

SAMUEL I. "SANDY" ROSENBERG
Legislative District 41
Baltimore City

Health and Government Operations
Committee

Chair

Government Operations and Estates
and Trusts Subcommittee

House Chair

Joint Committee on Administrative,
Executive, and Legislative Review



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Testimony of Delegate Samuel I. Rosenberg

Before the House Judiciary Committee

In Support of

House Bill 379

Courts- Civil Actions- Strategic Lawsuits Against Public Participation

RESPOND TO OFFICE INDICATED

☐ *Annapolis Office*
The Maryland House of Delegates
6 Bladen Street, Room 365
Annapolis, Maryland 21401
410-841-3297 · 301-858-3297
800-492-7122 Ext. 3297
Samuel.Rosenberg@house.state.md.us

☐ *District Office*
4811 Liberty Heights Avenue
Baltimore, Maryland 21207
410-664-2646

Mister Chairman and Members of the Committee:

Simply for speaking out against a local development project in Harford County, Stephanie Flasch and Beth Poggioli, two Maryland citizens, were sued. The two women incurred \$8,000 in legal fees before the matter was dismissed.

This lawsuit was a Strategic Lawsuit Against Public Participation (or SLAPP), and it makes a mockery of our judicial system. A SLAPP is a meritless lawsuit filed to silence opposition and prevent an individual from exercising their First Amendment rights.

These frivolous but intimidating lawsuits typically involve an affluent plaintiff attempting to suppress a weaker defendant's First Amendment right to speak freely on matters of public concern.¹ Plaintiffs use the litigation process to financially drain these defendants until they agree to muzzle themselves or apologize for their prior statements.² The likelihood of success is an incidental matter for the plaintiff; it is a financial and emotional burden for the defendant.

The purpose of Maryland's anti-SLAPP law is to permit a judge to dismiss such suits early in the litigation process, preventing the chilling effect of lengthy and costly litigation and preserving the defendant's right to free speech.

Twenty-nine other states have enacted anti-SLAPP legislation.³ Although Maryland was one of the first states to enact such a law, we have fallen behind the curve. Our anti-SLAPP law is relatively weak, earning a "D" rating by the Public Participation Project.⁴

¹ Public Participation Project, "What is a SLAPP?," 2018, available at <https://anti-slapp.org/what-is-a-slapp/>

² *Id.*

³ Media Law Resource Center, "Anti-SLAPP Statutes and Commentary," 2020, available at <https://www.medialaw.org/component/k2/item/3494>.

⁴ Public Participation Project, "Maryland" 2020, available at <https://anti-slapp.org/maryland>. (last visited Jan 28, 2020).

House Bill 379 seeks to improve our law in two major ways. First, the legislation removes the “Bad Faith” language which often presents an insurmountable burden of proof for defendants to overcome. Second, HB 379 would give a defendant the right to appeal a judge’s ruling or failure to rule on a motion to dismiss a SLAPP.

House Bill 379 not only protects Maryland residents from costly litigation that infringes upon First Amendment rights, it serves to deter frivolous lawsuits that waste the courts’ limited time and resources. In the broadest sense, HB379 ensures that Maryland citizens cannot be silenced for making public statements related to issues of public concern.

I respectfully urge the Committee to give HB379 a favorable report.

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