

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 169

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO COURTS; ENACTING THE UNIFORM PUBLIC EXPRESSION
PROTECTION ACT; REPEALING AND ENACTING SECTIONS OF THE NMSA
1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Uniform Public Expression Protection Act".

SECTION 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that it is the public
policy of New Mexico to protect the rights of its residents to
participate in first amendment activities, including those set
forth in Subsection A of Section 3 of the Uniform Public
Expression Protection Act. Baseless civil lawsuits seeking or
claiming millions of dollars have been filed against persons
for exercising these rights, to petition and to participate in

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1 quasi-judicial proceedings before governmental tribunals. Such
2 lawsuits can be an abuse of the legal process, can impose an
3 undue financial burden on those having to respond to and defend
4 such lawsuits and may chill and punish participation in public
5 affairs and the institutions of democratic government. These
6 lawsuits should be subject to prompt dismissal or judgment to
7 prevent the abuse of the legal process and avoid the burden
8 imposed by such baseless lawsuits.

9 B. The purpose of the Uniform Public Expression
10 Protection Act is to provide protection for New Mexico
11 residents from the abuse of the legal process for participating
12 in first amendment activities as set forth in Subsection A of
13 Section 3 of the Uniform Public Expression Protection Act.

14 SECTION 3. [NEW MATERIAL] SCOPE.--

15 A. Except as otherwise provided in Subsection B of
16 this section, the Uniform Public Expression Protection Act
17 applies to a cause of action asserted in a civil action against
18 a person based on the person's:

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

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

24 (3) exercise of the right of freedom of speech
25 or of the press, the right to assemble or petition or the right

1 of association, guaranteed by the United States constitution or
2 the constitution of New Mexico, on a matter of public concern.

3 B. The Uniform Public Expression Protection Act
4 does not apply to a cause of action asserted:

5 (1) against a governmental unit or an employee
6 or agent of a governmental unit acting or purporting to act in
7 an official capacity;

8 (2) by a governmental unit or an employee or
9 agent of a governmental unit acting in an official capacity to
10 enforce a law to protect against an imminent threat to public
11 health or safety; or

12 (3) against a person primarily engaged in the
13 business of selling or leasing goods or services if the cause
14 of action arises out of a communication related to the person's
15 sale or lease of the goods or services.

16 C. As used in this section:

17 (1) "goods or services" does not include the
18 creation, dissemination, exhibition or advertisement or similar
19 promotion of a dramatic, literary, musical, political,
20 journalistic or artistic work; and

21 (2) "governmental unit" means a public
22 corporation or government or governmental subdivision, agency
23 or instrumentality.

24 SECTION 4. [NEW MATERIAL] SPECIAL MOTION FOR EXPEDITED
25 RELIEF.--Not later than sixty days after a party is served with

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1 a complaint, petition, cross claim, counterclaim, third-party
2 claim or other pleading that asserts a cause of action to which
3 the Uniform Public Expression Protection Act applies, or at a
4 later time on a showing of good cause, the party may file a
5 special motion for expedited relief to dismiss the cause of
6 action or part of the cause of action.

7 SECTION 5. [NEW MATERIAL] STAY.--

8 A. Except as otherwise provided in Subsections D
9 through G of this section, upon the filing of a motion pursuant
10 to Section 4 of the Uniform Public Expression Protection Act:

11 (1) all other proceedings between the moving
12 party and responding party, including discovery and a pending
13 hearing or motion, are stayed; and

14 (2) on motion by the moving party, the court
15 may stay a hearing or motion involving another party, or
16 discovery by another party, if the hearing or ruling on the
17 motion would adjudicate, or the discovery would relate to, an
18 issue material to the motion pursuant to Section 4 of the
19 Uniform Public Expression Protection Act.

20 B. A stay pursuant to Subsection A of this section
21 remains in effect until entry of an order ruling on the motion
22 pursuant to that subsection and expiration of the time pursuant
23 to Section 10 of the Uniform Public Expression Protection Act
24 for the moving party to appeal the order.

25 C. Except as otherwise provided in Subsections E, F

1 and G of this section, if a party appeals from an order ruling
2 on a motion pursuant to Section 4 of the Uniform Public
3 Expression Protection Act, all proceedings between all parties
4 in the action are stayed. The stay remains in effect until the
5 conclusion of the appeal.

6 D. During a stay pursuant to Subsection A of this
7 section, the court may allow limited discovery if a party shows
8 that specific information is necessary to establish whether a
9 party has satisfied or failed to satisfy a burden pursuant to
10 Subsection A of Section 8 of the Uniform Public Expression
11 Protection Act and the information is not reasonably available
12 unless discovery is allowed.

13 E. A motion pursuant to Section 11 of the Uniform
14 Public Expression Protection Act for costs, attorney fees and
15 expenses is not subject to a stay pursuant to this section.

16 F. A stay pursuant to this section does not affect
17 a party's ability to voluntarily dismiss a cause of action or
18 part of a cause of action or move to sever a cause of action.

19 G. During a stay pursuant to this section, the
20 court for good cause may hear and rule on:

21 (1) a motion unrelated to the motion pursuant
22 to Section 4 of the Uniform Public Expression Protection Act;
23 and

24 (2) a motion seeking a special or preliminary
25 injunction to protect against an imminent threat to public

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1 health or safety.

2 SECTION 6. [NEW MATERIAL] HEARING.--

3 A. The court shall hear a motion pursuant to
4 Section 4 of the Uniform Public Expression Protection Act not
5 later than sixty days after filing of the motion, unless the
6 court orders a later hearing:

7 (1) to allow discovery pursuant to Subsection
8 D of Section 5 of the Uniform Public Expression Protection Act;
9 or

10 (2) for other good cause.

11 B. If the court orders a later hearing pursuant to
12 Paragraph (1) of Subsection A of this section, the court shall
13 hear the motion pursuant to Section 4 of the Uniform Public
14 Expression Protection Act not later than sixty days after the
15 court order allowing the discovery, unless the court orders a
16 later hearing pursuant to Paragraph (2) of Subsection A of this
17 section.

18 SECTION 7. [NEW MATERIAL] PROOF.--In ruling on a motion
19 pursuant to Section 4 of the Uniform Public Expression
20 Protection Act, the court shall consider the pleadings, the
21 motion, any reply or response to the motion and any evidence
22 that could be considered in ruling on a motion to dismiss,
23 motion for judgment on the pleadings or motion for summary
24 judgment.

25 SECTION 8. [NEW MATERIAL] DISMISSAL OF CAUSE OF ACTION IN

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1 WHOLE OR IN PART.--

2 A. In ruling on a motion pursuant to Section 4 of
3 the Uniform Public Expression Protection Act, the court shall
4 dismiss with prejudice a cause of action or part of a cause of
5 action if:

6 (1) the moving party establishes pursuant to
7 Subsection A of Section 3 of that act that the Uniform Public
8 Expression Protection Act applies;

9 (2) the responding party fails to establish
10 pursuant to Subsection B of Section 3 of that act that the
11 Uniform Public Expression Protection Act does not apply; and

12 (3) either:

13 (a) the responding party fails to
14 establish a prima facie case as to each essential element of
15 the cause of action; or

16 (b) the moving party establishes that:
17 1) the responding party failed to state a cause of action upon
18 which relief can be granted; or 2) there is no genuine issue as
19 to any material fact and the moving party is entitled to
20 judgment as a matter of law on the cause of action or part of
21 the cause of action.

22 B. A voluntary dismissal without prejudice of a
23 responding party's cause of action or part of a cause of action
24 that is the subject of a motion pursuant to Section 4 of the
25 Uniform Public Expression Protection Act does not affect a

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1 moving party's right to obtain a ruling on the motion and seek
2 costs, attorney fees and expenses pursuant to Section 11 of
3 that act.

4 C. A voluntary dismissal with prejudice of a
5 responding party's cause of action or part of a cause of action
6 that is the subject of a motion pursuant to Section 4 of the
7 Uniform Public Expression Protection Act establishes for the
8 purpose of Section 11 of that act that the moving party
9 prevailed on the motion.

10 SECTION 9. [NEW MATERIAL] RULING.--The court shall rule
11 on a motion pursuant to Section 4 of the Uniform Public
12 Expression Protection Act not later than sixty days after a
13 hearing pursuant to Section 6 of that act.

14 SECTION 10. [NEW MATERIAL] APPEAL.--A moving party may
15 appeal as a matter of right from an order denying, in whole or
16 in part, a motion pursuant to Section 4 of the Uniform Public
17 Expression Protection Act. The appeal shall be filed not later
18 than thirty days after entry of the order.

19 SECTION 11. [NEW MATERIAL] COSTS, ATTORNEY FEES AND
20 EXPENSES.--On a motion pursuant to Section 4 of the Uniform
21 Public Expression Protection Act, the court shall award court
22 costs, reasonable attorney fees and reasonable litigation
23 expenses related to the motion:

24 A. to the moving party if the moving party prevails
25 on the motion; or

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1 B. to the responding party if the responding party
2 prevails on the motion and the court finds that the motion was
3 frivolous or filed solely with intent to delay the proceeding.

4 **SECTION 12. [NEW MATERIAL] CONSTRUCTION.**--The Uniform
5 Public Expression Protection Act shall be broadly construed and
6 applied to protect the exercise of the right of freedom of
7 speech and of the press, the right to assemble and petition and
8 the right of association, guaranteed by the United States
9 constitution and the constitution of New Mexico.

10 **SECTION 13. [NEW MATERIAL] UNIFORMITY OF APPLICATION AND**
11 **CONSTRUCTION.**--In applying and construing the Uniform Public
12 Expression Protection Act, consideration shall be given to the
13 need to promote uniformity of the law with respect to its
14 subject matter among states that enact it.

15 **SECTION 14. [NEW MATERIAL] APPLICABILITY.**--The Uniform
16 Public Expression Protection Act applies to a civil action
17 filed or cause of action asserted in a civil action on or after
18 the effective date of that act.

19 **SECTION 15. [NEW MATERIAL] SAVING CLAUSE.**--The Uniform
20 Public Expression Protection Act does not affect a cause of
21 action asserted before the effective date of that act in a
22 civil action or a motion pursuant to Section 38-2-9.1 NMSA
23 1978.

24 **SECTION 16. REPEAL.**--Sections 38-2-9.1 and 38-2-9.2 NMSA
25 1978 (being Laws 2001, Chapter 218, Sections 2 and 1) are

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1 repealed.

2 SECTION 17. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2025.

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