HOUSE BILL 532

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By: Delegates Rosenberg, Harkins, Fry, Jacobs, McIntosh, Perry, Preis, Bonsack, Bobo, and Dembrow
Introduced and read first time: January 31, 1996
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2   **Qualified Immunity from Civil Liability - SLAPP Suits**

3 FOR the purpose of granting qualified immunity from civil liability to a defendant in a
4   strategic lawsuit against public participation (SLAPP suit) who, when
5   communicating with a government body or the public at large, in goodfaith,
6   exercises rights under the First Amendment of the U.S. Constitution or Article 10,
7   13, or 40 of the Maryland Declaration of Rights regarding certain matters;
8   describing certain elements of a SLAPP suit; allowing a defendant tomove to
9   dismiss the alleged SLAPP suit and requiring the court to hold a hearing on the
10   motion as soon as practicable; allowing a defendant to file a motionto stay all court
11   proceedings until the underlying matter about which the defendant communicated
12   is resolved; making this Act applicable to SLAPP suits notwithstanding any other
13   law or rule; providing that this Act does not diminish any equitableor legal right or
14   remedy otherwise available to a defendant; defining a certain term; providing for
15   the application of this Act; and generally relating to strategic lawsuits against public
16   participation (SLAPP suits) and immunity from civil liability in those lawsuits.

17 BY adding to
18   Article - Courts and Judicial Proceedings
19   Section 5-399.7
20   Annotated Code of Maryland
21   (1995 Replacement Volume and 1995 Supplement)

22   SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24   **Article - Courts and Judicial Proceedings**

25 5-399.7.

26   (A) IN THIS SECTION, "SLAPP SUIT" MEANS A STRATEGIC LAWSUIT AGAINST
27 PUBLIC PARTICIPATION.

28   (B) A LAWSUIT IS A SLAPP SUIT IF IT IS:

29   (1) BROUGHT IN BAD FAITH AGAINST A PARTY WHO HAS
30 COMMUNICATED WITH A FEDERAL, STATE, OR LOCAL GOVERNMENT BODY OR THE

1 PUBLIC AT LARGE TO REPORT ON, COMMENT ON, RULE ON, CHALLENGE, OPPOSE,
2 OR IN ANY OTHER WAY EXERCISE RIGHTS UNDER THE FIRST AMENDMENT OF THE
3 U.S. CONSTITUTION OR ARTICLE 10, 13, OR 40 OF THE MARYLAND DECLARATION OF
4 RIGHTS REGARDING ANY MATTER WITHIN THE AUTHORITY OF THE GOVERNMENT
5 BODY;

6   (2) MATERIALLY RELATED TO THE DEFENDANT'S COMMUNICATION;
7 AND

8   (3) INTENDED TO INHIBIT THE EXERCISE OF RIGHTS UNDER THE FIRST
9 AMENDMENT OF THE U.S. CONSTITUTION OR ARTICLE 10, 13, OR 40 OF THE
10 MARYLAND DECLARATION OF RIGHTS.

11   (C) A DEFENDANT IN A SLAPP SUIT IS NOT CIVILLY LIABLE FOR
12 COMMUNICATING WITH A FEDERAL, STATE, OR LOCAL GOVERNMENT BODY OR THE
13 PUBLIC AT LARGE, IF THE DEFENDANT, IN GOOD FAITH, REPORTS ON, COMMENTS
14 ON, RULES ON, CHALLENGES, OPPOSES, OR IN ANY OTHER WAY EXERCISES RIGHTS
15 UNDER THE FIRST AMENDMENT OF THE U.S. CONSTITUTION OR ARTICLE 10, 13, OR 40
16 OF THE MARYLAND DECLARATION OF RIGHTS REGARDING ANY MATTER WITHIN
17 THE AUTHORITY OF A GOVERNMENT BODY.

18   (D) IN ADDITION TO FILING A COUNTERCLAIM, A DEFENDANT IN AN
19 ALLEGED SLAPP SUIT MAY:

20   (1) MOVE TO DISMISS THE ALLEGED SLAPP SUIT, IN WHICH CASE THE
21 COURT SHALL HOLD A HEARING ON THE MOTION TO DISMISS AS SOON AS
22 PRACTICABLE; OR

23   (2) FILE A MOTION TO STAY ALL COURT PROCEEDINGS UNTIL THE
24 MATTER ABOUT WHICH THE DEFENDANT COMMUNICATED TO THE GOVERNMENT
25 BODY OR THE PUBLIC AT LARGE IS RESOLVED.

26   (E) THIS SECTION:

27   (1) IS APPLICABLE TO SLAPP SUITS NOTWITHSTANDING ANY OTHER
28 LAW OR RULE; AND

29   (2) DOES NOT DIMINISH ANY EQUITABLE OR LEGAL RIGHT OR REMEDY
30 OTHERWISE AVAILABLE TO A DEFENDANT IN A SLAPP SUIT.

31   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
32 construed only prospectively and may not be applied or interpreted to have any effect on
33 or application to any cause of action arising before the effective dateof this Act.

34   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
35 effect October 1, 1996.