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S.F. No. 3317 – Uniform Public Expression Protection Act (as amended by SCS3317A-1)

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Overview

SF 3317 is model legislation, developed by the Uniform Laws Commission, aimed at preventing “Strategic Lawsuits Against Public Participation” (SLAPPs). Anti-SLAPP laws generally permit defendants to quickly dismiss claims brought against them for exercising their free speech rights. In 2017, the Minnesota Supreme Court, in *Leiendecker v. Asian Women United of Minnesota*, 895 N.W.2d 623 (Minn. 2017), held Minnesota’s anti-SLAPP statute unconstitutional as applied to claims at law alleging torts. This bill establishes the Uniform Public Expression Protection Act, a new anti-SLAPP law. This bill permits a party to file a special motion for expedited relief to dismiss a claim if the UPEPA applies to the claim and there is no applicable exception for the claim.

Summary

Section 1. Short title. Provides that sections 554.07 to 554.19 may be cited at the “Uniform Public Expression Protection Act (UPEPA).”

Section 2. Scope. Defines “good or services,” “governmental unit,” and “person.” Provides that the UPEPA applies to a cause of action against a person based on the person’s communication in a governmental proceeding; communication on an issue under consideration in a governmental proceeding; or exercise of the right to freedom of speech on a matter of public concern.

Exempts several causes of actions from the UPEPA, including:

- actions against government units or employees acting in an official capacity;
- actions against a person primarily engaged in selling or leasing goods or services if the action arises out of a communication related to the sale of the goods or services;
- a crime victim’s action against a perpetrator;
- actions related to the establishment of property rights;
- certain common law fraud claims;

- claims arising out of an insurance contract or under the insurance code;
- personal injury or wrongful death claims;
- family law actions;
- actions for a restraining order or order for protection;
- claims under the Fair Labor Standards Act and other labor and employment laws;
- certain consumer protection claims; and
- any claim brought under federal law.

This section also provides exceptions to some of the exemptions by providing that the UPEPA does apply when a legal action is based on the sale of goods or services, fraud, or consumer protection statutes, and is a legal action against a person arising from their exercise of communicating to the public through artistic, political, or journalist work, or consumer opinions and rating of businesses.

Section 3. Special motion for expedited relief. Permits a party, within 60 days of service or later upon a showing of good cause, to file a special motion for expedited relief to dismiss the cause of action or part of it, if the UPEPA applies.

Section 4. Stay. Provides that upon the filing of a motion for expedited relief, all other proceedings between the moving party and the respondent are stayed. An appeal from an order ruling on the motion stays proceedings and the stay continues until the conclusion of the appeal. The court may permit limited discovery during the stay and for good cause, may hear and rule on other motions. A motion for costs and attorney fees is not subject to the stay.

Section 5. Hearing. Requires the court to hold a hearing within 60 days of a party filing a motion for expedited relief, unless the court orders a later hearing to allow limited discovery or for other good cause.

Section 6. Proof. Provides that in ruling on a motion for expedited relief, the court must consider the pleadings, the motion, any reply or response, and any evidence that would be considered on a motion for summary judgment under the Minnesota Rules of Civil Procedure.

Section 7. Dismissal of cause of action in whole or part. Requires the court to dismiss with prejudice a cause of action if: (1) the moving party establishes that the UPEPA applies; (2) the responding party fails to establish that the UPEPA does not apply based on the listed exemptions; and (3) either the responding party fails to establish a prima facie case or there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Clarifies the effect of a voluntarily dismissal with prejudice and without prejudice.

Section 8. Ruling. Requires the court to rule on the expedite motion within 60 days of a hearing on the motion.

Section 9. Appeal. Provides a right to appeal an order denying the expedited motion and requires the appeal to be filed within 30 days of entry of the order.

Section 10. Costs, attorney fees, and expenses. Requires the court to award court costs and reasonable attorney fees to the prevailing moving party or to the prevailing responding party if the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

Section 11. Construction. Provides that the UPEPA must be broadly construed and applied to protect the exercise of the right of freedom of speech.

Section 12. Uniformity of application and construction. Provides that in applying this act, consideration must be given to the need to promote uniformity of the law among the states that enact it.

Section 13. Savings clause. Provides that the UPEPA does not affect actions brought before the effective date of these sections.

Section 14. No waiver of other pleadings or defenses. Provides that a motion for expedited relief under the UPEPA does not waive a defense or preclude the filings of another pleading or motion.

Section 15. Revisor instruction. Requires the revisor of statutes to prepare legislation to make any additional confirming changes.

Section 16. Repealer. Repeals Minnesota's current anti-SLAPP statutes, sections 554.01 to 554.06.

Section 17. Effective date. Provides that this act is effective the day following final enactment and applies to a civil action pending on or commenced on or after that date.