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SENATE FILE 450
BY HARPER, LUNDBY, DEARDEN,
DRAKE, and HAMMOND

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing civil immunity for a person's participation
2 in government and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 450 JUDICIARY

1 Section 1. NEW SECTION. 613.20 IMMUNITY FOR
2 PARTICIPATION IN GOVERNMENT.

3 1. As used in this section:

4 a. "Claim" means any lawsuit, cause of action, claim,
5 cross-claim, counterclaim, or other pleading or filing
6 requesting relief.

7 b. "Government" includes a branch, department, agency,
8 instrumentality, official, employee, agent, or other person
9 acting under color of law of the state, or any political
10 subdivision, or another public authority, including the
11 electorate.

12 c. "Motion" includes any motion to dismiss, for summary
13 judgment, for judgment on the pleadings, to strike, or any
14 other pleading filed to dispose of a judicial claim.

15 d. "Moving party" means any person on whose behalf the
16 motion described in subsection 3 is filed seeking dismissal of
17 the claim.

18 e. "Responding party" means any person against whom the
19 motion described in subsection 3 is filed.

20 2. A person who acts in furtherance of the constitutional
21 right to petition for a redress of grievances, including but
22 not limited to seeking relief, influencing action, informing,
23 communicating, and otherwise participating in the processes of
24 government, shall be immune from civil liability, regardless
25 of intent or purpose, except where not aimed at procuring any
26 governmental or electoral action, result, or outcome.

27 3. A motion to dispose of a claim in a judicial proceeding
28 on the grounds that the claim is based on, relates to, or is
29 in response to any act of a moving party in furtherance of the
30 moving party's rights as described in subsection 2 shall be
31 treated like a motion for summary judgment, but shall not bar
32 a motion for summary judgment from later being filed on other
33 grounds.

34 a. The court shall treat the motion as one requiring an
35 expedited hearing.

1 b. The moving party shall have a right of expedited appeal
2 from a court order denying such a motion or from a failure by
3 the court to rule on such motion in an expedited manner.

4 c. Discovery shall be suspended, pending decision on the
5 motion and appeals.

6 d. The responding party shall have the burden of proof, of
7 going forward with the evidence, and of persuasion on the
8 motion.

9 e. The court shall make its determination based upon the
10 facts contained in the pleadings and affidavits filed with the
11 pleadings.

12 f. The court shall grant the motion and dismiss the claim
13 unless the responding party has produced clear and convincing
14 evidence that the acts of the moving party are not immunized
15 from liability by subsection 2.

16 g. Any government body to which the moving party's acts
17 were directed or the attorney general may intervene to defend
18 or otherwise support the moving party.

19 h. If the court dismisses the claim, the court shall do
20 both of the following:

21 (1) Award to the moving party the costs of litigation,
22 including reasonable attorney and expert witness fees.

23 (2) Impose additional sanctions upon the responding party,
24 its attorneys, or law firms, as it determines will be
25 sufficient to deter repetition of such conduct and comparable
26 conduct by others similarly situated.

27 4. A person damaged or injured by reason of a claim filed
28 in violation of the person's rights under this section may
29 seek relief in the form of a claim for actual or compensatory
30 damages, as well as punitive damages, attorney fees, and
31 costs, from the person or persons responsible.

32 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
33 immediate importance, takes effect upon enactment.

34 EXPLANATION

35 This bill provides immunity from civil lawsuit for acts

1 undertaken by a person in furtherance of the person's right to
2 petition government for a redress of grievances. This type of
3 law is also known as an anti-SLAPP provision, designed to
4 prevent Strategic Lawsuits Against Public Participation
5 (SLAPP).

6 The bill establishes new Code section 613.20, which
7 provides definitions, and sets forth the immunity for persons
8 who seek relief from the government, attempt to influence
9 governmental action, inform, communicate, and otherwise
10 participate in the processes of government, regardless of
11 intent or purpose, provided the action aims to procure a
12 governmental or electoral action, result, or outcome.

13 The new Code section also provides for an expedited
14 decision on a motion filed to determine whether a suit has
15 been filed in violation of the immunity established by this
16 section, and whether the claim should be dismissed. The
17 procedure requires suspension of discovery pending resolution
18 of the motion and its appeals, and places on the responding
19 party (the party filing the lawsuit) the burden of proof, of
20 going forward with the evidence, and of persuasion on the
21 motion. The responding party must establish by clear and
22 convincing evidence that the acts of the moving party are not
23 immunized from liability in order to prevail on the motion and
24 to continue with the lawsuit.

25 The attorney general or other governmental body is
26 authorized to intervene to defend or otherwise support the
27 moving party. If the motion is granted and the claim is
28 dismissed, the court is directed to award the moving party
29 litigation costs, and to sanction the responding party, its
30 attorneys, or law firms, as it determines will be sufficient
31 to deter repetition of such conduct and comparable conduct by
32 others similarly situated.

33 Finally, a person damaged by a claim filed in violation of
34 the person's rights may file a claim for damages, including
35 punitive damages, against the responsible parties.

1 The bill takes effect upon enactment.

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