

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; ENACTING AND REPEALING 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] SCOPE.--

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

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

(2) communication on an issue under

1 consideration or review in a legislative, executive, judicial,  
2 administrative or other governmental proceeding; or

3 (3) exercise of the right of freedom of speech  
4 or of the press, the right to assemble or petition or the right  
5 of association, guaranteed by the United States constitution or  
6 the constitution of New Mexico, on a matter of public concern.

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

9 (1) against a governmental unit or an employee  
10 or agent of a governmental unit acting or purporting to act in  
11 an official capacity;

12 (2) by a governmental unit or an employee or  
13 agent of a governmental unit acting in an official capacity to  
14 enforce a law to protect against an imminent threat to public  
15 health or safety; or

16 (3) against a person primarily engaged in the  
17 business of selling or leasing goods or services if the cause  
18 of action arises out of a communication related to the person's  
19 sale or lease of the goods or services.

20 C. As used in this section:

21 (1) "goods or services" does not include the  
22 creation, dissemination, exhibition or advertisement or similar  
23 promotion of a dramatic, literary, musical, political,  
24 journalistic or artistic work; and

25 (2) "governmental unit" means a public

1 corporation or government or governmental subdivision, agency  
2 or instrumentality.

3 SECTION 3. [NEW MATERIAL] SPECIAL MOTION FOR EXPEDITED  
4 RELIEF.--Not later than sixty days after a party is served with  
5 a complaint, petition, cross claim, counterclaim, third-party  
6 claim or other pleading that asserts a cause of action to which  
7 the Uniform Public Expression Protection Act applies, or at a  
8 later time on a showing of good cause, the party may file a  
9 special motion for expedited relief to dismiss the cause of  
10 action or part of the cause of action.

11 SECTION 4. [NEW MATERIAL] STAY.--

12 A. Except as otherwise provided in Subsections D  
13 through G of this section, upon the filing of a motion pursuant  
14 to Section 3 of the Uniform Public Expression Protection Act:

15 (1) all other proceedings between the moving  
16 party and responding party, including discovery and a pending  
17 hearing or motion, are stayed; and

18 (2) on motion by the moving party, the court  
19 may stay a hearing or motion involving another party, or  
20 discovery by another party, if the hearing or ruling on the  
21 motion would adjudicate, or the discovery would relate to, an  
22 issue material to the motion pursuant to Section 3 of the  
23 Uniform Public Expression Protection Act.

24 B. A stay pursuant to Subsection A of this section  
25 remains in effect until entry of an order ruling on the motion

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1 pursuant to that section and expiration of the time pursuant to  
2 Section 9 of the Uniform Public Expression Protection Act for  
3 the moving party to appeal the order.

4 C. Except as otherwise provided in Subsections E, F  
5 and G of this section, if a party appeals from an order ruling  
6 on a motion pursuant to Section 3 of the Uniform Public  
7 Expression Protection Act, all proceedings between all parties  
8 in the action are stayed. The stay remains in effect until the  
9 conclusion of the appeal.

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

17 E. A motion pursuant to Section 10 of the Uniform  
18 Public Expression Protection Act for costs, attorney fees and  
19 expenses is not subject to a stay pursuant to this section.

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

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

- 25 (1) a motion unrelated to the motion pursuant

underscoring material = new  
~~[bracketed material] = delete~~

1 to Section 3 of the Uniform Public Expression Protection Act;  
2 and

3 (2) a motion seeking a special or preliminary  
4 injunction to protect against an imminent threat to public  
5 health or safety.

6 SECTION 5. [NEW MATERIAL] HEARING.--

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

11 (1) to allow discovery pursuant to Subsection  
12 D of Section 4 of the Uniform Public Expression Protection Act;  
13 or

14 (2) for other good cause.

15 B. If the court orders a later hearing pursuant to  
16 Paragraph (1) of Subsection A of this section, the court shall  
17 hear the motion pursuant to Section 3 of the Uniform Public  
18 Expression Protection Act not later than sixty days after the  
19 court order allowing the discovery, unless the court orders a  
20 later hearing pursuant to Paragraph (2) of Subsection A of this  
21 section.

22 SECTION 6. [NEW MATERIAL] PROOF.--In ruling on a motion  
23 pursuant to Section 3 of the Uniform Public Expression  
24 Protection Act, the court shall consider the pleadings, the  
25 motion, any reply or response to the motion and any evidence

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1 that could be considered in ruling on a motion to dismiss,  
2 motion for judgment on the pleadings or motion for summary  
3 judgment.

4 SECTION 7. [NEW MATERIAL] DISMISSAL OF CAUSE OF ACTION IN  
5 WHOLE OR IN PART.--

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

10 (1) the moving party establishes pursuant to  
11 Subsection A of Section 2 of that act that the Uniform Public  
12 Expression Protection Act applies;

13 (2) the responding party fails to establish  
14 pursuant to Subsection B of Section 2 of that act that the  
15 Uniform Public Expression Protection Act does not apply; and

16 (3) either:

17 (a) the responding party fails to  
18 establish a prima facie case as to each essential element of  
19 the cause of action; or

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

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1           B. A voluntary dismissal without prejudice of a  
2 responding party's cause of action or part of a cause of action  
3 that is the subject of a motion pursuant to Section 3 of the  
4 Uniform Public Expression Protection Act does not affect a  
5 moving party's right to obtain a ruling on the motion and seek  
6 costs, attorney fees and expenses pursuant to Section 10 of  
7 that act.

8           C. A voluntary dismissal with prejudice of a  
9 responding party's cause of action or part of a cause of action  
10 that is the subject of a motion pursuant to Section 3 of the  
11 Uniform Public Expression Protection Act establishes for the  
12 purpose of Section 10 of that act that the moving party  
13 prevailed on the motion.

14           SECTION 8. [NEW MATERIAL] RULING.--The court shall rule  
15 on a motion pursuant to Section 3 of the Uniform Public  
16 Expression Protection Act not later than sixty days after a  
17 hearing pursuant to Section 5 of that act.

18           SECTION 9. [NEW MATERIAL] APPEAL.--A moving party may  
19 appeal as a matter of right from an order denying, in whole or  
20 in part, a motion pursuant to Section 3 of the Uniform Public  
21 Expression Protection Act. The appeal must be filed not later  
22 than thirty days after entry of the order.

23           SECTION 10. [NEW MATERIAL] COSTS, ATTORNEY FEES AND  
24 EXPENSES.--On a motion pursuant to Section 3 of the Uniform  
25 Public Expression Protection Act, the court shall award court

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1 costs, reasonable attorney fees and reasonable litigation  
2 expenses related to the motion:

3 A. to the moving party if the moving party prevails  
4 on the motion; or

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

8 SECTION 11. [NEW MATERIAL] CONSTRUCTION.--The Uniform  
9 Public Expression Protection Act shall be broadly construed and  
10 applied to protect the exercise of the right of freedom of  
11 speech and of the press, the right to assemble and petition and  
12 the right of association, guaranteed by the United States  
13 constitution and the constitution of New Mexico.

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

19 SECTION 13. [NEW MATERIAL] APPLICABILITY.--The Uniform  
20 Public Expression Protection Act applies to a civil action  
21 filed or cause of action asserted in a civil action on or after  
22 the effective date of that act.

23 SECTION 14. [NEW MATERIAL] SAVING CLAUSE.--The Uniform  
24 Public Expression Protection Act does not affect a cause of  
25 action asserted before the effective date of that act in a



1 civil action or a motion pursuant to Section 38-2-9.1 NMSA  
2 1978.

3 SECTION 15. REPEAL.--Sections 38-2-9.1 and 38-2-9.2 NMSA  
4 1978 (being Laws 2001, Chapter 218, Sections 2 and 1) are  
5 repealed.

6 SECTION 16. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2025.