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H.107

Introduced by Representatives Headrick of Burlington, Burke of Brattleboro,
Coffin of Cavendish, Logan of Burlington, McCann of
Montpelier, Pouech of Hinesburg, Priestley of Bradford, and
White of Bethel

Referred to Committee on

Date:

Subject: Court procedure; pleadings generally; strategic lawsuits against public
participation

Statement of purpose of bill as introduced: This bill proposes to include good
faith reports or complaints involving sex offenses or sexual harassment within
the protections of the anti-SLAPP (strategic lawsuits against public
participation) statute. The SLAPP statute is intended to address lawsuits that
are brought for the purpose of chilling the valid exercise of the constitutional
right to freedom of speech and freedom to petition the government by striking
the action if it is devoid of any reasonable factual support and any arguable
basis in law and has not caused actual harm. This act extends those protections
to cases in which a person has filed a report regarding a sex offense or sexual
harassment.

1 An act relating to reports or complaints of sex offenses or sexual
2 harassment

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. 12 V.S.A. § 1041 is amended to read:

5 § 1041. EXERCISE OF RIGHTS TO FREE SPEECH AND TO PETITION
6 GOVERNMENT FOR REDRESS OF GRIEVANCES; SPECIAL
7 MOTION TO STRIKE

8 (a)(1) This section shall apply to a civil action filed against a person based
9 on the person's:

10 (A) exercise of the right to freedom of speech or to petition the
11 government on a public issue; and

12 (B) the making of a good faith report or complaint regarding:

13 (i) a violation of 13 V.S.A. chapter 59 (lewdness and prostitution);

14 (ii) a violation of 13 V.S.A. chapter 72 (sexual assault);

15 (iii) a violation of a sexual harassment policy required by 21

16 V.S.A. § 495h or the provisions of 21 V.S.A. § 495h(a) requiring a workplace
17 free from sexual harassment; or

18 (iv) an incident of retaliation for the making of a report or
19 complaint based on subdivisions (i)–(iii) of this subdivision (a)(1)(B), provided
20 the person had a reasonable basis to make such a report or complaint,
21 regardless of whether a criminal, civil, or administration action was initiated.

1 (2) A defendant in an action ~~arising from the defendant's exercise, in~~
2 ~~connection with a public issue, of the right to freedom of speech or to petition~~
3 ~~the government for redress of grievances under the U.S. or Vermont~~
4 ~~Constitution~~ identified in subdivision (1) of this subsection may file a special
5 motion to strike under this section.

6 (b) A special motion to strike under this section shall be filed with the court
7 and served on all parties not more than 60 days after the filing of the
8 complaint. A party may file a response to the motion not more than 15 days
9 after the motion is served on the party. The court may extend the time limits of
10 this subsection for good cause shown.

11 (c)(1) The filing of a special motion to strike under this section shall stay
12 all discovery proceedings in the action. Except as provided in subdivision (2)
13 of this subsection, the stay of discovery shall remain in effect until the court
14 rules on the special motion to strike.

15 (2) The court, on motion and for good cause shown, may order that
16 limited discovery be conducted for the purpose of assisting its decision on the
17 special motion to strike.

18 (d) The court shall hold a hearing on a special motion to strike not more
19 than 30 days after service of the motion unless good cause exists for an
20 extension.

1 (e)(1) The court shall grant the special motion to strike, unless the plaintiff
2 shows that:

3 (A) the defendant's exercise of ~~his or her~~ the right to freedom of
4 speech and to petition the government on a public issue or making of a good
5 faith report or complaint as provided in subdivision (a)(1)(B) of this section
6 was devoid of any reasonable factual support and any arguable basis in law;
7 and

8 (B) the defendant's acts caused actual injury to the plaintiff.

9 (2) In making its determination, the court shall consider the pleadings
10 and supporting and opposing affidavits stating the facts upon which the
11 liability or defense is based.

12 (f)(1) If the court grants the special motion to strike, the court shall award
13 compensatory damages, costs, and reasonable attorney's fees to the defendant
14 and may award punitive damages, if appropriate. If the court denies the special
15 motion to strike and finds the motion is frivolous or is intended solely to cause
16 unnecessary delay, the court shall award compensatory damages, costs, and
17 reasonable attorney's fees to the plaintiff and may award punitive damages, if
18 appropriate.

19 (2) Neither the court's ruling on the special motion to strike nor the fact
20 that it made such a ruling shall be admissible in evidence at any later stage of

1 the case, and no burden of proof or degree of proof otherwise applicable shall
2 be affected by the ruling.

3 (g) An order granting or denying a special motion to strike shall be
4 appealable in the same manner as an interlocutory order under Rule 5 of the
5 Vermont Rules of Appellate Procedure.

6 (h) This section shall not apply to:

7 (1) any enforcement action or criminal proceeding brought by the State
8 of Vermont or any political subdivision thereof; or

9 (2) a case involving tortious interference with legally protected health
10 care as provided in section 7302 of this title.

11 (i) As used in this section, ~~“the exercise, in connection with a public issue,~~
12 ~~of the right to freedom of speech or to petition the government for redress of~~
13 ~~grievances under the U.S. or Vermont Constitution”~~ “exercise of the right to
14 freedom of speech or to petition the government on a public issue” includes:

15 (1) any written or oral statement made before a legislative, executive, or
16 judicial proceeding, or any other official proceeding authorized by law;

17 (2) any written or oral statement made in connection with an issue under
18 consideration or review by a legislative, executive, or judicial body, or any
19 other official proceeding authorized by law;

20 (3) any written or oral statement concerning an issue of public interest
21 made in a public forum or a place open to the public; or

1 (4) any other statement or conduct concerning a public issue or an issue
2 of public interest that furthers the exercise of the constitutional right of
3 freedom of speech or the constitutional right to petition the government for
4 redress of grievances.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2025.