



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

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TO Members, Joint Judiciary Committee

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SUBJECT Topic Summary: Anti-SLAPP Legislation

Approved Interim Topic

During the 2026 interim, the Joint Judiciary Committee will study laws concerning 'strategic lawsuits against public participation' (SLAPPs). This topic summary provides a brief explanation of what strategic lawsuits against public participation are, an overview of the Uniform Public Expression Protection Act, a description of what several neighboring states have enacted, and a brief description of state court decisions that have overturned anti-SLAPP legislation.

Anti-SLAPP Legislation

SLAPP stands for "strategic lawsuit against public participation." SLAPPs often come in the form of defamation, invasion of privacy, nuisance, or similar lawsuits based in tort. SLAPPs can arise in many legal arenas from environmental protection, corporate lobbying, and even domestic relations and child custody disputes.¹ SLAPPs often involve large corporations or interest groups who use the judicial process to tie-up their political opponents in expensive litigation for months or years. The purpose of Anti-SLAPP legislation is to prevent or quickly dispose of these types of malicious lawsuits.²

¹ See e.g. *L.S.S. v. S.A.P.*, 2022 COA 123, 523 P.3d 1280 (Colo. Ct. App. 2022).

² While anti-SLAPP laws are procedural in nature, they have been enacted by state legislatures rather than left to the judiciary because they protect substantive rights and have substantive effects. "The Anti-SLAPP statute, moreover, is crafted to serve an interest not directly addressed by the Federal Rules: the protection of "the constitutional rights of freedom of speech and petition for redress of grievances.'" *United States ex rel. Newsham v. Lockheed Missiles & Space Co.*, 190 F.3d 963, 973 (9th Cir. 1999)(quoting Cal. Civ. P. Code § 425.16(a)).

Anti-SLAPP laws vary in detail but generally do four things:

1. Allow for the expeditious dismissal of claims prior to full adjudication of the merits;
2. Create an automatic 'stay' of pretrial proceedings, including discovery (interrogatories, requests for production of documents, depositions, subpoenas to third parties, etc.) and other pretrial motions while the anti-SLAPP motion is being heard and decided;
3. Allow for the recovery of costs and attorney's fees incurred by the defendant in bringing the anti-SLAPP motion; and
4. Allow for the immediate, interlocutory appeal of an order denying the anti-SLAPP motion.

Some states have also provided for statutory and punitive (exemplary) damages to be awarded to the successful movant.³

Enacted Anti-SLAPP Legislation

As of April 2026, 39 states⁴ have enacted anti-SLAPP laws, including Arizona, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, New Mexico, Oklahoma, South Dakota (effective July 1, 2026), Utah, and Washington.

Two states – Washington and Minnesota – have had their original Anti-SLAPP legislation held unconstitutional by their state supreme courts and have subsequently enacted versions of the uniform law.

Uniform Public Expression Protection Act (UPEPA)

The National Conference of Commissioners on Uniform State Laws has developed a Uniform Public Expression Protection Act (UPEPA)⁵ which has been adopted by 16 states, including Idaho,⁶ Montana,⁷ South Dakota,⁸ and Utah.⁹

The Uniform Law Commission's 'Summary of the UPEPA' and the 'Final Act with Comments' are included as appendices to this topic summary. These documents provide a detailed explanation of the purpose of the law and how it operates as well as draft language for proposed bills.

Essentially, the law establishes a mechanism in civil procedure for expedited relief that operates in three phases.

³ See, e.g., Washington's RCW 4.24.525 (deemed unconstitutional by *Davis v. Cox*, 351 P.3d 862 (Wash. 2015), see more below) and Kansas' Public Speech Protection Act, Kan. Stat. Ann. §60-5320.

⁴ Plus Guam and Washington D.C..

⁵ <https://www.uniformlaws.org/committees/community-home?CommunityKey=4f486460-199c-49d7-9fac-05570be1e7b1>

⁶ Idaho Code § 6-3901 *et seq.*

⁷ Mont. Code Ann. § 27-34-101 *et seq.*

⁸ 2026 South Dakota Enrolled Senate Bill 137.

⁹ Utah Code Ann. § 78B-25-101 *et seq.*

UPEPA - Phase 1

When a lawsuit is filed, the defendant (the person being sued)¹⁰ can file an anti-SLAPP motion within 60 days of receiving service of process. Once filed, the anti-SLAPP motion creates an automatic stay (or freeze) of all proceedings in the underlying lawsuit (i.e. discovery, hearings on any pending motions) until the court rules on the anti-SLAPP motion. The defendant has the burden of proving that the anti-SLAPP statute applies. In other words, the defendant must show that he or she was engaged in constitutionally protected activity and the lawsuit was brought with the intent of stifling that protected activity.

If the court concludes that the defendant did not meet the initial burden, the court denies the anti-SLAPP motion, the stay is lifted, and the underlying lawsuit proceeds as usual.

If the court concludes that the defendant did meet the initial burden of applicability, the burden then shifts to the plaintiff (the party that filed the original lawsuit) to prove that the original cause of action fits within one of the exceptions in the anti-SLAPP act.¹¹ If the plaintiff fails to meet that burden, the court proceeds to the second phase of analysis.

UPEPA - Phase 2

In the second phase, the court considers whether the plaintiff can make a *prima facie*¹² case for the lawsuit by establishing an initial showing of every element of the cause(s) of action. For example, if the lawsuit is for defamation, the plaintiff will need to set forth the facts and allegations that, if true, would prove the defendant published statements to a third party, that the statements were false, that the statements injured the plaintiff's reputation, and that the plaintiff suffered damages as a result.

If the court determines the plaintiff has *not* met its burden of establishing all elements of the cause of action, then the anti-SLAPP motion is granted, and the cause of action is dismissed with

¹⁰ The UPEPA materials appended hereto use the term 'movant' to refer to the party that files the anti-SLAPP motion and 'respondent' to refer to the party responding to the anti-SLAPP motion. Similarly, the language in the model legislation as well as the enacted legislation from several states use the terms 'moving party' and 'responding party.' This terminology is used because any party to a lawsuit might be the one who is filing the anti-SLAPP motion. For example, in a nuisance lawsuit, if the defendant files a counterclaim against the plaintiff for defamation, the plaintiff might then file an anti-SLAPP motion to dismiss the defendant's counterclaim. For this topic summary, and in the interest of clarity, the person who files the anti-SLAPP motion is referred to as the defendant and the person who responds to the anti-SLAPP motion is called the plaintiff.

¹¹ The three exceptions to applicability in the UPEPA are when the original lawsuit is asserted: 1) against a governmental entity, its agents or employees, acting in an official capacity; 2) by a governmental entity, its agents or employees, acting in an official capacity to enforce a law or protect against an imminent threat to public health or safety; or 3) against a person primarily engaged in selling or leasing goods or services if the original lawsuit arises out of a communication related to the person's sale or lease of goods or services. (See UPEPA §2(c)).

¹² "Prima facie" is Latin for "on the face of it" or "on the first impression". "Prima facie is used in court to indicate that there is sufficient or adequate evidence to support a claim. More simply put, a prima facie case means that the claim being presented to a court has merit, when taken at face value." (LII, Wex, 'prima facie', April 20, 2026, https://www.law.cornell.edu/wex/prima_facie).

prejudice (meaning it cannot be re-filed). The defendant is entitled to recover costs, attorney fees, and expenses incurred in bringing the anti-SLAPP motion.

If the court determines the plaintiff *has* met the burden of establishing a prima facie case for the original cause of action, the court proceeds to the third phase.

UPEPA - Phase 3

In the third phase, the burden of proof shifts once again to the defendant (the party who filed the anti-SLAPP motion) to show that the plaintiff does not have a legally viable case. The defendant can do this by showing that the plaintiff has failed to state a claim upon which relief can be granted¹³ or that there are no genuine issues of material fact and the defendant is entitled to judgment as a matter of law.¹⁴ In other words, the defendant may still succeed on a motion to dismiss the original cause of action by showing that the original claimant would be unable to present evidence at trial sufficient to succeed on the merits.

Appealability

If the defendant meets this burden, the cause of action is dismissed with prejudice and the defendant is entitled to recover costs and attorney's fees. The plaintiff may appeal at the conclusion of the case.

If the defendant fails to carry the burden, the anti-SLAPP motion is denied and the defendant is entitled to immediate, interlocutory appeal of that decision.

Attorney's Fees and Costs

Under the UPEPA, attorney's fees, costs and expenses related to filing the anti-SLAPP motion must be awarded to the defendant if the motion is granted. On the other hand, the plaintiff is only entitled to recover attorney's fees, costs and expenses if the court finds that the motion was frivolous or filed solely with the intent to delay the proceedings.

¹³ This is the same standard for a motion to dismiss under the Federal and Wyoming Rules of Civil Procedure 12(b)(6) except that a 12(b)(6) motion must be raised before or at the same time as a responsive pleading (answer) or it is waived, whereas an anti-SLAPP motion need not be filed before a responsive pleading.

¹⁴ This is the standard for summary judgment under the Federal and Wyoming Rules of Civil Procedure 56. Applying the summary judgment standard at this stage of the litigation may create a conundrum for the courts because full discovery is usually required before summary judgment is appropriate. (*See Abraham v. Great W. Energy, LLC*, 2004 WY 145, ¶19, 101 P.3d 446, 455 (Wyo. 2004)) The summary judgment standard requires the court to determine whether any material facts are genuinely disputed by the parties and thus requires that the parties have had adequate time and opportunity to 'discover' the facts. Since the anti-SLAPP motion stays discovery, the concern is whether summary judgment at this stage of litigation violates due process and the right to jury trial (see below).

Non-Uniform Anti-SLAPP Laws

Arizona

Arizona first enacted its anti-SLAPP law in 2006 and amended it in 2022 to significantly broaden its scope. As it was first enacted, the law was only available in cases brought against a person as retaliation for exercising their right to petition the government. The 2022 amendment makes the law applicable to all lawful exercises of First Amendment rights.

The defendant must file the anti-SLAPP motion (in the form of a motion to dismiss or to quash) within 60 days after service of the complaint and "has the burden of establishing prima facie proof that the legal action was substantially motivated by a desire to deter, retaliate against or prevent the lawful exercise of a constitutional right."¹⁵ The proof can be in the form of affidavit, the court record (i.e. from the verified complaint, counterclaim, or answer) or other evidence submitted with the motion to dismiss or quash.¹⁶

The plaintiff is not required to respond to the anti-SLAPP motion until the court rules on whether the defendant has made a prima facie showing. Upon finding a prima facie case, discovery is stayed and the court will order the plaintiff to respond to the motion.

The burden of proof then shifts to the plaintiff to show that the underlying lawsuit was:

- In the case of state actors¹⁷: "justified by clearly established law and that the responding party did not act in order to deter, prevent or retaliate against the moving party's exercise of constitutional rights;"¹⁸ or
- In the cases of non-state actors: "that the legal action on which the motion is based is justified by existing law or supported by a reasonable argument for extending or modifying existing law."¹⁹

After receiving the response, the court may decide the anti-SLAPP motion based on the filings (i.e. briefs and affidavits) or hold an evidentiary hearing.

¹⁵ Ariz. Rev. Stat. Ann. §12-751(B).

¹⁶ The Rules of Civil Procedure usually do not allow additional evidence in a motion to dismiss and when a party attaches affidavits or other evidence, the motion to dismiss is converted into a motion for summary judgment. (W.R.C.P 12(d)). This law effectively creates a new type of motion to dismiss that is something in between a standard motion based only on the pleadings and one for summary judgment which is usually only appropriate after discovery is completed.

¹⁷ "State actor" means any of the following: (a) This state and any county, city, town or political subdivision of this state. (b) Any branch, department, board, bureau, commission, council or committee of an entity included in subdivision (a) of this paragraph. (c) Any officer, employee or other agent of an entity included in subdivision (a) of this paragraph who is acting in the officer's, employee's or agent's official capacity." Ariz. Rev. Stat. Ann. §12-751(J)(2).

¹⁸ Ariz. Rev. Stat. Ann. §12-751(B)(1).

¹⁹ Ariz. Rev. Stat. Ann. §12-751(B)(2).

Attorney Fees

If the motion to quash or dismiss is granted, the court *may* grant attorney fees and costs to the successful defendant.²⁰

If the court finds the motion to dismiss or quash was "frivolous or solely intended to delay, the court *shall* award costs and reasonable attorney fees to the prevailing party on the motion."²¹

Appealability

If the court originally determined that the defendant established a prima facie showing for the anti-SLAPP motion, the Arizona law allows for the immediate appeal of an order either granting or denying the anti-SLAPP motion.

Legal Challenges

The prior version of Arizona's anti-SLAPP law was challenged in the case of *Tennenbaum v. Arizona City Sanitary District* wherein the "Plaintiff argues that the statute is in violation of the "anti-abrogation" (article 18, § 6), due process (article 2, § 4), and/or separation of powers (article 3) clauses of the Arizona constitution."²² However, the United States District Court for the District of Arizona declined to consider the constitutional challenge because of a longstanding principal of "'avoid[ing] addressing constitutional issues relating to a statute unless absolutely necessary to resolve a case."²³ The *Tennenbaum* court denied both the defendant's anti-SLAPP motion to dismiss the lawsuit and the plaintiff's motion for attorney's fees (finding that the anti-SLAPP motion was not frivolous) and thus there was no need to address the constitutionality of the anti-SLAPP legislation.

Colorado

Colorado's anti-SLAPP statute was enacted "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, to protect the rights of persons to file meritorious lawsuits for demonstrable injury." § 13-20-1101(1)(b). To balance these interests, the statute introduces a procedural mechanism, through a special motion to dismiss, whereby the district court can "make an early assessment about the merits of claims brought in response to a defendant's . . . speech activity."²⁴

²⁰ Ariz. Rev. Stat. Ann. §12-751(F).

²¹ *Id.* (Emphasis added.)

²² *Tennenbaum v. Ariz. City Sanitary Dist.*, 799 F. Supp. 2d 1083, 1091 (D. Ariz. 2011).

²³ *Id.* (internal citations omitted).

²⁴ *Jogan Health, LLC v. Scripps Media, Inc.*, 2025 COA 4, ¶ 12, 565 P.3d 1160, 1166 (quoting *Salazar v. Pub. Tr. Inst.*, 2022 COA 109M, ¶ 12, 522 P.3d 242).

The Colorado anti-SLAPP statute follows a similar pattern of burden-shifting as the UPEPA but it involves only two phases, rather than three. The Colorado Court of Appeals explained:

The statute mandates a two-step process. In the first step, the court must determine if the defendant has shown that the claims arise from the defendant's exercise of the right to petition or the right to free speech. § 13-20-1101(3)(a); *Salazar*, ¶ 21. If the first step of the test is met, the court proceeds to the second step. If not, litigation under the anti-SLAPP statute terminates, and the case is adjudicated under the rules applicable to all civil cases.

Step two requires the plaintiff to assume the burden to establish a "reasonable likelihood" of prevailing on the claim at trial. § 13-20-1101(3)(a).²⁵

The Colorado Court of Appeals has issued contradictory opinions as to the appropriate standard of review under Colorado's anti-SLAPP statute and the Colorado Supreme Court has so far declined to consider the matter.²⁶ In *L.S.S. v. S.A.P.*,²⁷ the Colorado Court of Appeals held that "[t]he court does not weigh evidence or resolve conflicting factual claims" but simply "accepts the plaintiff's evidence as true" when deciding a special motion to dismiss."²⁸ In *Salazar v. Pub. Tr. Inst.*, by contrast, the Court of Appeals held:

We neither simply accept the truth of the allegations nor make an ultimate determination of their truth. Instead, ever cognizant that we do not sit as a preliminary jury, we assess whether the allegations and defenses are such that it is reasonably likely that a jury would find for the plaintiff.²⁹

The concurrence in *Jogan* noted that this conflict of approaches will eventually need the Supreme Court's opinion to settle and that in the meantime, trial courts are left to try to make sense of the contradictory appeals court decisions.

Automatic Stay

The Colorado statute applies an automatic stay of "all discovery proceedings" upon the filing of a notice of an anti-SLAPP motion. For good cause shown, the court may grant a motion to allow specified discovery.³⁰

Attorney Fees

A successful anti-SLAPP movant "is entitled to recover ... attorney fees and costs."³¹

²⁵ *Id.* at ¶¶ 58-59, 1173.

²⁶ The cases with contradictory evidentiary standards are *L.S.S. v. S.A.P.*, 2022 COA 123, 523 P.3d 1280 (Colo. Ct. App. 2022) and *Salazar v. Pub. Tr. Inst.*, 2022 COA 109M, 522 P.3d 242. (Colo. Ct. App. 2022).

²⁷ *L.S.S. v. S.A.P.*, 2022 COA 123, 523 P.3d 1280 (Colo. Ct. App. 2022).

²⁸ *Jogan*, *supra*, at ¶ 1, 1164.

²⁹ *Salazar v. Pub. Tr. Inst.*, 2022 COA 109M, ¶ 21, 522 P.3d 242, 248 (Colo. Ct. App. 2022).

³⁰ Colo. Rev. Stat. § 13-20-1101(4)(a).

³¹ Colo. Rev. Stat. § 13-20-1101(6).

If the court finds that an anti-SLAPP motion "is frivolous or is solely intended to cause unnecessary delay ... the court shall award costs and reasonable attorney fees" to the responding party.³²

Appealability

An order either granting or denying an anti-SLAPP motion under the Colorado statute is immediately appealable unless the trial court denies the anti-SLAPP motion on the grounds that the cause of action is exempt under the act.³³

Exemptions

The Colorado anti-SLAPP law does not apply to lawsuits filed by or on behalf of the state "enforcing a law or rule seeking to protect against an imminent threat to health or public safety" or to lawsuits brought solely in the public interest or to lawsuits brought "against a person primarily engaged in the business of selling or leasing goods or services."³⁴

Kansas

Kansas enacted its "Kansas Public Speech Protection Act" (KPSPA) in 2016.³⁵ The KPSPA resembles the Colorado law in many ways, including that it involves a two-step burden-shifting process, but it also has several unique provisions. The KPSPA grants a party to a lawsuit the right to file 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."³⁶

The motion to strike (the anti-SLAPP motion) may be filed within 60 days of service of the complaint or at any later time at the court's discretion "upon terms it deems proper."³⁷

Under the KPSPA the party filing the anti-SLAPP motion has the initial burden of establishing a prima facie case that the underlying lawsuit "concerns a party's exercise of the right of free speech, right to petition or right of association."³⁸ If that initial burden is met, 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."³⁹ If the plaintiff meets this burden, the court must deny the anti-SLAPP motion and the case proceeds as usual.

³² *Id.*

³³ Colo. Rev. Stat. § 13-20-1101(7).

³⁴ Colo. Rev. Stat. § 13-20-1101(8).

³⁵ Kan. Stat. Ann. § 60-5320.

³⁶ Kan. Stat. Ann. § 60-5320(d).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

A finding by the court that the plaintiff established a likelihood of prevailing on the claim cannot be admitted into evidence later in the case and that determination does not change the burden or standard of proof in the proceeding.

In deciding the anti-SLAPP motion, the trial court "shall consider pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based."⁴⁰ The court is required to hold a hearing on the anti-SLAPP motion within 30 days after service of the motion.

Automatic Stay

All discovery, motions or other pending hearings are automatically stayed upon the filing of the motion to strike. A party may move the court for an order allowing "specified and limited discovery relevant to the motion."⁴¹

Attorney Fees and Sanctions

The court is required to award attorney fees and costs of litigation to a party that succeeds in an anti-SLAPP motion "without regard to any limits under state law."⁴² The court may also award "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."⁴³

If the court determines that the anti-SLAPP motion was "frivolous or solely intended to cause delay," attorney fees and costs related to the motion shall be awarded to the plaintiff.⁴⁴

Appealability

In addition to having the right to interlocutory appeal if the motion is denied, the party filing an anti-SLAPP motion also has the right to file a petition for writ of mandamus if the trial court does not rule on the motion in an expedited fashion.

The statute is silent on the plaintiff's right to appeal in the event the anti-SLAPP motion is granted and thus it is presumed that there is no interlocutory right of appeal in that situation.

Exemptions

The KPSPA does not apply to: 1) enforcement actions brought in the name of the state; 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 or commercial transaction in which the intended audience is an actual or potential customer; or 3) a claim brought under the Kansas insurance code or arising out of an insurance contract.⁴⁵

⁴⁰ *Id.*

⁴¹ Kan. Stat. Ann. § 60-5320(e).

⁴² Kan. Stat. Ann. § 60-5320(g).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Kan. Stat. Ann. § 60-5320(h).

Anti-SLAPP Legislation Held Unconstitutional

Washington

The state of Washington enacted the “Washington Act Limiting Strategic Lawsuits Against Public Participation” (WALSLAPP) in 2010.⁴⁶ WALSLAPP was based on California’s anti-SLAPP statute but notably created a higher standard of proof required by plaintiffs in responding to an anti-SLAPP motion.⁴⁷ In addition, the WALSLAPP provided for mandatory statutory damages to a party prevailing in an anti-SLAPP motion in the amount of \$10,000 as well as allowing the court to award punitive or exemplary damages to deter future SLAPPs.

In *Davis v. Cox*,⁴⁸ the Washington Supreme Court held that Washington's anti-SLAPP statute violated the Washington Constitution's right of trial by jury. The Court summarized the law as follows:

The statute attempts to achieve this goal in three principal ways. It halts discovery in such cases presumptively, RCW 4.24.525(5)(c), creates a “special motion to strike a claim” (anti-SLAPP motion), *id.* at (4)(b), and awards a prevailing party on the motion attorney fees and a \$10,000 assessment, *id.* at (6)(a). When ruling on an anti-SLAPP motion, the trial court first determines whether the claim at issue is “based on an action involving public participation and petition,” a defined term that broadly describes rights of expression and petition. *Id.* at (4)(b). If that is so, the trial court then decides whether the party bringing the claim can prove by “clear and convincing evidence a probability of prevailing on the claim.” *Id.* If the party cannot meet that burden, the statute requires the trial court to dismiss the claim and award statutory remedies to the opposing party. *Id.* at (6)(a).⁴⁹

After lengthy discussion about similar laws in California and Minnesota, the court held that the statute's unambiguous language requires trial courts to make factual findings as to whether the plaintiff (the party responding to the anti-SLAPP motion) had “establish[ed] by clear and convincing evidence a probability of prevailing on the claim.”⁵⁰ The Court distinguished this standard from a summary judgment standard by noting that in a summary judgment, the court does not make factual findings but merely recognizes there are no genuine disputes as to the facts and

⁴⁶ R.C.W. 4.24.525.

⁴⁷ “California's statute provides that a plaintiff defeats a defendant's motion by establishing “a *probability* that the plaintiff will prevail on the claim.” By contrast, our statute expressly ratchets up the plaintiff's evidentiary burden, requiring the plaintiff to establish “by *clear and convincing evidence* a probability of prevailing on the claim.”” *Davis v. Cox*, 183 Wash. 2d 269, 284, 351 P.3d 862, 869 (Wash. 2015) (internal citations omitted, emphasis supplied by the court).

⁴⁸ *Id.* at 295, 875.

⁴⁹ *Id.* at 274, 864.

⁵⁰ *Id.* at 282, 868.

the law can only go one way. In other words, summary judgment does not require the Court to decide which facts are true, only that the facts are not in dispute.

Thus, RCW 4.24.525(4)(b) creates a truncated adjudication of the merits of a plaintiff's claim, including nonfrivolous factual issues, without a trial. Such a procedure invades the jury's essential role of deciding debatable questions of fact. In this way, RCW 4.24.525(4)(b) violates the right of trial by jury under article I, section 21 of the Washington Constitution.⁵¹

In 2021, the Washington legislature enacted a version of the UPEPA to replace the one held to be unconstitutional.⁵²

Minnesota

The state of Minnesota originally enacted anti-SLAPP legislation in 1994 but that law was held unconstitutional after a protracted legal battle which culminated in the 2017 decision *Leiendecker v. Asian Women United of Minn.*⁵³ The Minnesota law was similar to those of California and Washington, and differed from the UPEPA, by requiring the responding party to establish a likelihood of success on the merits in order to survive the anti-SLAPP motion.

The Minnesota Supreme Court determined that the law violated the responding party's right to a jury trial under the Minnesota Constitution by effectively transferring the jury's fact-finding role to the court and because the law required the responding party to meet a higher standard of proof (clear and convincing evidence) than would have been required at trial (preponderance of the evidence).

Minnesota has since enacted a version of the UPEPA which was signed into law in 2024.⁵⁴

Conclusion

Please let me know if you have any questions or would like additional information.

⁵¹ *Id.* at 294, 874.

⁵² R.C.W. 4.105.

⁵³ 895 N.W.2d 623, 639 (Minn. 2017).

⁵⁴ Minn. Stat. Ann. § 554.07 through 554.19.