



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5452

Introduced 2/9/2024, by Rep. Mary Beth Canty

SYNOPSIS AS INTRODUCED:

110 ILCS 155/10
110 ILCS 155/15
110 ILCS 155/20
110 ILCS 155/25
110 ILCS 155/30
735 ILCS 110/5
735 ILCS 110/10
735 ILCS 110/15

Amends the Preventing Sexual Violence in Higher Education Act. Provides that all higher education institutions shall include in the comprehensive policy concerning sexual violence, domestic violence, dating violence, and stalking, information about how the higher education institution protects individuals who report from retaliation. Provides that the higher education institutions procedure for responding to a report shall also include protecting the survivor from retaliation, including a policy and process for early dismissal of any retaliatory claim by a respondent against a survivor, including, but not limited to, claims of defamation, harassment, bullying, and any other violation of policy claims where the actions alleged by the respondent are related to the survivor's report. Makes related changes in provisions concerning student notification of rights and options, confidential advisors, complaint resolution procedures, and campus training. Amends the Citizen Participation Act. Provides that a court shall not permit any person to pursue a defamation action to silence or retaliate against, a person reporting gender-based violence, including cases where the alleged perpetrator is publicly named. Provides that the exception to motions under this Act are when the acts are not genuinely aimed at procuring favorable government action, result, or outcome or when the plaintiff presents clear and convincing evidence that the reporting of gender-based violence constituted speaking with actual malice. Makes related changes.

LRB103 37795 RJT 67924 b

1 AN ACT concerning gender violence.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Preventing Sexual Violence in Higher
5 Education Act is amended by changing Sections 10, 15, 20, 25,
6 and 30 as follows:

7 (110 ILCS 155/10)

8 Sec. 10. Comprehensive policy. On or before August 1,
9 2016, all higher education institutions shall adopt a
10 comprehensive policy concerning sexual violence, domestic
11 violence, dating violence, and stalking consistent with
12 governing federal and State law. The higher education
13 institution's comprehensive policy shall include, at a
14 minimum, all of the following components:

15 (1) A definition of consent that, at a minimum,
16 recognizes that (i) consent is a freely given agreement to
17 sexual activity, (ii) a person's lack of verbal or
18 physical resistance or submission resulting from the use
19 or threat of force does not constitute consent, (iii) a
20 person's manner of dress does not constitute consent, (iv)
21 a person's consent to past sexual activity does not
22 constitute consent to future sexual activity, (v) a
23 person's consent to engage in sexual activity with one

1 person does not constitute consent to engage in sexual
2 activity with another, (vi) a person can withdraw consent
3 at any time, and (vii) a person cannot consent to sexual
4 activity if that person is unable to understand the nature
5 of the activity or give knowing consent due to
6 circumstances, including without limitation the following:

7 (A) the person is incapacitated due to the use or
8 influence of alcohol or drugs;

9 (B) the person is asleep or unconscious;

10 (C) the person is under age; or

11 (D) the person is incapacitated due to a mental
12 disability.

13 Nothing in this Section prevents a higher education
14 institution from defining consent in a more demanding
15 manner.

16 (2) Procedures that students of the higher education
17 institution may follow if they choose to report an alleged
18 violation of the comprehensive policy, regardless of where
19 the incident of sexual violence, domestic violence, dating
20 violence, or stalking occurred, including all of the
21 following:

22 (A) Name and contact information for the Title IX
23 coordinator, campus law enforcement or security, local
24 law enforcement, and the community-based sexual
25 assault crisis center.

26 (B) The name, title, and contact information for

1 confidential advisors and other confidential resources
2 and a description of what confidential reporting
3 means.

4 (C) Information regarding the various individuals,
5 departments, or organizations to whom a student may
6 report a violation of the comprehensive policy,
7 specifying for each individual and entity (i) the
8 extent of the individual's or entity's reporting
9 obligation, (ii) the extent of the individual's or
10 entity's ability to protect the student's privacy, and
11 (iii) the extent of the individual's or entity's
12 ability to have confidential communications with the
13 student.

14 (D) An option for students to electronically
15 report.

16 (E) An option for students to anonymously report.

17 (F) An option for students to confidentially
18 report.

19 (G) An option for reports by third parties and
20 bystanders.

21 (H) Information about how the higher education
22 institution protects individuals who report from
23 retaliation.

24 (3) The higher education institution's procedure for
25 responding to a report of an alleged incident of sexual
26 violence, domestic violence, dating violence, or stalking,

1 including without limitation (i) assisting and
2 interviewing the survivor, (ii) identifying and locating
3 witnesses, (iii) contacting and interviewing the
4 respondent, (iv) contacting and cooperating with law
5 enforcement, when applicable, ~~and~~ (v) providing
6 information regarding the importance of preserving
7 physical evidence of the sexual violence and the
8 availability of a medical forensic examination at no
9 charge to the survivor, and (vi) protecting the survivor
10 from retaliation, including a policy and process for early
11 dismissal of any retaliatory claim by a respondent against
12 a survivor, including, but not limited to, claims of
13 defamation, harassment, bullying, and any other claimed
14 violation of the policy where the actions alleged by the
15 respondent are related to the survivor's report.

16 (4) A statement of the higher education institution's
17 obligation to provide survivors with concise information,
18 written in plain language, concerning the survivor's
19 rights and options, upon receiving a report of an alleged
20 violation of the comprehensive policy, as described in
21 Section 15 of this Act.

22 (5) The name, address, and telephone number of the
23 medical facility nearest to each campus of the higher
24 education institution where a survivor may have a medical
25 forensic examination completed at no cost to the survivor,
26 pursuant to the Sexual Assault Survivors Emergency

1 Treatment Act.

2 (6) The name, telephone number, address, and website
3 URL, if available, of community-based, State, and national
4 sexual assault crisis centers.

5 (7) A statement notifying survivors of the interim
6 protective measures and accommodations reasonably
7 available from the higher education institution that a
8 survivor may request in response to an alleged violation
9 of the comprehensive policy, including without limitation
10 changes to academic, living, dining, transportation, and
11 working situations, obtaining and enforcing campus no
12 contact orders, and honoring an order of protection or no
13 contact order entered by a State civil or criminal court.

14 (8) The higher education institution's complaint
15 resolution procedures if a student alleges violation of
16 the comprehensive violence policy, including, at a
17 minimum, the guidelines set forth in Section 25 of this
18 Act.

19 (9) A statement of the range of sanctions the higher
20 education institution may impose following the
21 implementation of its complaint resolution procedures in
22 response to an alleged violation of the comprehensive
23 policy. Sanctions may include, but are not limited to,
24 suspension, expulsion, or removal of the student found,
25 after complaint resolution procedures, to be in violation
26 of the comprehensive policy of the higher education

1 institution.

2 (10) A statement of the higher education institution's
3 obligation to include an amnesty provision that provides
4 immunity to any student who reports, in good faith, an
5 alleged violation of the higher education institution's
6 comprehensive policy to a responsible employee, as defined
7 by federal law, so that the reporting student will not
8 receive a disciplinary sanction by the institution for a
9 student conduct violation, such as underage drinking or
10 possession or use of a controlled substance, that is
11 revealed in the course of such a report, unless the
12 institution determines that the violation was egregious,
13 including without limitation an action that places the
14 health or safety of any other person at risk.

15 (11) A statement of the higher education institution's
16 prohibition on retaliation against those who, in good
17 faith, report or disclose an alleged violation of the
18 comprehensive policy, file a complaint, or otherwise
19 participate in the complaint resolution procedure and
20 available sanctions for individuals who engage in
21 retaliatory conduct.

22 (Source: P.A. 99-426, eff. 8-21-15; 99-741, eff. 8-5-16;
23 100-1087, eff. 1-1-19.)

24 (110 ILCS 155/15)

25 Sec. 15. Student notification of rights and options.

1 (a) On or before August 1, 2016, upon being notified of an
2 alleged violation of the comprehensive policy by or on behalf
3 of a student, each higher education institution shall, at a
4 minimum, provide the survivor, when identified, with a concise
5 notification, written in plain language, of the survivor's
6 rights and options, including without limitation:

7 (1) the survivor's right to report or not report the
8 alleged incident to the higher education institution, law
9 enforcement, or both, including information about the
10 survivor's right to privacy and which reporting methods
11 are confidential;

12 (2) the contact information for the higher education
13 institution's Title IX coordinator or coordinators,
14 confidential advisors, a community-based sexual assault
15 crisis center, campus law enforcement, and local law
16 enforcement;

17 (3) the survivor's right to request and receive
18 assistance from campus authorities in notifying law
19 enforcement;

20 (4) the survivor's ability to request interim
21 protective measures and accommodations for survivors,
22 including without limitation changes to academic, living,
23 dining, working, and transportation situations, obtaining
24 and enforcing a campus-issued order of protection or no
25 contact order, if such protective measures and
26 accommodations are reasonably available, and an order of

1 protection or no contact order in State court;

2 (5) the higher education institution's ability to
3 provide assistance, upon the survivor's request, in
4 accessing and navigating campus and local health and
5 mental health services, counseling, and advocacy services;
6 and

7 (6) a summary of the higher education institution's
8 complaint resolution procedures, under Section 25 of this
9 Act, if the survivor reports a violation of the
10 comprehensive policy.

11 (7) a summary of the higher education institution's
12 process for protecting survivors from retaliation,
13 including the policy and process under Section 25 of this
14 Act for early dismissal of retaliatory claims by the
15 respondent against the survivor.

16 (b) Within 12 hours after receiving an electronic report,
17 the higher education institution shall respond to the
18 electronic reporter and, at a minimum, provide the information
19 described in subdivisions (1) through (6) of subsection (a) of
20 this Section and a list of available resources. The higher
21 education institution may choose the manner in which it
22 responds including, but not limited to, through verbal or
23 electronic communication. Nothing in this subsection (b)
24 limits a higher education institution's obligations under
25 subsection (a) of this Section.

26 (Source: P.A. 99-426, eff. 8-21-15.)

1 (110 ILCS 155/20)

2 Sec. 20. Confidential advisor.

3 (a) Each higher education institution shall provide
4 students with access to confidential advisors to provide
5 emergency and ongoing support to survivors of sexual violence.

6 (b) The confidential advisors may not be individuals on
7 campus who are designated as responsible employees under Title
8 IX of the federal Education Amendments of 1972. Nothing in
9 this Section precludes a higher education institution from
10 partnering with a community-based sexual assault crisis center
11 to provide confidential advisors.

12 (c) All confidential advisors shall receive 40 hours of
13 training on sexual violence, if they have not already
14 completed this 40-hour training, before being designated a
15 confidential advisor and shall attend a minimum of 6 hours of
16 ongoing education training annually on issues related to
17 sexual violence to remain a confidential advisor. Confidential
18 advisors shall also receive periodic training on the campus
19 administrative processes, interim protective measures and
20 accommodations, and complaint resolution procedures.

21 (d) In the course of working with a survivor, each
22 confidential advisor shall, at a minimum, do all of the
23 following:

24 (1) Inform the survivor of the survivor's choice of
25 possible next steps regarding the survivor's reporting

1 options and possible outcomes, including without
2 limitation reporting pursuant to the higher education
3 institution's comprehensive policy and notifying local law
4 enforcement.

5 (2) Notify the survivor of resources and services for
6 survivors of sexual violence, including, but not limited
7 to, student services available on campus and through
8 community-based resources, including without limitation
9 sexual assault crisis centers, medical treatment
10 facilities, counseling services, legal resources, medical
11 forensic services, and mental health services.

12 (3) Inform the survivor of the survivor's rights and
13 the higher education institution's responsibilities
14 regarding orders of protection, no contact orders, or
15 similar lawful orders issued by the higher education
16 institution or a criminal or civil court.

17 (4) Provide confidential services to and have
18 privileged, confidential communications with survivors of
19 sexual violence in accordance with Section 8-804 of the
20 Code of Civil Procedure.

21 (5) Upon the survivor's request and as appropriate,
22 liaise with campus officials, community-based sexual
23 assault crisis centers, or local law enforcement and, if
24 requested, assist the survivor with contacting and
25 reporting to campus officials, campus law enforcement, or
26 local law enforcement.

1 (6) Upon the survivor's request, liaise with the
2 necessary campus authorities to secure interim protective
3 measures and accommodations for the survivor.

4 (7) Upon the survivor's request, liaise with the
5 necessary campus authorities to assist the survivor in
6 responding to and advocating against any retaliation by
7 the respondent or an agent of the higher education
8 institution, including assistance with the policy and
9 process for early dismissal of retaliatory claims by the
10 respondent against the survivor.

11 (Source: P.A. 99-426, eff. 8-21-15.)

12 (110 ILCS 155/25)

13 Sec. 25. Complaint resolution procedures.

14 (a) On or before August 1, 2016, each campus of a higher
15 education institution shall adopt one procedure to resolve
16 complaints of alleged student violations of the comprehensive
17 policy.

18 (b) For each campus, a higher education institution's
19 complaint resolution procedures for allegations of student
20 violation of the comprehensive policy shall provide, at a
21 minimum, all of the following:

22 (1) Complainants alleging student violation of the
23 comprehensive policy shall have the opportunity to request
24 that the complaint resolution procedure begin promptly and
25 proceed in a timely manner.

1 (2) The higher education institution shall determine
2 the individuals who will resolve complaints of alleged
3 student violations of the comprehensive policy.

4 (3) All individuals whose duties include resolution of
5 complaints of student violations of the comprehensive
6 policy shall receive a minimum of 8 to 10 hours of annual
7 training on issues related to sexual violence, domestic
8 violence, dating violence, and stalking and how to conduct
9 the higher education institution's complaint resolution
10 procedures, in addition to the annual training required
11 for employees as provided in subsection (c) of Section 30
12 of this Act.

13 (4) The higher education institution shall have a
14 sufficient number of individuals trained to resolve
15 complaints so that (i) a substitution can occur in the
16 case of a conflict of interest or recusal and (ii) an
17 individual or individuals with no prior involvement in the
18 initial determination or finding hear any appeal brought
19 by a party.

20 (5) The individual or individuals resolving a
21 complaint shall use a preponderance of the evidence
22 standard to determine whether the alleged violation of the
23 comprehensive policy occurred.

24 (6) The complainant and respondent shall (i) receive
25 notice of the individual or individuals with authority to
26 make a finding or impose a sanction in their proceeding

1 before the individual or individuals initiate contact with
2 either party and (ii) have the opportunity to request a
3 substitution if the participation of an individual with
4 authority to make a finding or impose a sanction poses a
5 conflict of interest.

6 (7) The higher education institution shall have a
7 procedure to determine interim protective measures and
8 accommodations available pending the resolution of the
9 complaint.

10 (8) Any proceeding, meeting, or hearing held to
11 resolve complaints of alleged student violations of the
12 comprehensive policy shall protect the privacy of the
13 participating parties and witnesses.

14 (9) The complainant, regardless of this person's level
15 of involvement in the complaint resolution procedure, and
16 the respondent shall have the opportunity to provide or
17 present evidence and witnesses on their behalf during the
18 complaint resolution procedure.

19 (10) The complainant and the respondent may not
20 directly cross examine one another, but may, at the
21 discretion and direction of the individual or individuals
22 resolving the complaint, suggest questions to be posed by
23 the individual or individuals resolving the complaint and
24 respond to the other party.

25 (11) Both parties may request and must be allowed to
26 have an advisor of their choice accompany them to any

1 meeting or proceeding related to an alleged violation of
2 the comprehensive policy, provided that the involvement of
3 the advisor does not result in undue delay of the meeting
4 or proceeding. The advisor must comply with any rules in
5 the higher education institution's complaint resolution
6 procedure regarding the advisor's role. If the advisor
7 violates the rules or engages in behavior or advocacy that
8 harasses, abuses, or intimidates either party, a witness,
9 or an individual resolving the complaint, that advisor may
10 be prohibited from further participation.

11 (12) The complainant and the respondent may not be
12 compelled to testify, if the complaint resolution
13 procedure involves a hearing, in the presence of the other
14 party. If a party invokes this right, the higher education
15 institution shall provide a procedure by which each party
16 can, at a minimum, hear the other party's testimony.

17 (13) The complainant and the respondent are entitled
18 to simultaneous, written notification of the results of
19 the complaint resolution procedure, including information
20 regarding appeal rights, within 7 days of a decision or
21 sooner if required by State or federal law.

22 (14) The complainant and the respondent shall, at a
23 minimum, have the right to timely appeal the complaint
24 resolution procedure's findings or imposed sanctions if
25 the party alleges (i) a procedural error occurred, (ii)
26 new information exists that would substantially change the

1 outcome of the finding, or (iii) the sanction is
2 disproportionate with the violation. The individual or
3 individuals reviewing the findings or imposed sanctions
4 shall not have participated previously in the complaint
5 resolution procedure and shall not have a conflict of
6 interest with either party. The complainant and the
7 respondent shall receive the appeal decision in writing
8 within 7 days after the conclusion of the review of
9 findings or sanctions or sooner if required by federal or
10 State law.

11 (15) The higher education institution shall not
12 disclose the identity of the survivor or the respondent,
13 except as necessary to resolve the complaint or to
14 implement interim protective measures and accommodations
15 or when provided by State or federal law.

16 (16) The higher education institution shall enact and
17 implement a policy and process for early dismissal of any
18 retaliatory claim by a respondent against a survivor,
19 including, but not limited to, claims of defamation,
20 harassment, bullying, and any other policy violation where
21 the actions alleged are related to the survivor's report
22 of sexual violence, domestic violence, dating violence, or
23 stalking. Any report, claim, counter-claim, or complaint
24 by the respondent that the survivor has violated the
25 higher education institution's policies shall be reviewed
26 by an agent of the institution with decision-making

1 authority to determine if it is retaliatory. If the agent
2 determines by a preponderance of the evidence that such
3 claim is (i) retaliatory, (ii) based on the survivor's
4 report, (iii) related to the survivor speaking, writing,
5 or sharing information about the respondent's actions that
6 led to the report, or (iv) based on the survivor naming the
7 respondent as the person who caused them harm, then the
8 report, claim, counter-claim, or complaint against the
9 survivor shall be dismissed. The review must be completed
10 within 45 days of the report, claim, counter-claim, or
11 complaint being submitted to the institution, and written
12 notice of the determination must be provided to the
13 survivor and the respondent no later than 10 days after
14 completion of the review.

15 (Source: P.A. 99-426, eff. 8-21-15.)

16 (110 ILCS 155/30)

17 Sec. 30. Campus training, education, and awareness.

18 (a) On or before August 1, 2016, a higher education
19 institution shall prominently publish, timely update, and have
20 easily available on its Internet website all of the following
21 information:

22 (1) The higher education institution's comprehensive
23 policy, as well as options and resources available to
24 survivors.

25 (2) The higher education institution's student

1 notification of rights and options described in Section 15
2 of this Act.

3 (3) The name and contact information for all of the
4 higher education institution's Title IX coordinators.

5 (4) An explanation of the role of (i) Title IX
6 coordinators, including deputy or assistant Title IX
7 coordinators, under Title IX of the federal Education
8 Amendments of 1972, (ii) responsible employees under Title
9 IX of the federal Education Amendments of 1972, (iii)
10 campus security authorities under the federal Jeanne Clery
11 Disclosure of Campus Security Policy and Campus Crime
12 Statistics Act, and (iv) mandated reporters under the
13 Abused and Neglected Child Reporting Act and the reporting
14 obligations of each, as well as the level of
15 confidentiality each is allowed to provide to reporting
16 students under relevant federal and State law.

17 (5) The name, title, and contact information for all
18 confidential advisors, counseling services, and
19 confidential resources that can provide a confidential
20 response to a report and a description of what
21 confidential reporting means.

22 (6) The telephone number and website URL for
23 community-based, State, and national hotlines providing
24 information to sexual violence survivors.

25 (b) Beginning with the 2016-2017 academic year, each
26 higher education institution shall provide sexual violence

1 primary prevention and awareness programming for all students
2 who attend one or more classes on campus, which shall include,
3 at a minimum, annual training as described in this subsection
4 (b). Nothing in this Section shall be construed to limit the
5 higher education institution's ability to conduct additional
6 ongoing sexual violence primary prevention and awareness
7 programming.

8 Each higher education institution's annual training shall,
9 at a minimum, provide each student who attends one or more
10 classes on campus information regarding the higher education
11 institution's comprehensive policy, including without
12 limitation the following:

13 (1) the institution's definitions of consent,
14 inability to consent, and retaliation as they relate to
15 sexual violence;

16 (2) reporting to the higher education institution,
17 campus law enforcement, and local law enforcement;

18 (3) reporting to the confidential advisor or other
19 confidential resources;

20 (4) available survivor services; and

21 (5) strategies for bystander intervention and risk
22 reduction.

23 At the beginning of each academic year, each higher
24 education institution shall provide each student of the higher
25 education institution with an electronic copy or hard copy of
26 its comprehensive policy, procedures, and related protocols.

1 (c) Beginning in the 2016-2017 academic year, a higher
2 education institution shall provide annual survivor-centered
3 and trauma-informed response training to any employee of the
4 higher education institution who is involved in (i) the
5 receipt of a student report of an alleged incident of sexual
6 violence, domestic violence, dating violence, or stalking,
7 (ii) the referral or provision of services to a survivor, or
8 (iii) any campus complaint resolution procedure that results
9 from an alleged incident of sexual violence, domestic
10 violence, dating violence, or stalking. Employees falling
11 under this description include without limitation the Title IX
12 coordinator, members of the higher education institution's
13 campus law enforcement, and campus security. An enrolled
14 student at or a contracted service provider of the higher
15 education institution with the employee responsibilities
16 outlined in clauses (i) through (iii) of this paragraph shall
17 also receive annual survivor-centered and trauma-informed
18 response training.

19 The higher education institution shall design the training
20 to improve the trainee's ability to understand (i) the higher
21 education institution's comprehensive policy, including the
22 anti-retaliation policy and procedure provisions; (ii) the
23 relevant federal and State law concerning survivors of sexual
24 violence, domestic violence, dating violence, and stalking at
25 higher education institutions; (iii) the roles of the higher
26 education institution, medical providers, law enforcement, and

1 community agencies in ensuring a coordinated response to a
2 reported incident of sexual violence; (iv) the effects of
3 trauma on a survivor; (v) the types of conduct that constitute
4 sexual violence, domestic violence, dating violence, and
5 stalking, including same-sex violence; and (vi) consent and
6 the role drugs and alcohol use can have on the ability to
7 consent. The training shall also seek to improve the trainee's
8 ability to respond with cultural sensitivity; provide services
9 to or assist in locating services for a survivor, as
10 appropriate; and communicate sensitively and compassionately
11 with a survivor of sexual violence, domestic violence, dating
12 violence, or stalking.

13 (Source: P.A. 99-426, eff. 8-21-15.)

14 Section 10. The Citizen Participation Act is amended by
15 changing Sections 5, 10, and 15 as follows:

16 (735 ILCS 110/5)

17 Sec. 5. Public policy. Pursuant to the fundamental
18 philosophy of the American constitutional form of government,
19 it is declared to be the public policy of the State of Illinois
20 that the constitutional rights of citizens and organizations
21 to be involved and participate freely in the process of
22 government must be encouraged and safeguarded with great
23 diligence. The information, reports, opinions, claims,
24 arguments, and other expressions provided by citizens are

1 vital to effective law enforcement, the operation of
2 government, the making of public policy and decisions, and the
3 continuation of representative democracy. The laws, courts,
4 and other agencies of this State must provide the utmost
5 protection for the free exercise of these rights of petition,
6 speech, association, and government participation.

7 Civil actions for money damages have been filed against
8 citizens and organizations of this State as a result of their
9 valid exercise of their constitutional rights to petition,
10 speak freely, associate freely, and otherwise participate in
11 and communicate with government. There has been a disturbing
12 increase in lawsuits termed "Strategic Lawsuits Against Public
13 Participation" in government or "SLAPPs" as they are popularly
14 called.

15 The threat of SLAPPs significantly chills and diminishes
16 citizen participation in government, voluntary public service,
17 and the exercise of these important constitutional rights.
18 This abuse of the judicial process can and has been used as a
19 means of intimidating, harassing, or punishing citizens and
20 organizations for involving themselves in public affairs.

21 It is in the public interest and it is the purpose of this
22 Act to strike a balance between the rights of persons to file
23 lawsuits for injury and the constitutional rights of persons
24 to petition, speak freely, associate freely, and otherwise
25 participate in government; to protect and encourage public
26 participation in government to the maximum extent permitted by

1 law; to establish an efficient process for identification and
2 adjudication of SLAPPs; and to provide for attorney's fees and
3 costs to prevailing movants.

4 Free speech at its best identifies wrongs, seeks
5 accountability, and encourages change. Gender-based violence
6 is a pervasive societal problem, and only a small percentage
7 of incidents are reported. Survivors of gender-based violence
8 are often silenced by fear of retaliation, including the
9 threat of SLAPPs. The fear of SLAPPs deters survivors from
10 speaking out and allows a perpetrator to avoid the
11 consequences of the perpetrator's actions. The use of the
12 legal system to silence survivors has negative impacts on the
13 survivors and the public. Survivors of gender-based violence
14 face significant barriers in coming forward and there is a
15 public interest in protecting the right to free speech for
16 survivors. Survivors having the right to speak their truth
17 serves the public good. The General Assembly recognizes that
18 reporting gender-based violence is protected by the First
19 Amendment and the Citizen Participation Act.

20 (Source: P.A. 95-506, eff. 8-28-07.)

21 (735 ILCS 110/10)

22 Sec. 10. Definitions. In this Act:

23 "Government" includes a branch, department, agency,
24 instrumentality, official, employee, agent, or other person
25 acting under color of law of the United States, a state, a

1 subdivision of a state, or another public authority including
2 the electorate.

3 "Gender-based violence" means one or more acts of
4 violence, aggression, or abuse satisfying the elements of any
5 criminal offense under the laws of this State that are
6 committed, at least in part, on the basis of a person's actual
7 or perceived sex or gender, regardless of whether the acts
8 resulted in criminal charges, prosecution, or conviction, and
9 it includes, but is not limited to, any act of domestic
10 violence, human trafficking, sexual assault, sexual abuse,
11 sexual harassment, or stalking.

12 "Person" includes any individual, corporation,
13 association, organization, partnership, 2 or more persons
14 having a joint or common interest, or other legal entity.

15 "Judicial claim" or "claim" include any lawsuit, cause of
16 action, claim, cross-claim, counterclaim, or other judicial
17 pleading or filing alleging injury.

18 "Motion" includes any motion to dismiss, for summary
19 judgment, or to strike, or any other judicial pleading filed
20 to dispose of a judicial claim.

21 "Moving party" means any person on whose behalf a motion
22 described in subsection (a) of Section 20 is filed seeking
23 dismissal of a judicial claim.

24 "Reporting gender-based violence" includes disclosures to
25 authorities, disclosures to employers, disclosures to
26 education institutions, disclosures to public entities or

1 non-profit agencies, speaking to the press or media, speaking
2 at a public forum, publishing in print, electronically, or via
3 social media, or telling another person verbally, in writing,
4 or via electronic means.

5 "Reporting gender-based violence with actual malice" means
6 reporting with knowledge that the statement was false or with
7 reckless disregard of whether it was false or not.

8 "Responding party" means any person against whom a motion
9 described in subsection (a) of Section 20 is filed.

10 (Source: P.A. 95-506, eff. 8-28-07.)

11 (735 ILCS 110/15)

12 Sec. 15. Applicability. This Act applies to any motion to
13 dispose of a claim in a judicial proceeding on the grounds that
14 the claim is based on, relates to, or is in response to any act
15 or acts of the moving party in furtherance of the moving
16 party's rights of petition, speech, association, or to
17 otherwise participate in government.

18 The court shall not permit any person to pursue a
19 defamation action to silence, or retaliate against, a person
20 reporting gender-based violence, including cases where the
21 alleged perpetrator is publicly named.

22 Acts in furtherance of the constitutional rights to
23 petition, speech, association, and participation in government
24 are immune from liability, regardless of intent or purpose,
25 ~~except when not genuinely aimed at procuring favorable~~

1 ~~government action, result, or outcome.~~

2 The only exceptions to this Section are when the acts are
3 not genuinely aimed at procuring favorable government action,
4 result, or outcome or when the plaintiff presents clear and
5 convincing evidence that the reporting of gender-based
6 violence constituted speaking with actual malice. For the
7 purpose of this Act, reporting gender-based violence is per se
8 genuinely aimed at procuring favorable government action,
9 result, or outcome.

10 (Source: P.A. 95-506, eff. 8-28-07.)