Uniform Law Commission
NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

111 N. Wabash Ave.
Suite 1010
Chicago, IL 60602
(312) 450-6600 tel
(312) 450-6601 fax
www.uniformlaws.org

WHY YOUR STATE SHOULD ADOPT THE UNIFORM PUBLIC EXPRESSION PROTECTION ACT (2020)

The purpose of the Uniform Public Expression Protection Act (UPEPA) is to protect the public's right to engage in activities protected by the First Amendment without abusive, expensive legal retaliation. Specifically, the UPEPA combats the problem of strategic lawsuits against public participation, also called "SLAPPs." A SLAPP may come in the form of a defamation, invasion of privacy, nuisance, or other claim, but its real goal is to entangle the defendant in expensive litigation and stifle the ability to engage in constitutionally protected activities. Below are just a few benefits of the uniform act:

- ***The UPEPA has a broad scope.*** Unlike earlier anti-SLAPP statutes, the UPEPA has a broad scope. The act protects communication in governmental proceedings and communication about an issue under consideration in governmental proceedings. The UPEPA also specifically protects exercise of the right of freedom of speech and of the press, the right to assemble and petition, and the right of association guaranteed by the United States constitution or the state Constitution, on a matter of public concern.

- ***The UPEPA promotes the early and efficient resolution of SLAPPs.*** Section 3 of the uniform act provides for filing the anti-SLAPP motion early in the litigation. The court must expedite a hearing on the motion unless an exception applies. Section 8 likewise requires the court to rule on the motion on an expedited basis.

- ***The UPEPA aims to prevent litigation tourism.*** Though most states have adopted an anti-SLAPP law, these statutes vary greatly, leading to confusion among plaintiffs, defendants, and courts. The lack of uniformity also leads to "litigation tourism," a type of forum shopping by which a plaintiff chooses to bring a lawsuit in a state without a strong anti-SLAPP law. Adoption of the uniform act across the states will ensure comprehensive statutory protections for citizens no matter where they are located.

- ***The UPEPA includes a mandatory award provision.*** Under the act, a party that files an anti-SLAPP motion and prevails on it obtains costs, attorney's fees, and expenses. The mandatory nature of the award will help deter parties from filing SLAPPs in the first place.

For more information about the UPEPA, please contact ULC Legislative Program Director Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.