

By: Representative Hurst

To: State Affairs

HOUSE BILL NO. 1504

1 AN ACT TO CREATE THE "FREEDOM OF SPEECH PROTECTION ACT"; TO
2 PROVIDE DEFINITIONS FOR THE ACT; TO PROVIDE THAT; TO LIST THE
3 GOVERNMENTAL ENTITIES THAT THE ACT DOES AND DOES NOT APPLY TO; TO
4 PROVIDE TIMELINES FOR RESPONDING TO ANY CAUSE OF ACTION; TO
5 AUTHORIZE THE MOVING PARTY TO APPEAL; TO BRING FORWARD SECTION
6 95-1-5, WHICH PROVIDES FOR CIVIL ACTIONS FOR DEFAMATION OF
7 PUBLICATION, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** This act shall be known and may be cited as the
10 "Freedom of Speech Protection Act".

11 **SECTION 2.** (1) For purposes of this act, the following
12 words shall have the meanings described herein:

13 (a) "Goods or services" does not mean the creation,
14 dissemination, exhibition, or advertisement or similar promotion
15 of a dramatic, literary, musical, political, journalistic, or
16 artistic work.

17 (b) "Governmental unit" means a public corporation or
18 government or governmental subdivision, agency, or
19 instrumentality.



20 (c) "Person" means an individual, estate, trust,
21 partnership, business or nonprofit entity, governmental unit, or
22 other legal entity.

23 (2) (a) Except as otherwise provided in paragraph (c), this
24 act applies to any cause of action asserted in a civil action
25 against a person based on the person's:

26 (i) Communication in a legislative, executive,
27 judicial, administrative, or other governmental proceeding;

28 (ii) Communication on an issue under consideration
29 or review in a legislative, executive, judicial, administrative,
30 or other governmental proceeding; or

31 (b) Exercise of the right of freedom of speech or of
32 the press, the right to assemble or petition, or the right of
33 association, is guaranteed by the United States Constitution or
34 the Mississippi Constitution, on any matter of public concern.

35 (c) This act shall not apply to any cause of action
36 asserted:

37 (i) Against a governmental unit or an employee or
38 agent of a governmental unit acting or purporting to act in an
39 official capacity;

40 (ii) By a governmental unit or an employee or
41 agent of a governmental unit acting in an official capacity to
42 enforce a law to protect against an imminent threat to public
43 health or safety; or



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

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

SECTION 4. (1) Except as otherwise provided in paragraphs (d) through (g) of this section, on the filing of the special motion filed under the authority of Section 3 of this act:

(a) All other proceedings between the moving party and responding party, including discovery and a pending hearing or motion, are stayed; and

(b) On motion by the moving party, the court may stay a hearing or motion involving another party, or discovery by another party, if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material to the motion under Section 3.

(2) A stay granted under paragraph (1)(a) shall remain in effect until entry of an order ruling on the special motion filed



under Section 3 of this act, and expiration of the time under Section 9 of this act for the moving party to appeal the order.

(3) Except as otherwise provided in paragraphs (e), (f), and (g), if a party appeals from an order ruling on a motion under Section 3, all proceedings between all parties in the action are stayed. The stay shall remain in effect until the conclusion of the appeal.

(4) During a stay granted under subsection (1), the court may allow limited discovery if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden under Section 7 of this act and the information is not reasonably available unless discovery is allowed.

(5) A motion filed under Section 10 of this act for costs, attorney's fees, and expenses is not subject to a stay under this section.

(6) A stay under this section shall not affect a party's ability voluntarily to dismiss a cause of action or part of a cause of action or move to sever a cause of action.

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

(a) A motion unrelated to the motion under Section 3; and



(b) A motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety.

SECTION 5. (1) The court shall have the hearing to address the special motion filed under Section 3 not later than sixty (60) days after filing of the motion, unless the court orders a later hearing:

(a) To allow discovery under Section 4 of this act; or

(b) For other good cause.

(2) If the court orders a later hearing under subsection (1)(a) of this section, the court shall hear the special motion not later than sixty (60) days after the court order allowing the discovery, unless the court orders a later hearing.

SECTION 6. In ruling on a motion under Section 3, the court shall consider the pleadings, the motion, any reply or response to the motion, and any evidence that could be considered in ruling on a motion for summary judgment under the Mississippi Rules of Civil Procedure.

SECTION 7. (1) In ruling on the special motion filed under Section 3, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:

(a) The moving party establishes under Section 2(b) that this act applies;

(b) The responding party fails to establish under Section 2(c) that this act does not apply; and



116 (c) Either:

117 (i) The responding party fails to establish a

118 prima facie case as to each essential element of the cause of

119 action; or

120 (ii) The moving party establishes that:

121 1. The responding party failed to state a

122 [cause of action] upon which relief can be granted; or

123 2. There is no genuine issue as to any

124 material fact and the moving party is entitled to judgment as a

125 matter of law on the cause of action or part of the cause of

126 action.

127 (2) A voluntary dismissal without prejudice of a responding

128 party's cause of action, or part of a cause of action, that is the

129 subject of a special motion under Section 3 does not affect a

130 moving party's right to obtain a ruling on the motion and seek

131 costs, attorney's fees, and expenses under Section 10.

132 (3) A voluntary dismissal with prejudice of a responding

133 party's cause of action, or part of a cause of action, that is the

134 subject of a special motion under Section 3 establishes for the

135 purpose of Section 10 that the moving party prevailed on the

136 motion.

137 **SECTION 8.** The court shall rule on a special motion filed

138 under the authority of Section 3 not later than sixty (60) days

139 after a hearing under Section 5.



140 **SECTION 9.** A moving party may appeal as a matter of right
141 from an order denying, in whole or in part, a special motion filed
142 under Section 3. The appeal must be filed not later than
143 twenty-one (21) days after entry of the order.

144 **SECTION 10.** On a special motion filed under the authority
145 authorized in Section 3, the court shall award court costs,
146 reasonable attorney's fees, and reasonable litigation expenses
147 related to the motion:

148 (a) To the moving party if the moving party prevails on
149 the motion; or

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

153 **SECTION 11.** This act must be broadly construed and applied
154 to protect the exercise of the right of freedom of speech and of
155 the press, the right to assemble and petition, and the right of
156 association, guaranteed by the United States Constitution or the
157 Mississippi Constitution.

158 **SECTION 12.** In applying and construing this uniform act,
159 consideration must be given to the need to promote uniformity of
160 the law with respect to its subject matter among states that enact
161 it.

162 **SECTION 13.** This act applies to a civil action filed or
163 cause of action asserted in a civil action on or after the
164 effective date of this act.



SECTION 14.

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 15. Section 95-1-5, Mississippi Code of 1972, is

brought forward as follows:

95-1-5. (1) Before any civil action is brought for publication, in a newspaper domiciled and published in this state or authorized to do business in Mississippi so as to be subject to the jurisdiction of the courts of this state, of a libel, or against any radio or television station domiciled in this state, the plaintiff shall, at least ten (10) days before instituting any such action, serve notice in writing on the defendant at its regular place of business, specifying the article, broadcast or telecast, and the statements therein, which he alleges to be false and defamatory.

(2) If it appears upon the trial that said article was published, broadcast or telecast in good faith, that its falsity was due to an honest mistake of the facts, and there were reasonable grounds for believing that the statements in said article, broadcast or telecast were true, and that within ten (10) days after the service of said notice a full and fair correction, apology and retraction was published in the same edition or corresponding issues of the newspaper in which said article



190 appeared, and in as conspicuous place and type as was said
191 original article, or was broadcast or telecast under like
192 conditions correcting an honest mistake, and if the jury shall so
193 find, the plaintiff in such case shall recover only actual
194 damages. The burden of proof of the foregoing facts shall be
195 affirmative defenses of the defendant and pled as such.

196 (3) This section shall not apply to any publication
197 concerning a candidate for public office made within ten (10) days
198 of any primary, general or special election in which such
199 candidate's candidacy for or election to public office is to be
200 determined, and this section shall not apply to any editorial or
201 to any regularly published column in which matters of opinions are
202 expressed.

203 **SECTION 16.** This act shall take effect and be in force from
204 and after July 1, 2025.

