

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3205

By Delegates Dillon, Anders, Coop-Gonzalez, White,
and Ridenour

[Introduced March 06, 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, §6-15-11, §6-15-12, §6-15-13, §6-15-14, and §6-15-15, relating to legal
4 actions concerning the exercise of a person's constitutional rights; providing definitions;
5 creating a short title; providing the scope of the cause of action; providing expedited relief;
6 establishing when a stay may be entered; establishing procedures for hearings, proof, and
7 for dismissals; providing a time frame for rulings; allowing for an immediate appeal as a
8 matter of right; allowing for costs attorney fees, and expenses; clarifying the construction
9 and application of the act; clarifying severability; and providing a date the act goes into
10 effect.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. UNIFORM PUBLIC EXPRESSION PROTECTION ACT.

§6-15-1. Short title.

1 This article may be cited as the Uniform Public Expression Protection Act.

§6-15-2. Definitions and scope.

1 (a) For purposes of this article:

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

5 (2) "Governmental unit" means a public corporation or government or governmental
6 subdivision, agency, or instrumentality;

7 (3) "Person" means an individual, estate, trust, partnership, business or nonprofit entity,
8 governmental unit, or other legal entity;

9 (b) Except as otherwise provided in subsection (c), this Act applies to a cause of action
10 asserted in a civil action against a person based on the person's:

11 (1) Communication in a legislative, executive, judicial, administrative, or other

12 governmental proceeding;

13 (2) Communication on an issue under consideration or review in a legislative, executive,
14 judicial, administrative, or other governmental proceeding; or

15 (3) Exercise of the right of freedom of speech or of the press, the right to assemble or
16 petition, or the right of association, guaranteed by the United States Constitution or [cite to the
17 state's constitution], on a matter of public concern.

18 (c) This Act does not apply to a cause of action asserted:

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

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

23 (3) Against a person primarily engaged in the business of selling or leasing goods or
24 services if the [cause of action] arises out of a communication related to the person's sale or lease
25 of the goods or services.

§6-15-3. Special motion for expedited relief.

1 Not later than 60 days after a party is served with a complaint, crossclaim, counterclaim,
2 third-party claim, or other pleading that asserts a cause of action to which this code applies, or at a
3 later time on a showing of good cause, the party may file a special motion for expedited relief to
4 dismiss the cause of action or part of the cause of action.

§6-15-4. Stay.

1 (a) Except as otherwise provided in subsections (d) through (g), on the filing of a motion
2 under §6-15-3:

3 (1) All other proceedings between the moving party and responding party, including
4 discovery and a pending hearing or motion, are 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 under §6-15-3.

8 (b) A stay under subsection (a) remains in effect until entry of an order ruling on the motion
9 under §6-15-3 and expiration of the time under §6-15-9 for the moving party to appeal the order.

10 (c) Except as otherwise provided in subsections (e), (f), and (g), if a party appeals from an
11 order ruling on a motion under §6-15-3, all proceedings between all parties in the action are
12 stayed. The stay remains in effect until the conclusion of the appeal.

13 (d) During a stay under subsection (a), the court may allow limited discovery if a party
14 shows that specific information is necessary to establish whether a party has satisfied or failed to
15 satisfy a burden under Section 7(a) and the information is not reasonably available unless
16 discovery is allowed.

17 (e) A motion under §6-15-10 for costs, attorney's fees, and expenses is not subject to a
18 stay under this section.

19 (f) A stay under this section does not affect a party's ability voluntarily to dismiss a cause of
20 action or part of a cause of action]or move to sever a cause of action.

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

22 (1) a motion unrelated to the motion under §6-15-3; and

23 (2) a motion seeking a special or preliminary injunction to protect against an imminent
24 threat to public health or safety.

§6-15-5. Hearing.

1 (a) The court shall hear a motion under §6-15-3 not later than 60 days after filing of the
2 motion, unless the court orders a later hearing:

3 (1) To allow discovery under Section 4(d); or

4 (2) For other good cause.

5 (b) If the court orders a later hearing under subsection (a)(1), the court shall hear the
6 motion under §6-15-3 not later than 60 days after the court order allowing the discovery, unless the
7 court orders a later hearing under subsection (a)(2).

§6-15-6. Proof.

1 In ruling on a motion under §6-15-3, 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.

§6-15-7. Dismissal of cause of action in whole or in part.

1 (a) In ruling on a motion under §6-15-3, 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 §6-15-2(b) that this act applies;

4 (2) The responding party fails to establish under §6-15-2(c) that this act does not apply;

5 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 cause of 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 §6-15-3 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 10.

18 (c) 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 §6-15-3 establishes for the purpose of §6-15-
20 10 that the moving party prevailed on the motion.

§6-15-8. Ruling.

1 The court shall rule on a motion under §6-15-3 not later than 60 days after a hearing under
2 §6-15-5.

§6-15-9. Appeal.

1 A moving party may appeal as a matter of right from an order denying, in whole or in part, a
2 motion under §6-15-3 to the West Virginia Intermediate Court of Appeals, created by §51-11-1 et
3 seq. of this code. The appeal shall be filed in accordance with the West Virginia Rules of Civil
4 Procedure and must be filed not later than 21 days after entry of the order.

§6-15-10. Costs, attorney's fees, and expenses.

1 On a motion under §6-15-3, the court shall award court costs, reasonable attorney's fees,
2 and reasonable litigation expenses related to the motion:

3 (1) to the moving party if the moving party prevails on the motion; or

4 (2) to the responding party if the responding party prevails on the motion and the court
5 finds that the motion was frivolous or filed solely with intent to delay the proceeding.

§6-15-11. Construction.

1 This article must be broadly construed and applied to protect the exercise of the right of
2 freedom of speech and of the press, the right to assemble and petition, and the right of
3 association, guaranteed by the United States Constitution or the Constitution of West Virginia.

§6-15-12. Uniformity of application and construction.

1 In applying and construing this Uniform Act, consideration must be given to the need to
2 promote uniformity of the law with respect to its subject matter among states that enact it.

§6-15-13. Transitional provision.

1 This article applies to a civil action filed or cause of action asserted in a civil action on or
2 after the effective date of this Act.

§6-15-14. Severability.

1 If any provision of this article or its application to any person or circumstance is held invalid,
2 the invalidity does not affect other provisions or applications of this article which can be given

- 3 effect without the invalid provision or application, and to this end the provisions of this article are
4 severable.

§6-15-15. Effective date.

- 1 This article takes effect upon passage.

NOTE: The purpose of this bill is to establish legal actions concerning the exercise of a person's constitutional rights; provide definitions; create a short title; 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; allow for costs attorney fees, and expenses; clarify the construction and application of the act; clarify severability; and providing a date the act goes into effect.

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