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**HOUSE BILL 241**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Patsy G. Trujillo**

**AN ACT**

**RELATING TO CIVIL ACTIONS; ESTABLISHING IMMUNITY FROM  
LIABILITY FOR CONDUCT IN FURTHERANCE OF A PERSON'S RIGHTS TO  
PETITION THE GOVERNMENT AND FREE SPEECH IN CONNECTION WITH A  
PUBLIC ISSUE; ESTABLISHING PROCEDURES; PROVIDING FOR DAMAGES;  
ENACTING SECTIONS OF THE NMSA 1978.**

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

**Section 1. FINDINGS AND PURPOSE. --The legislature finds  
that civil lawsuits often claiming millions of dollars have  
been filed against persons for exercising their right to free  
speech and to petition the government and to seek relief from,  
influence action by, inform or otherwise participate in the  
processes of government; these lawsuits are an abuse of the  
legal process because they chill and punish participation in**

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1 public affairs and the institutions of democratic government.  
2 The legislature declares that it is in the public interest to  
3 encourage continued public participation in matters of public  
4 significance and to restore balance between the right of  
5 access to courts and the rights of citizens to petition, speak  
6 out, associate and otherwise participate in the political  
7 process without fear of litigation.

8 Section 2. IMMUNITY--SPECIAL MOTION TO DISMISS  
9 UNWARRANTED OR SPECIOUS LAWSUITS--PROCEDURES-- DAMAGES--  
10 SEVERABILITY.--

11 A. In an action claiming economic damages arising  
12 from conduct or speech that has as its primary purpose  
13 informing, communicating with, influencing or otherwise  
14 participating in the process of government, a defendant in  
15 that action is immune from liability for that conduct, except  
16 upon clear and convincing evidence that there was no  
17 objectively reasonable basis for the conduct or activity and  
18 the conduct or activity was undertaken in bad faith.

19 B. An action described in Subsection A of this  
20 section is subject to a special motion to dismiss that shall  
21 be considered by the trial court on an expedited basis. The  
22 responding party to the special motion to dismiss shall have  
23 the burden of going forward with the evidence and of  
24 persuasion on the motion. Discovery shall be suspended  
25 pending decision on the motion and any appeal from a decision

1 on the motion. The court shall grant the special motion to  
2 dismiss and dismiss the claim unless the responding party  
3 produces clear and convincing evidence that the alleged acts  
4 of the moving party are not immunized from liability pursuant  
5 to Subsection A of this section.

6 C. A governmental entity to which the party that  
7 is moving to dismiss has directed its actions, or the attorney  
8 general, may intervene to defend or otherwise support the  
9 moving party.

10 D. The court shall award litigation costs to the  
11 prevailing party on the special motion to dismiss, including  
12 reasonable attorney fees and expert witness' fees, incurred in  
13 connection with the motion.

14 E. If the court grants the special motion to  
15 dismiss and the moving party demonstrates that the respondent  
16 to the motion to dismiss brought the action described in  
17 Subsection A of this section for the purpose of harassment, to  
18 inhibit the moving party's public participation, to interfere  
19 with the moving party's exercise of protected constitutional  
20 rights or otherwise injure the moving party, the court shall  
21 award actual damages to the moving party and shall impose such  
22 additional sanctions, including disciplinary referrals, upon  
23 the party responding to the motion to dismiss and the party's  
24 attorneys or law firm as the court deems sufficient to deter  
25 repetition of the conduct and comparable conduct by others

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1 similarly situated.

2 F. The moving party shall have the right to an  
3 expedited interlocutory appeal from a trial court order  
4 denying the special motion to dismiss or from a trial court's  
5 failure to rule on the motion on an expedited basis.

6 G. Nothing in this section limits a right or  
7 remedy of a party granted pursuant to another constitutional,  
8 statutory, common law or administrative provision.

9 H. If any provision of this section or the  
10 application of any provision of this section to a person or  
11 circumstance is held invalid, the invalidity shall not affect  
12 other provisions or applications of this section that can be  
13 given effect without the invalid provision or application, and  
14 to this end the provisions of this section are severable.