

One Hundred Eighth Legislature - Second Session - 2024

Introducer's Statement of Intent

LB1267

Chairperson: Senator Justin Wayne

Committee: Judiciary

Date of Hearing: February 02, 2024

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 1267, the Uniform Public Expression Protection Act, is designed to prevent an abusive type of litigation called a “strategic lawsuit against public participation” (a “SLAPP”). A SLAPP may be filed as a defamation, invasion of privacy, nuisance, or other type of claim, but its real purpose is to silence and intimidate the defendant from engaging in constitutionally protected activities, such as free speech. (LB 1267 and acts like it are often called Anti-SLAPP acts since they’re intended to prevent SLAPPs.)

The uniform act contains a clear framework for the efficient review and dismissal of SLAPPs. The party targeted by a SLAPP files a motion for expedited relief, which stays all proceedings until the court rules on the motion. If the party can prove that the case fails to state a cause of action upon which relief can be granted or that there is no genuine issue of material fact and the party is entitled to judgment as a matter of law, the lawsuit is dismissed with prejudice and the party is entitled to attorney’s fees. The Act also provides for interlocutory appeals.

LB 1267 replaces Nebraska’s current Anti-SLAPP Act, which is repealed under this act. LB 1267 updates and improves Nebraska’s current law in several respects, including (1) by expanding the types of communications that are protected (current Nebraska law is limited to protecting comments on public applications or permissions); (2) imposing a time guideline for resolution of the lawsuit to ensure timeliness; (3) explicitly providing that the underlying proceeding is stayed while the SLAPP claim is heard; (4) clarifying that, when found to be a SLAPP, the underlying suit is dismissed with prejudice; (5) providing for an interlocutory appeal; and (6) requiring attorney’s fees.

Principal Introducer: _____

Senator Danielle Conrad