

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 113
Judiciary

(Delegate Rosenberg, *et al.*)

Judicial Proceedings

Qualified Immunity from Civil Liability - SLAPP Suits

This bill establishes that a lawsuit is a “strategic lawsuit against public participation” (SLAPP suit) if it is: (1) brought in bad faith against a party who has exercised specified federal or State constitutional rights of free speech in communicating with a government body or the public at large; (2) materially related to the defendant’s communication; and (3) intended to inhibit the exercise of free speech rights. The bill provides immunity from civil liability to a defendant in a SLAPP suit who acts in good faith in exercising rights protected by the first amendment of the U.S. Constitution, and Articles 10, 13, and 40 of the Maryland Declaration of Rights. A defendant may move to dismiss a SLAPP suit, or move to stay all court proceedings until the matter about which the defendant communicated to the government body or the public at large is resolved.

The bill applies only to cases filed on or after the October 1, 2003 effective date.

Fiscal Summary

State Effect: None. Any effect on the Judiciary’s caseload is expected to be negligible.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: There are no statutory provisions specifically relating to SLAPP suits. The First Amendment to the U.S. Constitution guarantees the rights of free speech and free press, the right to peaceably assemble, and the right to petition the government for a

redress of grievances. Article 10 of the Maryland Declaration of Rights, which protects the right of legislators to free speech and debate in the legislature, is the State counterpart of Article I, section 6, clause 1 of the U.S. Constitution. Article 13 of the Maryland Declaration of Rights guarantees citizens the right to petition the legislature for redress of grievances, and Article 40 guarantees the rights of free speech and free press.

Background: SLAPP suit laws protect individuals and groups, many with few assets, from defending costly legal challenges to their lawful exercise of such constitutionally protected rights as free speech, assembly, and the right to petition the government. Covered activities may include writing letters to the editor, circulating petitions, organizing and conducting peaceful protests, reporting unlawful activities, speaking at public meetings, and similar actions.

Plaintiffs in these lawsuits, who typically have far greater resources than defendants, may allege a number of legal wrongs. The more common causes of action include defamation, invasion of privacy, intentional infliction of emotional distress, interference with contract or economic advantage, and abuse of process. Their goal is often not to win the case, but rather to cause the defendants to devote such significant resources to defending it that they are unable to continue the challenged activities.

Approximately 20 states have enacted SLAPP suit laws. There are judicial precedents in other states that accomplish this same result.

Additional Information

Prior Introductions: HB 481 of 1999, HB 12 of 1998, HB 134 of 1997, HB 532 of 1996, and HB 142 of 1995 all passed the House. HB 481, HB 134, and HB 532 received hearings before the Senate Judicial Proceedings Committee. Other than those hearings, no further action was taken on any of these bills.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Attorney General, Department of Legislative Services

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