**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4274**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. W. Newton, Herbkersman, Erickson, Bradley and Hager

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Introduced in the House on April 5, 2023

Introduced in the Senate on March 27, 2024

Last Amended on March 26, 2024

Currently residing in the Senate Committee on **Judiciary**

Summary: SC Public Expression Protection Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/5/2023 House Introduced and read first time ([House Journal‑page 95](h:\hj\20230405.docx))

4/5/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 95](h:\hj\20230405.docx))

3/20/2024 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 11](h:\hj\20240320.docx))

3/26/2024 House Member(s) request name added as sponsor: Hager

3/26/2024 House Amended ([House Journal‑page 27](h:\hj\20240326.docx))

3/26/2024 House Read second time ([House Journal‑page 27](h:\hj\20240326.docx))

3/26/2024 House Roll call Yeas-118 Nays-0 ([House Journal‑page 28](h:\hj\20240326.docx))

3/27/2024 House Read third time and sent to Senate ([House Journal‑page 15](h:\hj\20240327.docx))

3/27/2024 Senate Introduced and read first time ([Senate Journal‑page 5](h:\sj\20240327.docx))

3/27/2024 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 5](h:\sj\20240327.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4274&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[04/05/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4274_20230405.docx)

[03/20/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4274_20240320.docx)

[03/26/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4274_20240326.docx)

Amended

March 26, 2024

H. 4274

Introduced by Reps. W. Newton, Herbkersman, Erickson, Bradley and Hager

S. Printed 03/26/24--H.

Read the first time April 05, 2023

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 7 TO cHAPTER 3, TITLE 15 so as TO ESTABLISH THE “sOUTH CAROLINA PUBLIC EXPRESSION PROTECTION ACT”, regarding A CAUSE OF ACTION ASSERTED IN A CIVIL ACTION BASED UPON A PERSON’S COMMUNICATION IN CERTAIN CIRCUMSTANCES, AND TO ESTABLISH REQUIREMENTS FOR THESE PROCEEDINGS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 15 of the S.C. Code is amended by adding:

Article 7

South Carolina Public Expression Protection Act

Section 15‑3‑900. This article may be cited as the “South Carolina Public Expression Protection Act”.

Section 15‑3‑910. (A) In this article:

(1) “Governmental unit” means a public corporation or government or governmental subdivision, agency, or instrumentality.

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

(B) Except as otherwise provided in subsection (C), this article applies to a cause of action asserted in a civil action against a person based on the person’s:

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

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

(3) exercise of the right of freedom of speech or of the press, the right to assemble or petition, or right of association, guaranteed by the United States Constitution or the South Carolina Constitution on a matter of public concern.

(C) This article does not apply to a cause of action asserted:

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

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

Section 15‑3‑920. Not later than sixty days after a party is served with a complaint, crossclaim, third‑party claim, or other pleading that asserts a cause of action to which this article 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 part of the cause of action.

Section 15‑3‑930. (A) Except as otherwise provided in subsections (C) through (F), on the filing of a motion pursuant to Section 15‑3‑920:

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

(2) 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 pursuant to Section 15‑3‑920.

(B) A stay pursuant to subsection (A) remains in effect until entry of an order ruling on the motion pursuant to Section 15‑3‑920.

(C) During a stay pursuant to subsection (A), 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 pursuant to Section 15‑3‑960(A) and the information is not reasonably available unless discovery is allowed.

(D) A motion pursuant to Section 15‑3‑980 for costs, attorney’s fees, and expenses is not subject to a stay pursuant to this section.

(E) A stay pursuant to this section does not affect a party’s ability to voluntarily dismiss a cause of action or part of a cause of action or move to sever a cause of action.

(F) During a stay pursuant to this section, the court for good cause may hear and rule on:

(1) a motion unrelated to the motion pursuant to Section 15‑3‑920; and

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

Section 15‑3‑940. (A) The court shall hear a motion pursuant to Section 15‑3‑920 not later than sixty days after filing of the motion, unless the court orders a later hearing:

(1) to allow discovery pursuant to Section 15‑3‑930(C); or

(2) for other good cause.

(B) If the court orders a later hearing pursuant to subsection (A)(1), the court shall hear the motion pursuant to Section 15‑3‑920 not later than sixty days after the court order allowing the discovery, unless the court orders a later hearing pursuant to subsection (A)(2).

Section 15‑3‑950. In ruling on a motion pursuant to Section 15‑3‑920, 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 pursuant to the Rule 56 of the South Carolina Rules of Civil Procedure.

Section 15‑3‑960. (A) In ruling on a motion pursuant to Section 15‑3‑920, the court shall dismiss with prejudice a cause of action or part of a cause of action, if:

(1) the moving party establishes pursuant to Section 15‑3‑910(B) that this article applies;

(2) the responding party fails to establish pursuant to Section 15‑3‑910(C) that this article does not apply; and

(3) the moving party establishes that:

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

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

(B) A voluntary dismissal without prejudice of a responding party’s cause of action, or part of a cause of action, that is the subject of a motion pursuant to Section 15‑3‑920 does not affect a moving party’s right to obtain a ruling on the motion and seek costs, attorney’s fees, and expenses pursuant to Section 15‑3‑980.

(C) A voluntary dismissal with prejudice of a responding party’s cause of action, or part of a cause of action, that is the subject of a motion pursuant to Section 15‑3‑920 establishes for the purpose of Section 15‑3‑980 that the moving party prevailed on the motion.

Section 15‑3‑970. The court shall rule on a motion pursuant to Section 15‑3‑920 not later than thirty days after a hearing held pursuant to Section 15‑3‑940.

Section 15‑3‑980. On a motion pursuant to Section 15‑3‑920, the court shall award court costs, reasonable attorney’s fees, and reasonable litigation expenses related to the motion:

(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 court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

Section 15‑3‑990. This article must be construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assemble and petition, and the right of association, guaranteed by the United States Constitution or the South Carolina Constitution.

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect on June 1, 2024, and applies to civil actions filed or to a cause of action asserted in a civil action on or after June 1, 2024. This act does not affect a cause of action asserted in a civil action before June 1, 2024.

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