

SENATE BILL NO. 1219

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GANNON.

5861S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 537.528, RSMo, and to enact in lieu thereof one new section relating to civil actions based on public expression.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 537.528, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.529, to read as follows:

537.529. 1. This section shall be known and may be cited as the "Uniform Public Expression Protection Act".

2. As used in this section, the following terms shall mean:

(1) "Goods or services", shall not include a dramatic, literary, musical, political, journalistic, or artistic work;

(2) "Governmental unit", any city, county, or other political subdivision of this state, or any department, division, board, or other agency of any political subdivision of this state;

(3) "Person", an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity.

3. Except as otherwise provided in subsection 4 of this section, this section applies to a cause of action asserted in a civil action against a person based on the person's:

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (1) Communication in a legislative, executive,
19 judicial, administrative, or other governmental proceeding;

20 (2) Communication on an issue under consideration or
21 review in a legislative, executive, judicial,
22 administrative, or other governmental proceeding; or

23 (3) Exercise of the right of freedom of speech or of
24 the press, the right to assemble or petition, or the right
25 of association, guaranteed by the Constitution of the United
26 States or the Constitution of the state of Missouri, on a
27 matter of public concern.

28 4. This section does not apply to a cause of action
29 asserted:

30 (1) Against a governmental unit or an employee or
31 agent of a governmental unit acting or purporting to act in
32 an official capacity;

33 (2) By a governmental unit or an employee or agent of
34 a governmental unit acting in an official capacity to
35 enforce a law to protect against an imminent threat to
36 public health or safety; or

37 (3) Against a person primarily engaged in the business
38 of selling or leasing goods or services if the cause of
39 action arises out of a communication related to the person's
40 sale or lease of the goods or services.

41 5. No later than sixty days after a party is served
42 with a complaint, cross-claim, counterclaim, third-party
43 claim, or other pleading that asserts a cause of action to
44 which this section applies, or at a later time on a showing
45 of good cause, a party may file a special motion to dismiss
46 the cause of action or part of the cause of action.

47 6. (1) Except as otherwise provided in this
48 subsection:

49 (a) All other proceedings between the moving party and
50 responding party in an action, including discovery and a
51 pending hearing or motion, are stayed on the filing of a
52 motion under subsection 5 of this section; and

53 (b) On motion by the moving party, the court may stay:

54 a. A hearing or motion involving another party if the
55 ruling on the hearing or motion would adjudicate a legal or
56 factual issue that is material to the motion under
57 subsection 5 of this section; or

58 b. Discovery by another party if the discovery relates
59 to a legal or factual issue that is material to the motion
60 under subsection 5 of this section.

61 (2) A stay under subdivision (1) of this subsection
62 remains in effect until entry of an order ruling on the
63 motion filed under subsection 5 of this section and the
64 expiration of the time to appeal the order.

65 (3) If a party appeals from an order ruling on a
66 motion under subsection 5 of this section, all proceedings
67 between all parties in an action are stayed. The stay
68 remains in effect until the conclusion of the appeal.

69 (4) During a stay under subdivision (1) of this
70 subsection, the court may allow limited discovery if a party
71 shows that specific information is necessary to establish
72 whether a party has satisfied or failed to satisfy a burden
73 imposed by subdivision (1) of subsection 9 of this section
74 and is not reasonably available without discovery.

75 (5) A motion for costs and expenses under subsection
76 12 of this section shall not be subject to a stay under this
77 section.

78 (6) A stay under this subsection does not affect a
79 party's ability to voluntarily dismiss a cause of action or
80 part of a cause of action or move to sever a cause of action.

81 (7) During a stay under this section, the court for
82 good cause may hear and rule on:

83 (a) A motion unrelated to the motion under subsection
84 5 of this section; and

85 (b) A motion seeking a special or preliminary
86 injunction to protect against an imminent threat to public
87 health or safety.

88 7. (1) The court shall hear a motion under subsection
89 5 of this section no later than sixty days after filing of
90 the motion, unless the court orders a later hearing:

91 (a) To allow discovery under subdivision (4) of
92 subsection 6 of this section; or

93 (b) For other good cause.

94 (2) If the court orders a later hearing under
95 paragraph (a) of subdivision (1) of this subsection, the
96 court shall hear the motion under subsection 5 of this
97 section no later than sixty days after the court order
98 allowing the discovery, subject to paragraph (b) of
99 subdivision (1) of this subsection.

100 8. In ruling on a motion under subsection 5 of this
101 section, the court shall consider the parties' pleadings,
102 the motion, any replies and responses to the motion, and any
103 evidence that could be considered in ruling on a motion for
104 summary judgment.

105 9. (1) In ruling on a motion under subsection 5 of
106 this section, the court shall dismiss with prejudice a cause
107 of action or part of a cause of action if:

108 (a) The moving party establishes under subsection 3 of
109 this section that this section applies;

110 (b) The responding party fails to establish under
111 subsection 4 of this section that this section does not
112 apply; and

113 (c) Either:

114 a. The responding party fails to establish a prima
115 facie case as to each essential element of the cause of
116 action; or

117 b. The moving party establishes that:

118 (i) The responding party failed to state a cause of
119 action upon which relief can be granted; or

120 (ii) There is no genuine issue as to any material fact
121 and the party is entitled to judgment as a matter of law on
122 the cause of action or part of the cause of action.

123 (2) A voluntary dismissal without prejudice of a
124 responding party's cause of action, or part of a cause of
125 action, that is the subject of a motion under subsection 5
126 of this section does not affect a moving party's right to
127 obtain a ruling on the motion and seek costs, reasonable
128 attorney's fees, and reasonable litigation expenses under
129 subsection 12 of this section.

130 (3) A voluntary dismissal with prejudice of a
131 responding party's cause of action, or part of a cause of
132 action, that is the subject of a motion under subsection 5
133 of this section establishes for the purpose of subsection 12
134 of this section that the moving party prevailed on the
135 motion.

136 10. The court shall rule on a motion under subsection
137 5 of this section no later than sixty days after the hearing
138 under subsection 7 of this section.

139 11. A moving party may appeal within twenty-one days
140 as a matter of right from an order denying, in whole or in
141 part, a motion under subsection 5 of this section.

142 12. On a motion under subsection 5 of this section,
143 the court shall award costs, reasonable attorney's fees, and
144 reasonable litigation expenses related to the motion:

145 (1) To the moving party if the moving party prevails
146 on the motion; or

147 (2) To the responding party if the responding party
148 prevails on the motion and the court finds that the motion
149 was frivolous or filed solely with intent to delay the
150 proceeding.

151 13. This section shall be broadly construed and
152 applied to protect the exercise of the right of freedom of
153 speech and of the press, the right to assemble and petition,
154 and the right of association, guaranteed by the Constitution
155 of the United States or the Constitution of the state of
156 Missouri.

157 14. In applying and construing this section,
158 consideration shall be given to the need to promote
159 uniformity of the law with respect to its subject matter
160 among states that enact it.

161 15. This section applies to a civil action filed or
162 cause of action asserted in a civil action on or after
163 August 28, 2022.

2 [537.528. 1. Any action against a person
3 for conduct or speech undertaken or made in
4 connection with a public hearing or public
5 meeting, in a quasi-judicial proceeding before a
6 tribunal or decision-making body of the state or
7 any political subdivision of the state is
8 subject to a special motion to dismiss, motion
9 for judgment on the pleadings, or motion for
10 summary judgment that shall be considered by the
11 court on a priority or expedited basis to ensure
12 the early consideration of the issues raised by
13 the motion and to prevent the unnecessary
14 expense of litigation. Upon the filing of any
15 special motion described in this subsection, all
16 discovery shall be suspended pending a decision
17 on the motion by the court and the exhaustion of
18 all appeals regarding the special motion.

19 2. If the rights afforded by this section
20 are raised as an affirmative defense and if a
21 court grants a motion to dismiss, a motion for
22 judgment on the pleadings or a motion for
23 summary judgment filed within ninety days of the
filing of the moving party's answer, the court

24 shall award reasonable attorney fees and costs
25 incurred by the moving party in defending the
26 action. If the court finds that a special
27 motion to dismiss or motion for summary judgment
28 is frivolous or solely intended to cause
29 unnecessary delay, the court shall award costs
30 and reasonable attorney fees to the party
31 prevailing on the motion.

32 3. Any party shall have the right to an
33 expedited appeal from a trial court order on the
34 special motions described in subsection 2 of
35 this section or from a trial court's failure to
36 rule on the motion on an expedited basis.

37 4. As used in this section, a "public
38 meeting in a quasi-judicial proceeding" means
39 and includes any meeting established and held by
40 a state or local governmental entity, including
41 without limitations meetings or presentations
42 before state, county, city, town or village
43 councils, planning commissions, review boards or
44 commissions.

45 5. Nothing in this section limits or
46 prohibits the exercise of a right or remedy of a
47 party granted pursuant to another
48 constitutional, statutory, common law or
49 administrative provision, including civil
50 actions for defamation.

51 6. If any provision of this section or the
52 application of any provision of this section to
53 a person or circumstance is held invalid, the
54 invalidity shall not affect other provisions or
55 applications of this section that can be given
56 effect without the invalid provision or
57 application, and to this end the provisions of
58 this section are severable.

59 7. The provisions of this section shall
60 apply to all causes of actions.]

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