

Effective 5/3/2023

Chapter 25
Uniform Public Expression Protection Act

78B-25-101 Title.

This chapter may be cited as the "Uniform Public Expression Protection Act."

Enacted by Chapter 488, 2023 General Session

78B-25-102 Scope.

(1) As used in this section:

- (a) "Goods or services" does not include the creation, dissemination, exhibition, or advertisement or similar promotion of a dramatic, literary, musical, political, journalistic, or artistic work.
- (b) "Governmental unit" means a public corporation or government or governmental subdivision, agency, or instrumentality.
- (c) "Person" means an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity.

(2) Except as provided in Subsection (3), this chapter applies to a cause of action asserted in a civil action against a person based on the person's:

- (a) communication in a legislative, executive, judicial, administrative, or other governmental proceeding;
- (b) communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or
- (c) exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the United States Constitution or Utah Constitution, on a matter of public concern.

(3) This chapter does not apply to a cause of action asserted:

- (a) against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity;
- (b) by a governmental unit or an employee or agent of a governmental unit acting in an official capacity to enforce a law to protect against an imminent threat to public health or safety; or
- (c) against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person's sale or lease of the goods or services.

Enacted by Chapter 488, 2023 General Session

78B-25-103 Special motion for expedited relief.

Not later than 60 days after the day on which a party is served with a complaint, crossclaim, counterclaim, third-party claim, or other pleading that asserts a cause of action to which this chapter applies, or at a later time on a showing of good cause, the party may file a special motion for expedited relief to dismiss the cause of action or part of the cause of action.

Enacted by Chapter 488, 2023 General Session

78B-25-104 Stay.

- (1) Except as provided in Subsections (4) through (7), on the filing of a motion under Section 78B-25-103:
 - (a) all other proceedings between the moving party and responding party, including discovery and a pending hearing or motion, are stayed; and
 - (b) on motion by the moving party, the court may stay a hearing or motion involving another party, or discovery by another party, if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material to the motion under Section 78B-25-103.
- (2) A stay under Subsection (1) remains in effect until the day on which an order ruling on the motion under Section 78B-25-103 is entered and expiration of the time under Utah Rules of Appellate Procedure, Rule 4, for the moving party to appeal the order.
- (3)
 - (a) Except as provided in Subsections (5) through (7), if a party appeals from an order ruling on a motion under Section 78B-25-103, all proceedings between all parties in the action are stayed.
 - (b) A stay under Subsection (3)(a) remains in effect until the day on which the appeal concludes.
- (4) During a stay under Subsection (1), the court may allow limited discovery if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden under Subsection 78B-25-107(1) and the information is not reasonably available unless discovery is allowed.
- (5) A motion under Section 78B-25-110 for costs, attorney fees, and expenses is not subject to a stay under this section.
- (6) A stay under this section does not affect a party's ability to voluntarily dismiss a cause of action or part of a cause of action or move to sever a cause of action.
- (7) During a stay under this section, the court for good cause may hear and rule on:
 - (a) a motion unrelated to the motion under Section 78B-25-103; and
 - (b) a motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety.

Enacted by Chapter 488, 2023 General Session

78B-25-105 Hearing.

- (1) The court shall hear a motion under Section 78B-25-103 not later than 60 days after the day on which the motion is filed, unless the court orders a later hearing:
 - (a) to allow discovery under Subsection 78B-25-104(4); or
 - (b) for other good cause.
- (2) If the court orders a later hearing under Subsection (1)(a), the court shall hear the motion under Section 78B-25-103 not later than 60 days after the day on which the court issues an order allowing the discovery, unless the court orders a later hearing under Subsection (1)(b).

Enacted by Chapter 488, 2023 General Session

78B-25-106 Proof.

In ruling on a motion under Section 78B-25-103, the court shall consider the pleadings, the motion, any reply or response to the motion, and any evidence that could be considered in ruling on a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

Enacted by Chapter 488, 2023 General Session

78B-25-107 Dismissal of cause of action in whole or part.

- (1) In ruling on a motion under Section 78B-25-103, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:
 - (a) the moving party establishes under Subsection 78B-25-102(2) that this chapter applies;
 - (b) the responding party fails to establish under Subsection 78B-25-102(3) that this chapter does not apply; and
 - (c) either:
 - (i) the responding party fails to establish a prima facie case as to each essential element of the cause of action; or
 - (ii) the moving party establishes that:
 - (A) the responding party failed to state a cause of action upon which relief can be granted; or
 - (B) there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the cause of action or part of the cause of action.
- (2) A voluntary dismissal without prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under Section 78B-25-103 does not affect a moving party's right to obtain a ruling on the motion and seek costs, attorney fees, and expenses under Section 78B-25-110.
- (3) A voluntary dismissal with prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under Section 78B-25-103 establishes for the purpose of Section 78B-25-110 that the moving party prevailed on the motion.

Enacted by Chapter 488, 2023 General Session

78B-25-108 Ruling.

The court shall rule on a motion under Section 78B-25-103 not later than 60 days after the day on which a hearing is held under Section 78B-25-105.

Enacted by Chapter 488, 2023 General Session

78B-25-109 Appeal.

- (1) A moving party may appeal as a matter of right from an order denying, in whole or in part, a motion under Section 78B-25-103.
- (2) The appeal shall be filed in accordance with Utah Rules of Appellate Procedure, Rule 4.

Enacted by Chapter 488, 2023 General Session

78B-25-110 Costs, attorney fees, and expenses.

On a motion under Section 78B-25-103, the court shall award court costs, reasonable attorney fees, and reasonable litigation expenses related to the motion:

- (1) to the moving party if the moving party prevails on the motion; or
- (2) to the responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

Enacted by Chapter 488, 2023 General Session

78B-25-111 Construction.

This chapter shall be broadly construed and applied to protect the 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 Utah Constitution.

Enacted by Chapter 488, 2023 General Session

78B-25-112 Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to the uniform law's subject matter among states that enact the uniform law.

Enacted by Chapter 488, 2023 General Session

78B-25-113 Transitional provision.

This chapter applies to a civil action filed or cause of action asserted in a civil action on or after May 3, 2023.

Enacted by Chapter 488, 2023 General Session

78B-25-114 Savings clause.

This chapter does not affect a cause of action asserted before May 3, 2023, in a civil action or a motion under Laws of Utah 2008, Chapter 3, Sections 1087 and 1088, regarding the cause of action.

Amended by Chapter 381, 2024 General Session

78B-25-115 Severability.

If any provision of this chapter or the chapter's application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Enacted by Chapter 488, 2023 General Session