

# COMMITTEE REPORT

## MR. PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 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:
- ||| "SECTION 1. IC 34-4-45 IS ADDED TO THE INDIANA CODE
- ||| AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- ||| JULY 1, 1998]:
- ||| **Chapter 45. Immunity from Civil Liability of Persons Who Act**
- ||| **to Further Constitutional Rights**
- ||| **Sec. 1. As used in this chapter, "claim" means:**
- ||| (1) a lawsuit;
- ||| (2) a cause of action;
- ||| (3) a cross-claim;
- ||| (4) a counterclaim; or
- ||| (5) any other judicial pleading or filing;
- ||| **that requests legal or equitable relief.**
- ||| **Sec. 2. As used in this chapter, "person" means:**
- ||| (1) an individual;
- ||| (2) a corporation;
- ||| (3) a partnership;
- ||| (4) a limited partnership;
- ||| (5) an association;
- ||| (6) an organization; or
- ||| (7) any other legal entity.
- ||| **Sec. 3. 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, including:**
- ||| (1) seeking relief;
- ||| (2) influencing action;
- ||| (3) informing;
- ||| (4) communicating; and
- ||| (5) otherwise participating in the process of government;

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.

Sec. 4. (a) If a person files 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 under section 3 of this chapter:

(1) a court shall treat the motion as a motion for summary judgment;

(2) the court shall use the standard period applied to preferred or expedited motions;

(3) discovery of evidence shall be suspended pending a decision on the motion and during any appeals;

(4) the person responding to the motion shall have the burden of proof to show the motion should be denied;

(5) the court shall make its determination based on the facts contained in pleadings and affidavits filed;

(6) the motion to dismiss shall be granted, without leave to amend, unless the court finds that the person responding to the motion has produced clear and convincing evidence that the act upon which the claim is based is not an act for which a person is immune from civil liability under section 3 of this chapter; and

(7) a federal, state, or local government entity to which the person's acts were directed or the attorney general may intervene, defend, or otherwise support the person in the motion.

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

(1) a court order denying a motion filed under subsection (a); or

(2) a court's failure to rule on a motion filed under subsection (a).

Sec. 5. A person who files a motion to dismiss a claim that is granted under section 4 of this chapter or a person who has been damaged or injured because another person brought a claim in violation of the person's rights described under section 3 of this chapter may recover the following from the person who brought the claim:

(1) Actual or compensatory damages.

(2) Court costs.

(3) Punitive damages.

(4) Attorney's fees.

Sec. 6. Nothing in this chapter may be interpreted to limit or restrict any rights a person may have under any other law."

(Reference is to SB 260 as introduced.)

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

