

February 17, 1998

ENGROSSED SENATE BILL No. 260

DIGEST OF SB 260 (Updated February 16, 1998 4:40 pm - DI 38)

Citations Affected: IC 34-4; noncode.

Synopsis: Defense in certain civil actions. Creates a defense in an action against a person when the act or omission complained of is an act to further a right to petition the government under the United States Constitution or the Constitution of the State of Indiana in connection with a public issue or an issue of public interest. Specifies that the defense may be asserted only if the act was taken in good faith and with a reasonable basis in law and fact. Provides for the award of attorney's fees and costs to the prevailing party in a proceeding in which the defense is raised. Applies the statute prospectively.

Effective: July 1, 1998.

**Alexa, Landske, Bowser, Dempsey,
Howard, Kenley, Meeks, Simpson,
Waterman, Wyss, Zakas, Breaux**

(HOUSE SPONSORS — KRUZAN, AYRES, KUZMAN, ALEVIZOS, LYTTLE)

January 8, 1998, read first time and referred to Committee on Rules and Legislative Procedure.

January 22, 1998, amended, reported favorably; reassigned to Committee on Corrections, Criminal and Civil Procedures.

January 29, 1998, reported favorably — Do Pass.

February 2, 1998, read second time, ordered engrossed. Engrossed.

February 3, 1998, read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Judiciary. Reassigned to Committee on Rules and Legislative Procedures.

February 16, 1998, amended, reported — Do Pass.

ES 260—LS 6514/DI 13+



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February 17, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

ENGROSSED SENATE BILL No. 260

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-4-45 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 45. Defense in Civil Actions Against Persons Who Act**
5 **in Furtherance of the Person's Right of Petition or Free Speech**
6 **Under the United States or Indiana Constitution in Connection**
7 **with a Public Issue**

8 **Sec. 1. As used in this chapter, "act in furtherance of a person's**
9 **right of petition or free speech under the United States**
10 **Constitution or the Constitution of the State of Indiana in**
11 **connection with a public issue" includes any conduct in**
12 **furtherance of the exercise of the constitutional right of petition or**
13 **the constitutional right of free speech in connection with a public**
14 **issue or an issue of public interest.**

15 **Sec. 2. It is a defense in a civil action against a person that the**

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act or omission complained of was:

- (1) an act of that person in furtherance of the person’s right of petition or free speech under the United States Constitution or the Constitution of the State of Indiana in connection with a public issue; and**
- (2) an act that was taken in good faith and with a reasonable basis in law and fact.**

Sec. 3. The prevailing party in a proceeding to dismiss an action based on the defense established under section 2 of this chapter is entitled to reasonable attorney's fees and costs.

Sec. 4. The remedy provided by this chapter is in addition to other remedies provided by law.

SECTION 2. [EFFECTIVE UPON PASSAGE] IC 34-4-45, as added by this act, applies to acts in furtherance of a person’s right of petition or free speech under the United States Constitution or the Constitution of the State of Indiana in connection with a public issue or an issue of public interest that arise after the effective date of this act. This act does not apply to actions that were filed and are pending on the effective date of this act.

SECTION 3. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that R. Young be removed as author of Senate Bill 260 and that Senator Alexa be substituted therefor.

R. YOUNG

SENATE MOTION

Mr. President: I move that Senator Landske be added as coauthor of Senate Bill 260.

ALEXA

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 260, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal, and Civil Procedures.

(Reference is to Senate Bill 260 as introduced.)

GARTON, Chairperson

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill 260, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 260 as printed January 23, 1998.)

MEEKS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Breaux be added as coauthor of Senate Bill 260.

ALEXA

SENATE MOTION

Mr. President: I move that Senator Zakas be added as coauthor of Senate Bill 260.

ALEXA

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred Senate Bill 260, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to Senate Bill 260 as printed January 30, 1998.)

GREGG, Chair

Committee Vote: yeas 8, nays 0.

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