

Amending Title 42 Pa. Consolidated Statutes by adding a section to read:

The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section, intending to grant immunity to those groups or parties exercising this right, shall be construed broadly.

### Section 8340.3

(a) Any person who engages in any Protected Communication shall be immune from any civil action for claims based upon such communication. If a legal action instituted against any person that is based on, relates to, or is in response to a party's Protected Communication that party may file a motion to dismiss the legal action as provided in this section

(b)(1) In any action, the court shall dismiss any action arising from any Protected Communication if the court has first determined that the moving party has established by a preponderance of the evidence that the claim is based upon an a Protected Communication and, having made that initial determination, the court determines that the non-moving party has not established by clear and convincing evidence a probability of prevailing on the claim asserting that the communication is not a protected communication under this section.

(2) In making its determination, the court shall consider the pleadings, and any supporting and opposing pleadings and affidavits or other evidence submitted stating the facts upon which the liability or defense is based.

(3) If the court determines that moving party is not likely to prevail under the immunities granted pursuant to this section, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

(c)(1) A moving party who prevails on a motion to dismiss shall be entitled to recover attorney's fees and costs from any party who has filed an action **which** part or all of which has been dismissed in part or in all pursuant to a finding under (b)(1).

(2) The court shall also hold a hearing to be scheduled by the clerk not more than 30 days from the ruling in favor of the moving party, to determine damages to be assessed against the non-moving party. In determining the damages to award the court may consider any change in present or future operating costs to the moving party. These damages shall be a minimum of \$10,000. Any attorney's fees, costs or special damages due hereunder shall be payable by any individual, partnership, association, corporation, business trust or any person or group of persons who acted in concert with the party deemed responsible for such attorney's fees, costs or special damages.

(3) If the court finds that a motion to strike dismiss is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to the party prevailing on the motion. Any attorneys' fees, costs or special damages due hereunder shall be payable by any person or group of persons acting, directly or indirectly, in the interest of the party deemed responsible for such attorneys' fees, costs or special damages.

(e) A motion to dismiss pursuant to this section may be filed at any time before the passage of 30 days after the filing of a responsive pleading by the moving party or, in the court's discretion, at any later time upon terms it deems proper. The motion shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing. An order granting or denying a motion to strike shall be immediately appealable. In the event that a court fails to award costs, fees, or damages, as required, this shall also be immediately appealable and/or the moving party may file a separate action to recover its costs, fees, and damages.

(f) All discovery proceedings in the action shall be stayed upon the filing of a motion to dismiss pursuant to this section which stay shall remain in effect until the entry of the order ruling on the motion. The court, on its own motion or on motion and for good cause shown, may order that specified discovery be conducted limited to matters pertinent to the motion filed pursuant to this section.

(g) In the event that a claim is brought or threatened against a citizen of this Commonwealth in another jurisdiction the defendant may file a motion to dismiss pursuant to this section in the courts of this Commonwealth.

(h) Definitions. As used in this section the following words and phrases shall have the following meanings:

“Protected Communication” is any good faith communication in furtherance of the right to petition or the right to free speech which rights are exercised in connection with an issue of public concern under the following circumstances:

(1) a any written, oral, audio, visual, or electronic statement or writing in connection with an issue under consideration or review by a legislative, executive, judicial, administrative or other governmental body or in another governmental or official proceeding;

(2) any written, oral, audio, visual, or electronic statement or writing that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, judicial, administrative or other governmental body or in another governmental or official proceeding;

(3) any written, oral, audio, visual, or electronic statement or writing a reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, judicial, administrative or other governmental body or in another governmental or official proceeding; or

(4) any written, oral, audio, visual, or electronic statement or writing that falls within the protection of the right to petition government under the Constitution of the United States or the constitution of this state.

“Governmental proceeding” means a proceeding, other than a judicial proceeding, by an officer, official, or body of this state or a political subdivision of this state, including a board or commission, or by an officer, official, or body of the federal government.

“Moving party who prevails” includes any moving party who files a motion to strike hereunder and, after that motion is filed, the party against whom the motion is filed withdraws either the entire action or any part of the Complaint pertaining to an Immune Communication.

This statute shall be interpreted broadly, as to make its applicability the norm, not the exception, and any doubts regarding whether a communication is protected speech shall be resolved in favor of the position that it is.