HOUSE FILE 2339
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 537)

(As Amended and Passed by the House February 25, 2020)
* = Language Stricken by the House

A BILL FOR

An Act relating to judicial motions and causes of action arising from a person's participation in matters of public significance.

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

Section 1. NEW SECTION. **619.20 Protection of public participation — special motion to strike.**

1. The general assembly finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly.

2. As used in this section, unless the context otherwise requires:

a. "Act in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Iowa in connection with a public issue" includes all of the following:

(1) Any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law.

(2) Any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law.

(3) Any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest.

(4) Any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

b. "Complaint" includes a cross-complaint and a petition.

c. "Defendant" includes a cross-defendant and a respondent.

d. "Plaintiff" includes a cross-complainant and a petitioner.

3. *a.* A cause of action against a person arising from any act or omission of that person in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Iowa in

connection with a public issue shall be subject to a special motion to strike, unless the court determines the plaintiff has established there is a probability the plaintiff will prevail on the claim.

b. In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

c. If the court determines the plaintiff has established a probability that the plaintiff will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

4. *a.* Except as provided in paragraph "*b*", in any action subject to subsection 3, a prevailing defendant on a special motion to strike shall be entitled to recover costs and reasonable attorney fees. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney fees incurred in opposing the motion to a plaintiff prevailing on the motion.

b. A defendant who prevails on a special motion to strike in an action subject to paragraph "*a*" shall not be entitled to costs and attorney fees if that cause of action is brought pursuant to chapter 21, 22, or 23.

5. The special motion may be filed within sixty days after the service of the complaint or, in the court's discretion, at any later time upon terms the court deems proper. The motion shall be scheduled for a hearing not more than thirty days after the service of the motion unless the docket conditions of the court require a later hearing.

6. All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this

section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subsection.

7. An order granting or denying a special motion to strike shall be appealable under the rules of appellate procedure.

8. This section shall not apply to any enforcement action brought by the attorney general, a district attorney, a county attorney, a city attorney, or any attorney charged with prosecuting violations of state or local laws.