CLIENT ALERTS & INSIGHTS

Anti-SLAPP Laws on the Rise: Key Developments Since 2025

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Featured Practices: Litigation, Defamation Litigation

Key Takeaways

- States across the country are expanding anti-SLAPP protections, with nine states enacting or strengthening laws since 2025. Most have adopted the Uniform Public Expression Protection Act (UPEPA), giving defendants new tools to seek early dismissal of lawsuits.
- Early rulings in states like Ohio and Delaware are shaping the scope of these protections, while questions remain about how federal courts will apply UPEPA procedures.
- Parties should evaluate anti-SLAPP laws early in any speech-related dispute, as they can significantly affect strategy, timing and potential fee exposure. Businesses, media organizations and individuals should also watch for federal court challenges as judges continue to define the reach of these newly enacted statutes.

Over the past two years, state legislatures have been busy addressing strategic lawsuits against public participation ("SLAPPs"). Since the beginning of 2025, nine states have passed or amended anti-SLAPP legislation. Eight of those states adopted the Uniform Law Commission's model anti-SLAPP statute, the Uniform Public Expression Protection Act ("UPEPA"). The UPEPA provides procedural relief to defendants opposing SLAPP claims. Key provisions of the UPEPA include:

- Expedited special motions for dismissal, enabling courts to consider affidavits, depositions and documentary evidence beyond what is normally considered on a standard motion to dismiss;
- Automatic stay of all other proceedings upon the filing of a special motion for dismissal; and
- Award of attorneys' fees and costs to a successful movant.

Below is an overview of each of the nine states that have enacted new anti-SLAPP statutes or revised their existing anti-SLAPP statues since the start of 2025.

Delaware: Delaware replaced its limited anti-SLAPP statute with the UPEPA on September 15, 2025. Delaware's previous anti-SLAPP statute only protected "public applicants or permittees," which left most residents vulnerable to lawsuits designed to chill free speech. Now, Delaware's

anti-SLAPP statute provides more comprehensive protection for all speech on matters of public concern.

Recently, the Delaware Chancery Court analyzed the newly enacted statute in a case involving contract repudiation. In *Tesaro, Inc. v. AnaptysBio, Inc.*, the defendant argued that the plaintiff's claim of anticipatory breach should be dismissed under the state's new anti-SLAPP statute because the prelitigation communications were protected speech under the UPEPA. The court ultimately rejected the defendant's motion, however, asserting that to dismiss a claim under the UPEPA, the movant must (1) demonstrate that it engaged in a protected activity; and (2) establish a nexus between the cause of action and the protected activity. The court held that the defendant failed to establish a nexus between defendant's protected prelitigation communications and the claim of anticipatory breach, stressing that the prelitigation communications were merely evidence of plaintiff's alleged liability, not the basis for liability. Despite denying defendant's motion to dismiss under the UPEPA, the court held that the nonmoving party was not entitled to attorney's fees and costs associated with responding to the motion because it was not filed frivolously or solely with the intent to delay the proceeding.

Idaho: Idaho enacted the UPEPA on March 10, 2025 and the law took effect on January 1, 2026, becoming the state's first enacted anti-SLAPP legislation. Like other UPEPA states, Idaho defamation defendants now have increased protections including expedited dismissals, fee shifting and expedited appeals.

Illinois: Illinois revised its existing anti-SLAPP statute, the Illinois Citizen Participation Act (the "ICPA"), on August 21, 2025, effective January 1, 2026. The Illinois Legislature amended the ICPA in response to the Illinois Supreme Court's prior interpretation. In 2012, the Illinois Supreme Court in *Sandholm v. Kuecker* held that the ICPA only protected defendants where the plaintiff's suit was solely based on, relating to or in response to defendant's speech, requiring defendants to establish the lawsuit was frivolous and filed with retaliatory intent. The 2025 amendment eliminates this requirement and confirms that the ICPA applies regardless of the motives of the person who brings the defamation claim. In 2024, the Illinois Supreme Court held that the ICPA did not protect all media reports on matters of public concern. The 2025 amendment expressly extends protection to media defendants and freedom of the press.

Some of Illinois' revisions are similar to the UPEPA model statute. For example, the amended statute clarifies that filing an anti-SLAPP motion stays all other proceedings of the litigation. Additionally, the revised statute stipulates that a responding party who prevails in a motion shall be awarded reasonable attorney's fees and costs if the court finds that the motion was frivolous or filed solely with the intent to delay the proceeding.

Unlike the UPEPA, the ICPA provides an exception for speech that is "not genuinely aimed at procuring favorable government action, result or outcome." Defendants facing defamation claims based on their product or service reviews likely cannot take advantage of the ICPA's protections.

Iowa: Iowa adopted the UPEPA on May 19, 2025. Like Idaho, Iowa did not have any anti-SLAPP legislation prior to its adoption of the UPEPA. Much like the other states that have adopted the UPEPA, defamation defendants in Iowa now have increased access to expedited dismissals, fast-tracked hearings, shifted legal fees and broader free speech protections.

Michigan: Effective March 24, 2026, Michigan's new UPEPA statute gives defendants in SLAPP suits a fast-track procedure for dismissal and fee recovery. Previously, Michigan had not enacted any anti-SLAPP legislation. Michigan's UPEPA mirrors the language of the Uniform Law Commission's Uniform model anti-SLAPP statute.

Missouri: On July 14, 2026, Missouri enacted the UPEPA, which took effect on August 28, 2026. Missouri's previous anti-SLAPP law was narrower than the UPEPA, only granting protections to speech made at public hearings or government meetings. Missouri's new UPEPA will enable defendants to seek expedited dismissals, automatic stays and fee recovery.

Montana: Montana adopted the UPEPA, which took effect on May 1, 2025. Previously, Montana did not have any anti-SLAPP law. Montana's UPEPA provides increased protection for defendants facing SLAPP lawsuits, including expedited dismissals and fee shifting.

Ohio: Taking effect on April 9, 2025, Ohio enacted its first comprehensive anti-SLAPP statute when it adopted the UPEPA. Codified as Ohio Revised Code Chapter 2747, Ohio's new anti-SLAPP statute affords defendants the same benefits as in other UPEPA states, including automatic stays of other proceedings, expedited dismissals, immediate right to appeal and otherwise broad protections to first amendment rights. Multiple Ohio courts have already analyzed motions to dismiss under Ohio's UPEPA.

In October 2025, an Ohio court in Guernsey County granted a motion for expedited relief under the state's new anti-SLAPP statute and dismissed all claims brought against the defendant, holding that the lawsuit targeted speech that was a matter of public concern. In *George v. George*, plaintiff filed a defamation suit against his ex-wife, defendant, for allegedly accusing him of sexual misconduct, incest or pedophilia. Defendant denied all allegations and instead acknowledged that she informed a third party that plaintiff was friends with a minor on Snapchat but made no other accusations. Defendant's prevailing legal argument hinged on the notion that her communication addressed issues of public concern-the safety of minors-and was therefore shielded by the First Amendment and entitled to protection under the UPEPA.

In *Kertesz v. Pidikiti*, an Ohio court in Cuyahoga County granted defendant's motion for expedited dismissal under UPEPA. The court held that speech at-issue-defendant accusing plaintiff of being a "racist"-was a constitutionally protected opinion, not a verifiable fact, and therefore not defamatory as a matter of law. The court further held that the UPEPA is retroactive and applies to speech made before the statute's effective date, so long as the claim was asserted after the effective date.

Recently, Emily Moreno, in a high-profile pending lawsuit brought by her ex-husband, Ohio congressman Max Miller, has invoked the state's anti-SLAPP statute. Miller's defamation claim against Moreno arises from a *Daily Mail* article detailing allegations made by Moreno that, during their marriage, Miller threw scalding water on Moreno. Moreno's counsel contends that few things could be of greater public concern than potential violent conduct by an elected official, thereby protecting Moreno's speech. Moreno's motion for expedited dismissal under the UPEPA is pending before the Cuyahoga County Court of Common Pleas.

South Dakota: On July 1, 2026, South Dakota's first anti-SLAPP law, the UPEPA, took effect. As a UPEPA state, South Dakota defendants in SLAPP suits can seek expedited dismissal and fee shifting, expanding protections for free speech and public participation.

Challenges for Defendants under States' New UPEPA Statutes

Defendants seeking to invoke the protections of the newly enacted UPEPA state laws in federal courts may face challenges. Under the UPEPA, courts can consider evidence well beyond what courts typically consider on a standard motion to dismiss, including depositions, affidavits and documentary evidence. Allowing additional evidence may raise unique issues in light of the Supreme Court's recent decision, *Berk v. Choy*. In *Berk*, the Court held that a Delaware state rule requiring plaintiffs present evidence supporting certain claims at the motion-to-dismiss stage was unenforceable in federal court. The Court observed that under Federal Rules of Civil Procedure 8 and 12, "evidence of the claim is not required," so a state law requiring such evidence conflicted with the federal rules. With the UPEPA allowing consideration of evidence beyond the pleadings, plaintiffs will likely challenge these new laws' enforceability in federal cases.

Benesch will be actively monitoring challenges raised by plaintiffs under the newly instated anti-SLAPP statutes. Our plaintiff-side defamation team has a proven track record of success in defeating anti-SLAPP motions and is available to advise on navigating the procedural complexities in anti-SLAPP statutes nationwide.