

[First Reprint]

**SENATE, No. 2802**

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**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

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INTRODUCED JUNE 6, 2022

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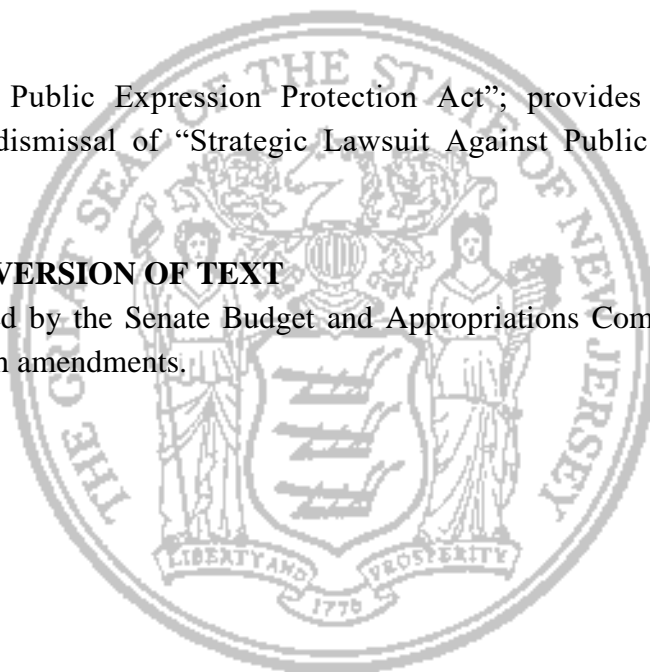
**Senators Stack, Greenstein, Assemblymen Verrelli and Moriarty**

**SYNOPSIS**

“Uniform Public Expression Protection Act”; provides for expedited process for dismissal of “Strategic Lawsuit Against Public Participation” (SLAPP).

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on June 27, 2023, with amendments.



**(Sponsorship Updated As Of: 6/30/2023)**

1 AN ACT concerning certain actions and supplementing Title 2A of  
2 the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Uniform  
8 Public Expression Protection Act.”

9

10 2. Scope.

11 a. In this section:

12 (1) “Goods or services” does not include the creation,  
13 dissemination, exhibition, or advertisement or similar promotion of  
14 a dramatic, literary, musical, political, journalistic, or artistic work.

15 (2) “Governmental unit” means a public corporation or  
16 government or governmental subdivision, agency, or  
17 instrumentality.

18 (3) “Person” means an individual, estate, trust, partnership,  
19 business or nonprofit entity, governmental unit, or other legal  
20 entity.

21 b. Except as otherwise provided in subsection c., this act applies  
22 to a cause of action asserted in a civil action against a person based  
23 on the person’s:

24 (1) communication in a legislative, executive, judicial,  
25 administrative, or other governmental proceeding;

26 (2) communication on an issue under consideration or review in  
27 a legislative, executive, judicial, administrative, or other  
28 governmental proceeding; or

29 (3) exercise of the right of freedom of speech or of the press, the  
30 right to assembly or petition, or the right of association, guaranteed  
31 by the United State Constitution or the New Jersey Constitution, on  
32 a matter of public concern.

33 c. This act does not apply to a cause of action asserted:

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

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

39 (3) against a person primarily engaged in the business of selling  
40 or leasing goods or services if the cause of action arises out of a  
41 communication related to the person’s sale or lease of the goods or  
42 services.

43

44 3. <sup>1</sup>**[Special Motion for Expedited Relief]** Order to Show  
45 Cause<sup>1</sup>.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted June 27, 2023.

1 Not later than 60 days after a party is served with a petition or  
2 complaint, crossclaim, counterclaim, third-party claim, or other  
3 pleading that asserts a cause of action to which this act applies or at  
4 a later time on a showing of good cause, the party may file <sup>1</sup> **[a**  
5 **special motion for expedited relief to]** an application for an order to  
6 show cause with the court to<sup>1</sup> dismiss the cause of action or part of  
7 the cause of action.

8  
9 4. Stay.

10 a. Except as otherwise provided in subsections d. through g.,  
11 <sup>1</sup> **[on]** upon<sup>1</sup> the filing of <sup>1</sup> **[a motion]** an application for an order to  
12 show cause<sup>1</sup> under section 3 of P.L. , c. (C. )(pending before  
13 the Legislature as this bill) <sup>1</sup> the court may order<sup>1</sup>:

14 (1) all other proceedings between the moving party and  
15 responding party, including discovery and a pending hearing or  
16 motion <sup>1</sup> **[are]** to be<sup>1</sup> stayed <sup>1</sup> **[; and]**<sup>1</sup>

17 (2) on motion by the moving party, the court may stay <sup>1</sup> **[a**  
18 **hearing or motion]** an action or proceeding<sup>1</sup> involving another  
19 party, or discovery by another party, if the hearing or ruling <sup>1</sup> **[on**  
20 **the motion]** in that proceeding<sup>1</sup> would adjudicate, or the discovery  
21 would relate to, an issue material to <sup>1</sup> **[the motion]** an order to show  
22 cause<sup>1</sup> under section 3 of P.L. , c. (C. )(pending before the  
23 Legislature as this bill) <sup>1</sup> **[; and]**<sup>1</sup>

24 (3) In determining whether to stay any proceedings, there shall  
25 be a presumption that such a stay shall be granted<sup>1</sup>.

26 b. A stay under subsection a. remains in effect until <sup>1</sup> **[entry of**  
27 **an order ruling on the motion under section 3 of P.L. ,**  
28 **c. (C. )(pending before the Legislature as this bill) and expiration**  
29 **of the time under section 9 of P.L. , c. (C. )(pending before**  
30 **the Legislature as this bill) for the moving party to appeal the**  
31 **order]** lifted by the court<sup>1</sup>.

32 c. Except as otherwise provided in subsections e., f. and g., if a  
33 party appeals from an order ruling on <sup>1</sup> **[a motion]** an order to show  
34 cause<sup>1</sup> under section 3 of P.L. , c. (C. )(pending before the  
35 Legislature as this bill), all proceedings between all parties in the  
36 action <sup>1</sup> **[are stayed. The stay remains in effect]** may be stayed by  
37 the court<sup>1</sup> until the conclusion of the appeal.

38 d. During a stay under subsection a., the court may allow limited  
39 discovery if a party shows that specific information is necessary to  
40 establish whether a party has satisfied or failed to satisfy a burden  
41 under subsection a. of section 7 of P.L. , c. (C. )(pending  
42 before the Legislature as this bill) and the information is not  
43 reasonably available unless discovery is allowed.

1 e. A motion under section 10 of P.L. , c. (C. )(pending  
2 before the Legislature as this bill) for costs, attorney's fees, and  
3 expenses is not subject to a stay under this section.

4 f. A stay under this section does not affect a party's ability  
5 voluntarily to dismiss a cause of action or party of a cause of action  
6 or move to sever a cause of action.

7 g. <sup>1</sup>**【During】** If the court issues<sup>1</sup> a stay under this section, the  
8 court for good cause may hear and rule on:

9 (1) a motion unrelated to <sup>1</sup>**【the motion】** an order to show cause<sup>1</sup>  
10 under section 3 of P.L. , c. (C. )(pending before the  
11 Legislature as this bill); and

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

14  
15 5. Hearing.

16 a. The court shall hear <sup>1</sup>**【a motion】** an order to show cause<sup>1</sup>  
17 under section 3 of P.L. , c. (C. )(pending before the  
18 Legislature as this bill) <sup>1</sup>**【not later than 60 days after filing of the**  
19 **motion, unless the court orders a later hearing;**

20 (1) to allow discovery under subsection d. of section 4 of P.L. ,  
21 c. (C. )(pending before the Legislature as this bill); or

22 (2) for other good cause <sup>1</sup>**【as expeditiously as possible<sup>1</sup>**.

23 b. If the Court <sup>1</sup>**【orders a later hearing under paragraph (1) of**  
24 **subsection a.,】** allows for discovery under subsection d. of section 4  
25 of P.L. , c. (C. )(pending before the Legislature as this bill),<sup>1</sup>  
26 the court shall hear the <sup>1</sup>**【motion】** order to show cause<sup>1</sup> under  
27 section 3 of P.L. , c. (C. )(pending before the Legislature as  
28 this bill) <sup>1</sup>**【not later than 60 days after the court order allowing the**  
29 **discovery, unless the court orders a later hearing under paragraph**  
30 **(2) of subsection a】** as soon as practicable after the conclusion of  
31 time set forth in its order permitting limited discovery pursuant to  
32 subsection d. of section 4 of P.L. , c. (C. )(pending before the  
33 Legislature as this bill)<sup>1</sup>.

34  
35 6. Proof.

36 In ruling on <sup>1</sup>**【a motion】** an order to show cause<sup>1</sup> under section 3  
37 of P.L. , c. (C. )(pending before the Legislature as this bill),  
38 the court <sup>1</sup>**【shall】** may<sup>1</sup> consider the pleadings, the <sup>1</sup>**【motion】** order  
39 to show cause application and supporting certifications, briefs<sup>1</sup>, any  
40 reply or response to the <sup>1</sup>**【motion】** order to show cause<sup>1</sup>, and any  
41 evidence that could be considered in ruling on a motion for  
42 summary judgment.

43  
44 7. Dismissal of cause of action in whole or part.

1 a. In ruling on <sup>1</sup>**[a motion]** an order to show cause<sup>1</sup> under  
2 section 3 of P.L. , c. (C. )(pending before the Legislature as  
3 this bill), the court shall dismiss with prejudice a cause of action, or  
4 part of a cause of action, if:

5 (1) the moving party established under subsection b. of section 2  
6 of P.L. , c. (C. )(pending before the Legislature as this bill)  
7 that this act applies;

8 (2) the responding party fails to establish under subsection c. of  
9 section 2 of P.L. , c. (C. )(pending before the Legislature as  
10 this bill) that this act does not apply; and

11 (3) either:

12 (a) the responding party fails to establish a prima facie case as to  
13 each essential element of <sup>1</sup>**[the]** any<sup>1</sup> cause of action <sup>1</sup>in the  
14 complaint<sup>1</sup>; or

15 (b) the moving party establishes that:

16 (i) the responding party failed to state a cause of action upon  
17 which relief can be granted; or

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

21 b. A voluntary dismissal without prejudice of a responding  
22 party's cause of action, or part of a cause of action, that is the  
23 subject of <sup>1</sup>**[a motion]** an order to show cause<sup>1</sup> under section 3 of  
24 P.L. , c. (C. )(pending before the Legislature as this bill)  
25 does not affect a moving party's right to obtain a ruling on the  
26 <sup>1</sup>**[motion]** order to show cause<sup>1</sup> and seek costs, attorney's fees, and  
27 expenses under section 10 of P.L. , c. (C. )(pending before  
28 the Legislature as this bill) .

29 c. A voluntary dismissal with prejudice of a responding's party  
30 cause of action, or part of a cause of action, that is the subject of  
31 <sup>1</sup>**[a motion]** an order to show cause<sup>1</sup> under section 3 of P.L. ,  
32 c. (C. )(pending before the Legislature as this bill) establishes  
33 for the purpose of section 10 of P.L. , c. (C. )(pending  
34 before the Legislature as this bill) that the moving party prevailed  
35 on the motion.

36

37 8. Ruling.

38 The court shall rule on <sup>1</sup>**[a motion]** an order to show cause<sup>1</sup>  
39 under section 3 of P.L. , c. (C. )(pending before the  
40 Legislature as this bill) <sup>1</sup>**[not later than 60 days]** as soon as  
41 practicable<sup>1</sup> after a hearing under section 5 of P.L. ,  
42 c. (C. )(pending before the Legislature as this bill).

43

44 9. Appeal.

45 A moving party may appeal as a matter of right from an order  
46 denying, in whole or in part, <sup>1</sup>**[a motion]** an order to show cause<sup>1</sup>

1 under section 3 of P.L. , c. (C. )(pending before the  
2 Legislature as this bill). The appeal must be filed not later than 20  
3 days after entry of the order.

4

5 10. Costs, Attorney's Fees, and Expenses.

6 On a motion under section 3 of P.L. , c. (C. )(pending  
7 before the Legislature as this bill), the court shall award court costs,  
8 reasonable attorney's fees, and reasonable litigation expenses  
9 related to the <sup>1</sup>**[motion]** order to show cause<sup>1</sup>:

10 (1) to the moving party if the moving party prevails on the  
11 <sup>1</sup>**[motion]** order to show cause<sup>1</sup>; or

12 (2) to the responding party if the responding party prevails on the  
13 <sup>1</sup>**[motion]** order to show cause<sup>1</sup> and the court finds that the  
14 <sup>1</sup>**[motion]** order to show cause<sup>1</sup> was frivolous or filed solely with  
15 intent to delay the proceeding.

16

17 11. Construction.

18 This act shall be broadly construed and applied to protect the  
19 exercise of the right of freedom of speech and of the press, the right  
20 to assembly and petition, and the right of association, guaranteed by  
21 the United State Constitution or the New Jersey Constitution.

22

23 12. Uniformity of Application and Construction.

24 In applying and construing this uniform act, consideration must  
25 be given to the need to promote uniformity of the law with respect  
26 to its subject matter among states that enact it.

27

28 13. Severability.

29 If any provision of this act or its application to any person or  
30 circumstance is held invalid, the invalidity does not affect other  
31 provisions or applications of this act which can be given effect with  
32 the invalid provision or application, and to this end the provisions  
33 of this act are severable.

34

35 14. This act shall take effect on the 30<sup>th</sup> day after enactment and  
36 shall apply to a civil action filed or cause of action asserted in a  
37 civil action on or after the effective date.