By: **Senator Collins**
Introduced and read first time: February 6, 1998
Assigned to: Judicial Proceedings

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
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)

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

26   **Article - Courts and Judicial Proceedings**

27 5-806.

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

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

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

9   (2)   MATERIALLY RELATED TO THE DEFENDANT'S COMMUNICATION;
10 AND

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

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

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

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

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

28   (E)   THIS SECTION:

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

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

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

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