

**CENTRE FOR
FREE EXPRESSION**

Global Anti-SLAPP Ratings: Assessing the strength of anti-SLAPP laws

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About the Centre for Free Expression

The Centre for Free Expression at Toronto Metropolitan University focuses on issues related to freedom of expression and the public's right to know. This includes campus free expression, academic freedom, hate speech, censorship, disinformation, access-to-information, whistleblower protection, anti-SLAPP legislation, corporate and government surveillance, and freedom of the press. The CFE sponsors public educational events, does research, provides advice and assistance, provides assistance to courts, and engages in advocacy on these issues.

Our work is undertaken in collaboration with academic and community-based organizations across Canada and internationally.

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Executive Summary

Strategic Lawsuits Against Public Participation (SLAPPs) are legal actions launched to shut down discussion and critical commentary on issues of public interest. Those who file SLAPPs do not go to court to seek justice. Rather, they use SLAPPs to intimidate those with whom they disagree by threatening to drain the targeted individuals' financial resources if they refuse to silence themselves.

SLAPPs are often effective because even a baseless claim can take years and many thousands of dollars to defend. Faced with such a prospect, targeted individuals often give in to demands to stay quiet and stop sharing information on matters of public interest.

Anti-SLAPP laws provide a remedy to SLAPP suits. They are designed to allow individuals facing SLAPPs related to a matter of public interest to have the legal actions dismissed without having to go through a trial and substantial legal costs

Anti-SLAPP laws globally have been enacted in Australia, three Canadian provinces (Ontario, BC and Quebec), 32 US states, plus the District of Columbia. The laws range widely in terms of their form and effectiveness.

The Centre for Free Expression has evaluated and ranked every one of these anti-SLAPP law in the world based on a common set of criteria. The criteria include the scope of the law and various procedural elements relating to bringing a motion to dismiss a SLAPP and the tests for having it dismissed. The strongest anti-SLAPP laws share a number of common features:

- **A broad scope:** Effective anti-SLAPP laws apply broadly to any lawsuit involving expression on an issue of public interest. Conversely, the weakest laws are narrow in scope, applying only to a single issue, or only to communications made before specified government bodies.
- **Staying proceedings:** Effective anti-SLAPP laws stay all proceedings between parties – including discovery – as soon as a motion to dismiss the suit is filed. Without such a provision, discovery and other proceedings can continue thereby imposing potentially substantial costs on the defendant before the SLAPP is dismissed.
- **Onus:** Effective anti-SLAPP laws impose a limited obligation on the defendant to show the suit involves a matter of public interest. At that point, it shifts the onus to the plaintiff to show that that the action has substantial merit, and the defendant has no reasonable defence.
- **Expedited hearing:** Effective anti-SLAPP laws require the courts to schedule a hearing of an anti-SLAPP motion within an expedited timeframe after filing.

- **Provision for costs:** Effective anti-SLAPP laws require the courts to fully indemnify prevailing defendants for the costs of the motion, while insulating the defendant from costs if the motion is denied.
- **Right to an immediate appeal:** Effective anti-SLAPP laws allow a defendant to appeal a denial of an anti-SLAPP motion as of right and on an expedited basis.

Based on our evaluation, the strongest anti-SLAPP laws globally are found in Ontario and British Columbia, with each province's law achieving a score of 75 out of a possible total of 79 points (the Ontario and BC acts are nearly identical, with BC having adopted a version of Ontario's law in 2019). The acts combine a broad scope with excellent procedures for reaching an expedited disposition on an anti-SLAPP motion, and appropriate protections for defendants.

Closely ranked in the top of the ratings are the anti-SLAPP laws in New York, Texas and California. These acts similarly combined a broad application with all of the essential procedural elements of effective anti-SLAPP laws.

The weakest laws were found in Pennsylvania, Virginia, and Australia. These laws apply very narrowly to only a single issue, lack important procedural elements or exclude certain causes of action from their scope (notably, Australia's anti-SLAPP law excludes actions based in defamation from its scope, which substantially reduces its effectiveness).

This report presents a description of the methodology used to rank each anti-SLAPP law, a colour-coded table showing the rankings by category of effectiveness, followed by a detailed evaluation of each law. The criteria used in previous evaluations of anti-SLAPP laws in U.S. jurisdictions are summarized in Appendix A.

Anti-SLAPP Laws: Criteria for Evaluation

Below are the nine criteria used to evaluate the 37 anti-SLAPP statutes currently in place in the world.

Each criterion lists the maximum number of points a jurisdiction could score for that category. Below each criterion is a description of the variation seen among the statutes on this measure, from strongest to weakest.

1. Scope of the law (20 points)

The scope of an anti-SLAPP law is the most important criterion in measuring the law's effectiveness and is a major differentiating factor among existing statutes. Some statutes are very broad in scope, applying to all proceedings arising out of expression made on a matter of public interest or public concern. Other statutes have a narrower scope, for example, only applying to expression before a government body, or to expression on a specific issue (such as land use disputes). Still others appear broad in scope but have important exclusions that limit their effectiveness (such as, Australia's act which excludes application to defamation suits).

2. Burden of proof required of the defendant to be granted the anti-SLAPP motion (10 points)

The strongest statutes place a minimum burden on the defendant: to persuade the court that the plaintiff's claim relates to the defendant's expression on a matter of public interest.

3. Burden of proof required of the plaintiff to defeat the anti-SLAPP motion (10 points)

The strongest statutes shift the burden of proof then to the plaintiff to establish that their action has merit, the defendant has no defence, and the public interest weighs in favour of allowing the action to proceed. Some statutes do not shift the burden of proof from the defendant to the plaintiff.

4. Whether proceedings are stayed (10 points)

Some statutes do not allow any proceedings between the parties - including discovery or any pending hearings or motions - to continue until the anti-SLAPP motion is disposed of. Most statutes stay discovery only. Some statutes do not automatically stay proceedings but allow a defendant to bring a separate motion to stay proceedings. In several jurisdictions, filing an anti-SLAPP motion has no impact on proceedings.

5. Whether a prevailing defendant is presumptively entitled to costs and insulated from adverse costs (15 points)

The strongest statutes state that the court *shall* award costs and attorney's fees to a prevailing defendant in an anti-SLAPP motion but will not presumptively award costs to a successful plaintiff. Some acts require an additional showing by the successful defendant to receive costs. Some acts award costs to the prevailing party – whether it is the plaintiff or the defendant – which could have a chilling effect on defendants' willingness to bring an anti-SLAPP motion. Some statutes do not contain any costs provision.

6. Whether there is a procedure for scheduling expedited hearings of Anti-SLAPP motions (4 points)

Some jurisdictions require that the motion to dismiss be heard within a certain number of days, except in case of emergencies (some statutes place a cap on the number of days in which a motion must be heard, even when there are emergencies). Some jurisdictions require that motions be heard “on an expedited basis” or that the court shall “grant preference in the hearing of such motions,” but do not state a time limit.

7. Whether there is a right to an immediate appeal (4 points)

The strongest statutes allow for an immediate appeal of a court's decision on an anti-SLAPP motion on an expedited basis. Some statutes specify that there is a right to an immediate appeal, without specifying the timeline in which the appeal must be heard. Many statutes do not include any provision on appeals.

8. Whether the act contains a damages provision (4 points)

Some acts empower the court to award any damages it considers appropriate against a plaintiff who brought an action in bad faith. Some acts require an additional demonstration that the SLAPP was initiated for the sole purpose of harassing, intimidating, or punishing or maliciously inhibiting free expression. A small number of statutes state that the court *shall* impose sanctions against the plaintiff to deter them from bringing similar actions in the future.

9. Whether the act contains a statutory interpretation instruction (2 points)

Some statutes contain a provision stating that the anti-SLAPP law is to be read broadly or liberally.

Maximum possible points = 79.

Summary Rankings of Anti-SLAPP Laws

In Table 1 below, the anti-SLAPP laws are ranked in order of overall score and grouped into four categories based on the degree of protection they provide.

1. Law provides broad and effective protection against SLAPPs [green]

- Laws in this category are both broad in scope and have strong procedures in place to protect defendants facing SLAPPs.
- They apply to any communications on a matter of public concern, expressed in any venue. They stay discovery on filing a motion, allow defendants to access the courts on an expedited basis, have favourable cost provisions for defendants and allow for immediate appeal.
- These laws provide excellent protection to defendants and allow for a speedy dismissal of SLAPPs that they face.

2. Law provides moderately effective protection against SLAPPs [yellow]

- Laws in this category are still relatively broad in scope, but may carve out certain categories of actions, which limit the instances in which they apply.
- They have relatively strong procedures but may be missing some of the elements contained in the strongest acts that ease the process for a defendant to apply to the courts to have a SLAPP dismissed.
- They still provide protection to defendants facing SLAPPs, but the protection may be more limited than in the above category or may be harder for defendants to access.

3. Law provides limited protection against SLAPPs [orange]

- Laws in this category have either significant procedural deficiencies or a narrow scope.
- They may apply only to communications made in certain specified venues. Their procedural deficiencies may include not staying discovery on filing an anti-SLAPP motion, failing to provide for expedited hearings, failing to shift the onus to the plaintiff in an anti-SLAPP motion, or failing to provide a right of appeal.
- These acts provide some degree of protection to defendants in a limited number of instances but apply narrowly and lack the procedures necessary to be useful to most defendants facing SLAPPs.

4. Law provides very limited protection against SLAPPs [red]

- Laws in this category have a very narrow scope either focused on one issue, or with substantial exclusions that severely curtail the number of instances in which they would apply.
- They are so limited in their scope that they would provide no protection to defendants facing SLAPPs in the vast majority of cases.

Table 1:
 Ranking of anti-SLAPP Laws by Score and Category of Effectiveness

	Jurisdiction	Score
1	Ontario	75
2	BC	75
3	New York	74
4	Texas	73
5	California	70
6	Kentucky	68
7	Oklahoma	68
8	Utah	68
9	Kansas	67
10	Georgia	66
11	Oregon	66
12	Vermont	66
13	Tennessee	64
14	Washington	62
15	Illinois	61
16	Nevada	60
17	Colorado	58
18	D.C.	58
19	Connecticut	57
20	Massachusetts	56
21	Maine	55
22	Hawaii	53
23	Louisiana	52
24	Quebec	49
25	Indiana	47
26	Rhode Island	46
27	Missouri	42
28	Arizona	41.5
29	Arkansas	38.5
30	New Mexico	33
31	Delaware	27.5
32	Nebraska	25
33	Maryland	23
34	Florida	20.5
35	Australia	19
36	Virginia	16
37	Pennsylvania	14

Anti-SLAPP Law Evaluations

ARIZONA

Arizona’s anti-SLAPP law is relatively narrow in scope, applying only to actions that are based on a defendant’s exercise of the right to petition, meaning that they are made as part of a government initiative, referendum or recall effort. Proceedings are not stayed on filing an anti-SLAPP motion and there is no right to an immediate appeal.

Total Score: 41.5/79

1. Scope of the Law

Applies to any action involving a party’s right to petition.

Exercise of the right of petition is defined as any written or oral statement made as part of an initiative, referendum or recall effort that is i) made before or submitted to a governmental proceeding ii) made in connection with an issue under consideration or review by and governmental proceeding and iii) made for the purpose of influencing government.

The scope is relatively narrow. The requirement that the communication be made before or submitted to a governmental body significantly curtails the range of communications that would be protected by the act.

Score - 8

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Not specified but appears that defendant must make a prima facie case that the action is based on communication immunized from liability by the act.

Score – 8.5

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Plaintiff must show that the defendant's exercise of the right of petition did not contain any reasonable factual support or any basis in law, and that the plaintiff suffered compensable damage.

Burden shifted; high burden placed on plaintiff to defeat motion.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

No

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The court shall award costs to the prevailing defendant. If the court finds that the motion was brought for a frivolous purpose, the court shall award costs against the defendant.

Score - 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

When possible, the court will grant preference in hearing the motion.

Score - 1

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

The defendant can request that the court make a determination on whether the lawsuit was brought to prevent the defendant from pursuing their rights. If the court finds that it was, then the defendant is “encouraged to pursue additional sanctions”

This appears to place the onus on the defendant twice – to ask for a determination on whether the action was brought for an improper purpose (it is unclear why such a finding would not be automatic if the motion is granted) and then to bring a separate action.

Score - 1

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 41.5/79

ARKANSAS

Arkansas's anti-SLAPP law is relatively narrow in scope and contains very unusual procedures. It applies to communications that are made before a governmental body or on issues under consideration by a governmental body. When an action falls within the scope of the anti-SLAPP law, the plaintiff and his or her attorney must file a written verification that, to the best of their knowledge, the action is not a SLAPP. If this attestation is not filed, then the court may strike the claim.

Total Score: 38.5/79

1. Scope of the Law

Applies to actions that arise from any person making a privileged communication or performing an act in furtherance of the right of free speech or the right to petition government for a redress or grievances in connection with an issue of public interest or concern.

“Privileged communication” is defined as a communication made on an issue of public concern relating to any legislative, executive or judicial proceeding, in the proper discharge of an official duty, and said in the course of a legislative, executive or judicial proceeding. Privileged communication also includes all criticism of any legislative, executive or judicial proceeding, and all criticism of the acts of any public officers.

The act applies to oral or written communications made before a government body or in connection with an issue under consideration by a governmental body.

The wording of this act is unconventional, but its scope appears to be relatively broad. It would not apply to acts that are in the public interest, but are not under consideration by a governmental body.

Score – 11

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Not specified - 0

There is potentially no burden on the defendant? This act appears to place the onus on the plaintiff to recognize that their claim could be construed as being a SLAPP, and then attest that it isn't one.

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The plaintiff must file a written verification with their pleadings that both the plaintiff and his/her attorney has read the claim; to the best of their knowledge, the claim is well grounded in fact and warranted by existing law; the act forming the basis of the claim is not a privileged communication; and the claim is not asserted for an improper purpose, like suppressing the free speech rights of the defendant.

It seems like the only burden placed on the defendant is to file an additional document attesting that their claim is not a SLAPP.

If a claim is not verified (i.e., the attestation by the plaintiff not filed on time), then the court may strike the claim.

Score - 3

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

If a claim is struck (because it was improperly verified) then the court may award a sanction against the plaintiff, which could include awarding the defendant reasonable expenses. There is no presumptive entitlement to costs – but there is also no possibility of the defendant having costs awarded against them.

Score – 10.5

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

A motion shall be heard not more than 30 days after service, unless emergency matters before the court require a later hearing. There is no maximum amount of time in which the motion must be heard.

Score - 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in	Must be scheduled within a set number of days; cap on max number of days in

	hearing motion, without specifying timeline	which motion must be heard where the court docket requires additional time
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7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

Compensatory damages may be recovered on an additional showing that the claim was commenced for the purpose of harassing, intimidating etc., the defendant.

Score - 3

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 38.5/79

AUSTRALIA

Australia has a weak anti-SLAPP law. There are several major exclusions from the scope of Australia's law; notably, it does not apply to causes of action for defamation. The law does not shift the burden to the plaintiff to defeat an anti-SLAPP motion, proceedings are not stayed on filing of the motion, and a court may award costs to either prevailing party.

Total Score: 19/79

1. Scope of the Law

Australia's act applies to actions that were started for an improper purpose, meaning that a reasonable person would consider the main purpose of the proceeding is to discourage the defendant from engaging in public participation, to divert the defendant's resources away from engaging in public participation, or to punish the defendant for engaging in public participation.

Public participation is defined broadly as conduct that a reasonable person would believe is intended to influence public opinion, or promote action by the public, a corporation or government entity in relation to an issue of public interest. However, there are several exclusions from public participation, including industrial disputes between employers and their employees, former employees or contractors.

The act applies to any civil proceeding in the Supreme Court or Magistrates Court in which the plaintiff may claim damages. However, it does not apply to causes of action for defamation. As this is the primary cause of action that would result in a defendant bringing an anti-SLAPP motion, this severely curtails the scope of Australia's act.

Score - 6

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Defendant must show that a reasonable person would consider their conduct that forms the basis of the action to be public participation. Defendant must also show that a reasonable person could consider the action to have been brought for an improper purpose.

Score - 6

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Not specified.

Score - 0

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Act contains no provision for staying proceedings.

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The act empowers judges to award costs of the proceeding to either prevailing party, including to order that costs be assessed on an indemnity basis (i.e., full costs). Costs are not presumptively awarded to either party.

Score - 5

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

None specified.

Score - 0

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None specified.

Score – 0

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

The court may order the plaintiff to pay a civil penalty to the Territory, of an amount prescribed by regulation. While this may act as a deterrent to a plaintiff in bringing any future SLAPPs, there is no provision for awarding damages to a prevailing defendant.

Score - 2

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None.

Score – 0

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 19/79

BRITISH COLUMBIA

British Columbia has an excellent anti-SLAPP law that is essentially identical to Ontario's (and receives the same score). It has a broad scope, and excellent procedures that stay proceedings between the parties on filing the motion, allow for an immediate appeal, and presumptively award costs to prevailing defendants, while insulating them from costs awards if they are unsuccessful.

Total Score: 75/79

1. Scope of the Law

Applies very broadly to all forms of expression and there is no closed list of matters that are considered to be of public interest. There are no exclusions from the scope of the act.

Score - 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant must satisfy the judge that the proceeding arises from an expression made by them and relates to a matter of public interest. There is no additional burden placed on the defendant.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

no specific anti-SLAPP motion procedure established in act		
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3. Burden of proof on plaintiff to defeat motion

In order to defeat the motion, the plaintiff must satisfy the judge that there are grounds to believe that the proceeding has substantial merit, that the defendant has no valid defence, and that the plaintiff has suffered sufficiently serious harm that the public interest in permitting the proceeding to continue outweighs the public interest in protecting that expression.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All proceedings are stayed; no further steps in the proceeding may take place until the motion has been disposed of, including any appeals of the motion. In addition, there is a process for staying related tribunal proceedings.

Score - 10

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

A prevailing defendant is presumptively entitled to costs on the motion and in the proceeding on a full indemnity basis. A prevailing plaintiff is not entitled to costs, unless the judge determines that such an award is appropriate.

Score - 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion must be heard not later than 60 days after notice of motion is filed.

Score - 4

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal, and appeals are to be heard on an “as soon as practicable” basis. There is no timeline specified for when the appeal must be heard.

Score - 3

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that it be heard on expedited basis	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

If a judge determines that a plaintiff brought the proceeding in bad faith, he or she may award the defendant damages. There is no presumptive damages award.

Score - 3

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 75/79

CALIFORNIA

California has an excellent anti-SLAPP act that is broad in scope and contains strong procedures. The act applies to any cause of action arising from a person’s exercise of the right of petition or free speech, in connection with a public issue. It contains a statutory interpretation instruction, directing courts to interpret its provisions broadly. The main area where California’s anti-SLAPP law loses points is from not having a damages provision. Some acts in other jurisdictions allow or require courts to award damages (in addition to costs) to a prevailing defendant, if warranted. This is missing from California’s act.

While not included in the scope of this evaluation, California’s anti-SLAPP law also contains a “SLAPPback” provision for preventing the misuse of anti-SLAPP procedures.

Total: 70/79

1. Scope of the Law

California’s anti-SLAPP law applies to any cause of action against a person arising from any act of that person in furtherance of the person’s right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue.

The act does not apply to certain commercial speech.

Score - 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant has the initial burden of making a prima facie case showing that the claim arises out of conduct that is covered by the scope of California’s anti-SLAPP act.

Score – 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The plaintiff must show a probability that they will prevail on the claim in order to defeat the anti-SLAPP motion.

Score – 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery is stayed until the motion is disposed of.

Score - 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

If the motion is granted, the court shall grant the prevailing defendant attorney’s fees and costs (note that the act does not specify “reasonable” attorney’s fees – this could mean that a prevailing defendant is entitled to recover a greater proportion of their costs in California than in some other states). If the motion to dismiss is found to be frivolous or solely intended to cause delay, costs *shall* be awarded against the defendant.

Score - 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion shall be heard within 30 days of filing, unless docket conditions require otherwise (there is no maximum length of time for hearing the motion if docket conditions require a delay).

Score – 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal, but timeline is not specified.

Score – 2

0	1-2	3-4
None specified	Right to an immediate appeal, but does not	Immediate appeal heard on an expedited basis

	specify that appeal be heard on an expedited basis.	(with timeline specified for maximum points)
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8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

Yes - 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 70 /79

COLORADO

Colorado's anti-SLAPP law is relatively strong, with a broad scope that includes actions based on communications that were made in a public place or before a legislature on a public issue. Discovery is stayed on filing a motion, there is a provision for scheduling expedited hearings, a prevailing defendant is presumptively entitled to costs, and there is a right to an immediate appeal. There is no provision allowing the court to award damages, if it deems them warranted.

Total Score: 58/79

1. Scope of the Law

Colorado's act applies to a cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the state constitution in connection with a public issue.

Applies to communications that were made in connection with an issue before the legislature, or in a public place on a public issue. "Public issue" is not defined in the act.

The act does not apply to commercial speech or actions brought by the state to enforce laws or protect public health or safety.

While the act is broad in scope, the commercial speech exemption (relating to communications made to sell or lease goods or services) could be interpreted broadly.

Score: 16

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

No additional burden placed on the defendant beyond filing a motion and making a prima facie case showing that the action is based on communication that is protected under the act.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The plaintiff must establish a reasonable likelihood that he or she will prevail on the claim. While the burden is shifted to the plaintiff, the requirement to establish a “reasonable likelihood” of success would seem to set a relatively low bar for the plaintiff to meet.

Score - 6

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed until the Court’s determination on the motion is released.

Score - 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Prevailing defendant is presumptively entitled to attorney’s fees and costs. If the motion is denied, the defendant is insulated from costs awards, unless the Court finds that the motion was frivolous or solely intended to cause delay (in this case, the Court must order costs against the defendant).

Score - 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion must be scheduled within 28 days after service, unless the docket requires otherwise (there is no ultimate limit on the number of days in which the motion must be heard if this is the case).

Score - 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

Yes, there is a right to an immediate appeal to the Colorado Court of Appeal. There is no provision for scheduling appeals on an expedited basis.

Score - 2

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 58/79

CONNECTICUT

Connecticut has a broad anti-SLAPP law, but it has several procedural deficiencies. There is a high bar placed on the defendant to adduce evidence in order to prevail on the motion (as opposed to just making a prima facie case showing that the action is a SLAPP). There is no right to an immediate appeal. And no provision allowing a court to award damages.

Total Score: 57/79

1. Scope of the Law

Applies to any action based on a communication by the defendant that is an exercise of their right of free speech, association, or petition, on a matter of public concern.

“Matter of public concern” is defined as an issue related to (A) health or safety, (B) environmental, economic or community well-being, (C) the government, zoning and other regulatory matters, (D) a public official or public figure, or (E) an audiovisual work

The exercise of the right of free speech is defined as communicating in a public forum on a matter of public concern.

While the scope of the law is very broad, “matter of public concern” is defined with a closed list that could exclude communications on certain other important issues.

Score - 18

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Defendant must make an initial showing by a preponderance of evidence that the action falls within the scope of the act.

Score - 5

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

In order to defeat the motion, the plaintiff must set forth with particularity, the circumstances giving rise to the action and demonstrate to the court that there is probable cause, considering all valid defenses, that the party will prevail on the merits of the complaint, counterclaim or cross claim.

Burden is shifted to the plaintiff, and it is a high bar to defeat the motion.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed until the motion (and any appeals thereof) is disposed of.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Prevailing defendant is presumptively entitled to attorney’s fees and costs. If the motion is denied, the defendant is insulated from costs awards, unless the Court finds that the motion was frivolous or solely intended to cause delay (in this case, the Court *shall* order costs against the defendant).

Score – 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court must schedule the motion within 60 days of filing, unless good cause is shown for a later hearing.

Score - 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 57 /79

DELAWARE

Delaware’s anti-SLAPP law is extremely restrictive in its scope, applying only to causes of action brought by a person involved in certain land use disputes. Proceedings are not stayed on filing the motion, and there is no right to an immediate appeal.

Total Score: 27.5

1. Scope of the Law

Applies only to claims brought by a “public applicant or permittee,” meaning a person who has applied for or obtained a permit, zoning change, lease, license, certificate or other entitlement for use or permission to act form an government body. This has been interpreted very narrowly as applying only to certain land use disputes.

Because of its extremely narrow scope, this act would not apply to most situations where an anti-SLAPP motion would typically be used.

Score – 2.5

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant files a motion to dismiss demonstrating that the action involves public petition and participation.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on	High burden placed on defendant to adduce evidence showing that action arose out of their	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

matter of public interest; Or no specific anti-SLAPP motion procedure established in act	expression on a matter of public interest	
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3. Burden of proof on plaintiff to defeat motion

In order to defeat the motion, the plaintiff must demonstrate that the cause of action has a substantial basis in law or is supported by a substantial argument for an extension, modification or reversal of existing law.

This appears to be a relatively low bar for the plaintiff to meet – they must simply show that the action has “a substantial basis in law,” not that it is likely to succeed, or that public interest weighs in favour of allowing the action to proceed.

Score - 5

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Not specified.

Score – 0

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Under the act, a defendant “may maintain an action, claim, cross-claim or counter-claim to recover damages, including costs and attorney’s fees.” A prevailing defendant is not

presumptively entitled to costs, and it appears that they must bring a separate action to recover costs.

Score - 6

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The act states that the court shall grant preference in the hearing of a motion to dismiss. There is no timeline specified for when such a motion must be heard.

Score - 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None specified

Score – 0

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

Punitive damages may be recovered upon an additional demonstration that the action involving public petition and participation was commenced for the purpose of harassing, intimidating, punishing or otherwise maliciously inhibiting the free exercise of speech, petition or association rights. There is no presumptive entitlement to damages, and this appears to impose a high bar for awarding damages.

Score – 2

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

Score - 0

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 27.5/79

DISTRICT OF COLUMBIA

D.C. has a strong anti-SLAPP act that is broad in scope. It has two major procedural shortcomings. First, it does not contain a right to an immediate appeal if an anti-SLAPP motion is not granted. Second, a defendant is not presumptively entitled to recover costs if he or she prevails on the motion. The court has the discretion to award costs but is not required to do so.

Total score: 58/79

1. Scope of the Law

D.C.'s anti-SLAPP act applies to claims arising out of any written or oral statement made in connection with an issue under consideration by a government body or in a place that is open to the public, in connection with an issue of public importance. It also applies to claims arising from any other expression or expressive conduct involving petitioning the government or communicating views to members of the public in connection with an issue of public interest.

“Issue of public interest” means an issue related to health or safety; environmental, economic, or community well-being; the District government; a public figure; or a good, product, or service in the market place.

Issue of public interest does not include private interests, such as statements directed primarily toward protecting the speaker’s commercial interests rather than toward commenting on or sharing information about a matter of public significance.

Score - 18

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant must make a prima facie case showing that the claim at issue arises from an act in furtherance of the right of advocacy on issues of public interest.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

When the burden shifts to the plaintiff, he or she must demonstrate that the claim is likely to succeed in its merits in order to defeat the motion.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed until the motion is disposed of.

Score - 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties	All proceedings between parties are stayed

		could potentially continue	
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5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The Court *may* award costs to a prevailing defendant (but the defendant is not presumptively entitled to costs). The court may only award costs to a prevailing plaintiff if it finds that the motion was frivolous or brought solely to delay proceedings.

Score - 10

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court must hold an expedited hearing and release a ruling as soon as practicable (no timeline is specified).

Score – 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not	Immediate appeal heard on an expedited basis

	specify that appeal be heard on an expedited basis.	(with timeline specified for maximum points)
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8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 58/79

FLORIDA

Florida has a weak anti-SLAPP law that applies only to actions commenced by a government entity against a defendant for the defendant's statements on certain issues that were made before a governmental entity. Proceedings are not stayed on filing an anti-SLAPP motion, either prevailing party is presumptively entitled to costs and there is no right to an immediate appeal.

Total Score: 20.5

1. Scope of the Law

Applies only to actions commenced by a government entity against a person, solely as a result of that person's exercise of the right to peaceful assembly, right to instruct representatives, or right to petition for redress of grievances. The preamble to the law acknowledges that the majority of SLAPP suits are filed by private organizations and businesses – to which Florida's anti-SLAPP act would not apply. This means that the scope of the act is extremely limited and would not be useful to the majority of defendants facing SLAPPs.

Score – 2.5

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant files a motion for summary judgment, with supplemental affidavits, seeking a determination that the governmental entity's lawsuit was brought in violation of the anti-SLAPP act. Once the plaintiff has responded, a hearing is held. The act does not appear to shift the burden to the plaintiff; the burden of proof appears to be primarily on the defendant.

Score – 5

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The plaintiff files responding materials and attends the motion hearing. As stated above, it appears that the burden of proof is primarily borne by the defendant.

Score - 3

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

The statute is silent on whether proceedings are stayed.

Score – 0

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The prevailing party (defendant or plaintiff) is presumptively entitled to costs.

Score - 5

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The statute requires the court to hear the defendant’s motion at the earliest possible time after the government entity’s response is filed. There is no timeline specified for when the motion must be heard.

Score – 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None specified.

Score – 0

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

The court may award a prevailing defendant actual damages arising from the government entity's violation of the act.

Score - 3

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

Score – 0

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 20.5/79

GEORGIA

Georgia has a strong anti-SLAPP law that applies to claims asserted against a person or entity that could reasonably be construed as an act in furtherance of the right of free speech, petition or redress of grievances. The law loses points because it appears to impose a relatively low bar on plaintiffs to defeat the anti-SLAPP motion and because it does not include a provision allowing a court to award damages, if warranted.

Total Score: 66/79

1. Scope of the Law

Applies to any claim asserted against a person or entity arising from an act which could reasonably be construed as an act in furtherance of the right of free speech or the right to petition government for a redress of grievances under the Constitution of the United States or the Constitution of the State of Georgia in connection with an issue of public interest or concern.

The act defines “act in furtherance of the person’s or entity’s right of petition or free speech under the Constitution of the United States or the Constitution of the State of Georgia in connection with an issue of public interest or concern” broadly, and includes:

- (1) Any statement or writing or petition made before a proceeding authorized by law;
- (2) Any written or oral statement or writing or petition made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law;
- (3) Any written or oral statement or writing or petition made in a place open to the public or a public forum in connection with an issue of public interest or concern; or
- (4) Any other conduct in furtherance of the exercise of the constitutional right of petition or free speech in connection with a public issue or an issue of public concern.

The act has a broad scope, with no exclusions. Score – 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

No additional burden placed on the defendant beyond filing a motion and making a prima facie case showing that the action is based on communication that is protected under the act.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Plaintiff must establish that there is a probability that he or she will prevail on the claim.

This appears to impose a relatively a low bar to defeat the motion.

Score - 6

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery and any pending motions or proceedings are stayed on filing of motion record.

Score – 10

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Prevailing defendant is presumptively entitled to attorney’s fees and costs. If the motion is denied, the defendant is insulated from costs awards, unless the Court finds that the motion was frivolous or solely intended to cause delay (in this case, the Court *shall* order costs against the defendant).

Score – 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion must be heard within 30 days of filing unless there are emergency matters before the court. There is no cap on the number of days in which the motion must be heard if there are emergency matters before the court necessitating a later hearing.

Score - 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal but the law does not specify that the appeal will be heard on an expedited basis.

Score – 2

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

Yes - 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 66/79

HAWAII

While Hawaii’s act is relatively strong from a procedural perspective, it is narrow in its scope – and this is the most important part of any anti-SLAPP law. Hawaii’s law applies only to actions that are based on oral or written testimony made before a government entity. It would not apply to other statements made by a defendant in a public place on a matter of public importance.

Total Score: 53/79

1. Scope of the Law

Hawaii’s law has a relatively narrow scope. It applies to actions that are based on, relate to or involve public participation and are SLAPPs. The act defines public participation narrowly as any oral or written testimony provided to a government body in the course of a governmental proceeding. The act defines a SLAPP as a lawsuit that lacks substantial justification and is based on public participation before a government body.

The scope of the act is not restricted to actions where the plaintiff is a government entity, but by limiting the scope only to communication made before a government body, the act is relatively narrow.

Score - 8

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Defendant files a motion for summary judgement on the grounds that the claim is based on, relates to, or involves public participation and is a SLAPP lawsuit. The burden of proof is then shifted to the plaintiff. Points are lost because it may be difficult for the defendant to show that the action is a SLAPP because it lacks substantial justification or is interposed for delay or harassment.

Score - 7

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The court shall grant the motion and dismiss the action, unless the plaintiff can demonstrate that more likely than not, their action does not constitute a SLAPP, as defined in the act.

The burden of proof is shifted to the plaintiff, but it appears to be a relatively low bar for the plaintiff to meet. A SLAPP is defined in the act as an action that lacks substantial justification or is interposed for delay or harassment. Therefore, to defeat the motion, the plaintiff must show that it is more likely than not that the action is not one that “lacks substantial justification.”

Score - 5

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is suspended pending a decision on the motion and any appeals. The law is silent on whether other proceedings between the parties besides discovery may continue.

Score - 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties	All proceedings between parties are stayed

		could potentially continue	
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5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The prevailing defendant is presumptively entitled to costs and is insulated from costs if the motion is denied.

Score – 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion must be heard on an expedited basis; there is no timeline specified.

Score - 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

The defendant has a right to an immediate appeal if the motion is denied. No timeline is specified for when the appeal must be heard.

Score – 2

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

The prevailing defendant is presumptively entitled to actual damages or \$5000, whichever is greater.

Score - 4

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

Yes, contains a provision stating that the law shall be construed liberally to fully effectuate its purposes and intent.

Score - 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 53/79

ILLINOIS

Illinois's anti-SLAPP law is relatively narrow in scope, applying only to actions based on communications that are genuinely aimed at procuring favourable government action. The law's procedures are relatively strong, in that discovery is stayed, there is a provision for scheduling expedited hearings, there is a right to an immediate appeal and prevailing defendants are presumptively entitled to costs.

Score: 61/79

1. Scope of the Law

Applies to any motion to dispose of a claim in a judicial proceeding on the grounds that the claim is based on, relates to, or is in response to any act or acts of the moving party in furtherance of the moving party's rights of petition, speech, association, or to otherwise participate in government.

It does not apply to communications that are not genuinely aimed at procuring favourable government action.

The scope of Illinois' act is limited to only communications intended to influence government action. Communications on issues of public concern that are not intended to influence government would not be covered by the act.

Score - 11

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Defendant must file a motion on the grounds that the claim is based on their rights of petition, speech or association – but the act does not specify the evidentiary burden that the defendant must meet. It appears that the plaintiff is only required to establish a prima facie case that the action relates to protected communication.

Score - 8

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Plaintiff must provide clear and convincing evidence that the acts of the defendant are not immunized from liability by the anti-SLAPP law.

Burden shifted to plaintiff and there is a relatively high bar to defeat the motion.

Score – 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is suspended pending a decision on the motion.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The court shall award prevailing defendant costs, there is no provision for awarding costs against defendant.

Score - 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

A hearing *and* decision on the motion must occur within 90 days.

Score – 4

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal, to be heard on an expedited basis (timeline not specified)

Score – 3

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

Yes - 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 61/79

INDIANA

While Indiana's anti-SLAPP law has a broad scope, it has two significant procedural shortfalls. First, the defendant bears the full onus of showing that the action against them falls within the scope of the act, and that they therefore have a full defence to the claim. The onus is never shifted to the plaintiff to show that the claim has merit and a likelihood of success. Second, the act does not include a right to an interlocutory appeal if the defendant's motion to dismiss is not granted.

Total Score: 47/79

1. Scope of the Law

Indiana's act applies to actions stemming from an act or omission of a person in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue.

Person is specifically defined as including a natural person or any other legal entity. Public issue is not defined in the act.

The act has a broad scope, with no omissions. The lack of a definition of public issue could lead to ambiguity or inconsistency in its application.

Score - 18

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant must prove by a preponderance of evidence that the action is based on their exercise of the right of free speech or petition on an issue of public importance.

The defendant bears the onus throughout of showing that their communication is immune from liability under the act.

Score - 4

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Burden is never shifted to the plaintiff; defendant bears onus throughout.

Score – 0

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed on filing a motion to dismiss.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Prevailing defendant is presumptively entitled to attorney’s fees and costs. If the motion is denied, the defendant is insulated from costs awards, unless the Court finds that the motion was frivolous or solely intended to cause delay (in this case, the plaintiff is entitled to recover reasonable costs and attorney’s fees).

Score - 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The Court must hear and rule on the motion within a maximum of 180 days. The Court must also act on the motion record submitted by the defendant within 30 days of filing.

Score - 4

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 47/79

KANSAS

Kansas' anti-SLAPP law is procedurally excellent. There is a relatively low burden placed on the defendant to succeed on the motion, and a relatively high bar for the plaintiff to defeat it. The defendant is presumptively entitled to costs if successful and insulated from costs if unsuccessful. All proceedings are stayed on filing a motion and there is a right to an immediate appeal if the motion is denied.

The scope of the act is broad, but it excludes communications made for a commercial purpose. The language defining the scope of the act is somewhat ambiguous, leaving Courts with wide discretion to interpret its broadly or narrowly.

Total Score – 67/79

1. Scope of the Law

Kansas's law applies to actions that are based on the exercise of the right of petition, association or free speech on an issue of public interest.

To fall within one of the protected rights, the communication must be in connection with an issue under consideration by a government body, reasonably likely to encourage a government body to review an issue, or reasonably likely to enlist public participation in an effort to effect consideration of an issue by a government body.

The act does not apply to claims brought against a person primarily engaged in the business of selling or leasing goods or services.

While the scope of the act is broad, it would not include disputes between private individuals on issues of public importance, if the Court determined that the defendant's communications were not intended to bring the issue to the attention of the legislature.

The language of the act leaves Courts with wide discretion to interpret its scope broadly or narrowly.

Score – 16

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined

			broadly, with an open list)
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2. Burden of Proof on Defendant to Bring Motion

No additional burden placed on the defendant beyond filing a motion and making a prima facie case showing that the action is based on communication that is protected under the act.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

To defeat the motion, the plaintiff must establish a likelihood of prevailing on the claim by presenting substantial competent evidence to support a prima facie case.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery, motions or other pending hearings shall be stayed upon the filing of the motion to strike.

Score - 10

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Prevailing defendant is presumptively entitled to attorney’s fees and costs. If the motion is denied, the defendant is insulated from costs awards, unless the Court finds that the motion was frivolous or solely intended to cause delay (in this case, the Court *shall* order costs against the defendant).

Score – 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The hearing shall be heard not more than 30 days after filing of the motion record.

Score - 4

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in	Must be scheduled within a set number of days; cap on max number of days in

	hearing motion, without specifying timeline	which motion must be heard where the court docket requires additional time
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7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal, but no timeline specified for when it must be heard (though all further proceedings are stayed until the determination of the appeal, which makes an expedited appeal less important).

Score – 4

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 67/79

KENTUCKY

Kentucky adopted a version of the Uniform Law Commission’s *Public Expression Protection Act* in 2022. It has a strong anti-SLAPP law, with a broad scope and strong procedures. The act loses points for excluding several categories of actions from its scope and for allowing a Court to award costs against a defendant if their motion is dismissed and the Court finds that it was brought without good cause. It is more typical for acts to state that a Court will only award the plaintiff costs if the defendant’s motion was frivolous or only intended to cause delay, rather than simply “brought without good cause.”

Total Score - 68/79

1. Scope of the Law

Kentucky’s anti-SLAPP law applies to actions that are commenced based on a person’s exercise of the right of free speech, communication on an issue under consideration before a government body, or communication in a governmental proceeding.

It does not apply to a person primarily engaged in the buying, selling or leasing of goods or services, to a claim seeking recovery for bodily injuries, a claim arising out of an insurance contract, or in a civil claim to establish certain real property rights. While the exclusions are relatively narrow, there is a lengthy list of actions to which the act would not apply.

Score - 18

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

No additional burden placed on the defendant beyond filing a motion and making a prima facie case showing that the action is based on communication that is protected under the act.

Score – 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

To defeat the motion, the plaintiff must establish that the act does not apply to the action that it commenced and establish a prima facie case for each essential element of the cause of action.

Score – 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery and other proceedings between the parties are stayed on filing a motion to dismiss.

Score – 10

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Prevailing defendant is presumptively entitled to costs. If the plaintiff prevails, he or she is only entitled to costs if the court finds that the motion was brought without good cause. This is weaker than the more typical language stating that the court will only award costs against the defendant if the motion was frivolous or only brought to cause delay.

Score – 11

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

Motion must be heard within 60 days of filing unless the court orders a later hearing for good cause shown.

If the court orders a later hearing, there is no limit on the number of days in which it must be held.

Score – 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal, but no timeline specified for when it must be heard (though all further proceedings are stayed until the determination of the appeal).

Score – 4

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

Yes - 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 68/79

LOUISIANA

While Louisiana’s anti-SLAPP law is broad in scope, it includes procedures that weaken its effectiveness. Notably, the law states that the prevailing party (either the plaintiff or the defendant) on a motion to strike is presumptively entitled to costs. This provides no insulation from cost awards if a defendant is unsuccessful on the motion. In addition, the act does not include a right to an immediate appeal.

Total Score: 52/79

1. Scope of the Law

Louisiana’s act applies to a cause of action against a person arising from any act of that person in furtherance of their right of petition or free speech under the United States or Louisiana Constitution in connection with a public issue. This applies to any communication made before a government body or in a public place.

The act does not define “public interest.” While the scope of the act is very broad, without a definition of public interest, there is some ambiguity in when it should be applied.

Score – 18

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

No additional burden placed on the defendant beyond filing a motion and making a prima facie case showing that the action is based on communication that is protected under the act.

Score – 10

0-3	4-6	7-10
Defendant must establish that action was brought in	High burden placed on defendant to adduce	Defendant files motion establishing <i>prima facie</i>

bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	evidence showing that action arose out of their expression on a matter of public interest	case that action relates to their expression on a matter of public interest
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3. Burden of proof on plaintiff to defeat motion

In order to defeat the motion, the plaintiff must establish a probability of success on the claim. This sets a higher bar than simply establishing a prima facie case showing for the essential elements of the claim.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed on filing of a notice of motion.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The prevailing party (either defendant or plaintiff) is presumptively entitled to costs.

Score – 3

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion must be heard within 30 days after service unless docket conditions require a later hearing. There is no time limit specified if a later hearing is required.

Score - 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall "grant preference" in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 52/79

MAINE

Maine's law is moderately strong both in terms of its scope and the procedures it puts in place for bringing an anti-SLAPP motion. The scope is restricted to the exercise of the right to petition (as opposed to more expansive anti-SLAPP laws that also protect free speech rights). The law does not include a right to an immediate appeal and a prevailing defendant is not presumptively entitled to costs.

Total Score: 55/79

1. Scope of the Law

Maine's law applies to any action brought in relation to a party's exercise of its right of petition under the US Constitution of Constitution of Maine. The right of petition is defined as any written or oral statement made before a government body, any statement that is reasonably likely to encourage consideration or review by a government body, or likely to enlist public participation in an effort to effect such consideration. The requirement that the defendant's statement must bear some relation to the right to petition government narrows the scope of the act, in comparison to acts that simply require a defendant's communication to be on a matter of public interest.

Score - 15

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant brings a special motion to dismiss asserting that the action against them is based on their right of petition. The burden is then shifted to the defendant.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in	High burden placed on defendant to adduce	Defendant files motion establishing <i>prima facie</i>

bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	evidence showing that action arose out of their expression on a matter of public interest	case that action relates to their expression on a matter of public interest
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3. Burden of proof on plaintiff to defeat motion

The court shall grant the motion unless the plaintiff can show that the defendant's exercise of the right of petition was devoid of any reasonable factual support or any arguable basis in law, and that the defendant's acts caused actual injury to the plaintiff.

The burden is shifted to the plaintiff and the act appears to impose a high burden on the plaintiff to defeat the motion.

Score – 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery is stayed on filing the motion, until a decision is made, and appeals are exhausted. The act is silent on whether other proceedings between the parties are stayed.

Score - 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The court *may* award a prevailing defendant costs, but the defendant is not presumptively entitled to costs. The defendant is insulated from costs if the motion is dismissed.

Score - 11

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court may advance the motion on the docket if the court determines that the interests of justice so require. The motion will not presumptively be held on an expedited basis.

Score - 1

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None specified.

Score – 0

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

The act does not specifically include any provision on damages, but states that “this section does not affect or preclude the right of the moving party to any remedy otherwise authorized by law,” which may allow a prevailing defendant to seek damages.

Score - 0

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

Score – 0

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 55/79

MARYLAND

Maryland has an unusual anti-SLAPP law that is very brief and lacking in detail. In order for an action to be considered a SLAPP under Maryland's act, it must have been brought in bad faith, with the intention of inhibiting the exercise of a defendant's rights. These unusual requirements place a high burden on the defendant to show that an action against them is a SLAPP. Maryland's act does not provide for an automatic stay of proceedings on filing of a notice of motion. It does not shift the burden of proof to the defendant at any point in the proceeding and it does not include a right to an immediate appeal.

Total Score: 23/79

1. Scope of the Law

Maryland's anti-SLAPP act defines a lawsuit as a SLAPP if it is brought in bad faith against a party who has communicated with a federal, state, or local government body or the public at large to report on, comment on, rule on, challenge, oppose, or in any other way exercise rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body or any issue of public concern, is materially related to such communication and is intended to inhibit the exercise of rights.

The requirement that the action be brought "in bad faith," as well as the requirement that the action was intended to inhibit the exercise of rights limits the scope of the act (or at least places a higher onus on the defendant to show that the action is a SLAPP).

Score - 11

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Defendant bears the onus throughout of showing that the action is a SLAPP (including that it was brought in bad faith, with the intention of inhibiting their exercise of constitutional rights).

Score - 5

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Burden is not shifted to the plaintiff; defendant bears the burden throughout of showing that the action is a SLAPP.

Score – 0

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

A defendant can move to stay all proceedings until the matter is resolved. Presumably this means that proceedings are not automatically stayed on filing of a notice of motion, and proceedings could continue until the motion is heard.

Score – 5

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Not specified.

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion is to be scheduled as soon as practicable (no timeline specified).

Score – 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 23/79

MASSACHUSETTS

Massachusetts's anti-SLAPP act is relatively strong procedurally, but it has a fairly narrow scope. It applies only to the right of petition (as opposed to petition, assembly and free speech, as is the case with many other anti-SLAPP laws). This restricts the number of instances in which the act would apply. On the procedural side, the act does not include a right to an immediate appeal.

Total Score: 56/79

1. Scope of the Law

Massachusetts's anti-SLAPP law applies to civil actions that are based on a defendant's exercise of their right of petition. This means any written or oral statement made before or submitted to a government body; any written or oral statement made in connection with an issue under consideration or review by a government body; any statement reasonably likely to encourage consideration or review of an issue by a government body; any statement reasonably likely to enlist public participation in an effort to effect such consideration; or any other statement falling within constitutional protection of the right to petition government.

The fact that the act applies only to the right to petition (and not the right to free speech or assembly, as is the case in many other jurisdictions) means that it has a relatively narrow scope.

Score - 11

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

No additional burden placed on the defendant beyond filing a motion and making a prima facie case showing that the action is based on communication that is protected under the act.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

To defeat the motion, the plaintiff must show that: (1) the defendant's exercise of its right to petition was devoid of any reasonable factual support or any arguable basis in law and (2) the defendant's acts caused actual injury to the responding party.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery is stayed on filing of the motion.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Prevailing defendant is presumptively entitled to costs. There is no provision allowing a successful plaintiff to recover costs.

Score - 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The Court is directed to hear the motion as expeditiously as possible. No timeline specified.

Score - 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 56/79

MISSOURI

Missouri's anti-SLAPP law applies only to actions that are based on communications made in connection with a meeting of a government entity. The defendant bears the full burden of proof on the motion; the onus is not shifted to the plaintiff at any point. On the positive side, the law stays discovery and there is a right to an immediate appeal.

Total Score: 42/79

1. Scope of the Law

Missouri's anti-SLAPP law applies to any action against a person for conduct or speech undertaken or made in connection with a public hearing or public meeting, in a quasi-judicial proceeding before a tribunal or decision-making body of the state or any political subdivision of the state.

Public meeting in a quasi-judicial proceeding is defined as any meeting established and held by a government entity.

If communications are made on an issue of public interest, but not they are not connected to a meeting of a government entity, the act would presumably not apply.

Score - 10

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Defendant bears the full burden of proof on the motion, but the law does not specify when a court will grant the motion. It is unclear whether and what evidence a defendant would need to introduce to prevail on the motion.

Score - 6

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Burden not shifted to the plaintiff.

Score – 0

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is suspended when motion is filed, pending a decision on the motion and the exhaustion of any appeals.

Score - 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Yes, the court shall grant reasonable fees incurred in defending the action. If the motion to dismiss is found to be frivolous or solely intended to cause delay, costs *shall* be awarded against the defendant.

Score - 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

Motion shall be heard on a priority or expedited basis. No timeline specified.

Score - 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

Either party has a right to an expedited appeal (no timeline specified).

Score - 3

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 42/79

NEBRASKA

Nebraska has a weak anti-SLAPP law. The law's primary deficiency is its narrow scope. It applies only to actions based on a party's communications that are related to efforts to comment on or oppose public permit applications (including zoning proposals, leases or licenses). The law does not stay discovery, there is no right to an immediate appeal, and either party may recover costs (though only with an additional showing).

Total Score: 25/79

1. Scope of the Law

Nebraska's anti-SLAPP law applies to actions involving public petition and participation brought by a "public applicant or permittee," and materially related to the efforts of the defendant to report on, comment on, rule on, challenge, or oppose an application or permission.

"Public applicant or permittee" refers to a person who has applied for or obtained a permit, zoning change, lease, license, certificate or other entitlement for use or permission to act from any governmental body.

This means that the scope is very narrow, applying only to actions relating to public permits.

Score - 2.5

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant must demonstrate that the action involves public petition and participation.

No burden of proof specified, but appears to be a relatively low bar.

Score – 8.5

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Plaintiff must show that the cause of action has a substantial basis in law or is supported by a substantial argument for an extension or modification of existing law.

Burden is shifted to the plaintiff. Unclear what is required for a plaintiff to demonstrate a “substantial basis in law” for the action but would appear to be a relatively low bar (for example, it does not require the plaintiff to show a likelihood of prevailing on the claim).

Score - 5

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

No stay of discovery.

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Costs may be recovered, on a demonstration that the action was commenced without a substantial basis in fact.

Plaintiff may recover costs and damages if he or she has established by clear and convincing evidence that any communication giving rise to the action was made with knowledge of its falsity.

Prevailing defendant is not presumptively entitled to costs and may have costs awarded against him or her on an additional showing by the plaintiff.

Score - 5

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court must expedite or grant preference to the hearing of the motion.

Score – 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

Compensatory damages may be recovered on an additional demonstration that the action was commenced for the purpose of harassing, intimidating or punishing the defendant.

Score - 2

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 25/79

NEVADA

Nevada has a moderately strong anti-SLAPP law with a broad scope and several strong procedural elements. The law applies to communications in furtherance of the right of petition or free speech that are made in a public place on an issue of public importance. Discovery is automatically stayed on filing a motion, there is a right to an immediate appeal and prevailing defendants are presumptively entitled to costs. Nevada's law has a number of shortcomings, including the fact that if a court finds the motion was frivolous, it can award a prevailing plaintiff not only costs, but also an amount up to \$10,000. It also imposes a relatively high bar on defendants to prevail on anti-SLAPP motions.

Total Score: 60/79

1. Scope of the Law

Nevada's act applies broadly to any good faith communication in furtherance of the right to petition or free speech on an issue of public concern. The communication must be truthful or made without knowledge of its falsehood.

Communication on an issue of public concern is defined as written or oral communications aimed at procuring governmental or electoral action; communication of information or a complaint to a legislator, officer or employee of any level of government; or statements made in direct connection with an issue under consideration by a government body. The communication must be made in a place that is open to the public or in a public forum.

Score - 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant must file a special motion to dismiss, establishing by a preponderance of evidence that the claim is based on a good faith communication in furtherance of the right to petition or free speech, that is in direct connection with an issue of public concern.

The court may consider written or oral evidence of witnesses in making their determination of whether the defendant has met the burden of proof.

Moderately high bar for plaintiff - plaintiff is required to introduce evidence to show that the communication arose out of their good faith communications on an issue of public concern.

Score - 6

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Once the defendant has established by a preponderance of evidence that the claim falls within the scope of this act, the plaintiff must demonstrate with *prima facie* evidence, a probability of prevailing on the claim.

The court may consider written or oral evidence of witnesses in making their determination of whether the plaintiff has established a probability of prevailing on the claim.

Burden is shifted to the plaintiff, but it is not a high bar for the plaintiff to overcome, showing *prima facie* evidence that there is a probability of prevailing.

Score – 7

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed pending a ruling on the motion and the disposition of any appeal from the motion ruling.

Score - 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

If the motion to dismiss is granted, the court shall award reasonable costs and attorney’s fees to the defendant (or to the government’s attorney if a government entity provided the defence for the defendant).

If a court finds that the anti-SLAPP motion was frivolous or vexatious, the court may award the plaintiff reasonable fees in responding to the motion, plus an amount up to \$10,000 and attorney’s fees and costs of bringing a separate action to recover these amounts.

So long as the motion is not found to be vexatious, the defendant is insulated from costs, but the potential award of costs and an amount up to \$10,000 against a defendant whose motion is found to be frivolous could potentially have a chilling effect.

Score - 10

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court shall rule on the motion within 20 judicial days after the motion is served on the plaintiff.

Score – 4

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall "grant preference" in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

Parties have a right to an interlocutory appeal, but no timeline is specified.

Score - 2

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

The court may award up to \$10,000 to a prevailing defendant. The defendant may also bring a separate action against the plaintiff to recover compensatory damages, punitive damages and attorney's fees for the separate action.

Score - 3

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 60/79

NEW MEXICO

New Mexico has a relatively weak anti-SLAPP law. It applies only to communications made in connection with a public hearing or public meeting before a tribunal or decision making body. This significantly restricts the scope of communications to which the law would apply. The law does not shift the burden of proof to the plaintiff to defeat the motion, and discovery is not automatically stayed on filing an anti-SLAPP motion.

Total Score: 33/79

1. Scope of the Law

New Mexico's anti-SLAPP law has a narrow scope, applying to actions against a person for conduct or speech undertaken or made in connection with a public hearing or public meeting in a quasi-judicial proceeding before a tribunal or decision making body.

While there is no restriction on the content of the speech, the requirement that it be made in connection with a public meeting or proceeding significantly curtails the scope of the law.

Score - 10

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant brings a motion to dismiss on the basis that the action against them is for conduct or speech undertaken or made in connection with a public hearing or public meeting in a quasi-judicial proceeding before a tribunal or decision-making body of any political subdivision of the state. The burden of proof does not appear to be shifted to the plaintiff.

Score – 5

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Not specified; it does not appear that the burden is shifted to the plaintiff.

Score - 0

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

The act does not specify whether proceedings are stayed on filing a motion to dismiss.

Score – 0

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

A prevailing defendant is presumptively entitled to reasonable attorney fees and costs. If the court finds that the defendant brought the motion solely to cause unnecessary delay, or determines that it is frivolous, then the court shall award the plaintiff costs.

Score - 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The act requires that the motion be heard on an expedited basis “to ensure the early consideration of the issues raised by the motion and to prevent the unnecessary expense of litigation.” However, timelines for hearing the motion are not specified.

Score - 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

Either party has a right to an expedited appeal of the motion, and the appeal must be heard on an expedited basis (though timelines are not specified).

Score - 3

0	1-2	3-4
None specified	Right to an immediate appeal, but does not	Immediate appeal heard on an expedited basis

	specify that appeal be heard on an expedited basis.	(with timeline specified for maximum points)
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8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 33/79

NEW YORK

New York has an excellent anti-SLAPP law that is broad in scope and has strong procedures. While New York's law allows for immediate appeals of motion decisions, it does not appear to contain a provision for scheduling an expedited appeal; this is the primary area where New York's law loses points.

New York's anti-SLAPP provisions are contained in several areas, including the rules of civil procedure and the New York Civil Rights Laws. While this had no impact on its score, this can make New York' law difficult to navigate, which could impact a defendant's ability to rely on its protections.

Note that New York's law was amended (and broadened) in 2020, meaning that much of the case law applying the law prior to this point is no longer relevant.

Total Score: 74/79

1. Scope of the Law

New York's anti-SLAPP law applies to any cause of action that is based on any communication in a place open to the public or a public forum in connection with an issue of public interest, or any other conduct in furtherance of the right of free speech in connection with an issue of public interest.

The act states that "Public interest" shall be construed broadly and shall mean any subject other than a purely private matter.

Score - 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant has the initial burden of making a prima facie case showing that the claim arises out of conduct that is covered by the scope of New York's anti-SLAPP act.

Score – 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The law states that the motion shall be granted unless the plaintiff demonstrates that the cause of action has a substantial basis in law or is supported by a substantial argument for an extension, modification or reversal of existing law.

The plaintiff may only recover damages if, in addition to all other necessary elements, the plaintiff has established by clear and convincing evidence that any communication which gives rise to the action was made with knowledge of its falsity or with reckless disregard of whether it was false, where the truth or falsity of such communication is material to the cause of action at issue.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Filing an anti-SLAPP motion stays discovery and all other proceedings.

Score – 10

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The court shall award attorney's fees to prevailing defendants; there is no provision allowing for a prevailing plaintiff to recover costs.

Score - 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court shall grant preference in hearing the anti-SLAPP motion (though no timeline is specified).

Score - 2

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall "grant preference" in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

Yes, though this is contained elsewhere in New York’s rules of civil procedure, rather than in its anti-SLAPP provisions.

Score – 2

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

The court may award aggravated damages, if circumstances warrant it.

Score – 3

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

The act directs that “public interest” is to be construed liberally.

Score - 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 74/79

OKLAHOMA

Oklahoma has a strong anti-SLAPP law with a broad scope encompassing most forms of communication on matters of public interest. The procedures outlined in the act place a relatively high bar on the plaintiff to dismiss the motion. The plaintiff must show clear and specific evidence to establish a prima facie case for each element of the cause of action. The act requires that the motion be heard within 60 days.

All discovery is stayed on filing of the motion, unless the court determines that there is good cause to allow limited discovery that is relevant to the motion.

There is a right to an immediate appeal of a decision on the motion, or if the motion is not heard within the mandated timeframe (in which case, it is deemed to be denied by operation of the law). Interestingly, if a defendant is successful on the motion to strike, the court will presumptively apply sanctions against the plaintiff who brought the action. The court will determine sanctions that it deems sufficient to deter the plaintiff from bringing similar actions in the future.

Total Score: 68/79

1. Scope of the Law

Oklahoma's anti-SLAPP law has a very broad scope. It applies if a legal action is based on, relates to or is in response to a party's exercise of the right of free speech, right to petition or right of association on a matter of public concern.

Right of free speech, petition and association are broadly defined – and include broad categories such as speech that is “reasonably likely to enlist public participation” or “reasonably likely to encourage consideration or review of an issue” by a public body.

Matter of public concern is also broadly defined as an issue relating to health or safety, environmental, economic or community well-being, the government, a public official or public figure, or a good, product or service in the marketplace.

The law excludes a limited number of forms of communication from its scope, including commercial speech, and communication made during a legal action.

Score – 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The action will be dismissed if the defendant shows by a preponderance of the evidence that the legal action is based on, relates to or is in response to the party's exercise of the right of free speech; the right to petition; or the right of association.

This means that the defendant must show that it is more likely true than false that their communication relates to the right of free speech, petition, or association. This appears to place a higher bar on the defendant than other acts that just require a prima facie case showing by the defendant before the burden is shifted to the plaintiff.

Score - 6

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

In order to defeat the motion, the plaintiff must show clear and specific evidence to establish a prima facie case for each element of the claim in question.

Score – 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery in the action is suspended until the court has ruled on the motion to dismiss. The court may allow limited discovery on the anti-SLAPP motion.

Other proceedings between the parties could potentially continue.

Score - 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

A prevailing defendant is presumptively entitled to costs. An unsuccessful defendant is insulated from costs, unless the court finds that the motion to dismiss was filed for frivolous reasons, or was solely intended to delay.

Score – 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court is required to hear a motion not more than 60 days after the date of services, unless docket conditions require later hearing. However, even if docket conditions require a delay, the hearing must take place within 90 days.

Score - 4

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal, including if a court did not rule on the motion to dismiss within the prescribed time period (this is considered “denied by operation of the law” and the moving party may immediately appeal). The appellate court is required to expedite appeals, though no timeline is specified.

Score - 3

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

If a defendant is successful on the motion to strike, the court will presumptively apply sanctions against the plaintiff who brought the action “that the court determines sufficient to deter them from bringing similar actions.

Score - 4

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose

		sanctions to deter plaintiff from bringing similar actions in future
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9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 68/79

ONTARIO

Ontario has an excellent anti-SLAPP law that ranks the highest in the world in our scoring (in a tie with British Columbia). It is broad in scope and has strong procedures that impose a low bar on a defendant to bring an anti-SLAPP motion, and protections if a defendant's motion is denied.

One area in which Ontario loses a point is in its appeal procedures. While there is a right to an immediate appeal, and it must be heard "as soon as practicable," there is no time limit set for the court to hear the appeal.

Total Score: 75/79

1. Scope of the Law

Applies very broadly to all forms of expression and there is no closed list of matters that are considered to be of public interest. There are no exclusions from the scope of the act.

Score - 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant must satisfy the judge that the proceeding arises from an expression made by them and relates to a matter of public interest. There is no additional burden placed on the defendant.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to	High burden placed on defendant to adduce evidence showing that	Defendant files motion establishing <i>prima facie</i> case that action relates to

showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	action arose out of their expression on a matter of public interest	their expression on a matter of public interest
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3. Burden of proof on plaintiff to defeat motion

In order to defeat the motion, the plaintiff must satisfy the judge that there are grounds to believe that the proceeding has substantial merit, that the defendant has no valid defence, and that the plaintiff has suffered sufficiently serious harm that the public interest in permitting the proceeding to continue outweighs the public interest in protecting that expression.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All proceedings are stayed; no further steps in the proceeding may take place until the motion has been disposed of, including any appeals of the motion. In addition, there is a process for staying related tribunal proceedings.

Score - 10

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

A prevailing defendant is presumptively entitled to costs on the motion and in the proceeding on a full indemnity basis. A prevailing plaintiff is not entitled to costs, unless the judge determines that such an award is appropriate.

Score - 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion must be heard not later than 60 days after notice of motion is filed.

Score - 4

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal, and appeals are to be heard on an “as soon as practicable” basis. There is no timeline specified for when the appeal must be heard.

Score - 3

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that it be heard on expedited basis	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

If a judge determines that a plaintiff brought the proceeding in bad faith, he or she may award the defendant damages. There is no presumptive damages award.

Score - 3

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 75/79

OREGON

Oregon has a strong anti-SLAPP law, with a broad scope and no major exclusions. It contains a provision requiring Courts to construe the law liberally, in order to prevent narrow interpretations of its provisions. The main reason that Oregon’s law loses points is because it does not contain a right to an immediate appeal of a decision on an anti-SLAPP motion.

Total Score: 66/79

1. Scope of the Law

Oregon’s anti-SLAPP act applies to any claim in a civil action that arises out of, and communication made before or submitted to a government body, and communication made in connection with an issue under consideration by a government body, any communication made in a public place on an issue of public importance, or any other conduct in furtherance of the exercise of the constitutional right of petition or free speech, in connection with an issue of public importance.

Score - 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant has the initial burden of making a prima facie case showing that the claim arises out of conduct that is covered by the scope of Oregon’s anti-SLAPP act.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on	High burden placed on defendant to adduce evidence showing that action arose out of their	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

matter of public interest; Or no specific anti-SLAPP motion procedure established in act	expression on a matter of public interest	
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3. Burden of proof on plaintiff to defeat motion

To defeat the motion, the plaintiff must establish that there is a probability that the plaintiff will prevail on the claim by presenting substantial evidence to support a prima facie case.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed on filing of a motion to strike.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Prevailing defendant is presumptively entitled to attorney’s fees and costs. If the motion is denied, the defendant is insulated from costs awards, unless the Court finds that the motion was frivolous or solely intended to cause delay (in this case, the plaintiff is entitled to recover reasonable costs and attorney’s fees).

Score - 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion must be heard within 30 days of filing unless docket conditions require a later hearing (there is no time limit for when the motion must be heard if a later hearing is required).

Score - 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on	Court will presumptively award damages to

	demonstration of bad faith by the plaintiff	defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future
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9. Whether act contains a statutory interpretation instruction

Yes - 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 66/79

PENNSYLVANIA

Pennsylvania has a very narrow anti-SLAPP law that applies only to actions based on communications on environmental regulations. The burden is never shifted to the plaintiff to defeat the motion, there is no provision for scheduling expedited hearings and a prevailing defendant is not presumptively entitled to costs. Strangely, discovery is only stayed if the motion is denied and the defendant appeals.

Total Score: 14/79

1. Scope of the Law

Applies to communications made before an official proceeding in connection with an issue under consideration or review by a governmental body, or to a government agency in connection with the implementation of environmental law and regulations.

A person is not immune if the action is not related to the enforcement of environmental law.

The act has a very narrow scope, confined to communication on environmental regulations.

Score - 5

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant bears the burden of showing that the action falls within the scope of the act. The burden is not shifted to plaintiff at any point.

Score - 4

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to	High burden placed on defendant to adduce evidence showing that	Defendant files motion establishing <i>prima facie</i> case that action relates to

showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	action arose out of their expression on a matter of public interest	their expression on a matter of public interest
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3. Burden of proof on plaintiff to defeat motion

Burden of proof not shifted to the plaintiff; defendant bears the burden throughout.

Score – 0

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Strangely, discovery is only stayed if the motion is denied and the defendant appeals. Discovery does not appear to be stayed on filing the initial motion.

Score - 3

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Not specified

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

None

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

Yes – though no timeline is specified.

Score – 2

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff

		from bringing similar actions in future
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9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 14/79

QUEBEC

In the explanatory notes at the start of the Bill that introduced Quebec's anti-SLAPP provisions, it states that the purpose of the Bill is "to promote freedom of expression and prevent improper use of the courts and the abuse of procedure, in particular if it thwarts the right of citizens to participate in public debate." In spite of this stated purpose, the provisions are not worded in such a way that they would be limited to SLAPP suits. Instead, they read more like general summary judgement or motion to strike procedures from other jurisdictions (e.g., rules 20 and 21 in the Ontario Rules of Civil Procedure). Because of this, Quebec's anti-SLAPP law is not very well suited to evaluation using this scorecard; a better method of evaluation would be to look at the case law applying Quebec's act.

Total Score: 49/79

1. Scope of the Law

Quebec's anti-SLAPP provisions apply where a court determines that a judicial application or a pleading is abusive.

The abuse of procedure may consist in a claim or pleading that is clearly unfounded, frivolous or dilatory or in conduct that is vexatious or quarrelsome. It may also consist in bad faith, in a use of procedure that is excessive or unreasonable or causes prejudice to another person, or in an attempt to defeat the ends of justice, in particular if it restricts freedom of expression in public debate.

The language of the anti-SLAPP provisions leaves the court with wide discretion to determine when they should be applied. This could leave defendants without a clear understanding of when they can bring a motion to strike a proceeding as being a SLAPP. There is no "public interest" requirement stated in the act.

Score - 16

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant bears the initial onus of summarily establishing that the action or pleading is an abuse of process.

Score – 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

If the defendant meets the initial burden of establishing that the action or pleading may be an improper use of procedure, then the onus shifts to the plaintiff to show that it is not excessive or unreasonable and is justified in law.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Proceedings may be stayed by the court if it considers it appropriate.

Score - 5

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties	All proceedings between parties are stayed

		could potentially continue	
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5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The court can order costs to be reimbursed in ruling on an anti-SLAPP motion. Presumably the court could award costs to either prevailing party, whether it is the plaintiff or defendant.

Score - 5

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

None

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall "grant preference" in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

Yes, the court may award damages if warranted by the circumstances.

Score – 3

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 49/79

RHODE ISLAND

Rhode Island has an unusually worded anti-SLAPP law that is broad in application but excludes communications that are a “sham.” Sham is defined in the act as communications that are not aimed at procuring favourable government action, result or outcome. The law does not shift the burden to the plaintiff to defeat the anti-SLAPP motion; the defendant bears the onus throughout. In addition, there is no provision for scheduling expedited hearings and no right to an immediate appeal.

Total Score: 46/79

1. Scope of the Law

Rhode Island’s act applies broadly to actions based on “a party’s exercise of its right to petition or free speech.”

Exercise of petition or free speech is defined as “any written or oral statement made before or submitted to a legislative, executive, or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other governmental proceeding; or any written or oral statement made in connection with an issue of public concern.”

There is one exclusion from the scope of Rhode Island’s act – the petition or free speech will not be immunized if it is a sham, meaning that it is not aimed at procuring favourable government action, result or outcome. Speech will constitute a sham if it is objectively baseless, in the sense that no reasonable person could expect success in procuring government action, and it is subjectively baseless in that it is an attempt to use government processes for its own direct effects.

While the scope of Rhode Island’s law is broad, the exclusion for “sham” communications could itself be interpreted broadly, in a way that would exclude many communications from protection under the act.

Score - 15

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined

			broadly, with an open list)
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2. Burden of Proof on Defendant to Bring Motion

There is no specific anti-SLAPP procedure; the legislation states that the immunity it creates may be asserted under an “appropriate motion or other means” under the rules of civil procedure.

Score - 4

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

Burden not shifted to plaintiff at any point.

Score – 0

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery is stayed on filing of a motion and discovery remains stayed until notice of entry of the order ruling on the motion.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Yes, prevailing defendant is presumptively entitled to costs and insulated from costs if motion is denied.

Score – 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

None

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

None

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

A prevailing defendant is presumptively entitled to compensatory damages. The defendant may be awarded punitive damages on an additional showing that the plaintiff’s claim was frivolous or brought to harass the defendant.

Score – 4

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 46/79

TENNESSEE

Tennessee has a strong anti-SLAPP law that is broad in scope, applying to actions that are based on a defendant's exercise of the right of free speech, association or petition, on an issue of public concern. Strangely for an act that is otherwise quite strong, Tennessee's law does not contain a provision for scheduling expedited hearings.

Total Score: 64/79

1. Scope of the Law

Applies to an action commenced in response to a party's exercise of the right of free speech, petition or association.

Exercise of the right of association means exercise of the constitutional right to join together to take collective action on a matter of public concern that falls within the protection of the US or Tennessee constitution.

Exercise of the right of free speech means a communication made in connection with a matter of public concern or religious expression that falls within the protection of the US or Tennessee Constitution.

Exercise of the right to petition means a communication that falls within the protection of the US / Tennessee Constitution and is intended to encourage consideration by a governmental body or is intended to enlist public participation in an effort to effect consideration of an issue by a public body.

Matter of public concern includes seven different categories, including "any other matter deemed by a court to be a matter of public concern."

Broad scope, no major exclusions.

Score – 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant bears the burden of making a prima facie case showing that the action against the petitioning party is based on or relates to their right to free speech, association or petition.

Score – 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The court shall dismiss the action unless the plaintiff can establish a prima facie case for each essential element of the claim in the legal action. However, if the defendant can establish a valid defence to the claims in the action, it shall be dismissed, nonetheless.

Requiring only a prima facie case to be shown for the elements of the claim could be interpreted as imposing a low bar on the plaintiff to defeat the motion.

Score - 7

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed on filing and until the court has ruled on the petition.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

If the defendant prevails, he or she is entitled to court costs. If the motion was filed for a frivolous purpose or solely to delay, the court may award the plaintiff costs.

Score - 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

None specified

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall "grant preference" in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an immediate appeal, but no timeline in which the appeal must be heard.

Score - 2

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

Prevailing defendant is presumptively entitled to any additional relief ordered by the courts, including sanctions, to deter repetition of the conduct by the plaintiff.

Score - 4

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 64/79

TEXAS

Texas has a strong anti-SLAPP law that is broad in scope, and excellent procedurally. It applies to legal actions based on a party's exercise of the right of free speech, petition, or association, on a matter of public concern. Discovery is automatically stayed on filing an anti-SLAPP motion, a prevailing defendant is presumptively entitled to costs and insulated from costs if unsuccessful, and there is a right to an immediate appeal. The court is also empowered to impose damages on the plaintiff in an amount that will deter similar future actions.

Total Score: 73/79

1. Scope of the Law

Texas has a broad anti-SLAPP law. It applies to legal actions that are based on a party's exercise of the right to free speech, petition, or association on a matter of public concern.

Matter of public concern is defined very broadly as a statement or activity regarding a public official or other person who has drawn substantial public attention due to their fame, notoriety or celebrity; a matter of political, social or other interest to the community or a subject of concern to the public.

The act does not apply to protect communications by government officials acting in their official capacities.

There is a list of exemptions from the scope of the act, including actions brought against someone for commercial speech, disciplinary proceedings under the Texas Rules of Disciplinary Procedure, legal actions based on a fraud claim, etc.

Score - 18

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The initial burden on the defendant is to demonstrate that the legal action is based on or is in response to their exercise of the right of free speech, petition or association.

Score – 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The court will not grant the motion if the plaintiff can show with clear and specific evidence, a *prima facie* case for each essential element of the claim in question. However, the action will still be dismissed if the defendant can establish a defence or other grounds on which the defendant is entitled to judgement as a matter of law.

Appears to impose a relatively high burden on the plaintiff to defeat the motion.

Score – 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

Discovery is stayed until the court has ruled on the motion to dismiss.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The court presumptively awards costs to the prevailing defendant.

If the motion was brought for frivolous reasons, or solely to delay, the court *may* award reasonable costs to the plaintiff.

Score - 15

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion must be heard not later than 60 days after the date of service, unless docket conditions require a later hearing. If that is the case, the hearing must occur not more than 90 days after service.

The court also must rule on the motion within 30 days of hearing it.

Score - 4

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

Yes, there is a right to an immediate appeal, and the hearing of the appeal shall be expedited (though no specific timeline is stated).

Score - 3

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

The court may award sanctions against the plaintiff that the court determines are sufficient to deter similar actions.

Score - 3

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

Yes. Score – 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 73/79

UTAH

In February of 2023, Utah adopted a new anti-SLAPP law that substantially improves protections for defendants facing SLAPP suits in the state. The new statute is based on the Uniform Law Commission’s *Public Expression Protection Act*, which has already been adopted in several other states. Utah’s previous anti-SLAPP bill received a score of 37 according to this scoring metric, while the new law has received a score of 68.

Utah’s act has a broad scope and excellent procedures in place. All proceedings between the parties are automatically stayed on filing an anti-SLAPP motion. There is a low onus placed on the defendant in bringing the motion, but a relatively high onus placed on the plaintiff to defeat the motion. There is an automatic right of appeal and prevailing defendants are presumptively entitled to costs, while being insulated from adverse cost awards.

Total Score: 68/79

1. Scope of the Law

Utah’s act applies broadly to causes of action that are asserted against a person based on their communication in a governmental proceeding, communication on an issue under consideration by a governmental entity, or exercise of their right of freedom of speech, assembly, or petition on a matter of public concern.

The act does not apply to a governmental entity acting or purporting to act in an official capacity, by a government entity acting to enforce a law to protect against an imminent threat, or against a person primarily engaged in commercial speech.

Unfortunately, the act does not apply to any cause of action brought before May 3, 2023 – several months after its adoption.

Score - 18

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant Bringing the Motion

The defendant must make a prima facie case that the anti-SLAPP law applies to the action in question.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on a matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing prima facie case that action relates to their expression on a matter of public interest

3. Burden of Proof on Plaintiff to Defeat Motion

To defeat the motion, the plaintiff must establish that the act does not apply to the action that it commenced and establish a prima facie case for each essential element of the cause of action.

Score – 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All other proceedings between the parties – including discovery and any pending hearings or motions – are stayed on filing a motion to strike.

Score - 10

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings	All proceedings between parties are stayed

		between parties could potentially continue	
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5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

A prevailing defendant is presumptively entitled to costs. If the plaintiff defeats the motion and the court determines that the defendant’s motion was frivolous or solely intended to delay proceedings, then the court must award costs to the plaintiff.

Score - 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court is required to hear an anti-SLAPP motion within 60 days of filing, unless a later hearing is required for good cause. If a later hearing is required to allow for limited discovery, then the motion must be heard within 60 days of the court’s order allowing for discovery. There is no time limit on when the motion must be heard if the court delays the motion for a reason other than discovery.

Score - 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

A defendant who does not prevail on their anti-SLAPP motion may appeal as of right. There is no requirement that the appeal be heard on an expedited basis.

Score - 2

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

Yes

The act also includes a provision on “uniformity of application and construction,” calling for judges to apply it in a similar manner to the way that other acts based on the Uniform Law Commission’s model anti-SLAPP law has been construed.

Score - 2

0	1-2
None	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 68/79

VERMONT

Vermont has a strong ant-SLAPP law. It applies broadly to actions that are based on a defendant's exercise of the rights of free speech or petition, in connection with a public issue. The main area where Vermont's law loses points is that it does not contain a provision allowing the court to award damages to a defendant, in order to prevent a plaintiff from undertaking similar future SLAPPs.

Total Score: 66/79

1. Scope of the Law

Vermont's law applies to actions that arise in connection with a defendant's exercise, in connection with a public issue, of the right to freedom of speech or to petition the government for redress of grievances under the US or Vermont Constitution.

Exercise, in connection with a public issue, of the right to freedom of speech or petition includes written or oral statements made before a government proceeding, made in connection with an issue under consideration before a government body, made in a public place on an issue or public interest or any other statement on a public issue that furthers the exercise of the right of freedom of speech or petition.

This is a very broad scope with no exclusions.

Score – 20

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

No additional burden on defendant besides a prima facie case showing that the communication on which the action is based relates is immunized under the anti-SLAPP law.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The Court shall grant the motion unless the plaintiff shows that the defendant's exercise of his or her rights was devoid of any reasonable factual support and any arguable basis in law, and the defendant's acts caused actual injury to the plaintiff.

Showing that the communication forming the basis of the action was "devoid of any reasonable factual support" appears to set a high bar for the plaintiff to defeat the motion.

Score - 10

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All discovery stayed, pending the ruling on the special motion.

Score – 8

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The prevailing defendant is presumptively entitled to costs. If the motion is denied and the court finds that it was brought for a frivolous purpose or is intended only to cause delay, costs will be awarded against the defendant.

Score – 13

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The court shall hear the motion within 30 days, unless good cause exists for an extension. There is no final timeline in which the motion must be heard if the 30-day deadline is extended.

Score - 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

There is a right to an appeal, but no timeline specified.

Score – 2

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

None

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 66/79

VIRGINIA

Virginia has an unusual anti-SLAPP law that is relatively broad in scope but contains no procedures to protect defendants looking to bring an anti-SLAPP motion. The law applies to claims for defamation and certain other causes of action that are based on the exercise of the right to free speech on matters of public concern. The law does not stay discovery, it contains no right to an immediate appeal, there is no provision for scheduling expedited hearings, prevailing defendants are not presumptively entitled to costs, and it is not clear what burden a defendant bears in order to prevail on the motion or for a plaintiff to defeat it.

Total Score: 16/79

1. Scope of the Law

Virginia’s anti-SLAPP law immunizes from civil liability, claims for defamation, interference with a contract or business or contractual expectancy, if the claim is based solely on statements regarding matters of public concern that would be protected under the First Amendment, and were communicated to a third party or made at a public hearing before a governmental body.

While the scope is relatively broad, the law is limited to claims based only in a limited number of causes of action; There is also no specific definition of public concern (except that it must be a statement that would be protected under the First Amendment).

Score – 16

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

Not specified

0-3	4-6	7-10
Defendant must establish that action was brought in	High burden placed on defendant to adduce	Defendant files motion establishing <i>prima facie</i>

bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	evidence showing that action arose out of their expression on a matter of public interest	case that action relates to their expression on a matter of public interest
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3. Burden of proof on plaintiff to defeat motion

Not specified.

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

No

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

Not specified

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful

			defendant insulated from costs
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6. Whether there is a procedure for scheduling expedited hearings

Not specified

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

No

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

No

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 16/79

WASHINGTON

Washington has a relatively strong anti-SLAPP law. It is broad but excludes a relatively long list of types of actions from its scope, including claims based on commercial speech and actions against certain government entities. All proceedings between parties are stayed, there is a provision for scheduling expedited hearings and there is a right to an immediate appeal. A prevailing defendant is presumptively entitled to costs. A prevailing plaintiff may recover costs if the motion is found to be “not substantially justified.”

Total Score: 62/79

1. Scope of the Law

Applies to a cause of action asserted in a civil action against a person based on their communication in a governmental proceeding, communication on an issue under consideration or review by a governmental body, or exercise of the right of freedom of speech, of the press or association on a matter of public concern (public concern is not defined).

Excludes actions against a government unit or employee, by a government unit or employee, against a person for commercial speech, against a person named in a civil suit brought by a victim of crime against a perpetrator, based on common law fraud, seeking recovery for bodily injury or wrongful death unless the claim involves damage to reputation, brought under federal law, brought under the consumer protection act, and several other types of actions.

While the scope is broad, there are a large number of excluded actions (though each of the exclusions is relatively narrow and unambiguous).

Score - 15

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of “public interest” could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with “public interest” defined broadly, with an open list)

2. Burden of Proof on Defendant to Bring Motion

The defendant must make a prima facie case showing that the act applies to action.

Score - 10

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing <i>prima facie</i> case that action relates to their expression on a matter of public interest

3. Burden of proof on plaintiff to defeat motion

The motion will be granted unless the plaintiff can make a prima facie case for each essential element of the cause of action.

Requiring only a prima facie case to be shown for the elements of the claim could be interpreted as imposing a low bar on the plaintiff to defeat the motion.

Score - 7

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

All proceedings between the parties are presumptively stayed.

Score - 10

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings	All proceedings between parties are stayed

		between parties could potentially continue	
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5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

The prevailing defendant is presumptively entitled to costs, fees and reasonable litigation expenses. The plaintiff is entitled to costs if the motion was not substantially justified or was filed solely to delay.

“Not substantially justified” is somewhat ambiguous – most acts will only impose costs on defendant if the motion was frivolous.

Score - 11

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

The motion shall be heard not later than 60 days after filing, unless the court orders a later hearing to allow discovery (in which case the motion must be heard within 60 days of ordering discovery), or for other good cause.

Score – 3

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall “grant preference” in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

The defendant is entitled to appeal as of right, with the appeal being heard within 21 days after the entry of the order.

Score – 4

0	1-2	3-4
None specified	Right to an immediate appeal, but no timeline specified	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

None

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

Yes - 2

0	1-2
No	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: 62/79

Appendix A: Anti-SLAPP Law Scorecard

The scorecard used to evaluate each jurisdiction's anti-SLAPP law is presented below. It provides a rubric detailing the criteria used to award points in each category.

1. Scope of the Law

0-5	6-10	11-15	16-20
Extremely narrow scope limited to single issue; Applies only to actions brought by government entities	Applies only to speech before specified government bodies; Contains major exclusions	Broad application, but with some narrow exemptions; Definition of "public interest" could be interpreted narrowly	Broad application to all proceedings arising out of expression made on a matter of public interest or public concern (with "public interest" defined broadly, with an open list)

2. Burden of Proof on Defendant Bringing the Motion

0-3	4-6	7-10
Defendant must establish that action was brought in bad faith, in addition to showing that it arises out of their expression on a matter of public interest; Or no specific anti-SLAPP motion procedure established in act	High burden placed on defendant to adduce evidence showing that action arose out of their expression on a matter of public interest	Defendant files motion establishing prima facie case that action relates to their expression on a matter of public interest

3. Burden of Proof on Plaintiff to Defeat Motion

0-3	4-6	7-10
Statute is silent on burden placed on plaintiff; Burden is not shifted from the defendant	Burden is shifted to the plaintiff, but there is a low bar in order to defeat the motion	Burden placed on plaintiff to establish that their action has merit, and public interest weighs in favour of allowing action to proceed

4. Whether proceedings are stayed

0	1-5	6-8	9-10
No provision for staying proceedings	Separate motion required to stay proceedings	Only discovery stayed; other proceedings between parties could potentially continue	All proceedings between parties are stayed

5. Whether prevailing defendant is presumptively entitled to costs, insulated from adverse costs

0	1-5	6-10	11-15
No costs Provision	Either prevailing party is entitled to costs	Additional showing by prevailing defendant required to receive costs	Successful defendant presumptively entitled to costs; unsuccessful defendant insulated from costs

6. Whether there is a procedure for scheduling expedited hearings

0	1-2	3-4
None specified	Scheduled on an expedited basis, or court shall "grant preference" in hearing motion, without specifying timeline	Must be scheduled within a set number of days; cap on max number of days in which motion must be heard where the court docket requires additional time

7. Whether there is a right to an immediate appeal

0	1-2	3-4
None specified	Right to an immediate appeal, but does not specify that appeal be heard on an expedited basis.	Immediate appeal heard on an expedited basis (with timeline specified for maximum points)

8. Whether act contains a damages provision

0	1-3	4
None	Court can award damages of its own initiative or on demonstration of bad faith by the plaintiff	Court will presumptively award damages to defendant / will presumptively impose sanctions to deter plaintiff from bringing similar actions in future

9. Whether act contains a statutory interpretation instruction

0	1-2
None	Act contains provision stating that the anti-SLAPP law is to be read broadly or liberally

Total: /79

Appendix B: Criteria Used in Previous Evaluations of Anti-SLAPP Legislation

Below is a summary of the evaluation approach used by three previous evaluations of anti-SLAPP statutes in the United States.

Institute for Free Speech

The Institute for Free Speech evaluates Anti-SLAPP laws using six metrics and assigns each state a grade of 0-100 (0 being no law and 100 being a law that perfectly protects the broadest range of speech). The criteria are as follows:

1. Scope of protected speech (maximum score 100)

- Statutes with a broad scope of coverage (i.e., those that protect all speech related to a matter of public concern, public issue, or issue of public importance) receive the maximum score of 100 points;
- States with narrow exemptions from coverage receive 90 points;
- States that appear to provide broad coverage, but where a narrow judicial interpretation is possible (e.g., Arkansas), receive 70 points;
- States that protect matters involving only government action (e.g., speech that is “reasonably likely” to encourage government consideration or review) receive 30 points;
- Statutes that protect only very specific domains (e.g., Pennsylvania and Delaware), receive 3 points.

2. Anti-SLAPP law procedures (maximum score of 100, broken into 5 sub-categories)

(i) Suspension of Court proceedings on anti-SLAPP filing (maximum score of 20)

- Statutes that stay all proceedings receive 20;
- Statutes that only stay discovery, but not proceedings receive 18 points;
- Statutes that allow defendants to file motions that will impede discovery, but do not automatically stay discovery receive 10 points;
- Statutes that have no provisions for suspension of discovery receive 0 points.

(ii) Burden of Proof Required to Defeat an Anti-SLAPP motion (maximum score of 12)

- Statutes placing the burden of proof on the plaintiff to establish a prima facie case receive 12 points;
- Statutes that do not shift the burden of proof to the plaintiff receive 6 points;
- Statutes that place a heavy burden of proof on the defendant and impose no burden of proof on the plaintiff receive 0 points.

(iii) The right of immediate appeal (maximum score of 25)

- Statutes that provide for an immediate right of appeal receive 25 points;
- Statutes that have no right to an interlocutory appeal receive 0.

(iv) Award of Costs and Attorney Fees (maximum score of 40 points)

- States that provide for mandatory award of costs and fees to successful defendant receive 40 points;
- Where the court may award fees and costs, statutes receive 10 points;
- States with a “loser pays” rule receive 10 points;
- Jurisdictions with no provision receive 0 points.

(v) Expansive Statutory Interpretation Instruction (Maximum score of 3 points)

- Statutes that instruct judges to read the anti-SLAPP law broadly or liberally receive 3 points; those that do not receive 0.

Scoring Procedure

- The scope of protected speech is weighted as 2/3 of the overall score; Anti-SLAPP procedure is weighted as 1/3 of score; Scores are converted to percentages; percentages are converted into letter grades.

Reporters Committee for Freedom of the Press

The RCFP uses a simple evaluation system with 4 criteria:

1. Whether a state has an anti-SLAPP law
2. Whether the prevailing defendant is awarded attorney’s fees
3. Whether there is a right to an immediate appeal
4. Whether there is an automatic stay of discovery upon filing of motion

No description of the evaluation process is given, but states appear to be evaluated based on the number of criteria for which the answer is “yes.” A statute with 4 “yes” answers would receive the highest score, while a statute with only one “yes” would receive a low score.

The RCFP also provides a subjective evaluation of each statute, providing a narrative in which it is described as “strong,” “narrow,” “broad,” “weak,” etc.

Public Participation Project

The Public Participation Project uses the scores assigned to each statute by the Institute for Free Speech, then categorizes statutes as “excellent,” “Good,” “Adequate,” “Weak,” or no law.