
By: **Senator Green**

Introduced and read first time: February 6, 2004

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, without
6 constitutional malice, exercises rights under the First Amendment of the U.S.
7 Constitution or certain articles 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 move to dismiss the alleged SLAPP suit and
10 requiring the court to hold a hearing on the motion as soon as practicable;
11 allowing a defendant to file a motion to stay all court proceedings until the
12 underlying matter about which the defendant communicated is resolved;
13 making this Act applicable to SLAPP suits notwithstanding any other law or
14 rule; providing that this Act does not diminish any equitable or legal right or
15 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 5-807
22 Annotated Code of Maryland
23 (2002 Replacement Volume and 2003 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 5-807.

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, WITHOUT CONSTITUTIONAL MALICE,
17 REPORTS ON, COMMENTS ON, RULES ON, CHALLENGES, OPPOSES, OR IN ANY OTHER
18 WAY EXERCISES RIGHTS UNDER THE FIRST AMENDMENT OF THE U.S. CONSTITUTION
19 OR ARTICLE 10, ARTICLE 13, OR ARTICLE 40 OF THE MARYLAND DECLARATION OF
20 RIGHTS REGARDING ANY MATTER WITHIN THE AUTHORITY OF A GOVERNMENT
21 BODY.

22 (D) A DEFENDANT IN AN ALLEGED 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 to apply only prospectively and may not be applied or interpreted to have
35 any effect on or application to any cause of action arising before the effective date of
36 this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect October 1, 2004.