

IC 34-7-7

Chapter 7. Defense in Civil Actions Against Persons Who 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 Indiana in Connection With a Public Issue

IC 34-7-7-1

Applicability of chapter

Sec. 1. (a) This chapter applies to an act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue or an issue of public interest that arises after June 30, 1998. This chapter does not apply to an action that was filed and is pending before July 1, 1998.

(b) This chapter does not apply to an enforcement action brought in the name of the state of Indiana by the attorney general, a prosecuting attorney, or another attorney acting as a public prosecutor.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-2

"Act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue" defined

Sec. 2. As used in this chapter, "act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue" includes any conduct in furtherance of the exercise of the constitutional right of:

- (1) petition; or
- (2) free speech;

in connection with a public issue or an issue of public interest.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-3

"Claim" defined

Sec. 3. As used in this chapter, "claim" means:

- (1) a lawsuit;
- (2) a cause of action;
- (3) a petition;
- (4) a complaint;
- (5) a cross claim;
- (6) a counterclaim; or
- (7) any other judicial pleading or filing;

that requests legal or equitable relief.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-4

"Person" defined

Sec. 4. As used in this chapter, "person" means any of the following:

- (1) An individual.
- (2) Any other legal entity.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-5

Conditions under which rights of petition or free speech may be used as defense

Sec. 5. It is a defense in a civil action against a person that the act or omission complained of is:

- (1) an 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 Indiana in connection with a public issue; and
- (2) an act or omission taken in good faith and with a reasonable basis in law and fact.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-6

Discovery; stay pending motion to dismiss

Sec. 6. All discovery proceedings in the action are stayed upon the filing of a motion to dismiss made under this chapter, except for discovery relevant to the motion.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-7

Costs and attorney's fees; defendant successful in motion to dismiss

Sec. 7. A prevailing defendant on a motion to dismiss made under this chapter is entitled to recover reasonable attorney's fees and costs.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-8

Costs and attorney's fees; defendant unsuccessful in motion to dismiss

Sec. 8. If a court finds that a motion to dismiss made under this chapter is:

- (1) frivolous; or
- (2) solely intended to cause unnecessary delay;

the plaintiff is entitled to recover reasonable attorney's fees and costs to answer the motion.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-9

Motion to dismiss; procedures and determination

Sec. 9. (a) If a person files a motion to dismiss under this chapter, the court in which the motion is filed shall do the following:

- (1) Treat the motion as a motion for summary judgment.

(2) Establish a reasonable time period, not to exceed one hundred eighty (180) days, to expedite and rule on the motion.

(3) Specify time limits for the discovery of evidence to respond to material issues raised in the motion.

(b) The person who files a motion to dismiss must state with specificity the public issue or issue of public interest that prompted the 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 Indiana.

(c) The court shall make its determination based on the facts contained in the pleadings and affidavits filed and discovered under the expedited proceeding.

(d) The motion to dismiss shall be granted if the court finds that the person filing the motion has proven, by a preponderance of the evidence, that the act upon which the claim is based is a lawful 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 Indiana.

(e) The court must act on the motion to dismiss within thirty (30) days from the submission of evidence made by motion to the court that is discovered within the specific expedited time period allowed.

(f) If a court does not act within the thirty (30) days provided in subsection (e), the person filing the motion may appeal the matter based on the court's failure to rule on the motion.

As added by P.L.114-1998, SEC.7.

IC 34-7-7-10

Remedy in addition to other remedies provided by law

Sec. 10. The remedy provided by this chapter is in addition to other remedies provided by law.

As added by P.L.114-1998, SEC.7.