

1 AN ACT concerning civil procedure.

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

4 Section 5. The Code of Civil Procedure is amended by
5 adding Section 2-615.1 as follows:

6 (735 ILCS 5/2-615.1 new)

7 Sec 2-615.1. Right of petition or free speech; special
8 motion to dismiss.

9 (a) The General Assembly finds and declares that there
10 has been a disturbing increase in lawsuits brought primarily
11 to chill the valid exercise of the constitutional rights of
12 freedom of speech and petition for the redress of grievances.
13 The General Assembly finds and declares that it is in the
14 public interest to encourage continued participation in
15 matters of public significance, and that this participation
16 should not be chilled through abuse of the judicial process.
17 To this end, this Section shall be construed broadly.

18 (b) As used in this Section, "act in furtherance of a
19 person's right of petition or free speech under the United
20 States Constitution or Illinois Constitution in connection
21 with a public issue" includes:

22 (1) any written or oral statement or writing made
23 before a legislative, executive, or judicial proceeding,
24 or any other official proceeding authorized by law;

25 (2) any written or oral statement or writing made
26 in connection with an issue under consideration or review
27 by a legislative, executive, or judicial body, or any
28 other official proceeding authorized by law;

29 (3) any written or oral statement or writing made
30 in a place open to the public or a public forum in
31 connection with an issue of public interest; and

1 (4) any other conduct in furtherance of the
2 exercise of the constitutional right of petition or the
3 constitutional right of free speech in connection with a
4 public issue or an issue of public interest.

5 (c) A cause of action against a person arising from any
6 act of that person in furtherance of the person's right of
7 petition or free speech under the United States Constitution
8 or Illinois Constitution in connection with a public issue is
9 subject to a special motion to dismiss unless the court
10 determines that the party bringing the action has established
11 that there is a probability that the party will prevail on
12 the claim. In making its determination, the court shall
13 consider the pleadings and supporting and opposing affidavits
14 stating the facts upon which the liability or defense is
15 based. If the court determines that the party bringing the
16 action has established a probability that he or she will
17 prevail on the claim, neither that determination nor the fact
18 of that determination shall be admissible in evidence at any
19 later stage of the case, and no burden of proof or degree of
20 proof otherwise applicable shall be affected by that
21 determination.

22 (d) In an action subject to subsection (c), a party
23 filing a special motion to dismiss is entitled to recover his
24 or her attorney's fees and costs if the motion prevails. If
25 the court finds that a special motion to dismiss is frivolous
26 or is solely intended to cause unnecessary delay, the party
27 bringing the action is entitled to recover his or her
28 attorney's fees and costs.

29 (e) A special motion to dismiss may be filed within 60
30 days of the pleading that is subject to the special motion to
31 dismiss or, in the court's discretion, at any later time upon
32 terms it deems proper. The special motion to dismiss shall be
33 scheduled for hearing not more than 30 days after service of
34 the motion unless the docket conditions of the court require

1 a later hearing.

2 (f) Except as otherwise provided in this subsection (f),
3 all discovery proceedings in the action shall be stayed upon
4 the filing of a notice of motion made under this Section. The
5 stay of discovery shall remain in effect until notice of
6 entry of the order ruling on the motion. The court, on motion
7 and notice and for good cause shown, may order that specified
8 discovery be conducted notwithstanding this subsection (f).

9 (g) An order granting or denying a special motion to
10 dismiss is appealable in the same manner as a final order in
11 the action.

12 (h) This Section does not apply to an action brought by
13 the Attorney General, a State's Attorney, or an attorney for
14 a unit of local government acting in an official capacity.

15 (i) A party filing a special motion to dismiss under
16 this Section and a party filing a response to a special
17 motion to dismiss shall promptly transmit to the
18 Administrative Office of the Illinois Courts, by e-mail or
19 fax, a copy of the motion or response, a copy of any related
20 notice of appeal, and a copy of any order issued under this
21 Section, including any order granting or denying a special
22 motion to dismiss, discovery, or fees. The Administrative
23 Office of the Illinois Courts shall maintain a public record
24 of information transmitted under this subsection (i) for at
25 least 3 years and may store the information on microfilm or
26 other appropriate electronic media.

27 (j) On or before December 31, 2005, the Administrative
28 Office of the Illinois Courts shall report to the General
29 Assembly on the frequency and outcome of special motions to
30 dismiss made under this Section and on any other matters
31 pertinent to the purposes of this Section.