

Chapter 4.105 RCW
UNIFORM PUBLIC EXPRESSION PROTECTION ACT

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RCW 4.105.010 Application of chapter. (1) 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 otherwise provided in subsection (3) of this section, 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;

(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 Washington state Constitution, on a matter of public concern.

(3) (a) Except when (b) of this subsection applies, this chapter does not apply to a cause of action asserted:

(i) Against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity;

(ii) 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;

(iii) 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;

(iv) Against a person named in a civil suit brought by a victim of a crime against a perpetrator;

(v) Against a person named in a civil suit brought to establish or declare real property possessory rights, use of real property,

recovery of real property, quiet title to real property, or related claims relating to real property;

(vi) Seeking recovery for bodily injury, wrongful death, or survival or to statements made regarding that legal action, unless the claims involve damage to reputation;

(vii) Brought under the insurance code or arising out of an insurance contract;

(viii) Based on a common law fraud claim;

(ix) Brought under Title 26 RCW, or counterclaims based on a criminal no-contact order pursuant to chapter 10.99 RCW, for or based on an antiharassment order under *chapter 10.14 RCW or RCW 9A.46.050, for or based on a sexual assault protection order under *chapter 7.90 RCW, or for or based on a vulnerable adult protection order under chapter 74.34 RCW;

(x) Brought under Title 49 RCW; negligent supervision, retention, or infliction of emotional distress unless the claims involve damage to reputation; wrongful discharge in violation of public policy; whistleblowing, including chapters 42.40 and 42.41 RCW; or enforcement of employee rights under civil service, collective bargaining, or handbooks and policies;

(xi) Brought under the consumer protection act, chapter 19.86 RCW; or

(xii) Any claim brought under federal law.

(b) This chapter applies to a cause of action asserted under (a) (iii), (viii), or (xi) of this subsection when the cause of action is:

(i) A legal action against a person arising from any act of that person, whether public or private, related to the gathering, receiving, posting, or processing of information for communication to the public, whether or not the information is actually communicated to the public, for the creation, dissemination, exhibition, or advertisement or other similar promotion of a dramatic, literary, musical, political, journalistic, or otherwise artistic work, including audiovisual work regardless of the means of distribution, a motion picture, a television or radio program, or an article published in a newspaper, website, magazine, or other platform, no matter the method or extent of distribution; or

(ii) A legal action against a person related to the communication, gathering, receiving, posting, or processing of consumer opinions or commentary, evaluations of consumer complaints, or reviews or ratings of businesses. [2021 c 259 s 2.]

***Reviser's note:** Chapters 7.90 and 10.14 RCW were repealed by 2021 c 215 s 170, effective July 1, 2022. For later enactment, see chapter 7.105 RCW.

RCW 4.105.020 Special motion for expedited relief. (1) Prior to filing a special motion for expedited relief under subsection (2) of this section, the moving party shall provide written notice to the responding party of its intent to file the motion at least 14 days prior to filing the motion. During that time, the responding party may withdraw or amend the pleading in accordance with applicable court rules, but shall otherwise comply with the stay obligations listed in RCW 4.105.030. If the moving party fails to provide the notice required under this subsection, such failure shall not affect the moving party's right to relief under this chapter, but the moving

party shall not be entitled to recover reasonable attorneys' fees under RCW 4.105.090.

(2) Not later than sixty days after a party is served with a complaint, cross-claim, 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. [2021 c 259 s 3.]

RCW 4.105.030 Stay. (1) Except as otherwise provided in subsections (4) through (7) of this section, on the earlier of the giving of notice of intent to file a motion under RCW 4.105.020(1) or the filing of a motion under RCW 4.105.020(2):

(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 RCW 4.105.020.

(2) A stay under subsection (1) of this section remains in effect until entry of an order ruling on the motion under RCW 4.105.020 and expiration of the time under RCW 4.105.080 for the moving party to appeal the order.

(3) Except as otherwise provided in subsections (5), (6), and (7) of this section, if a party appeals from an order ruling on a motion under RCW 4.105.020, all proceedings between all parties in the action are stayed. The stay remains in effect until the conclusion of the appeal.

(4) During a stay under subsection (1) of this section, 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 RCW 4.105.060(1) and the information is not reasonably available unless discovery is allowed.

(5) A motion under RCW 4.105.090 for costs, attorneys' 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 voluntarily to 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 RCW 4.105.020; and

(b) A motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety. [2021 c 259 s 4.]

RCW 4.105.040 Hearing. (1) The court shall hear a motion under RCW 4.105.020 not later than sixty days after filing of the motion, unless the court orders a later hearing:

(a) To allow discovery under RCW 4.105.030(4); or

(b) For other good cause.

(2) If the court orders a later hearing under subsection (1)(a) of this section, the court shall hear the motion under RCW 4.105.020 not later than sixty days after the court order allowing the

discovery, unless the court orders a later hearing under subsection (1)(b) of this section. [2021 c 259 s 5.]

RCW 4.105.050 Proof. In ruling on a motion under RCW 4.105.020, 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 superior court civil rule 56. [2021 c 259 s 6.]

RCW 4.105.060 Dismissal of cause of action in whole or part.

(1) In ruling on a motion under RCW 4.105.020, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:

(a) The moving party establishes under RCW 4.105.010(2) that this chapter applies;

(b) The responding party fails to establish under RCW 4.105.010(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 RCW 4.105.020 does not affect a moving party's right to obtain a ruling on the motion and seek costs, attorneys' fees, and expenses under RCW 4.105.090.

(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 RCW 4.105.020 establishes for the purpose of RCW 4.105.090 that the moving party prevailed on the motion. [2021 c 259 s 7.]

RCW 4.105.070 Ruling. The court shall rule on a motion under RCW 4.105.020 not later than sixty days after a hearing under RCW 4.105.040. [2021 c 259 s 8.]

RCW 4.105.080 Appeal. A moving party may appeal as a matter of right from an order denying, in whole or in part, a motion under RCW 4.105.020. The appeal must be filed not later than twenty-one days after entry of the order. [2021 c 259 s 9.]

RCW 4.105.090 Costs, attorneys' fees, and expenses. On a motion under RCW 4.105.020, the court shall award court costs, reasonable attorneys' 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 not substantially justified or filed solely with intent to delay the proceeding. [2021 c 259 s 10.]

RCW 4.105.900 Short title. This chapter may be known and cited as the uniform public expression protection act. [2021 c 259 s 1.]

RCW 4.105.901 Construction. This chapter must 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 Washington state Constitution. [2021 c 259 s 11.]

RCW 4.105.902 Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2021 c 259 s 12.]

RCW 4.105.903 Application—Transitional provision. This chapter applies to a civil action filed or cause of action asserted in a civil action on or after July 25, 2021. [2021 c 259 s 13.]