
By: **Delegates Rosenberg, McIntosh, Bobo, Pitkin, and Dembrow**
Introduced and read first time: February 10, 1999
Assigned to: Judiciary

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

19 BY adding to
20 Article - Courts and Judicial Proceedings
21 Section 5-806
22 Annotated Code of Maryland
23 (1998 Replacement Volume)

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, ARTICLE 13, OR ARTICLE 40 OF THE MARYLAND
7 DECLARATION OF RIGHTS REGARDING ANY MATTER WITHIN THE AUTHORITY OF A
8 GOVERNMENT 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, ARTICLE 13, OR ARTICLE 40
13 OF THE 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, ARTICLE
19 13, OR ARTICLE 40 OF THE MARYLAND DECLARATION OF RIGHTS REGARDING ANY
20 MATTER WITHIN THE 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, 1999.