



2025 ASSEMBLY BILL 701

December 1, 2025 - Introduced by Representatives PIWOWARCZYK, BEHNKE, BRILL, DITTRICH, GOEBEN, GUNDRUM, KITCHENS, KNODL, KREIBICH, MAXEY, MELOTIK and O'CONNOR, cosponsored by Senator WIMBERGER. Referred to Committee on Judiciary.

- 1 **AN ACT** *to amend* 802.06 (2) (b); *to create* 802.06 (2) (a) 11. and 802.065 of the
2 statutes; **relating to:** adopting the Uniform Public Expression Protection Act.

Analysis by the Legislative Reference Bureau

This bill adopts the Uniform Public Expression Protection Act (UPEPA) approved by the Uniform Law Commission in 2020.

The bill allows a person served with a complaint in a civil action to file an expedited special motion to dismiss any cause of action asserted against the person based on the person's 1) communication in a governmental proceeding; 2) communication on an issue under consideration or review in a governmental proceeding; or 3) exercise of the constitutional right of freedom of speech or of the press, the right to assemble or petition, or the right of association, on a matter of public concern. In general, the court must hold a hearing on a special motion to dismiss within 60 days of its filing and must stay the court proceedings, including discovery, until the court rules on the special motion and the time to appeal this ruling has expired. The court must rule on the special motion not later than 60 days after the hearing, and the appeal period is 14 days from the ruling. In ruling on the motion, the court must consider the pleadings, the motion, any reply or response to the motion, and any evidence that could be considered in a summary judgment proceeding. The court must dismiss with prejudice a cause of action if all of the following apply:

1. The moving party establishes that the cause of action is as described in items 1 to 3 above.

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2. The responding party fails to establish the applicability of certain excluded situations, such as the cause of action being brought against a governmental unit or employee acting in an official capacity or against a person whose communication relates to the sale of goods or services.

3. The responding party fails to establish a prima facie case as to each element of the cause of action or the moving party establishes either that the responding party failed to state a cause of action or that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.

A moving party has a right to appeal an order denying a special motion to dismiss. A court must award court costs, reasonable attorney fees, and reasonable litigation expenses related to the special motion as follows: 1) to the moving party if the moving party prevails on the motion, or 2) to the responding party if the responding party prevails on the motion and the motion was frivolous or filed solely with intent to delay the proceeding.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 802.06 (2) (a) 11. of the statutes is created to read:

2 802.06 (2) (a) 11. That s. 802.065 applies.

3 **SECTION 2.** 802.06 (2) (b) of the statutes is amended to read:

4 802.06 (2) (b) A motion making any of the defenses in par. (a) 1. to 10. shall be
5 made before pleading if a further pleading is permitted. Objection to venue shall be
6 made in accordance with s. 801.51. If a pleading sets forth a claim for relief to
7 which the adverse party is not required to serve a responsive pleading, the adverse
8 party may assert at the trial any defense in law or fact to that claim for relief. If on
9 a motion asserting the defense described in par. (a) 6. to dismiss for failure of the
10 pleading to state a claim upon which relief can be granted, or on a motion asserting
11 the defenses described in par. (a) 8. or 9., matters outside of the pleadings are
12 presented to and not excluded by the court, the motion shall be treated as one for
13 summary judgment and disposed of as provided in s. 802.08, and all parties shall be
14 given reasonable opportunity to present all material made pertinent to such a

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1 motion by s. 802.08. A motion making the defense in par. (a) 11. shall be made as
2 provided in s. 802.065 (3).

3 **SECTION 3.** 802.065 of the statutes is created to read:

4 **802.065 Uniform Public Expression Protection Law.**

5 (1) SHORT TITLE. This section may be cited as the Uniform Public Expression
6 Protection Law.

7 (2) SCOPE. (a) In this subsection:

8 1. "Goods or services" does not include the creation, dissemination, exhibition,
9 or advertisement or similar promotion of a dramatic, literary, musical, political,
10 journalistic, or artistic work.

11 2. "Governmental unit" means a public corporation or government or
12 governmental subdivision, agency, or instrumentality.

13 3. "Person" means an individual, estate, trust, partnership, business or
14 nonprofit entity, governmental unit, or other legal entity.

15 (b) Except as otherwise provided in par. (c), this section applies to a cause of
16 action asserted in a civil action against a person based on any of the following:

17 1. The person's communication in a legislative, executive, judicial,
18 administrative, or other governmental proceeding.

19 2. The person's communication on an issue under consideration or review in a
20 legislative, executive, judicial, administrative, or other governmental proceeding.

21 3. The person's exercise of the right of freedom of speech or of the press, the
22 right to assemble or petition, or the right of association, guaranteed by the U.S.
23 Constitution or the constitution of this state, on a matter of public concern.

24 (c) This section does not apply to any of the following:

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1 1. A cause of action asserted against a governmental unit or an employee or
2 agent of a governmental unit acting or purporting to act in an official capacity.

3 2. A cause of action asserted by a governmental unit or an employee or agent
4 of a governmental unit acting in an official capacity to enforce a law to protect
5 against an imminent threat to public health or safety.

6 3. A cause of action asserted against a person primarily engaged in the
7 business of selling or leasing goods or services if the cause of action arises out of a
8 communication related to the person's sale or lease of the goods or services.

9 **(3) SPECIAL MOTION FOR EXPEDITED RELIEF.** Not later than 60 days after a
10 party is served with a complaint, cross claim, counterclaim, 3rd-party complaint, or
11 other pleading that asserts a cause of action to which this section applies, or at a
12 later time on a showing of good cause, the party may file a special motion for
13 expedited relief to dismiss the cause of action or part of the cause of action.

14 **(4) STAY.** (a) Except as otherwise provided in pars. (d) to (g), on the filing of
15 a motion under sub. (3), all of the following apply:

16 1. All other proceedings between the moving party and responding party,
17 including discovery and a pending hearing or motion, are stayed.

18 2. On motion by the moving party, the court may stay a hearing or motion
19 involving another party, or discovery by another party, if the hearing or ruling on
20 the motion would adjudicate, or the discovery would relate to, an issue material to
21 the motion under sub. (3).

22 (b) A stay under par. (a) remains in effect until entry of an order ruling on the
23 motion under sub. (3) and expiration of the time under sub. (9) for the moving party
24 to appeal the order.

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1 (c) Except as otherwise provided in pars. (e), (f), and (g), if a party appeals
2 from an order ruling on a motion under sub. (3), all proceedings between all parties
3 in the action are stayed. The stay remains in effect until the conclusion of the
4 appeal.

5 (d) During a stay under par. (a), the court may allow limited discovery if a
6 party shows that specific information is necessary to establish whether a party has
7 satisfied or failed to satisfy a burden under sub. (7) (a) and the information is not
8 reasonably available unless discovery is allowed.

9 (e) A motion under sub. (10) for costs, attorney fees, and expenses is not
10 subject to a stay under this subsection.

11 (f) A stay under this subsection does not affect a party's ability to voluntarily
12 dismiss a cause of action or part of a cause of action or move to sever a cause of
13 action.

14 (g) During a stay under this subsection, the court for good cause may hear and
15 rule on any of the following:

16 1. A motion unrelated to the motion under sub. (3).

17 2. A motion seeking a special or preliminary injunction to protect against an
18 imminent threat to public health or safety.

19 **(5) HEARING.** (a) The court shall hear a motion under sub. (3) not later than
20 60 days after filing of the motion, unless the court orders a later hearing to allow
21 limited discovery under sub. (4) (d) or for other good cause.

22 (b) If the court orders a later hearing under par. (a) to allow limited discovery,
23 the court shall hear the motion under sub. (3) not later than 60 days after the court

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1 order allowing the discovery, unless the court orders a later hearing under par. (a)
2 for other good cause.

3 (6) PROOF. In ruling on a motion under sub. (3), the court shall consider the
4 pleadings, the motion, any reply or response to the motion, and any evidence that
5 could be considered in ruling on a motion for summary judgment under s. 802.08.

6 (7) DISMISSAL OF CAUSE OF ACTION IN WHOLE OR PART. (a) In ruling on a
7 motion under sub. (3), the court shall dismiss with prejudice a cause of action, or
8 part of a cause of action, if all of the following apply:

9 1. The moving party establishes under sub. (2) (b) that this section applies.

10 2. The responding party fails to establish under sub. (2) (c) that this section
11 does not apply.

12 3. Either the responding party fails to establish a prima facie case as to each
13 essential element of the cause of action or the moving party establishes any of the
14 following:

15 a. That the responding party failed to state a cause of action upon which relief
16 can be granted.

17 b. That there is no genuine issue as to any material fact and the moving party
18 is entitled to judgment as a matter of law on the cause of action or part of the cause
19 of action.

20 (b) A voluntary dismissal without prejudice of a responding party's cause of
21 action, or part of a cause of action, that is the subject of a motion under sub. (3) does
22 not affect a moving party's right to obtain a ruling on the motion and seek costs,
23 attorney fees, and expenses under sub. (10).

24 (c) A voluntary dismissal with prejudice of a responding party's cause of

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1 action, or part of a cause of action, that is the subject of a motion under sub. (3)
2 establishes for the purpose of sub. (10) that the moving party prevailed on the
3 motion.

4 (8) RULING. The court shall rule on a motion under sub. (3) not later than 60
5 days after a hearing under sub. (5).

6 (9) APPEAL. Notwithstanding s. 808.03 (1), a moving party may appeal as a
7 matter of right from an order denying, in whole or in part, a motion under sub. (3).
8 The appeal must be filed not later than 14 days after entry of the order.

9 (10) COSTS, ATTORNEY FEES, AND EXPENSES. Notwithstanding s. 814.04 (1), on
10 a motion under sub. (3), the court shall award court costs, reasonable attorney fees,
11 and reasonable litigation expenses related to the motion as follows:

12 (a) To the moving party if the moving party prevails on the motion.

13 (b) To the responding party if the responding party prevails on the motion and
14 the court finds that the motion was frivolous or filed solely with intent to delay the
15 proceeding.

16 (11) CONSTRUCTION. This section shall be broadly construed and applied to
17 protect the exercise of the right of freedom of speech and of the press, the right to
18 assemble and petition, and the right of association, guaranteed by the U.S.
19 Constitution or the constitution of this state.

20 (12) UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and
21 construing this uniform law, consideration shall be given to the need to promote
22 uniformity of the law with respect to its subject matter among states that enact it.

23 **SECTION 4. Initial applicability.**

