

FEB 23 1999

JUDICIARY

HOUSE FILE

**356**

BY FALLON

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to immunity from civil lawsuits for persons who  
2 participate in good faith in matters of public concern, and a  
3 right to damages and related matters.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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**HF 356**

1 Section 1. Section 331.756, Code 1999, is amended by  
2 adding the following new subsection:

3 NEW SUBSECTION. 77A. Represent persons pursuant to  
4 section 613.20.

5 Sec. 2. NEW SECTION. 613.20 IMMUNITY FOR PUBLIC  
6 PARTICIPATION -- LIABILITY FOR DAMAGES FOR ABUSE OF PROCESS.

7 1. As used in this section:

8 a. "Civil suit" means any civil claim, counterclaim, or  
9 cross-claim.

10 b. "Good faith" means a reasonable belief in the truth of  
11 the information conveyed and a genuine interest in the matter  
12 of public interest or concern.

13 c. "Public participation" means the process of making a  
14 written, oral, or symbolic nonverbal statement or  
15 communication pertaining to an issue under consideration or  
16 review by a governmental body or in a governmental proceeding,  
17 or otherwise pertaining to an issue of public interest or  
18 concern, that is intended to encourage consideration or review  
19 of the issue, influence action on the issue, or to enlist  
20 public support or action in relation to the issue.

21 d. "Symbolic nonverbal statement or communication" means  
22 an action undertaken in lieu of verbal expression that conveys  
23 the actor's message or position regarding a matter of public  
24 interest or concern.

25 2. A person is immune from civil suit in relation to the  
26 person's good faith public participation in a matter of public  
27 interest or concern.

28 3. A person immune from civil suit pursuant to subsection  
29 2, in addition to other rights and remedies available under  
30 law, shall have the following rights in the event a civil suit  
31 is filed against such person:

32 a. To request and be granted an expedited hearing on a  
33 motion to dismiss the suit.

34 b. To have the suit dismissed upon motion if the court  
35 finds that the plaintiff is unlikely to prevail upon the

1 merits, and that the suit was more likely than not filed for  
2 its chilling effect upon the speech or actions of the  
3 defendant or other persons.

4 c. To request and be granted an injunction staying  
5 governmental action on the public matter underlying the suit.

6 d. To request and be granted appropriate limits on  
7 discovery.

8 e. To request and be granted an expedited trial and  
9 appeal, if applicable.

10 f. To be represented in the suit by the attorney general,  
11 or in the alternative by the county attorney, or by court-  
12 appointed, pro bono counsel in the event both the attorney  
13 general and the county attorney cannot represent the person.

14 4. A person that unreasonably files a civil suit against a  
15 person immune from suit under subsection 2 is liable for abuse  
16 of process and compensatory damages, including recovery of  
17 litigation costs and attorney fees, and is also liable for  
18 punitive damages if both of the following findings are made by  
19 the court:

20 a. The court finds by a preponderance of the evidence that  
21 the suit was primarily filed in order to chill the speech or  
22 actions of the person sued, or to deter speech or action by  
23 other parties in relation to the same plaintiff or the same  
24 matter of public interest or concern.

25 b. The court finds by a preponderance of the evidence that  
26 the suit cannot be supported by existing law or by a good  
27 faith argument for the extension of existing law.

28 Sec. 3. EFFECTIVE DATE. This Act, being deemed of  
29 immediate importance, takes effect upon enactment.

30 EXPLANATION

31 This bill adds a new section to Code chapter 613 regarding  
32 civil causes of action.

33 The bill establishes immunity from civil suit for a person  
34 who, in good faith, publicly participates in a matter of  
35 public interest or concern. The bill defines public

1 participation to mean the process of making a written, oral,  
2 or symbolic nonverbal statement or communication pertaining to  
3 an issue under consideration or review by a governmental body  
4 or in a governmental proceeding, or otherwise pertaining to an  
5 issue of public interest or concern, that is intended to  
6 encourage consideration or review of the issue, influence  
7 action on the issue, or to enlist public support or action in  
8 relation to the issue.

9 The bill also provides certain rights to a person who is  
10 civilly sued in spite of such immunity, including the right to  
11 request and be granted an expedited hearing on a motion to  
12 dismiss the suit; to have the suit dismissed upon motion if  
13 the court finds that the plaintiff is unlikely to prevail upon  
14 the merits, and that the suit was more likely than not filed  
15 for its chilling effect upon the speech or actions of the  
16 defendant or other persons; to request and be granted an  
17 injunction staying governmental action on the public matter  
18 underlying the suit; to request and be granted appropriate  
19 limits on discovery; to request and be granted an expedited  
20 trial and appeal, if applicable; and to be represented in the  
21 suit by the attorney general, the county attorney, or court-  
22 appointed, pro bono counsel. A related amendment is made to  
23 Code section 331.756.

24 A person that unreasonably files a civil suit against a  
25 person immune from suit is liable for abuse of process and  
26 compensatory damages, including recovery of litigation costs  
27 and attorney fees. The person is also liable for punitive  
28 damages if the court finds, by a preponderance of the  
29 evidence, that the suit was primarily filed in order to chill  
30 the speech or actions of the person sued, or to deter speech  
31 or action by other parties in relation to the same plaintiff  
32 or the same matter of public interest or concern, and that the  
33 suit cannot be supported by existing law or by a good faith  
34 argument for the extension of existing law.

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