

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Uniform Public Expression Protection Act.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to civil procedure; enacting the Uniform
2 Public Expression Protection Act; specifying requirements
3 and procedures for strategic lawsuits against public
4 participation; specifying remedies; authorizing the award
5 of fees and costs as specified; providing definitions;
6 specifying applicability; and providing for an effective
7 date.

8

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

10

11 **Section 1.** W.S. 1-44-101 through 1-44-108 are created
12 to read:

13

1 1-44-101. Short title; scope and applicability;
2 construction.

3
4 (a) This act shall be known and may be cited as the
5 "Uniform Public Expression Protection Act."

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7 *****
8 *****
9 STAFF COMMENT

10
11 In light of paragraph (b)(iii) below, which broadly
12 references the exercise of First Amendment rights of
13 expression, speech, and association, the Committee may wish
14 to consider whether paragraphs (b)(i) or (ii) are necessary
15 and, if they are, whether the term "communication" should
16 be defined for purposes of this act.

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19 *****
20

21 (b) Except as provided in subsection (c) of this
22 section, this act shall apply to a cause of action asserted
23 against a person based on the person's:

24
25 (i) Communication in a legislative, executive,
26 judicial, administrative or other governmental proceeding;

27
28 (ii) Communication on an issue under
29 consideration or review in a legislative, executive,

1 judicial, administrative or other governmental proceeding;
2 or

3

4 (iii) Exercise of the right of freedom of speech,
5 the right of freedom of the press, the right to assemble
6 and petition or the right of association, as guaranteed by
7 the United States constitution and the Wyoming
8 constitution, on a matter of public concern.

9

10 (c) This act shall not apply to a cause of action:

11

12 (i) Against a governmental entity or an employee
13 or agent of a governmental entity acting or purporting to
14 act in an official capacity;

15

16 (ii) By a governmental entity, or an employee or
17 agent of a governmental entity acting in an official
18 capacity, to enforce a law to protect against an imminent
19 threat to public health or safety; or

20

21 (iii) Against a person primarily engaged in the
22 business of selling or leasing goods or services if the

1 cause of action arises out of a communication related to
2 the person's sale or lease of goods or services.

3

4 (d) This act shall be broadly construed and applied to
5 protect the exercise of the right of freedom of speech, the
6 right of freedom of the press, the right to assemble and
7 petition and the right of association, as guaranteed by the
8 United States constitution and the Wyoming constitution.

9

10 (e) In applying and construing this act, consideration
11 shall be given to the need to promote uniformity of the law
12 with respect to its subject matter among states that enact
13 this act.

14

15 **1-44-102. Definitions.**

16

17 (a) As used in this act:

18

19 (i) "Goods or services" means any good or service
20 that does not include the creation, dissemination,
21 exhibition or advertisement or similar promotion of a
22 dramatic, literary, musical, political, journalistic or
23 artistic work;

1

2 (ii) "Governmental entity" means the state of
3 Wyoming, the University of Wyoming, cities and towns,
4 counties, school districts, joint powers boards, airport
5 boards, public corporations, entities formed by a county
6 memorial hospital, special hospital district, rural health
7 care district or senior health care district that are
8 wholly owned by one (1) or more governmental entities,
9 community college districts, special districts and their
10 governing bodies and all political subdivisions of the
11 state, and their agencies, instrumentalities and
12 institutions;

13

14 (iii) "This act" means W.S. 1-44-101 through 1-
15 44-108.

16

17 *****

18 *****

19 STAFF COMMENT

20

21 The Uniform Act's language includes a definition of
22 "person." Wyoming law already generally provides a
23 definition of person; that definition is included below for
24 the Committee's reference.

25

26 8-1-102. Definitions.

27

1 (a) As used in the statutes unless the legislature
2 clearly specifies a different meaning or interpretation or
3 the context clearly requires a different meaning:
4

5 (vi) "Person" includes an individual,
6 partnership, corporation, joint stock company or any other
7 association or entity, public or private;
8

9 *****
10 *****
11

12 **1-44-103. Protected expression; special motion for**
13 **expedited relief.**
14

15 Not later than sixty (60) days after a party is served with
16 a complaint, petition, crossclaim, counterclaim, third-
17 party claim or other pleading that asserts a cause of
18 action to which this act applies, or at a later time after
19 a showing of good cause, the party may file a special
20 motion for expedited relief to dismiss the cause of action
21 or part of the cause of action.
22

23 **1-44-104. Protected expression; stays.**
24

25 (a) Except as otherwise provided in this section, upon
26 the filing of a motion under W.S. 1-44-103:
27

(i) All other proceedings between the moving party and the responding party, including discovery and any pending hearing or motion, shall be stayed;

STAFF COMMENT

In light of W.S. 1-44-103 (above), which contemplates a party seeking to dismiss a part of the cause of action, the Committee may wish consider whether additional language in paragraph (i) is necessary to allow for proceedings unrelated to the part of the cause of action subject to an anti-SLAPP motion to proceed.

(ii) On motion by the moving party, the court may stay a hearing or motion involving another party, or discovery by another party, if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material to the motion filed under W.S. 1-44-103.

(b) A stay entered under subsection (a) of this section shall remain in effect until the entry of an order ruling on the motion filed under W.S. 1-44-103 and the expiration of the time under W.S. 1-44-107(b) for the moving party to appeal the order.

1

2 (c) Except as otherwise provided in this section, if a
3 party filed an appeal from an order ruling on a motion
4 filed under W.S. 1-44-103, all proceedings between all
5 parties in the action shall be stayed until the conclusion
6 of the appeal.

7

8 (d) During a stay entered under subsection (a) of this
9 section, the court may allow limited discovery if a party
10 shows that specific information is necessary to establish
11 whether a party has satisfied or failed to satisfy a burden
12 under W.S. 1-44-106(a) and the information is not
13 reasonably available unless discovery is allowed.

14

15 (e) A request for costs, attorney fees and expenses
16 under W.S. 1-44-108 in connection with a motion filed under
17 W.S. 1-44-103 shall not be subject to any stay under this
18 section.

19

20 (f) A stay entered under this section shall not affect
21 a party's ability to voluntarily dismiss a cause of action
22 or a part of a cause of action or to file a motion and
23 obtain a ruling for severing a cause of action.

1

2 (g) During a stay entered under this section, the
3 court, for good cause, may hear and rule on:

4

5 (i) A motion raising an issue that is unrelated
6 to the motion filed under W.S. 1-44-103;

7

8 (ii) A motion seeking a special or preliminary
9 injunction to protect against an imminent threat to public
10 health or safety.

11

12 **1-44-105. Protected expression; hearings; proof.**

13

14 (a) The court shall hear a motion filed under W.S. 1-
15 44-103 not later than sixty (60) days after filing of the
16 motion, unless the court orders a later hearing:

17

18 (i) To allow discovery under W.S. 1-44-104(d); or

19

20 (ii) For other good cause.

21

22 (b) If the court orders a later hearing under
23 paragraph (a)(i) of this section, the court shall hear the

1 motion filed under W.S. 1-44-103 not later than sixty (60)
2 days after the court order allowing the discovery, unless
3 the court orders a later hearing for the purposes specified
4 under paragraph (a)(ii) of this section.

5
6 (c) In ruling on a motion filed under W.S. 1-44-103,
7 the court shall consider the pleadings, the motion, any
8 reply or response to the motion and any evidence that could
9 be considered in ruling on a motion for summary judgment
10 under the Wyoming Rules of Civil Procedure.

11
12 **1-44-106. Protected expression; dismissal of a cause**
13 **of action.**

14
15 (a) In ruling on a motion filed under W.S. 1-44-103,
16 the court shall dismiss with prejudice a cause of action,
17 or a part of a cause of action to which the motion filed
18 under W.S. 1-44-103 applies, if:

19
20 (i) The moving party establishes under W.S. 1-44-
21 101(b) that this act applies;

1 (ii) The responding party fails to establish
2 under W.S. 1-44-101(c) that this act does not apply; and

3

4 (iii) Either:

5

6 (A) The responding party fails to establish
7 a prima facie case as to each element of the cause of
8 action; or

9

10 (B) The moving party establishes that:

11

12 (I) The responding party failed to
13 state a cause of action upon which relief can be granted;
14 or

15

16 (II) There is no genuine issue as to
17 any material fact and the moving party is entitled to
18 judgment as a matter of law on the cause of action or part
19 of the cause of action.

20

21 (b) A voluntary dismissal without prejudice of a
22 responding party's cause of action, or part of a cause of
23 action, that is the subject of a motion under W.S. 1-44-103

1 shall not affect a moving party's right to obtain a ruling
2 on the motion filed under W.S. 1-44-103 and seek costs,
3 attorney fees and expenses under W.S. 1-44-108.

4
5 (c) A voluntary dismissal with prejudice of a
6 responding party's cause of action, or part of a cause of
7 action, that is the subject of a motion filed under W.S. 1-
8 44-103 shall establish for purposes of W.S. 1-44-108 that
9 the moving party prevailed on the motion filed under W.S.
10 1-44-103.

11
12 **1-44-107. Protected expression; ruling; appeal.**

13
14 (a) The court shall rule on a motion filed under W.S.
15 1-44-103 not later than sixty (60) days after a hearing is
16 held under W.S. 1-44-105.

17
18 (b) A moving party may appeal as a matter of right
19 from an order denying, in whole or in part, a motion filed
20 under W.S. 1-44-103, provided that the appeal shall be
21 filed not later than twenty-one (21) days after entry of
22 the order.

1-44-108. Protected expression; costs, attorney fees
and expenses.

(a) On a motion filed under W.S. 1-44-103, the court shall award costs, reasonable attorney fees and reasonable litigation expenses related to the motion to:

(i) The moving party if the moving party prevails
on the motion; or

(ii) The responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with the intent to delay the proceeding.

Section 2. This act shall apply to all causes of action filed on and after the effective date of this act.

STAFF COMMENT

The language of the uniform act includes a severability clause. This language is unnecessary given W.S. 8-1-103(a)(viii), which applies to all enacted laws.

8-1-103. Rules of construction for statutes.

1
2 (a) The construction of all statutes of this state
3 shall be by the following rules, unless that construction
4 is plainly contrary to the intent of the legislature:

5
6 (viii) If any provision of any act enacted by
7 the Wyoming legislature or its application to any person or
8 circumstance is held invalid, the invalidity does not
9 affect other provisions or applications of the act which
10 can be given effect without the invalid provision or
11 application, and to this end the provisions of any such act
12 are severable;

13
14 *****
15 *****
16

17 **Section 3.** This act is effective July 1, 2027.

18
19 (END)