

SB568/HB330 (2024): Favorable

Strategic Lawsuits Against Public Participation

Written Testimony, Connie Phelps, IPV Survivor

Like many other survivors of intimate partner violence (IPV) I have been threatened with defamation lawsuits, which are intentionally weaponized by abusers to keep us from speaking about our own experiences, or using those experiences to educate others and advocate for policies which would better our society. This government-enabled form of legal abuse is intertwined with the financial cost of defense against civil action (no matter how frivolous), forming the rope that effectively strangles the 1st Amendment rights of any victim whose abuser uses or threatens to use their participation in civil discourse against them. [SLAPP](#) suits are one of many methods of perpetrator manipulation of the legal system *to control and terrorize their target*, frequently after separation.

By passing a favorable vote on [SB568](#) and giving teeth to Maryland's anti-SLAPP statute, you have the opportunity to close an avenue of oppression, easily and without costing the State anything. You can return to me and thousands of others our basic rights to free expression as Americans.

I published a [couple](#) of [short pieces](#) in mainstream media outlets in 2021 on topics of general public interest from the point of view of a survivor, and wrote a blog. I have received formal letters threatening legal action for my truthful writings about abuse. Between that and media coverage of the risks of survivor voice, I have not published anything under my name since then – I'm now limited to an *anonymous* blog. Imagine all that society is not learning from survivors about what is really happening behind closed doors and how to solve it, because those who have actually lived it cannot participate in public discussion. Abusers do not give receipts for what they do in private, so the expected burden of proof in defamation suits is a purposeful trap in which we can become ensnared even if we never publicized the name of our abusers, and sometimes even if they've been convicted of some part of their acts.

Submitting this testimony under my name may put me at legal risk, and there are countless others not testifying because of that risk. That is a reality that this legislation would rectify directly. Cornell University Professor Kate Manne has written that manual strangulation,

a common and especially dangerous form of intimate partner assault, results in a fear that leads to “testimonial smothering,” of which there are many forms:

You can stuff her mouth and cheeks full of deferential platitudes. You can threaten to make her eat certain words that she might say as a prophylactic against her testifying or so much as recognizing what is happening to her and others. You can make her utterances doomed to fail, less than hollow. You can train her not to say ‘strangle’ but rather ‘choke,’ or better yet ‘grab,’ or best of all nothing. It was nothing, nothing happened. (Down Girl, 2018, p. 5)

Judicial precedent calls power-based intimidation of free speech a “chilling effect,” which is just a gentler way of saying the same thing. I cannot tell you if I was strangled during abuse, or if I was beaten, or threatened with a gun, or sexually assaulted, or subjected to other types of legal abuse; the more serious the offense, the more legally dangerous it is for the victim to relate in public unless under oath.

We protect the free speech of pornographers and KKK members with zeal, but as a survivor of intimate partner violence my writings/speech about my actual experiences are not protected by law, even if I do not name my abuser. What happened to me is not only a personal problem - it is a public health syndrome that causes the death of half of the women murdered in the United States. Our country’s landmark free speech case, [New York Times v. Sullivan](#) (1964), was decided in a time when public speech mainly occurred through official media outlets, so that was the group the U.S. Supreme Court sought to protect from legal bullying. Those outlets are dwindling, and public discourse is now more direct and online. With a favorable vote on SB568 the members of the Judicial Proceedings Committee can bring survivors of IPV/DV and sexual assault, as well as many other types of regular folk fighting the arrogant, powerful or unscrupulous, into the fold of the modern 1st Amendment. We are only asking for the chance to speak for ourselves.