

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 1466

**PRINTER NO.** 1650

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund  
Judicial Computer System  
Augmentation Account

**DATE INTRODUCED**

June 21, 2023

**PRIME SPONSOR**

Representative Bizzarro

**DESCRIPTION**

House Bill 1466 amends Title 42 (Judiciary and Judicial Procedure) to provide for a cause of action based on protected public expression and to establish the Uniform Public Expression Protection Act.

The legislation creates a new section 8320.1 (relating to action for protected public expression) that provides a substantive right of civil immunity for a cause of action based on protected public expression. A party that prevails in an action under this new section is entitled to recover from the non-prevailing party the following:

- 1) Attorney fees, court costs and expenses of litigation; and
- 2) Punitive damages upon proof that the underlying action was commenced for the sole purpose of harassing, intimidating, punishing or maliciously inhibiting protected public expression.

Additionally, the legislation adds a new Subchapter C.1 (Protected Public Expression). This new subchapter establishes the Uniform Public Expression Protection Act.

Section 8340.15 (relating to grant of immunity) provides that a person is immune from civil liability for a cause of action based on protected public expression if either of the following apply:

- 1) The party asserting the cause of action fails to establish a prima facie case as to each essential element or state a cause of action upon which relief can be granted; or
- 2) There is no genuine issue as to any material fact, and the person against whom the cause of action has been asserted is entitled to judgment as a matter of law in whole or in part.

Section 8340.16 (relating to pretrial motion) provides that a party may file a special pretrial motion for dismissal of or judgment based on a party's protected public expression immunity. This motion must be made no later than 60 days after being served, unless the court extends the time for good cause.

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Section 8340.17 (relating to interlocutory appeal) provides that an order granting, denying or otherwise determining immunity under this new subchapter is immediately appealable under section 702 (relating to interlocutory orders) of Title 42.

Finally, Section 8340.18 (relating to awards) provides for awards if a party is immune or if the opposing party voluntarily discontinues the action, with or without prejudice. If the court determines that a party's assertion of immunity is frivolous or filed solely with intent to delay the proceeding, the court shall award the opposing party attorney fees, court costs and expenses of litigation.

This act shall take effect as follows:

- The addition of 42 Pa.C.S. § 8340.16 shall take effect on the effective date specified in the notice published in the Pennsylvania Bulletin by the Legislative Reference Bureau; and
- The remainder of this act shall take effect immediately.

## **FISCAL IMPACT:**

Enactment of this legislation will have no fiscal impact on Commonwealth funds.