

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 263
Judiciary

(Delegate Rosenberg)

Judicial Proceedings

Civil Actions - Strategic Lawsuits Against Public Participation

This bill (1) redefines a strategic lawsuit against public participation (SLAPP suit) under § 5-807 of the Courts and Judicial Proceedings Article and (2) alters the conditions under which a defendant in a SLAPP suit is not civilly liable for certain communications.

The bill applies prospectively to causes of action arising on or after October 1, 2016.

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

Bill Summary: A lawsuit is a SLAPP suit if it is brought in bad faith against a person based on an act of the person or to prevent the person from making a statement in furtherance of the person's right of petition or free speech under the U.S. Constitution, Maryland Constitution, or Maryland Declaration of Rights in connection with a public issue or an issue of public interest including (1) a written or oral statement made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law; (2) a written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law; or (3) a written or oral statement made in a place open to the public or a public forum in connection with an issue of public interest.

A defendant in a SLAPP suit is not civilly liable for communicating with a federal, State, or local government body or the public at large, if the defendant, without constitutional malice, acted in furtherance of the person's right of petition or free speech under the U.S. Constitution, Maryland Constitution, or Maryland Declaration of Rights regarding any matter within the authority of a government body or any public issue or issue of public interest.

A party may appeal from a ruling or failure to rule on a motion to dismiss an alleged SLAPP suit under § 5-807 of the Courts and Judicial Proceedings Article.

Current Law: A lawsuit is a SLAPP suit if it (1) is 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 or any issue of public concern; (2) is materially related to the defendant's communication; and (3) inhibits or is intended to inhibit the exercise of federal or State constitutional rights of free speech. 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 regarding any matter within the authority of a government body or any issue of public concern.

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.

Section 12-303 of the Courts and Judicial Proceedings Article authorizes a party to appeal from specified types of interlocutory orders entered by a circuit court in a civil case.

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/protected 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: None.

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

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