



# IOWA HOUSE DEMOCRATS

## BILL SUMMARY

# Anti-SLAPP Lawsuits HF 2339

---

**Status of Bill:** House Calendar  
**Committee:** Judiciary Committee (20-0)  
**Research Analyst:** Bill Freeland, bill.freeland@legis.iowa.gov, 515-281-6311

**Lead Democrat:** Rep. Oldson  
**Floor Manager:** Rep. Hite

---

## Background

Anti-SLAPP, or Strategic Lawsuits Against Public Participation, laws generally refer to procedures to allow for the early dismissal of meritless claims against people exercising First Amendment rights. The statutes are intended to provide a quick, effective, and inexpensive method to dispose of these suits.

As of June 2019, 29 states have anti-SLAPP legislation. These states include Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Massachusetts, Missouri, Nebraska, Nevada, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Tennessee, Utah, Vermont. The District of Columbia and Guam also have anti-SLAPP statutes.

Recently, at least two state anti-SLAPP laws have been deemed unconstitutional. In 2015, the Washington statute was declared unconstitutional and in 2017 the Minnesota statute was declared unconstitutional. At least 7 states have based their state statutes on the California anti-SLAPP statute. According to the Iowa Attorney General, HF 2339 was based off of the California model.

## Bill Summary

Creates a new Code section providing for protection of public participation by creating a special motion to strike.

Any cause of action arising out a person's right of petition or free speech under the U.S. or Iowa Constitution in connection with a public issue is subject to a special motion to strike. A plaintiff must establish there is a probability the plaintiff will prevail on the claim to avoid the special motion to strike. A determination that a plaintiff is likely to prevail is not admissible in evidence in a later proceeding.

The special motion must be filed within 60 days after service of the complaint, or at the court's discretion, any time later the court deems proper. A hearing must be scheduled not more than 30 days after service of the motion unless the court requires a later hearing because of the docket. Discovery in the underlying proceeding is stayed upon the notice of a special motion to strike.

A special motion to strike is appealable.

If a defendant is successful in a special motion to strike, the defendant is entitled to costs and reasonable attorney fees. If a court finds a special motion to strike is frivolous or solely intended to cause unnecessary delay, the court must award costs and reasonable attorney fees to a plaintiff prevailing on a motion. Attorney fees are not available if the claim arises out of Iowa Code Chapter 21 (Official Meetings Open to

Public), Chapter 22 (Examination of Public Records), or Chapter 23 (Public Access to Government Information). This special motion does not apply to an enforcement action by the attorney general, district attorney, county attorney, city attorney, or any other attorney charged with prosecution violations of the law.

Protected activities include:

- Any written or oral statement or writing made before a governmental body or official proceeding.
- Any written or oral statement made in connection with an issue under consideration by a government body or official proceeding.
- Any written or oral statement made in a place open to the public or a public forum in connection with an issue of public interest.
- Any conduct in furtherance of the right to petition or free speech in connection with a public issue or issue of public interest.

The bill states the legislative intent is that public participation should not be chilled by judicial action. Because of this, the legislation states that these new provisions are to be construed broadly.

The Judicial Branch must maintain a public record of information transmitted pursuant to these special motions to strike for at least 3 years.

## **Amendment Summary**

### **H-8023 by Hite**

Removes the requirement that the special motion specially be scheduled for a hearing by the clerk of court.

Removes the requirement for any party that files a special motion to strike or an opposition to transmit a copy to the Judicial Branch.