

January 23, 1998

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## SENATE BILL No. 260

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DIGEST OF SB 260 (Updated January 22, 1998 2:46 pm - DI 84)

**Citations Affected:** IC 34-4-45.

**Synopsis:** Immunity from civil liability. Provides that a person who acts to further a right to petition the government under the United States Constitution or the Constitution of the State of Indiana is immune from civil liability arising out of the person's act, regardless of the person's intent or purpose, unless the act is performed without the intention of procuring a federal, state, or local governmental or electoral action, result, or outcome. Allows a person to file a motion to dismiss a claim in a judicial proceeding on the grounds that the claim is based on, relates to, or is in response to an act for which the person is immune from liability. Allows a person who files a successful motion to dismiss a claim brought by another person or a person who has been damaged or injured because another person brought a claim in violation of the person's right to petition the government to recover: (1) actual or compensatory damages; (2) court costs; (3) punitive damages; (Continued next page)

**Effective:** July 1, 1998.

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**Alexa, Landske**

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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.

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SB 260—LS 6514/DI 13+



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and (4) attorney's fees from the other person.

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SB 260—LS 6514/DI 13+



January 23, 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.

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## SENATE BILL No. 260

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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 JULY  
3 1, 1998]:

4 **Chapter 45. Immunity from Civil Liability of Persons Who Act**  
5 **to Further Constitutional Rights**

6 **Sec. 1. As used in this chapter, "claim" means:**

- 7 (1) a lawsuit;  
8 (2) a cause of action;  
9 (3) a cross-claim;  
10 (4) a counterclaim; or  
11 (5) any other judicial pleading or filing;  
12 that requests legal or equitable relief.

13 **Sec. 2. As used in this chapter, "person" means:**

- 14 (1) an individual;  
15 (2) a corporation;

SB 260—LS 6514/DI 13+



- 1           **(3) a partnership;**
- 2           **(4) a limited partnership;**
- 3           **(5) an association;**
- 4           **(6) an organization; or**
- 5           **(7) any other legal entity.**

6           **Sec. 3. A person who acts to further a right to petition the**  
 7 **government under the United States Constitution or the**  
 8 **Constitution of the State of Indiana, including:**

- 9           **(1) seeking relief;**
  - 10          **(2) influencing action;**
  - 11          **(3) informing;**
  - 12          **(4) communicating; and**
  - 13          **(5) otherwise participating in the process of government;**
- 14 **is immune from civil liability arising out of the person's act,**  
 15 **regardless of the person's intent or purpose, unless the act is**  
 16 **performed without the intention of procuring a federal, state, or**  
 17 **local governmental or electoral action, result, or outcome.**

18          **Sec. 4. (a) If a person files a motion to dismiss a claim in a**  
 19 **judicial proceeding on the grounds that the claim is based on,**  
 20 **relates to, or is in response to an act for which the person is**  
 21 **immune from liability under section 3 of this chapter:**

- 22          **(1) a court shall treat the motion as a motion for summary**  
 23 **judgment;**
- 24          **(2) the court shall use the standard period applied to**  
 25 **preferred or expedited motions;**
- 26          **(3) discovery of evidence shall be suspended pending a**  
 27 **decision on the motion and during any appeals;**
- 28          **(4) the person responding to the motion shall have the burden**  
 29 **of proof to show the motion should be denied;**
- 30          **(5) the court shall make its determination based on the facts**  
 31 **contained in pleadings and affidavits filed;**
- 32          **(6) the motion to dismiss shall be granted, without leave to**  
 33 **amend, unless the court finds that the person responding to**  
 34 **the motion has produced clear and convincing evidence that**  
 35 **the act upon which the claim is based is not an act for which**  
 36 **a person is immune from civil liability under section 3 of this**  
 37 **chapter; and**
- 38          **(7) a federal, state, or local government entity to which the**  
 39 **person's acts were directed or the attorney general may**  
 40 **intervene, defend, or otherwise support the person in the**  
 41 **motion.**

42          **(b) An appellate court shall expedite any appeal from:**

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1           **(1) a court order denying a motion filed under subsection (a);**  
2           **or**  
3           **(2) a court's failure to rule on a motion filed under subsection**  
4           **(a).**  
5           **Sec. 5. A person who files a motion to dismiss a claim that is**  
6           **granted under section 4 of this chapter or a person who has been**  
7           **damaged or injured because another person brought a claim in**  
8           **violation of the person's rights described under section 3 of this**  
9           **chapter may recover the following from the person who brought**  
10          **the claim:**  
11           **(1) Actual or compensatory damages.**  
12           **(2) Court costs.**  
13           **(3) Punitive damages.**  
14           **(4) Attorney's fees.**  
15          **Sec. 6. Nothing in this chapter may be interpreted to limit or**  
16          **restrict any rights a person may have under any other law.**

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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

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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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