

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 990

(Senator Forehand, *et al.*)

Judicial Proceedings

Judiciary

Courts and Judicial Proceedings - Strategic Lawsuits Against Public Participation

This bill changes the statute pertaining to strategic lawsuits against public participation (SLAPP suits). The bill expands the definition of a SLAPP suit to include (1) a suit that inhibits the exercise of federal or State constitutional rights of free speech (rather than the current limited application of SLAPP status to suits in which there is an intent to inhibit those rights); and (2) a suit based on communications regarding any issue of public concern.

The bill applies prospectively to causes of action arising on or after the bill's October 1, 2010 effective date.

Fiscal Summary

State Effect: None. The bill's requirements can be handled with existing State resources.

Local Effect: None. The bill's requirements can be handled with existing local resources.

Small Business Effect: None.

Analysis

Current Law: A lawsuit is a 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 regarding any matter within the authority of the government body; (2) materially related to the defendant's communication; and (3) intended to inhibit the exercise of free speech rights.

A defendant in a SLAPP suit is not civilly liable for communicating with a government body or the public at large if the defendant acts without constitutional malice in exercising rights protected by federal or State constitutional rights of free speech.

A defendant in an alleged SLAPP suit may move to dismiss the 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.

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.

Additional Information

Prior Introductions: None.

Cross File: HB 1250 (Delegate Hucker, *et al.*) - Judiciary.

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

Fiscal Note History: First Reader - March 16, 2010
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