

# HOUSE BILL No. 1207

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-6-2; IC 34-7.

**Synopsis:** Uniform public expression protection act. Establishes a procedure to permit certain persons named in a civil action to dismiss or strike claims that relate to the person's: (1) communication in a governmental proceeding; (2) communication concerning an issue under review or consideration in a governmental proceeding; or (3) communication on a matter of public concern that is protected by the right to free speech and to petition. Repeals the existing anti-SLAPP (strategic lawsuit against public participation) provisions and makes conforming amendments.

**Effective:** July 1, 2022.

---

---

## Young J

---

---

January 6, 2022, read first time and referred to Committee on Judiciary.

---

---



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

# HOUSE BILL No. 1207

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 34-6-2-48.7 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2022]: **Sec. 48.7. "Goods and services", for purposes of**  
4 **IC 34-7-7.1-1, has the meaning set forth in IC 34-7-7.1-1.**

5 SECTION 2. IC 34-6-2-49, AS AMENDED BY P.L.220-2013,  
6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2022]: Sec. 49. (a) "Governmental entity", for purposes of  
8 section 91 of this chapter, IC 34-13-2, IC 34-13-3, and IC 34-13-4,  
9 means the state or a political subdivision of the state. For purposes of  
10 IC 34-13-2, IC 34-13-3, and IC 34-13-4, the term includes a charter  
11 school.

12 (b) "Governmental entity", for purposes of section 103(j) of this  
13 chapter, means the state or a political subdivision of the state.

14 (c) **"Governmental entity", for purposes of IC 34-7-7.1-1, has**  
15 **the meaning set forth in IC 34-7-7.1-1.**

16 SECTION 3. IC 34-6-2-103, AS AMENDED BY P.L.1-2021,  
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2022]: Sec. 103. (a) "Person", for purposes of IC 34-14, has  
2 the meaning set forth in IC 34-14-1-13.
- 3 (b) "Person", for purposes of **IC 34-7-7.1-1**, IC 34-11-2-11.5, and  
4 IC 34-24-4, means:
- 5 (1) an individual;  
6 (2) a governmental entity;  
7 (3) a corporation;  
8 (4) a firm;  
9 (5) a trust;  
10 (6) a partnership; or  
11 (7) an incorporated or unincorporated association that exists  
12 under or is authorized by the laws of this state, another state, or a  
13 foreign country.
- 14 (c) "Person", for purposes of section 44.8 of this chapter and  
15 IC 34-30-29-1, means an adult or a minor.
- 16 (d) "Person", for purposes of IC 34-26-4, has the meaning set forth  
17 in IC 35-31.5-2-234.
- 18 (e) "Person", for purposes of IC 34-30-5, means any of the  
19 following:
- 20 (1) An individual.  
21 (2) A corporation.  
22 (3) A partnership.  
23 (4) An unincorporated association.  
24 (5) The state (as defined in IC 34-6-2-140).  
25 (6) A political subdivision (as defined in IC 34-6-2-110).  
26 (7) Any other entity recognized by law.
- 27 (f) "Person", for purposes of IC 34-30-6, means an individual, a  
28 corporation, a limited liability company, a partnership, an  
29 unincorporated association, or a governmental entity that:
- 30 (1) has qualifications or experience in:  
31 (A) storing, transporting, or handling a hazardous substance or  
32 compressed gas;  
33 (B) fighting fires;  
34 (C) emergency rescue; or  
35 (D) first aid care; or  
36 (2) is otherwise qualified to provide assistance appropriate to  
37 remedy or contribute to the remedy of the emergency.
- 38 (g) "Person", for purposes of IC 34-30-18, includes:  
39 (1) an individual;  
40 (2) an incorporated or unincorporated organization or association;  
41 (3) the state of Indiana;  
42 (4) a political subdivision (as defined in IC 36-1-2-13);



- 1 (5) an agency of the state or a political subdivision; or  
 2 (6) a group of such persons acting in concert.
- 3 (h) "Person", for purposes of sections 42, 43, 69, and 95 of this  
 4 chapter, means an individual, an incorporated or unincorporated  
 5 organization or association, or a group of such persons acting in  
 6 concert.
- 7 (i) "Person", for purposes of IC 34-30-10.5, means the following:  
 8 (1) A political subdivision (as defined in IC 36-1-2-13).  
 9 (2) A volunteer fire department (as defined in IC 36-8-12-2).  
 10 (3) An employee of an entity described in subdivision (1) or (2)  
 11 who acts within the scope of the employee's responsibilities.  
 12 (4) A volunteer firefighter (as defined in IC 36-8-12-2) who is  
 13 acting for a volunteer fire department.  
 14 (5) A corporation, a limited liability company, a partnership, an  
 15 unincorporated association, or any other entity recognized by law.
- 16 (j) "Person", for purposes of IC 34-28-7, means:  
 17 (1) an individual;  
 18 (2) a governmental entity;  
 19 (3) a corporation;  
 20 (4) a firm;  
 21 (5) a trust;  
 22 (6) a partnership; or  
 23 (7) an incorporated or unincorporated association that exists  
 24 under or is authorized by the laws of this state, another state, or a  
 25 foreign country.
- 26 (k) "Person", for purposes of IC 34-31-9, has the meaning set forth  
 27 in IC 34-31-9-8.
- 28 (l) "Person", for purposes of IC 34-30-32, has the meaning set forth  
 29 in IC 34-30-32-4.
- 30 SECTION 4. IC 34-7-7 IS REPEALED [EFFECTIVE JULY 1,  
 31 2022]. (Defense in Civil Actions Against Persons Who Act in  
 32 Furtherance of the Person's Right of Petition or Free Speech Under the  
 33 Constitution of the United States or the Constitution of the State of  
 34 Indiana in Connection With a Public Issue).
- 35 SECTION 5. IC 34-7-7.1 IS ADDED TO THE INDIANA CODE  
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2022]:
- 38 **Chapter 7.1. Uniform Public Expression Protection**  
 39 **Sec. 1. (a) The following definitions apply throughout this**  
 40 **section:**  
 41 **(1) "Goods and services" means tangible or intangible**  
 42 **property. However, the term does not include the creation,**



1 dissemination, exhibition, or advertisement or similar  
 2 promotion of a dramatic, literary, musical, political,  
 3 journalistic, or artistic work.

4 (2) "Governmental entity" has the meaning set forth in  
 5 IC 35-31.5-2-144(a).

6 (b) Except as provided in subsection (c), this chapter applies to  
 7 a claim asserted in a civil action against a person based on the  
 8 person's:

9 (1) communication in a legislative, executive, judicial,  
 10 administrative, or other governmental proceeding;

11 (2) communication on an issue under consideration or review  
 12 in a legislative, executive, judicial, administrative, or other  
 13 governmental proceeding; or

14 (3) exercise of the right:

15 (A) of freedom of speech, of the press, of the right to  
 16 assemble or petition, or of the right of association,  
 17 guaranteed by the First Amendment to the Constitution of  
 18 the United States; or

19 (B) of free interchange of thought and opinion, of the right  
 20 to speak, write, or print freely, to assemble together in a  
 21 peaceable manner, or of the right to instruct  
 22 representatives and apply to the general assembly for the  
 23 redress of grievances, guaranteed by Article 1, Sections 9  
 24 and 31 of the Constitution of the State of Indiana;

25 on a matter of public concern.

26 (c) This chapter does not apply to a claim asserted:

27 (1) against a governmental entity or an employee or agent of  
 28 a governmental entity acting or purporting to act in an official  
 29 capacity;

30 (2) by a governmental entity or an employee or agent of a  
 31 governmental entity acting in an official capacity to enforce  
 32 a law to protect against an imminent threat to public health  
 33 or safety; or

34 (3) against a person primarily engaged in the business of  
 35 selling or leasing goods or services if the claim arises out of a  
 36 communication related to the person's sale or lease of the  
 37 goods or services.

38 **Sec. 2. Not later than thirty (30) days after a party is served with**  
 39 **a complaint, petition, crossclaim, counterclaim, third party claim,**  
 40 **or other pleading that asserts a claim to which this chapter applies,**  
 41 **or at a later time on a showing of good cause, the party may file a**  
 42 **special motion for expedited relief to strike or dismiss the claim.**



1           **Sec. 3. (a) Except as provided in subsections (d) through (g),**  
2 **upon the filing of a motion described in section 2 of this chapter:**

3           **(1) all other proceedings between the moving party and**  
4 **responding party, including discovery and a pending hearing**  
5 **or motion, are stayed; and**

6           **(2) on motion by the moving party, the court may stay a**  
7 **hearing or motion involving another party, or discovery by**  
8 **another party, if the hearing or ruling on the motion would**  
9 **adjudicate, or the discovery would relate to, an issue material**  
10 **to the motion described in section 2 of this chapter.**

11           **(b) A stay under subsection (a) remains in effect until:**

12           **(1) the entry of an order ruling on the motion under section 2**  
13 **of this chapter; and**

14           **(2) the expiration of the time for the moving party to appeal**  
15 **the order under section 8 of this chapter.**

16           **(c) Except as provided in subsections (e), (f), and (g), if a party**  
17 **appeals from an order ruling on a motion under section 2 of this**  
18 **chapter, all proceedings between all parties in the action are**  
19 **stayed. The stay remains in effect until the conclusion of the**  
20 **appeal.**

21           **(d) During a stay under subsection (a), the court may allow**  
22 **limited discovery if a party shows that specific information is**  
23 **necessary to establish whether a party has satisfied or failed to**  
24 **satisfy a burden under section 6(a) of this chapter and the**  
25 **information is not reasonably available unless discovery is allowed.**

26           **(e) A motion for costs, reasonable attorney's fees, and expenses**  
27 **is not subject to a stay under section 9 of this chapter.**

28           **(f) A stay under this section does not affect a party's ability to**  
29 **voluntarily dismiss or move to sever a claim.**

30           **(g) During a stay under this section, the court for good cause**  
31 **may hear and rule on:**

32           **(1) a motion unrelated to the motion under section 2 of this**  
33 **chapter; and**

34           **(2) a motion seeking a special or preliminary injunction to**  
35 **protect against an imminent threat to public health or safety.**

36           **Sec. 4. (a) The court shall hear a motion under section 2 of this**  
37 **chapter not later than thirty (30) days after filing of the motion,**  
38 **unless the court orders a later hearing:**

39           **(1) to allow discovery under section 3(d) of this chapter; or**

40           **(2) for other good cause.**

41           **(b) If the court orders a later hearing under subsection (a)(1),**  
42 **the court shall hear the motion under section 2 of this chapter not**



1 later than thirty (30) days after the court order allowing the  
 2 discovery, unless the court orders a later hearing under subsection  
 3 (a)(2).

4 **Sec. 5. In ruling on a motion under section 2 of this chapter, the**  
 5 **court shall consider the pleadings, the motion, any reply or**  
 6 **response to the motion, and any evidence that could be considered**  
 7 **in ruling on a motion for summary judgment under Trial Rule 56**  
 8 **of the Indiana Rules of Trial Procedure.**

9 **Sec. 6. (a) In ruling on a motion under section 2 of this chapter,**  
 10 **the court shall strike or dismiss a claim with prejudice if:**

11 (1) the moving party establishes under section 1(b) of this  
 12 chapter that this chapter applies;

13 (2) the responding party fails to establish under section 1(c) of  
 14 this chapter that this chapter does not apply; and

15 (3) either:

16 (A) the responding party fails to establish a prima facie  
 17 case as to each essential element of the claim; or

18 (B) the moving party establishes that:

19 (i) the responding party failed to state a claim upon  
 20 which relief can be granted; or

21 (ii) there is no genuine issue as to any material fact and  
 22 the moving party is entitled to judgment as a matter of  
 23 law on the claim.

24 (b) A voluntary dismissal without prejudice of a responding  
 25 party's claim that is the subject of a motion under section 2 of this  
 26 chapter does not affect a moving party's right to obtain a ruling on  
 27 the motion and seek costs, reasonable attorney's fees, and expenses  
 28 under section 9 of this chapter.

29 (c) A voluntary dismissal with prejudice of a responding party's  
 30 claim that is the subject of a motion under section 2 of this chapter  
 31 establishes for the purpose of section 9 of this chapter that the  
 32 moving party prevailed on the motion.

33 **Sec. 7. The court shall rule on a motion under section 2 of this**  
 34 **chapter not later than thirty (30) days after a hearing held under**  
 35 **section 4 of this chapter.**

36 **Sec. 8. Under Rule 14(D) of the Indiana Rules of Appellate**  
 37 **Procedure, a moving party may appeal as a matter of right from**  
 38 **an order denying, in whole or in part, a motion under section 2 of**  
 39 **this chapter. The appeal must be filed not later than twenty-one**  
 40 **(21) days after entry of the order.**

41 **Sec. 9. On a motion under section 2 of this chapter, the court**  
 42 **shall award court costs, reasonable attorney's fees, and reasonable**



1 litigation expenses related to the motion:

2 (1) to the moving party if the moving party prevails on the  
3 motion; or

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

7 **Sec. 10. This chapter shall be broadly construed and applied to**  
8 **protect the exercise of the right:**

9 (1) of freedom of speech, of the press, of the right to assemble  
10 or petition, and of the right of association, guaranteed by the  
11 First Amendment to the Constitution of the United States; and

12 (2) of free interchange of thought and opinion, of the right to  
13 speak, write, or print freely, to assemble together in a  
14 peaceable manner, and of the right to instruct representatives  
15 and apply to the general assembly for the redress of  
16 grievances, guaranteed by Article 1, Sections 9 and 31 of the  
17 Constitution of the State of Indiana.

18 **Sec. 11. In applying and construing this chapter, consideration**  
19 **must be given to the need to promote uniformity of the law with**  
20 **respect to its subject matter among states that enact it.**

21 **Sec. 12. (a) This chapter applies to a civil action filed after June**  
22 **30, 2022.**

23 **(b) This chapter does not affect a civil action filed before July 1,**  
24 **2022, or a defense raised under IC 34-7-7 (before its repeal) that**  
25 **relates to a claim raised before July 1, 2022.**

