

By: Lozano

H.B. No. 3811

A BILL TO BE ENTITLED

AN ACT

relating to actions involving the exercise of certain constitutional rights.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 27.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 27.001. DEFINITIONS. In this chapter:

(1) "Communication" means publicly ~~[includes the]~~ making or submitting ~~[of]~~ a statement or document in any form or medium, including oral, visual, written, audiovisual, or electronic. The term does not include a statement or document that is made or submitted privately, regardless of form.

(2) "Exercise of the constitutional right to petition, to speak freely, or to associate freely" ~~[of association]~~ means the exercise of any of those rights as they are provided by the constitutions of this state and the United States and applied by the courts of this state and the United States ~~[a communication between individuals who join together to collectively express, promote, pursue, or defend common interests]~~.

(3) ~~["Exercise of the right of free speech" means a communication made in connection with a matter of public concern.~~

~~[(4) "Exercise of the right to petition" means any of the following:~~

~~[(A) a communication in or pertaining to:~~

- 1                   ~~[(i) a judicial proceeding,~~  
2                   ~~[(ii) an official proceeding, other than a~~  
3 ~~judicial proceeding, to administer the law,~~  
4                   ~~[(iii) an executive or other proceeding~~  
5 ~~before a department of the state or federal government or a~~  
6 ~~subdivision of the state or federal government,~~  
7                   ~~[(iv) a legislative proceeding, including a~~  
8 ~~proceeding of a legislative committee,~~  
9                   ~~[(v) a proceeding before an entity that~~  
10 ~~requires by rule that public notice be given before proceedings of~~  
11 ~~that entity,~~  
12                   ~~[(vi) a proceeding in or before a managing~~  
13 ~~board of an educational or eleemosynary institution supported~~  
14 ~~directly or indirectly from public revenue,~~  
15                   ~~[(vii) a proceeding of the governing body~~  
16 ~~of any political subdivision of this state,~~  
17                   ~~[(viii) a report of or debate and~~  
18 ~~statements made in a proceeding described by Subparagraph (iii),~~  
19 ~~(iv), (v), (vi), or (vii), or~~  
20                   ~~[(ix) a public meeting dealing with a~~  
21 ~~public purpose, including statements and discussions at the meeting~~  
22 ~~or other matters of public concern occurring at the meeting,~~  
23                   ~~[(B) a communication in connection with an issue~~  
24 ~~under consideration or review by a legislative, executive,~~  
25 ~~judicial, or other governmental body or in another governmental or~~  
26 ~~official proceeding,~~  
27                   ~~[(C) a communication that is reasonably likely to~~

1 ~~encourage consideration or review of an issue by a legislative,~~  
2 ~~executive, judicial, or other governmental body or in another~~  
3 ~~governmental or official proceeding;~~

4 ~~[(D) a communication reasonably likely to enlist~~  
5 ~~public participation in an effort to effect consideration of an~~  
6 ~~issue by a legislative, executive, judicial, or other governmental~~  
7 ~~body or in another governmental or official proceeding; and~~

8 ~~[(E) any other communication that falls within~~  
9 ~~the protection of the right to petition government under the~~  
10 ~~Constitution of the United States or the constitution of this~~  
11 ~~state.~~

12 ~~[(5)]~~ "Governmental proceeding" means a proceeding,  
13 other than a judicial proceeding, by an officer, official, or body  
14 of this state or a political subdivision of this state, including a  
15 board or commission, or by an officer, official, or body of the  
16 federal government.

17 (4) ~~[(6)]~~ "Legal action" means a lawsuit, cause of  
18 action, petition, complaint, cross-claim, or counterclaim or any  
19 other judicial pleading or filing that requests substantive relief,  
20 whether legal or equitable [relief]. The term does not include:

21 (A) a motion or action related to discovery made  
22 or taken pursuant to the Texas Rules of Civil Procedure, including a  
23 motion to compel or an objection to discovery, a motion seeking a  
24 protective order related to discovery, and the issuance of a  
25 subpoena;

26 (B) a motion for summary judgment;

27 (C) a motion to dismiss a motion to dismiss under

1 this chapter; or

2 (D) any other type of procedural action taken  
3 during the course of a legal action.

4 ~~[(7) "Matter of public concern" includes an issue~~  
5 ~~related to:~~

6 ~~[(A) health or safety;~~

7 ~~[(B) environmental, economic, or community~~  
8 ~~well-being;~~

9 ~~[(C) the government;~~

10 ~~[(D) a public official or public figure; or~~

11 ~~[(E) a good, product, or service in the~~  
12 ~~marketplace.~~

13 ~~[(8) "Official proceeding" means any type of~~  
14 ~~administrative, executive, legislative, or judicial proceeding~~  
15 ~~that may be conducted before a public servant.~~

16 ~~[(9) "Public servant" means a person elected,~~  
17 ~~selected, appointed, employed, or otherwise designated as one of~~  
18 ~~the following, even if the person has not yet qualified for office~~  
19 ~~or assumed the person's duties:~~

20 ~~[(A) an officer, employee, or agent of~~  
21 ~~government;~~

22 ~~[(B) a juror;~~

23 ~~[(C) an arbitrator, referee, or other person who~~  
24 ~~is authorized by law or private written agreement to hear or~~  
25 ~~determine a cause or controversy;~~

26 ~~[(D) an attorney or notary public when~~  
27 ~~participating in the performance of a governmental function; or~~

1                    [~~(E) a person who is performing a governmental~~  
2 ~~function under a claim of right but is not legally qualified to do~~  
3 ~~so.~~]

4            SECTION 2. Section 27.003(a), Civil Practice and Remedies  
5 Code, is amended to read as follows:

6            (a) If a legal action is based on, relates to, or is in  
7 response to a party's participation in the government by the  
8 exercise of the constitutional right [~~of free speech, right~~] to  
9 petition, to speak freely, or to associate freely [~~right of~~  
10 ~~association~~], that party may file a motion to dismiss the legal  
11 action.

12           SECTION 3. Section 27.005(b), Civil Practice and Remedies  
13 Code, is amended to read as follows:

14           (b) Except as provided by Subsection (c), on the motion of a  
15 party under Section 27.003, a court shall dismiss a legal action  
16 against the moving party if the moving party shows by a  
17 preponderance of the evidence that the legal action is based on,  
18 relates to, or is in response to the party's exercise of the  
19 constitutional right to petition, to speak freely, or to associate  
20 freely[+

21                    [~~(1) the right of free speech,~~

22                    [~~(2) the right to petition, or~~

23                    [~~(3) the right of association~~].

24           SECTION 4. The change in law made by this Act applies only  
25 to a legal action filed on or after the effective date of this Act. A  
26 legal action filed before the effective date of this Act is governed  
27 by the law in effect immediately before that date, and that law is

1 continued in effect for that purpose.

2 SECTION 5. This Act takes effect September 1, 2017.