

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2722

(Reference to printed bill)

1 Page 1, line 7, strike "definition" insert "definitions"

2 Line 9, after "SPEECH" insert ", THE RIGHT TO FREELY ASSOCIATE"

3 Line 10, strike "the" insert "A"

4 Line 11, after "party" insert "OTHER THAN A STATE ACTOR OR INTERVENOR"

5 Strike lines 16 through 29, insert:

6 "B. The court shall grant the motion unless ~~the party against whom~~  
7 ~~the motion is made shows that the moving party's exercise of the right of~~  
8 ~~petition did not contain any reasonable factual support or any arguable~~  
9 ~~basis in law and that the moving party's acts caused actual compensable~~  
10 ~~injury to the responding party.~~ ONE OF THE FOLLOWING APPLIES:

11 1. IF THE MOTION IS FILED AGAINST A STATE ACTOR THAT INITIATED THE  
12 UNDERLYING PROCEEDING, THE STATE ACTOR SHOWS BY A PREPONDERANCE OF EVIDENCE  
13 THAT THE DISPUTED LEGAL ACTION ARISES OUT OF A VIOLATION OF CLEARLY  
14 ESTABLISHED LAW AND BY CLEAR AND CONVINCING EVIDENCE THAT STATE ACTOR DID  
15 NOT ACT IN ORDER TO DETER, PREVENT OR RETALIATE AGAINST THE EXERCISE OF  
16 CONSTITUTIONAL RIGHTS.

17 2. IF THE MOTION IS FILED AGAINST A STATE ACTOR THAT DID NOT  
18 INITIATE THE UNDERLYING PROCEEDING, THE STATE ACTOR SHOWS THAT THE DISPUTED  
19 LEGAL ACTION IS JUSTIFIED BY EXISTING PRECEDENTS OR ANY REASONABLE ARGUMENT  
20 FOR EXTENDING OR MODIFYING EXISTING LAW AND BY CLEAR AND CONVINCING  
21 EVIDENCE THAT THE STATE ACTOR DID NOT ACT IN ORDER TO DETER, PREVENT OR  
22 RETALIATE AGAINST THE EXERCISE OF CONSTITUTIONAL RIGHTS.

23 3. IF THE MOTION IS NOT FILED AGAINST A STATE ACTOR, THE PARTY  
24 AGAINST WHOM THE MOTION IS FILED SHOWS THAT THE DISPUTED LEGAL ACTION IS  
25 JUSTIFIED BY EXISTING PRECEDENTS OR ANY REASONABLE ARGUMENT FOR EXTENDING  
26 OR MODIFYING EXISTING LAW.

27 C. In making its determination, the court shall consider the  
28 pleadings and supporting and opposing affidavits stating facts on which the

1 liability, ~~or~~ defense OR ACTION is based. ~~At the request of the moving~~  
2 ~~party, the court shall make findings whether the lawsuit was brought to~~  
3 ~~deter or prevent the moving party from exercising constitutional rights and~~  
4 ~~is thereby brought for an improper purpose, including to harass or to cause~~  
5 ~~unnecessary delay or needless increase in the cost of litigation.~~ If the  
6 court finds that the"

7 Reletter to conform

8 Page 2, strike lines 24 through 28, insert:

9 "I. FOR THE PURPOSES OF THIS SECTION:

10 1. "LEGAL ACTION":

11 (a) MEANS ANY CIVIL ACTION, CLAIM, CROSS-CLAIM OR COUNTERCLAIM, ANY  
12 CRIMINAL PROSECUTION, ANY WRITTEN INVESTIGATIVE DEMAND PURSUANT TO SECTION  
13 38-431.06 OR OTHER COMPULSORY LEGAL PROCESS OR ANY REGULATORY OR  
14 ADMINISTRATIVE ACTION BY THIS STATE OR ANY AGENCY OR POLITICAL SUBDIVISION  
15 OF THIS STATE.

16 (b) DOES NOT INCLUDE EITHER OF THE FOLLOWING:

17 (i) IF INITIATED BY A PRIVATE PARTY, AN ACTION THAT ONLY ASSERTS A  
18 CLAIM FOR NOMINAL DAMAGES.

19 (ii) A MOTION FILED PURSUANT TO SUBSECTION A OF THIS SECTION.

20 2. "STATE ACTOR" MEANS THIS STATE, AND ANY COUNTY, CITY, TOWN OR  
21 POLITICAL SUBDIVISION OF THIS STATE."

22 Amend title to conform

NEAL CARTER

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~~02/14/2022~~  
~~03:44 PM~~  
~~C: SP~~

2722CARTER  
02/15/2022  
11:02 AM  
H: LC/l's