

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2756

By Delegates Ridenour, Butler, Dillon, Kump, Roop,
Jennings, Gearheart, Kimble, Petitto, Maynor, and
Flanigan

[Introduced February 21, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article
2 designated §6-15-1, §6-15-2, §6-15-3, §6-15-4, §6-15-5, §6-15-6, §6-15-7, §6-15-8, §6-
3 15-9, §6-15-10, and §6-15-11, relating to legal actions concerning the exercise of a
4 person's constitutional rights; providing definitions; creating a short title and legislative
5 purpose; providing the scope of the cause of action; providing expedited relief; establishing
6 when a stay may be entered; establishing procedures for hearings, proof, and for
7 dismissals; providing a time frame for rulings; allowing for an immediate appeal as a matter
8 of right; and allowing for costs attorney fees, and expenses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. UNIFORM PUBLIC EXPRESSION PROTECTION ACT.

§6-15-1. Short title; legislative intent.

1 The short title by which this article may be referred to is the "Uniform Public Expression
2 Protection Act" and it is the express intent of the Legislature that this Act be broadly construed
3 and applied to protect the exercise of the right of freedom of speech and of the press, the right
4 to assemble and petition, and the right of association, as guaranteed by the United States
5 Constitution and the Constitution of West Virginia.

§6-15-2. Definitions.

1 For purposes of this article:

2 (1) "Cause of action" does not include:

3 A procedural action taken or motion made in an action that does not amend or add a claim
4 for legal, equitable, or declaratory relief; or

5 Post-judgment enforcement actions;

6 (2) "Goods or services" does not include the creation, dissemination, exhibition, or
7 advertisement or similar promotion of a dramatic, literary, musical, political, journalistic, or artistic
8 work;

9 (3) "Governmental unit" means a public corporation, government, or government

subdivision, agency, or instrumentality;

(4) "Matter of public concern" means a statement or activity regarding:

(A) A public official, public figure, or other person who has drawn substantial public attention due to the person's official acts, fame, notoriety, or celebrity;

(B) A matter of political, social, or other interest to the community; or

(C) A subject of concern to the public; and

(5) "Person" means an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity.

§6-15-3. Scope.

(a) Except as otherwise provided in subsection (b), this Act shall apply to a cause of action asserted 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 consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or

(3) Exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, as guaranteed by the United States Constitution or West Virginia Constitution, on a matter of public concern.

(b) Except as provided in subsection (c), this Act shall not apply to a cause of action asserted:

(1) Against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity;

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

(3) Against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication or lack of communication related to

18 the person's sale or lease of the goods or services;

19 (4) Against a person named in a civil suit brought to establish or declare real property
20 possessory rights, use of real property, recovery of real property, quiet title to real property, or other
21 claims relating to real property;

22 (5) Seeking recovery for bodily injury, wrongful death, or survival, or to statements made
23 regarding that legal action;

24 (6) Under the West Virginia Insurance Code or arising out of an insurance contract;

25 (7) Based on a common law fraud claim;

26 (8) Under West Virginia Code Chapter 48;

27 (9) Under West Virginia Code Chapter 23, West Virginia Code Chapter 21, West Virginia
28 Code Chapter 5, Article 11, including claims of negligent supervision, retention, or infliction of
29 emotional distress; wrongful discharge in violation of public policy; whistleblowing; or enforcement
30 of employee rights under civil service, collective bargaining, or handbooks and policies; or

31 (10) Under the West Virginia Consumer Credit Protection Act.

32 (c) This Act shall apply to a cause of action asserted under subsection (a)(1) of this section
33 when the cause of action is:

34 (1) An action against a person arising from any act of that person, whether public or
35 private, related to the gathering, receiving, posting, or processing of information for
36 communication to the public, whether or not the information is actually communicated to the
37 public, for the creation, dissemination, exhibition, or advertisement or other similar promotion of a
38 dramatic, literary, musical, political, journalistic, or otherwise artistic work, including audio-visual
39 work regardless of the means of distribution, a motion picture, a television or radio program, or an
40 article published in a newspaper, Web site, magazine, or other platform, no matter the method or
41 extent of distribution; or

42 (2) An action against a person related to the communication, gathering, receiving, posting,
43 or processing of consumer opinions or commentary, evaluation of consumer complaints, or

44 reviews or ratings of businesses.

§6-15-4. Special motion for expedited relief.

1 The party may file a special motion for expedited relief to dismiss the cause of action in
2 whole or in part no later than 60 days after the party is served with a complaint, crossclaim,
3 counterclaim, third-party claim, or other pleading that asserts a cause of action to which this code
4 applies, or at a later time on a showing of good cause.

§6-15-5. Stay.

1 (a) Except as otherwise provided in subsections (d) to (g) of this section, on the filing of a
2 motion under §6-15-4:

3 (1) All other proceedings between the moving party and responding party, including
4 discovery and any pending hearing or motion, shall be stayed; and

5 (2) On motion by the moving party, the court may stay a hearing or motion involving
6 another party, or discovery by another party, if the hearing or ruling on the motion would
7 adjudicate, or the discovery would relate to, an issue material to the motion.

8 (b) A stay under subsection (a) of this section shall remain in effect until entry of an order
9 ruling on the motion under §6-15-4 and expiration of the time under §6-15-10 for the moving party
10 to appeal the order.

11 (c) Except as otherwise provided in subsections (e), (f), and (g) of this section, if a party
12 appeals from an order ruling on a motion under §6-15-4, all proceedings between all parties in the
13 action shall be stayed. The stay shall remain in effect until the conclusion of the appeal.

14 (d) During a stay under subsection (a) of this section, the court shall allow limited discovery
15 if a party shows that specific information is necessary to establish whether a party has satisfied or
16 failed to satisfy a burden under §6-15-8(a) and the information is not reasonably available unless
17 discovery is allowed, including but not limited to situations where a witness may be unavailable or
18 records may have been destroyed.

19 (e) A motion under §6-15-11 for costs, attorney's fees, and expenses shall not be subject to

20 a stay under this section.

21 (f) A stay under this section shall not affect a party's ability to voluntarily dismiss a cause of
22 action or part of a cause of action or a motion to sever a cause of action.

23 (g) During a stay under this section, the court for good cause may hear and rule on:

24 (i) A motion unrelated to the motion under §6-15-4; and

25 (ii) A motion seeking a special or preliminary injunction to protect against an imminent
26 threat to public health or safety.

§6-15-6. Hearing.

1 (a) The court shall hear a motion under §6-15-4 no later than 60 days after filing of the
2 motion, unless the court orders a later hearing:

3 (1) To allow limited discovery under §6-15-5; or

4 (2) For good cause shown.

5 (b) If the court orders a later hearing under subdivision (a)(1) of this section, the court shall
6 hear the motion under §6-15-4 no later than 60 days after the court order allowing limited
7 discovery, unless the court orders a later hearing under subdivision (a)(2) of this section, in which
8 case the hearing shall be scheduled in an expedited manner.

§6-15-7. Proof.

1 In ruling on a motion under §6-15-4, the court shall consider the pleadings, the motion, any
2 reply or response to the motion, and any evidence that could be considered in ruling on a motion
3 for summary judgment.

§6-15-8. Dismissal of cause of action in whole or in part.

1 (a) In ruling on a motion under §6-15-4, the court shall dismiss with prejudice a cause of
2 action, or part of a cause of action, if:

3 (1) The moving party establishes under §6-15-3(a) that §6-15-2 to § 6-15-11 applies;

4 (2) The responding party fails to establish under §6-15-3(b) that §6-15-2 to §6-15-11 do not
5 apply; and

6 (3) Either:

7 (A) The responding party fails to establish a prima facie case as to each essential element
8 of the cause of action; or

9 (B) The moving party establishes that:

10 (i) The responding party failed to state a cause of action upon which relief can be granted;
11 or

12 (ii) There is no genuine issue as to any material fact and the moving party is entitled to
13 judgment as a matter of law on the cause of action or part of the action.

14 (b) A voluntary dismissal without prejudice of a responding party's cause of action, or part
15 of a cause of action, that is the subject of a motion under §6-15-4 does not affect a moving party's
16 right to obtain a ruling on the motion and seek costs, attorney's fees, and expenses under §6-15-
17 11.

18 (3) A voluntary dismissal with prejudice of a responding party's cause of action, or part of a
19 cause of action, that is the subject of a motion under §6-15-4 establishes for the purpose of §6-15-
20 11 that the moving party prevailed on the motion.

§6-15-9. Ruling.

1 The court shall rule on a motion under §6-15-4 code no later than 60 days after a hearing
2 under §6-15-6.

§6-15-10. Appeal.

1 Any party may appeal as a matter of right from an order granting or denying, in whole or in
2 part, a motion under §6-15-4 to the West Virginia Intermediate Court of Appeals, created by §51-
3 11-1 et seq. of this code. The appeal shall be filed in accordance with the West Virginia Rules of
4 Civil Procedure.

§6-15-11. Costs; attorney fees; and expenses.

1 On a motion under §6-15-4 of this code, or the appeal of an order granting or denying a
2 motion under §6-15-4 the court shall award court costs, reasonable attorney's fees, and

- 3 reasonable litigation expenses related to the motion:
- 4 (1) To the moving party if the moving party prevails on the motion; or
- 5 (2) To the responding party if the responding party prevails on the motion and the court
- 6 finds that the motion was brought without good cause.

NOTE: The purpose of this bill is to establish procedures for dismissing legal actions filed in response to a party's exercise of free speech, right to petition, or right to associate; providing definitions; creating a short title and legislative purpose; provide the scope of the cause of action; provide expedited relief; establish when a stay may be entered; establish procedures for hearings, proof, and for dismissals; provide a time frame for rulings; allow for an immediate appeal as a matter of right; and allow for costs attorney fees, and expenses.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.