



Opposition Statement HB308
Courts – Civil Actions – Strategic Lawsuits Against Public Participation
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We Respectfully Oppose HB308

On behalf of our chapters and members across the state, we strongly object to HB308. The bill, as written would restrict free speech and deny legal remedy in conflict with the purpose of the original statute, which was enacted to *prevent* Strategic Lawsuits Against Public Participation or “SLAPP” suits. **Instead this bill will *enable* SLAPP suits and restrict the exercise of free speech in Maryland.**

The bill as written would amend the statute, and confuse the public purpose by imposing a subjective set of criteria to deny individuals and organizations legal remedy against SLAPP suits. The language would substitute free speech with personal or political value judgments. What may or may not be “in the public interest” or what may or may not “confer a significant benefit”, is not a settled matter of law but a matter for debate. Contrary to prior testimony of bill proponents, application of this bill would not be limited to consumer or trade practices.

The bill also would undermine the judicial requirement of **standing**, by allowing legal actions on behalf of the general population or some subset of the population otherwise loosely defined.

We specifically object to the following proposed language:

(C)A LAWSUIT IS NOT A SLAPP SUIT IF:(1) THE LAWSUIT IS BROUGHT IN THE PUBLIC INTEREST OR ON BEHALF OF THE GENERAL PUBLIC AND EACH OF THE FOLLOWING CONDITIONS EXISTS:(I) EXCEPT FOR CLAIMS FOR ATTORNEY’S FEES, COSTS, OR PENALTIES,THE PLAINTIFF DOES NOT SEEK ANY RELIEF GREATER THAN OR DIFFERENT FROM THE RELIEF SOUGHT FOR THE GENERAL PUBLIC OR A CLASS OF WHICH THE PLAINTIFF IS A MEMBER;
(II)THE LAWSUIT, IF SUCCESSFUL, WOULD ENFORCE AN IMPORTANT RIGHT AFFECTING THE PUBLIC INTEREST AND WOULD CONFER A SIGNIFICANT BENEFIT, PECUNIARY OR NONPECUNIARY, TO THE GENERAL PUBLIC OR A LARGE CLASS OF PERSONS; AND (III) PRIVATE ENFORCEMENT IS NECESSARY AND PLACES A DISPROPORTIONATE FINANCIAL BURDEN ON THE PLAINTIFF IN RELATION TO THE PLAINTIFF’S STAKE IN THE MATTER.

In conflict with federal court precedent, this bill attempts to authorize frivolous and costly suits that will likely **target pro-life speech which has been under attack as commercial speech** in Maryland. In *Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Baltimore, 879 F.3d 101 (4th Cir. 2018)*, the City of Baltimore acting on behalf of abortion advocates, attempted unsuccessfully to put pro-life pregnancy centers out of business by enacting a targeted ordinance against **commercial** speech as "deceptive advertising".

The federal appeals court for the 4th Circuit affirmed the lower court’s decision in favor of the pro-life pregnancy center, noting that *“the City has considerable latitude in regulating public health and deceptive advertising. But Baltimore’s chosen means here are too loose a fit with those ends, and in*

this case compel a politically and religiously motivated group to convey a message fundamentally at odds with its core beliefs and mission.” The City also failed to establish that the pro-life pregnancy center was engaged in commercial or professional speech, which required the Court to apply higher scrutiny against the government action. Without proving the inefficacy of less restrictive alternatives, providing concrete evidence of deception, or more precisely targeting its regulation, the City was not able to prevail.

The Maryland General Assembly enacted the underlying statute to defend the exercise of free speech against Strategic Lawsuits Against Public Participation. We respectfully urge you to protect that right and the integrity of this Assembly, by rejecting House Bill 308 and its broad expansion of SLAPP suits.

Respectfully Submitted,

Laura Bogley, JD

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