend would
9 remove.

10

11 (g) The court may modify any deadlines under this
12 section if necessary to serve the interests of justice.

13

14 **1-44-104. Strategic participation lawsuits; separate**
15 **actions and counterclaims.**

16

17 (a) If any claim, action, administrative proceeding,
18 arbitration or any similar process is brought as a
19 strategic lawsuit against a person, the person may invoke
20 the immunity provided in W.S. 1-44-102 through a separate
21 action or counterclaim. For purposes of this section, a
22 person may bring a separate action after conclusion of the
23 strategic lawsuit.

1

2 (b) If a strategic lawsuit is brought against a
3 person and the person successfully invokes immunity under
4 this chapter, the person may bring a separate action to
5 recover costs and attorney fees that are not awarded by the
6 court in accordance with this chapter. For purposes of this
7 subsection:

8

9 (i) A person shall prevail in an action brought
10 under this subsection if the strategic lawsuit was without
11 merit and had the effect or intent of suppressing rights
12 provided under the First Amendment to the United States
13 constitution;

14

15 (ii) Upon prevailing in an action under this
16 subsection, a person shall be entitled to statutory damages
17 of not less than ten thousand dollars (\$10,000.00),
18 compensatory damages, reasonable attorney fees and costs.

19

20 (c) A person who is a Wyoming citizen shall have a
21 cause of action if the person is subject to a strategic
22 lawsuit in another jurisdiction, the other jurisdiction
23 declines to apply the immunity provided in this chapter and

1 the person prevails in the strategic lawsuit. To prevail in
2 a cause of action under this section:

3

4 (i) The strategic lawsuit would have been
5 subject to this chapter if brought in Wyoming;

6

7 (ii) The person attempted to invoke the immunity
8 provided in this chapter, but the other jurisdiction
9 declined to apply the immunity;

10

11 (iii) The person prevailed in that foreign
12 action, including a dismissal without prejudice or a
13 dismissal for a lack of jurisdiction;

14

15 (iv) The person gave the plaintiff in the
16 strategic lawsuit notice, in writing, that if the person
17 prevailed in the plaintiff's strategic lawsuit, the person
18 would be entitled to bring a cause of action in Wyoming
19 under this subsection.

20

21 (d) A person who prevails in a cause of action
22 brought under subsection (c) of this section shall be
23 entitled to:

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2 (i) Statutory damages of not less than ten
3 thousand dollars (\$10,000.00) and not more than one hundred
4 thousand dollars (\$100,000.00);

5

6 (ii) Damages in an amount equal to the actual
7 costs and reasonable attorney fees incurred in the foreign
8 action incurred after providing notice specified in
9 paragraph (c)(iv) of this section;

10

11 (iii) All costs and reasonable attorney fees
12 incurred in the cause of action brought under subsection
13 (c) of this section;

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15 (iv) Any other compensatory damages that the
16 court deems appropriate.

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18 **1-44-105. Applicability.**

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20 This chapter shall apply to all actions pending in the
21 state of Wyoming on July 1, 2025 and, to the fullest extent
22 permissible, to all actions pending in federal courts and
23 foreign jurisdictions.

