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TESTIMONY OF SENATOR SHELLY HETTLEMAN
SB 619 COURTS – STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION

A SLAPP suit, which stands for Strategic Lawsuit Against Public Participation, is a meritless lawsuit intended to shut down free speech. SLAPP suits are often filed as defamation suits but can also be disguised as anything from breach of contract to an interference with some economic benefit. They require broad discovery and seek crippling damages.

SB 619 clarifies that our anti-SLAPP statute extends to speech beyond just before governmental entities to include online reviews and bloggers, letters to the editor, and other venues commonly used by community members to share thoughts and ideas and to assist the community in choosing goods and services in the marketplace. (Section (A)(3))

The bill makes three very important improvements to our current anti-SLAPP statute:

- 1) It eliminates the requirement that a plaintiff demonstrate “bad faith” in bringing forth the suit. This was a unique provision in our law that proved difficult and costly, requiring extensive discovery and now earns our SLAPP law a “D” by the Public Participation Project. The current bill requires focus on a meritorious complaint. (Section (A)(3) and (E)(2))
- 2) It enables attorneys’ fees to be shifted, which creates a deterrent to a deep-pocketed plaintiff. (Section (E)(4))
- 3) It requires courts to act promptly and hold discovery until there are expeditious rulings. (Section (E)(1) & (2))

It’s important to note that none of these changes to current law would serve as a chilling effect to legitimate lawsuits. Expedited procedures would weed out meritless claims efficiently. By requiring courts to act promptly and rule expeditiously, and by removing the “bad faith” requirement, defendants avoid costly discovery and other pre-trial preparation, and SLAPP plaintiffs are stopped from wasting our courts’ resources. Additionally, if it turns out that the anti-SLAPP motion is not granted and that the motion was intended to waste time, costs are awarded to the plaintiff.

This year’s bill makes explicit that communication to a government official is covered (Section (A)(3)(4)). Another clarifying section ensures that certain commercial speech does not qualify under the SLAPP statute enabling appropriate product liability and deceptive trade suits to remain outside the SLAPP scope.

So far, at least 31 other states and D.C. have passed strong anti-SLAPP laws to preserve the right to speak freely. By passing SB 619, Maryland would enter the mainstream of being a First Amendment champion in our nation. This is not a partisan issue. It’s a Maryland issue. It’s an American issue.

I urge a favorable report on SB 619, and I thank you for your consideration.