

HOUSE BILL 12

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HB 134/97 - JUD

1998 Regular Session
8lr0072
CF 8lr2042

(PRE-FILED)

By: **Delegates Rosenberg, Harkins, Jacobs, McIntosh, Perry, Preis,
Bonsack, Bobo, Pitkin, and Dembrow**

Requested: July 14, 1997

Introduced and read first time: January 14, 1998

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 10, 1998

CHAPTER _____

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

19 BY adding to
20 Article - Courts and Judicial Proceedings
21 Section 5-806
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1997 Supplement)

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

3 **Article - Courts and Judicial Proceedings**

4 5-806.

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

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

8 (1) BROUGHT IN BAD FAITH AGAINST A PARTY WHO HAS
9 COMMUNICATED WITH A FEDERAL, STATE, OR LOCAL GOVERNMENT BODY OR THE
10 PUBLIC AT LARGE TO REPORT ON, COMMENT ON, RULE ON, CHALLENGE, OPPOSE, OR
11 IN ANY OTHER WAY EXERCISE RIGHTS UNDER THE FIRST AMENDMENT OF THE U.S.
12 CONSTITUTION OR ARTICLE 10, 13, OR 40 OF THE MARYLAND DECLARATION OF
13 RIGHTS REGARDING ANY MATTER WITHIN THE AUTHORITY OF A GOVERNMENT
14 BODY;

15 (2) MATERIALLY RELATED TO THE DEFENDANT'S COMMUNICATION;
16 AND

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

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

27 (D) IN ADDITION TO FILING A COUNTERCLAIM, A DEFENDANT IN AN ALLEGED
28 SLAPP SUIT MAY MOVE TO:

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

31 (2) STAY ALL COURT PROCEEDINGS UNTIL THE MATTER ABOUT WHICH
32 THE DEFENDANT COMMUNICATED TO THE GOVERNMENT BODY OR THE PUBLIC AT
33 LARGE IS RESOLVED.

34 (E) THIS SECTION:

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

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

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

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect October 1, 1998.