



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1466

PRINTER'S NO. 1650

PRIME SPONSOR: **Bizzaro**

COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	\$0	\$0

SUMMARY:

House Bill 1466 Printer's Number 1650 amends Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, to create the Uniform Public Expression Protection Act.

ANALYSIS:

This legislation establishes a civil cause of action by adding a section under the Consolidated Statutes, Title 42, Chapter 83, Particular Right and Immunities, to provide for a cause of action if, in a previous cause of action based on protected public expression, the person would have prevailed on a ground related to grant of immunity (see Section 8340.15), but the court did not decide on that immunity.

Upon proof the underlying action was commenced or continued for the sole purpose of harassing, intimidating, punishing, or maliciously inhibiting protective public expression, the prevailing party is entitled to recover attorneys fees, court costs, and expenses of litigation in the underlying action and in addition to punitive damages.

The legislation also provides for the Uniform Public Expression Protection Act ("Act") which provides a cause of action based on protected public expression but specifically excludes actions:

- Against a government unit or an employee or agent of a government unit acting in an official capacity;
- By a government unit or an employee or agent of a government unit acting in an official capacity to enforce a law, regulation or ordinance;
- Against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person's sale or lease of the goods or services;
- Seeking damages for bodily injury or death unless the claim: (i) is for: (A) defamation; (B) publication of private facts; (C) false light invasion of privacy; (D) misappropriation of likeness; or (E) intentional or negligent infliction of emotional distress; or (ii) arises solely from a communication on a matter of public concern;
- Arising under any of the following: (i) 23 Pa.C.S. Ch. 61 (relating to protection from abuse). (ii) Chapter 62A (relating to protection of victims of sexual violence or intimidation). (iii) The act of May 17, 1921 (P.L.682, No. 284), known as The Insurance Company Law of 1921;
- Arising under an insurance contract;
- Asserting misappropriation of trade secrets or corporate opportunities against the person that allegedly misappropriated the trade secret or corporate opportunity;

- Enforcing a non disparagement agreement or a covenant not to compete against a party to the agreement or covenant;
- Arising out of the internal affairs, governance, dissolution, liquidation, rights or obligations between or among stockholders or partners. This paragraph includes the interpretation of the rights or obligations under the governing organic law, articles of incorporation, bylaws and agreements.
- Liability or indemnity of managers of business corporations, partnerships, limited partnerships, limited liability partnerships, professional associations, business trusts, joint ventures or other business enterprises. This paragraph includes the interpretation of the rights or obligations under the governing organic law, articles of incorporation, bylaws or agreements.

The grant of immunity provides that a person is immune from civil liability for a cause of action based on protected public expression if the party asserting the cause of action based on protected public expression fails to establish a prima facie case as to each essential element of the cause of action or (ii) state a cause of action upon which relief can be granted or that there is no genuine issue as to any material fact, and the person against whom the cause of action based on protected public expression has been asserted is entitled to judgment as a matter of law in whole or in part.

This legislation also provides for the procedure for a special motion for dismissal or judgment on a cause of action, or part of a cause of action, based on the party's protected public expression immunity.

The provisions regarding pretrial motions shall take effect on the effective date in the notice transmitted to the Legislative Reference Bureau. The remainder of the legislation shall take effect immediately.

FISCAL IMPACT:

Enactment of this legislation will have no impact on Commonwealth funds.

PREPARED BY: Bradley Keen
House Appropriations Committee (D)

DATE: October 4, 2023

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.