



Maryland | Delaware | DC Press Association

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To: Judicial Proceedings Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

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Re: **SB 619 - FAVORABLE**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Maryland Gazette to publications such as The Daily Record, Baltimore Jewish Times, and online-only publications such as MarylandReporter.com and Baltimore Brew.

The Press Association is pleased to support Senate Bill 619, which would strengthen Maryland's anti-SLAPP law by removing Maryland's unusual "bad faith" provision, clarifying the definition of a SLAPP suit and dismissal proceedings, and shifting of attorneys' fees. We feel this legislation respects and maintains the difficult balance of protecting citizens' free speech while avoiding overly punitive measures so as not to deter the filing of valid lawsuits and ensure every deserving party gets their day in court.

Maryland's anti-SLAPP law is at risk of falling into disuse and irrelevance unless it is reformed.

We need to ensure that Maryland – which historically has been a pioneer on free-speech issues – has a functioning anti-SLAPP law that at least meets the average standard of the 30 or so such laws in the United States. SB 619 would accomplish that. Substantially, the same bill passed the House by decisive majorities in 2021, 2022 and the current session.

SLAPPs stifle public debate, threaten news reporting and diminish civic engagement – principles fundamental to our democracy. This is especially important to members of the press because informing and engaging the public can leave publications vulnerable to frivolous lawsuits. As businesses, our members cannot absorb large litigation costs. Legal challenges can present a significant burden for news organizations, both financially, in the form of legal fees, and because responding to often-frivolous challenges can be a time-consuming distraction for editors, reporters, photographers and managers. That burden, in both money and time, diminishes our members' ability to cover the communities they serve.



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central to a strong and open society.**

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They also pose burdens for individuals. For instance, in 2021, residents of the Clipper Mill development in Baltimore were hit with a \$25 million lawsuit by developer ValStone for opposing additional housing units within the condo development. Larry Jennings, ValStone's co-founder and senior managing director, called the five residents and two community associations named in the suit "obstructionists." In December, the Court of Special Appeals affirmed the lower court's decision in favor of the condo residents. Although the decision was favorable to the residents in this instance, it does not obviate the need to eliminate the obligation to demonstrate bad faith, which is an almost impossibly high bar. Many SLAPP lawsuits occur over development, with deep pocketed investors filing suit against individuals and homeowner associations.

Within our membership, SLAPP suits also take a toll. The Frederick News-Post, although fortunate in recent years to avoid the kind of drawn-out cases that can cost hundreds of thousands in legal fees, still has spent up to \$45,000 a year responding to legal challenges, typically cases of alleged defamation. In some, there may be legitimate questions of law at stake. Most, however, are frivolous, like the time the local restaurant sued them because that quoted a police report that used the restaurant's name in describing the location of a shooting. Getting that dismissed cost about \$7,500.

That is money that is not spent on reporting staff or on other investments to support their journalistic mission. For many news organizations, an expense like that could have a chilling effect on their willingness to report certain stories.

For instance, Carroll County Times and reporter Brett Lake were defendants in a 2012 suit that claimed then-reporter Lake defamed the Chief Deputy State's Attorney Daggett in a series of articles that were fairly reported and substantiated by PIA requests and witness testimony. Under the existing anti-SLAPP law, Landmark Communications, the then-owner of the Carroll County Times, moved for summary judgement. Daggett appealed and the case dragged on for another three years, resolving in favor of the Carroll County Times in 2015. This suit placed a considerable burden on the publication and cost it hundreds of thousands of dollars in legal fees. This lawsuit could have been prevented with the appeals process contemplated in this bill.

For some of our members, one SLAPP suit could mean financial ruin. Many of our members are small business owners who have put everything they own into their publication because they believe in the importance of covering their local community. Susan Lyons, a long-time publisher of Coastal Point, is one of those members. Her weekly publication covers nine small communities and sometimes their reporter is the only person sitting in a small-town planning and zoning meeting. Coastal Point reports what happened so neighbors know that a gas station is being built on the property next door to them, that parking fees are going up, that the school is having overpopulation problems, that drug addicts are breaking into cars and garages in their neighborhood. Things that they need to know that no one else is going to tell them. Not radio, not TV, not even daily papers. Community news is the glue that binds non-profits, businesses, schools, local government and families together in an area. Susan believes a SLAPP suit would devastate her business and publication. Defending a suit and spending thousands of dollars on litigation - even if she knew she was in the right - is something to think long and hard about. She says:

"I would have to take out loans (if I could even get them for something like this) and would have years of stress and worry that I might somehow lose. Would it be worth putting everything that I have worked so hard for on the line? It is my home, my reputation, my income, my family, my employees that depend on me that I am putting on the line. I can see where a small business could say that it is not worth the fight and just back off. Too much is at stake. **It is not right that whoever has the deepest pockets gets what they want even if it is not in the best interest of the community.**"

Any journalistic organization that does its job will occasionally discomfort the subjects of its reporting. When there is harm and a real cause for action, there should be recourse. We support the proposed changes to Maryland's anti-SLAPP legislation as an important rebalancing that makes it harder to silence journalists. SB 619 is a rare proposal in that it benefits everyone who speaks or publishes on matters of public concern: individuals and organizations, long-established institutions and fast-growing startups, for-profits and nonprofits, conservatives and liberals, the bipartisan and the nonpartisan and the apolitical alike. And most importantly, it benefits the public by protecting the "freedom of expression upon public questions" necessary "to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people." (*New York Times v. Sullivan*, 376 U.S. 254, 269 (1964) (quoting *Roth v. United States*, 354 U.S. 476, 484 (1957))).

We urge a favorable report.