

IN THE SENATE

SENATE BILL NO. 1325

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE UNIFORM PUBLIC EXPRESSION PROTECTION ACT; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 37, TITLE 6, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE SCOPE, TO PROVIDE FOR A SPECIAL MOTION FOR EXPEDITED RELIEF, TO PROVIDE FOR A STAY IN CERTAIN INSTANCES, TO PROVIDE FOR A HEARING, TO PROVIDE FOR PROOF TO BE CONSIDERED BY THE COURT, TO PROVIDE FOR THE DISMISSAL OF A CAUSE OF ACTION IN WHOLE OR PART, TO PROVIDE FOR WHEN A COURT SHALL RULE ON A MOTION, TO PROVIDE FOR AN APPEAL, TO PROVIDE FOR THE AWARDING OF COSTS, ATTORNEY'S FEES, AND EXPENSES, TO PROVIDE FOR STATUTORY CONSTRUCTION, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE A TRANSITIONAL PROVISION, TO PROVIDE A SAVINGS CLAUSE, AND TO PROVIDE SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 37, Title 6, Idaho Code, and to read as follows:

CHAPTER 37  
UNIFORM PUBLIC EXPRESSION PROTECTION ACT

6-3701. SHORT TITLE. This chapter shall be known and may be cited as the "Uniform Public Expression Protection Act."

6-3702. SCOPE. (1) As used in this section:  
(a) "Goods or services" does not include the creation, dissemination, exhibition, or advertisement or similar promotion of a dramatic, literary, musical, political, journalistic, or artistic work.  
(b) "Governmental unit" means a public corporation or government or a governmental subdivision, agency, or instrumentality.  
(c) "Person" means an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity.  
(2) Except as otherwise provided in subsection (3) of this section, the provisions of this chapter shall apply to a cause of action asserted in a civil action against a person based on the person's:  
(a) Communication in a legislative, executive, judicial, administrative, or other governmental proceeding;  
(b) Communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or  
(c) Exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the

1 constitution of the United States or the constitution of the state of  
2 Idaho, on a matter of public concern.

3 (3) The provisions of this chapter shall not apply to a cause of action  
4 asserted:

5 (a) Against a governmental unit or an employee or agent of a governmen-  
6 tal unit acting or purporting to act in an official capacity;

7 (b) By a governmental unit or an employee or agent of a governmental  
8 unit acting in an official capacity to enforce a law to protect against  
9 an imminent threat to public health or safety; or

10 (c) Against a person primarily engaged in the business of selling or  
11 leasing goods or services if the cause of action arises out of a communi-  
12 cation related to the person's sale or lease of the goods or services.

13 (4) A cause of action brought pursuant to the provisions of this chapter  
14 shall be subject to the rules of the Idaho supreme court.

15 6-3703. SPECIAL MOTION FOR EXPEDITED RELIEF. No later than sixty (60)  
16 days after a party is served with a complaint, cross-claim, counterclaim,  
17 third-party claim, or other pleading that asserts a cause of action to which  
18 this chapter applies, or at a later time on a showing of good cause, the party  
19 may file a special motion for expedited relief to dismiss the cause of action  
20 or part of the cause of action.

21 6-3704. STAY. (1) Except as otherwise provided in subsections (4)  
22 through (7) of this section, upon the filing of a motion pursuant to section  
23 6-3703, Idaho Code:

24 (a) All other proceedings between the moving party and responding  
25 party, including discovery and a pending hearing or motion, are stayed;  
26 and

27 (b) Upon motion by the moving party, the court may stay a hearing or  
28 motion involving another party, or discovery by another party, if the  
29 hearing or ruling on the motion would adjudicate, or the discovery would  
30 relate to, an issue material to the motion pursuant to section 6-3703,  
31 Idaho Code.

32 (2) A stay pursuant to subsection (1) of this section remains in ef-  
33 fect until entry of an order ruling on the motion pursuant to section 6-3703,  
34 Idaho Code, and expiration of the time for the moving party to appeal the or-  
35 der pursuant to section 6-3709, Idaho Code, and applicable court rule.

36 (3) Except as otherwise provided in subsections (5), (6), and (7) of  
37 this section, if a party appeals an order ruling on a motion pursuant to sec-  
38 tion 6-3703, Idaho Code, all proceedings between all parties in the action  
39 are stayed. The stay remains in effect until the conclusion of the appeal.

40 (4) During a stay pursuant to subsection (1) of this section, the court  
41 may allow limited discovery if a party shows that specific information is  
42 necessary to establish whether a party has satisfied or failed to satisfy a  
43 burden pursuant to section 6-3707(1), Idaho Code, and the information is not  
44 reasonably available unless discovery is allowed.

45 (5) A motion pursuant to section 6-3710, Idaho Code, for costs, attor-  
46 ney's fees, and expenses is not subject to a stay pursuant to this section.

1 (6) A stay pursuant to the provisions of this section does not affect a  
2 party's ability to voluntarily dismiss a cause of action or part of a cause of  
3 action or move to sever a cause of action.

4 (7) During a stay pursuant to the provisions of this section, the court  
5 for good cause may hear and rule on:

6 (a) A motion unrelated to the motion pursuant to section 6-3703, Idaho  
7 Code; and

8 (b) A motion seeking a special or preliminary injunction to protect  
9 against an imminent threat to public health or safety.

10 6-3705. HEARING. (1) The court shall hear a motion pursuant to section  
11 6-3703, Idaho Code, no later than sixty (60) days after filing of the motion,  
12 unless the court orders a later hearing:

13 (a) To allow discovery pursuant to section 6-3704(4), Idaho Code; or

14 (b) For other good cause.

15 (2) If the court orders a later hearing pursuant to subsection (1) (a)  
16 of this section, the court shall hear the motion pursuant to section 6-3703,  
17 Idaho Code, no later than sixty (60) days after the court order allowing the  
18 discovery, unless the court orders a later hearing pursuant to subsection  
19 (1) (b) of this section.

20 6-3706. PROOF. In ruling on a motion pursuant to section 6-3703, Idaho  
21 Code, the court shall consider the pleadings, the motion, any reply or re-  
22 sponse to the motion, and any evidence that could be considered in ruling on a  
23 motion for summary judgment pursuant to applicable court rule.

24 6-3707. DISMISSAL OF CAUSE OF ACTION IN WHOLE OR PART. (1) In ruling on  
25 a motion under section 6-3703, Idaho Code, the court shall dismiss with prej-  
26 udice a cause of action, or part of a cause of action, if:

27 (a) The moving party establishes pursuant to section 6-3702(2), Idaho  
28 Code, that this chapter applies;

29 (b) The responding party fails to establish pursuant to section  
30 6-3702(3), Idaho Code, that this chapter does not apply; and

31 (c) Either:

32 (i) The responding party fails to establish a prima facie case as  
33 to each essential element of the cause of action; or

34 (ii) The moving party establishes that:

35 1. The responding party failed to state a cause of action  
36 upon which relief can be granted; or

37 2. There is no genuine issue as to any material fact and the  
38 moving party is entitled to judgment as a matter of law on the  
39 cause of action or part of the cause of action.

40 (2) A voluntary dismissal without prejudice of a responding party's  
41 cause of action, or part of a cause of action, that is the subject of a motion  
42 pursuant to section 6-3703, Idaho Code, does not affect a moving party's  
43 right to obtain a ruling on the motion and to seek costs, attorney's fees, and  
44 expenses pursuant to section 6-3710, Idaho Code.

45 (3) A voluntary dismissal with prejudice of a responding party's cause  
46 of action, or part of a cause of action, that is the subject of a motion pur-

1 suant to section 6-3703, Idaho Code, establishes for the purpose of section  
2 6-3710, Idaho Code, that the moving party prevailed on the motion.

3 6-3708. RULING. The court shall rule on a motion pursuant to section  
4 6-3703, Idaho Code, no later than sixty (60) days after a hearing pursuant to  
5 section 6-3705, Idaho Code.

6 6-3709. APPEAL. A moving party may appeal as a matter of right from  
7 an order denying, in whole or in part, a motion pursuant to section 6-3703,  
8 Idaho Code. The appeal shall be filed within forty-two (42) days after entry  
9 of the order pursuant to applicable court rule.

10 6-3710. COSTS, ATTORNEY'S FEES, AND EXPENSES. Upon a motion pursuant  
11 to section 6-3703, Idaho Code, the court shall award court costs, reasonable  
12 attorney's fees, and reasonable litigation expenses related to the motion:

- 13 (1) To the moving party if the moving party prevails on the motion; or  
14 (2) To the responding party if the responding party prevails on the mo-  
15 tion and the court finds that the motion was frivolous or filed solely with  
16 intent to delay the proceeding.

17 6-3711. CONSTRUCTION. This chapter shall be broadly construed and  
18 applied to protect the exercise of the right of freedom of speech and of the  
19 press, the right to assemble and petition, and the right of association,  
20 guaranteed by the constitution of the United States and the constitution of  
21 the state of Idaho.

22 6-3712. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and  
23 construing this uniform act, consideration shall be given to the need to pro-  
24 mote uniformity of the law with respect to its subject matter among states  
25 that enact it.

26 6-3713. TRANSITIONAL PROVISION. The provisions of this chapter shall  
27 apply to a civil action filed or cause of action asserted in a civil action on  
28 or after January 1, 2025.

29 6-3714. SAVINGS CLAUSE. The provisions of this chapter shall not af-  
30 fect a cause of action asserted before January 1, 2025.

31 6-3715. SEVERABILITY. If any provision of this chapter or its applica-  
32 tion to any person or circumstance is held invalid, the invalidity does not  
33 affect other provisions or applications of this chapter that can be given ef-  
34 fect without the invalid provision or application, and to this end, the pro-  
35 visions of this chapter are severable.

36 SECTION 2. This act shall be in full force and effect on and after Jan-  
37 uary 1, 2025.