

**Hall of the House of Representatives**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

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**Subtitle of House Bill No. 1569**

"AN ACT TO ESTABLISH A JUDICIAL PROCEDURE TO PROTECT THE RIGHTS OF THE  
CITIZENS OF THE STATE OF ARKANSAS TO PARTICIPATE IN GOVERNMENT  
ACTIONS AND DECISIONS."

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**Amendment No. 1 to House Bill No. 1569.**

Amend House Bill No. 1569 as originally introduced:

Add Senator Madison as a cosponsor of the bill

AND

Page 1, delete lines 10 and 11, and substitute the following:  
"63 TO ADD AN ADDITIONAL SUBCHAPTER 5 TO PROTECT THE RIGHTS OF THE"

AND

Page 1, delete lines 17 through 20, and substitute the following:  
"AN ACT TO PROTECT THE RIGHTS OF THE CITIZENS OF THE STATE OF ARKANSAS TO  
PARTICIPATE IN GOVERNMENT."

AND

Page 1, delete lines 30 through 36, and substitute the following:  
"Participation in Government Act".

16-63-502. Legislative findings.

The General Assembly finds and declares that:

(1) It is in the public interest to encourage participation by the citizens of the state of Arkansas in matters of public significance through the exercise of their constitutional rights of freedom of speech and the right to petition government for a redress of grievances;

(2) The valid exercise of the constitutional rights of freedom of speech and the right to petition government for a redress of grievances should not be chilled through abuse of the judicial process;

(3) The threat of a civil action for damages in the form of a strategic lawsuit against political participation and the possibility of considerable legal costs can act as a deterrent to citizens who wish to



report information to federal, state, or local agencies; and

(4) Strategic lawsuits against political participation can effectively punish concerned citizens for exercising the constitutional right to speak and petition the government for redress of grievances.

16-63-503. Definitions.

As used in this subchapter:

(1) "An act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the Constitution of the United States or the Constitution of the State of Arkansas in connection with an issue of public interest or concern" includes, but is not limited to, any written or oral statement, writing, or petition made:

(A) Before or to a legislative, executive, or judicial proceeding, or other proceeding authorized by state, regional, county, or municipal governments; or

(B) In connection with an issue under consideration or review by a legislative, executive, or judicial body, or other body authorized by state, regional, county, or municipal government; and

(2)(A) "Privileged communication" means a communication made:

(i) In, to, or about an issue of public concern related to any legislative, executive, or judicial proceeding, or other proceeding authorized by state, regional, county, or municipal governments;

(ii) In the proper discharge of an official duty;

(iii) By a fair and true report of any legislative, executive, or judicial proceeding, or other proceeding authorized by state, regional, county, or municipal governments or anything said in the course of the proceeding;

(iv) All expressions of opinion or criticisms in regard to any legislative, executive, or judicial proceeding, or other proceeding authorized by state, regional, county, or municipal governments;

(v) All criticisms of the official acts of any and all public officers.

(B) "Privileged communication" does not include a statement or report concerning an official act of a public officer that knowingly and falsely imputes a crime to the public officer.

16-63-504. Immunity from suit.

Any person making a privileged communication or performing an act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the Constitution of the United States or the Constitution of the State of Arkansas in connection with an issue of public interest or concern shall be immune from civil liability.

16-63-505. Verification requirement.

For any claim asserted against a person or entity arising from possible privileged communication or an act by that person or entity that could reasonably be construed as an act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the Constitution of the United States or the Constitution of the State of Arkansas in connection with an issue of public interest or concern, the party asserting the claim and the party's attorney of record, if any, shall be

required to file, contemporaneously with the pleading containing the claim, a written verification under oath certifying that:

(1) The party and his or her attorney of record, if any, have read the claim;

(2) To the best of the party's or his or her attorney's knowledge, information, and belief formed after reasonable inquiry the claim is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(3) The act forming the basis for the claim is not a privileged communication; and

(4) The claim is not asserted for any improper purpose such as to suppress a person's or entity's right of free speech or right to petition government, to harass, or to cause unnecessary delay or needless increase in the cost of litigation.

16-63-506. Failure to properly verify.

(a) If a claim governed by § 16-63-505 is not verified as required by § 16-63-505, the claim shall be stricken unless it is verified within ten (10) days after the omission is called to the attention of the party asserting the claim or his or her attorney of record.

(b)(1) If a claim is verified in violation of § 16-63-505, the court upon motion or upon its own initiative shall impose upon the persons who signed the verification, a represented party, or both an appropriate sanction, which may include dismissal of the claim and an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the claim, including a reasonable attorney's fee.

(2) Other compensatory damages may only be recovered upon the demonstration that the claim was commenced or continued for the purpose of harassing, intimidating, punishing, or maliciously inhibiting a person or entity from making a privileged communication or performing an act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the Constitution of the United States or the Constitution of the State of Arkansas in connection with an issue of public interest or concern.

16-63-507. Procedure.

(a)(1) All discovery and any pending hearings or motions in an action for a claim governed by § 16-63-505 shall be stayed upon the filing of a motion to dismiss or a motion to strike under § 16-63-506.

(2) A hearing on a motion filed under § 16-63-506 shall be conducted not more than thirty (30) days after service unless emergency matters before the court require a later hearing.

(b) The court, upon motion and for good cause shown, may order that specified discovery or other hearings or motions be conducted notwithstanding the provisions of subsection (a) of this section.

16-63-508. Nothing in this subchapter shall affect or preclude the right of any party to any recovery otherwise authorized by common law, statute, or rule."

AND

Page 2, delete lines 1 through 36

AND

Page 3, delete lines 1 through 10

The Amendment was read \_\_\_\_\_

By: Representative L. Smith

GRH/GRH - 03-09-2005 09:32

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Chief Clerk