

SB 167 - Courts - Strategic Lawsuits Against Publi

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Position: FAV

BILL NO: Senate Bill 0167
TITLE: Courts – Civil Actions – Strategic Lawsuits Against Public Participation
COMMITTEE: Judicial Proceedings
HEARING DATE: January 15, 2025
POSITION: **SUPPORT**

Senate Bill 0167 clarifies the exercise of constitutional rights to petition the courts, and exercise free speech, by amending existing law regarding SLAPP Suits – Strategic Lawsuits Against Public Participation. These lawsuits intentionally target survivors, whistleblowers, and advocates who speak out against powerful perpetrators, creating a chilling effect on other victims who may seek to do the same. They have become an all-too common tool at silencing criticism and intimidating victims.

As a statewide legal services organization, we strongly believe in the right to petition the courts. Yet, we also believe a balanced approach is necessary when individuals, particularly those wielding power, utilize the courts as a weapon against those who speak out against abuse. The Women's Law Center has received an alarmingly increasing number of inquiries and requests for support in cases where survivors across the country are facing lawsuits brought to discourage them from exercising their rights in college sexual misconduct proceedings, or for bringing protective orders in response to intimate partner violence. The result of those malicious lawsuits is to discourage survivors from continuing their pursuit of safety and recourse. While not all of these retaliatory suits will qualify as SLAPP suits, some will and SB 0167 will help discourage this type of litigation abuse and allow victims access to justice.

Our courts and judicial system must not be allowed to be weaponized against victims. Because SB 0167 will help prevent litigation abuse, the Women's Law Center of Maryland, Inc. SUPPORTS Senate Bill 0167.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

SB0167_SLAPP_Lawsuits_MLC_FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0167 Courts – Strategic Lawsuits Against Public Participation

Bill Sponsor: Senator Hettleman

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in strong support of SB0167 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Strategic Lawsuits Against Public Participation (SLAPP) are lawsuits with no real basis in fact that are designed to cause the party being sued to waste a lot of time and money proving that there was never any basis for the lawsuit. These suits are a drain on the resources of the courts as well as on the party being sued. In some cases, they will damage the reputation of the person being sued even though the allegations made in the lawsuit are false.

This bill, if enacted, would strengthen further define SLAPP lawsuits and update the current SLAPP statute by -

- Ensuring that the court will rule EXPEDITIOUSLY when the defendant requests the suit to be dismissed
- Requires the plaintiff to show that they have substantial justification for the suit
- If the discovery period for the suit is not extensive, the court may allow it to go forward, but the plaintiff now has to pay for it
- If the court grants an anti-SLAPP motion, the defendant will be able to recover costs and attorney fees
- If the court determines that the defendant's request to dismiss the suit was frivolous, it can award costs and attorney fees to the plaintiff

These are all reasonable measures that will help clear up some of the frivolous lawsuits that are currently jamming up our legal system. It will also level the playing field so that those with the resources to undertake a SLAPP suit in order to force those without the resources to defend themselves will be penalized.

We support this bill and recommend a **FAVORABLE** report in committee.

SB167

Uploaded by: Jeanne Nevin

Position: FAV

Based on my experience with the tactics employed by Atlas Restaurant Group against their residential neighbors, I strongly support any effort to strengthen Maryland's anti-SLAPP laws. I am a retiree living in Fell's Point (Baltimore). My introduction to community organizing began when I learned from a Fell's Point Residents' Association (FPRA) meeting agenda that at the April 3, 2024 monthly FPRA meeting Darin Mislan would be presenting plans for Thames Street Venture LLC to transfer a BD-7 liquor license to 1704 Thames Street, with live entertainment and outdoor table service. 1704 Thames Street, which housed apartments and an office, is behind my husband's and my home, and we had had (and continue to have) problems with excessively loud noise from another Atlas property managed by Mislan, Waterfront Hotel at 1710 Thames Street. The noise has ruined our quality of life and enjoyment of our home. The Liquor Board hearing was scheduled for April 4. To prevent the Liquor Board from automatically approving the transfer of the license, I helped to organize a group of neighbors. On April 2 we submitted a petition and letters opposing the transfer in order to invoke MD Code 12-1508, which triggered a different process for review of the application. Then I received a letter dated April 18 from Constantine J. Themelis (Thomas & Libowitz, P.A.) "Re: Preservation of Evidence/Spoliation of Evidence 1704 Thames Street." We believe the letter was sent to all the signers of that original petition. The letter accused us of acting in bad faith and making false allegations, told us to retain all evidence, and threatened to sue us. The letter also said, "...we demand you withdraw the Petition immediately." The obvious intent was to intimidate us, which had worked in the past with a similar controversy regarding loud music from The Choptank, another Atlas-owned property a block away. On April 24 the Liquor Board sent us the hearing date (May 23) along with information about the process under MD Code 12-1508, with which we proceeded to comply. On May 1 Andrew D. Freeman and Jessica P. Weber (Brown, Goldstein & Levy, LLP) responded to Mr. Themelis's letter on our behalf, citing our right to protest under the First Amendment and noting that the legal action threatened by him would constitute a strategic lawsuit against public participation (SLAPP). They noted that such suits are prohibited under MD law. We had to pay to retain Freeman and Weber—an unreasonable burden, in our opinion, given the circumstances. However, we refused to back down in the face of Atlas's threats. The FPRA Board and Community Law Center helped us (at no cost) to get a Memorandum of Understanding (MoU) with Atlas/Mislan. However, the entire experience was stressful and time-consuming. The process seemed to us to be biased unfairly in favor of businesses rather than the tax-paying residents whose properties abut the commercial ones. We found the subsequent Liquor Board process, where the application was approved over the documented objections of the neighbors and the Board chair refused to hear our concerns about the threatening letter of April 18, appalling. Baltimore Brew covered the controversy. Those interested in more information about Atlas Restaurant Group and its interactions with the Liquor Board and its Fell's Point neighbors will find the following Baltimore Brew articles instructive:

- January 27, 2021 (Ed Gunts): Neighbors say The Choptank should lose its liquor license for loud music
- January 28, 2021 (Ed Gunts and Fern Shen): Fell's Point residents, who were threatened with a lawsuit, lose liquor license challenge
- May 13, 2024 (Fern Shen): Atlas Restaurant Group's plan for a new bar on Thames Street stirs anger and fear
- May 24, 2024 (Fern Shen): Atlas CEO complains of "harassment" as Liquor Board approves Fell's Point license transfer
- November 8, 2024 (Fern Shen): Liquor Board cites The Choptank for live outdoor entertainment without a license

Thank you for the opportunity to comment. If you need more information, please contact me.

Jeanne Nevin
1711 Lancaster Street
Baltimore, MD 21231

2025 Testimony of Washington Post on SB167 (Anti-S

Uploaded by: Jim McLaughlin

Position: FAV

MARYLAND GENERAL ASSEMBLY

Senate Judicial Proceedings Committee

**Testimony of James A. McLaughlin* on Behalf of
The Washington Post in Support of Senate Bill 167**

(Courts – Strategic Lawsuits Against Public Participation)

January 15, 2025

Chairman Smith, Vice Chair Waldstreicher and members of the Committee, I am submitting this testimony on behalf of The Washington Post, which is pleased to **support** Senate Bill 167. This bill would update Maryland’s 2004 anti-SLAPP statute to deal with a modern environment in which, increasingly, libel lawsuits are used as a tool of aggression to silence unwelcome or unpopular speech on matters of public importance. It does so in a responsible, common-sense way.

Senate Bill 167 is substantially the same as last year’s [House Bill 129](#), which has been approved by the House several times in the past few years.

The fundamental problem that anti-SLAPP laws seek to address has only gotten worse in recent years – namely, the use of libel litigation not to redress actual injury to reputation, but to punish and/or chill criticism solely by inflicting the financial pain of litigation (often without regard for the outcome). A recent white paper by Media Law Resource Center documents the dramatic rise in such tactics.⁴ MLRC’s study, which was co-authored in part by First Amendment luminaries Floyd Abrams and Lee Levine, presents evidence of the “weaponization” of libel suits, disproving the misconception that such cases are effectively foreclosed by the “actual malice” standard of *New York Times v. Sullivan*, 376 U.S. 254 (1964). The study is illustrated by real-world examples

* Deputy General Counsel and Director of Government Affairs, The Washington Post; Adjunct Professor, Georgetown University Law Center (teaching First Amendment/media law); member, Board of Directors, Maryland-Delaware-D.C. Press Association.

¹ House Bill 129 (2023) was favorably reported by the Judiciary Committee on February 27, 2023, and passed the House by 98-39 vote on March 2, 2023. See <https://legiscan.com/MD/bill/HB129/2023>.

² See HB70 (2022) (passed House by 96-36 vote on February 17, 2022) <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0070?ys=2022RS>.

³ See HB308 (2021) (passed House by 94-39 vote on March 22, 2021) <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0308?ys=2021RS>.

⁴ See Media Law Resource Center, “New York Times v. Sullivan: The Case for Preserving an Essential Precedent, available at <https://medialaw.org/issue/new-york-times-v-sullivan-the-case-for-preserving-an-essential-precedent/>.

of how such efforts seek to curb constitutionally protected newsgathering and reporting, often overtly. In Maryland, these problems are exacerbated by a weak anti-SLAPP law – one that was adequate when first enacted, but is now graded as a “D” by the Public Participation Project, the leading authority on state anti-SLAPP laws.⁵

No legislation can fully reverse these problems. But Senate Bill 167 takes appropriate, concrete steps toward restoring a functional anti-SLAPP law to Maryland. In particular, it would:

- (1) discard the existing statute’s requirement that a lawsuit is not a SLAPP unless it can be shown that it was brought in subjective “bad faith” by the plaintiff. There is good reason why no other state anti-SLAPP law contains such a requirement – namely, it appears to require a fact-specific inquiry into the actual state of mind of the plaintiff, delaying resolution and increasing cost in violation of the purposes of anti-SLAPP protection.
- (2) strengthen the likelihood of fee-shifting when an anti-SLAPP motion is successful by providing that a court “shall award costs and reasonable attorney’s fees to the moving party if the court determines that equity and justice require it.” This provision levels the playing field for smaller publishers and ordinary citizens, in particular, by diluting the ability of a “libel bully” to simply threaten to bankrupt the speaker through litigation that they can’t afford. (Notably, HB 330’s proposed standard is still more moderate than the mandatory fee-shifting of many anti-SLAPP laws.)
- (3) It refines the existing statute’s “early look” procedures, directing courts to rule expeditiously on anti-SLAPP motions and to stay discovery except to the extent needed to decide the motion fairly.

It is also important to note that Senate Bill 167 – and anti-SLAPP laws in general – do not favor speech of any particular viewpoint. Anti-SLAPP laws are regularly invoked by speakers and commentators of all political stripes. The leading case interpreting the District of Columbia’s anti-SLAPP Act, for instance, involves the conservative publication *The National Review*, which invoked the Act’s protections – with amicus support by The Washington Post, among others – to defend itself against a libel claim brought by a climate scientist whom TNR had criticized. The bill also does not foreclose meritorious libel suits from proceeding. So long as the plaintiff can show that their claim has a “substantial justification in law and fact” – a lower standard than the actual likelihood of success required by some anti-SLAPP statutes – their case will continue.

⁵ See <https://anti-slapp.org/maryland>.

Senate Bill 167: Testimony of James A. McLaughlin

January 15, 2025

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For these reasons, The Washington Post requests a favorable report of Senate Bill 167. We thank the bill's sponsor, Senator Hettleman, for her leadership on this vitally important issue.

SB167 - MNADV - FAV.pdf

Uploaded by: Laure Ruth

Position: FAV



BILL NO: Senate Bill 167
TITLE: Courts - Strategic Lawsuits Against Public Participation
COMMITTEE: Judicial Proceedings
HEARING DATE: January 15, 2025
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the COMMITTEE to favorably Report on SB167.**

Senate Bill 167 redefines a SLAPP (Strategic Lawsuit Against Public Participation) as a lawsuit brought against a person based on an act or statement made in furtherance of their 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 issue of public interest.

Domestic violence abusers use countless forms of manipulation and abuse against their victims including the court system. Lawsuits are often intended to intimidate or silence victims who speak out about their experiences or seek justice. Such actions can deter survivors from coming forward or engaging in advocacy, as they may fear legal repercussions. Abusers use the court system as a way to maintain power and control over their victims, bringing their victims into court countless times or threatening them with lawsuits if they seek protective orders. Victims should not fear seeking safety such as in the form of a protective out of fear of legal retaliation from their abuser. While not all of these retaliatory suits will qualify as SLAPP suits, some will, and SB 167 will help discourage this type of litigation abuse and allow victims access to justice.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB167.**

For further information contact Laure Ruth ■ Public Policy Director ■ 301-852-3930 ■ lruth@mnadv.org

1997 Annapolis Exchange Parkway, Suite 300 ■ Annapolis, MD 21401
Tel: 301-429-3601 ■ E-mail: info@mnadv.org ■ Website: www.mnadv.org

SLAP suits - senate testimony - 2025 - MCASA SB F

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
Fax: 301-565-3619

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
www.mcasa.org

Testimony Supporting Senate Bill 167
Lisae C. Jordan, Executive Director & Counsel
January 15, 2025

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 167.

Senate Bill 167 -- SLAPP Suits

This bill clarifies and supports the exercise of constitutional rights to petition and exercise free speech by amending the law regarding SLAPP Suits – Strategic Lawsuits Against Public Participation. Sexual assault survivors across the country are increasingly facing lawsuits brought to discourage exercising their rights in college sexual misconduct proceedings and related Title IX actions. Some survivors encouraged to speak out about sexual violence by the #MeToo movement have also been met with lawsuits designed to silence them. Legislation will be introduced this session to specifically address these lawsuits, however SB167 is another tool to help discourage this type of litigation abuse.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on Senate Bill 167**

Mishkin Testimony in Support of Senate Bill 167.pd

Uploaded by: Maxwell Mishkin

Position: FAV

MARYLAND GENERAL ASSEMBLY

Senate Judicial Proceedings Committee

Testimony of Maxwell S. Mishkin* in Support of Senate Bill 167

(Courts – Strategic Lawsuits Against Public Participation)

January 13, 2025

Mr. Chair, Mr. Vice-Chair, and Members of the Committee, thank you for the opportunity to submit this testimony in support of Senate Bill 167, which would strengthen Maryland’s commitment to freedom of expression by updating our state’s anti-SLAPP law. Robust anti-SLAPP statutes protect the reporting, advocacy, commentary, and debate that we all need to be informed members of our participatory democracy.

I submit this testimony only on my own behalf, but my views are informed by my experience as an attorney in the Media and Entertainment Law Group at Ballard Spahr LLP, where my colleagues and I have the privilege of counseling and litigating on behalf of clients that range from global news and entertainment companies to local newspapers and freelance journalists, as well as nonprofits, documentary filmmakers, and other content creators of all stripes. Our work includes regularly defending against SLAPP suits in jurisdictions with strong anti-SLAPP laws and in jurisdictions with weak or no anti-SLAPP laws whatsoever.

SLAPPs – Strategic Lawsuits Against Public Participation – are a powerful weapon for plaintiffs looking to attack and ultimately chill speech that they find undesirable. For one, it takes far less resources to *file* libel lawsuits than it takes to *defend* such lawsuits, even when they are meritless. Frequent libel plaintiff Donald Trump admitted as much in speaking to the press in 2016 about his unsuccessful defamation case against a journalist who reported on his net worth: “I spent a couple of bucks on legal fees, and they spent a whole lot more. I did it to make his life miserable, which I’m happy about.”¹ For another, even the threat of a libel lawsuit can discourage important speech. As the federal appellate court for the District of Columbia observed, “[u]nless persons . . . desiring to exercise their First Amendment rights are assured freedom from the harassment of lawsuits, they will tend to become self-censors,” and such “self-censorship affecting the whole public is ‘hardly less virulent for being privately administered.’”²

The threat that SLAPP suits pose to free speech only continues to grow. My former colleague Lee Levine, one of the nation’s leading First Amendment attorneys and scholars, has observed that “public officials and other powerful people and entities are now instituting libel

* Partner, Ballard Spahr LLP, <https://www.ballardspahr.com/people/attorneys/m/mishkin-max>.

¹ Paul Farhi, *What really gets under Trump’s skin? A reporter questioning his net worth*, The Washington Post (Mar. 8, 2016), https://www.washingtonpost.com/lifestyle/style/that-time-trump-sued-over-the-size-of-hiswallet/2016/03/08/785dee3e-e4c2-11e5-b0fd-073d5930a7b7_story.html.

² *Washington Post Co. v. Keogh*, 365 F.2d 965, 968 (D.C. Cir. 1966) (quoting *Smith v. California*, 361 U.S. 147, 154 (1959)).

actions at an unprecedented and deeply troubling rate,” and that “the vast majority of these cases has been brought, not to secure compensation for actual injury to reputation, but rather to punish the press for speaking truth to power and to dissuade it from doing so in the future, lest it pay the price of the burdens and enormous expense of litigation, regardless of the merits of the claim.”³

Senate Bill 167 would not solve all these problems, but it would protect important speech in several significant ways. If updated, Maryland’s anti-SLAPP law would place the burden on the plaintiff at the initial stage of the case to show that the lawsuit “has substantial justification in law and fact,” making it far more likely that meritless defamation actions on matters of public concern will be dismissed promptly and efficiently. Moreover, under Senate Bill 167, the anti-SLAPP law would provide that when a SLAPP suit is dismissed, the plaintiff should be obliged to pay the defendant’s reasonable attorneys’ fees and costs. These changes have been adopted by many other states around the country, and they help achieve the right balance between allowing claims with merit to survive while weeding out the frivolous ones designed to harass speakers.

Senate Bill 167 is important for another reason as well. In the landmark case *New York Times v. Sullivan*,⁴ the Supreme Court held that the First Amendment requires public official libel plaintiffs to prove not just that the speech at issue is false, but that those statements had been published with knowledge of their falsity or despite a high degree of awareness of their probable falsity. This standard, known as “actual malice” or “constitutional malice,” is a demanding one, but it is expressly intended to serve our “profound national commitment” to promoting “debate on public issues,” even though it “may well include vehement, caustic, and sometimes unpleasantly sharp” speech.⁵

Two Justices of the Supreme Court, however, have in recent years sought to overturn or otherwise revisit *Sullivan*.⁶ Libel plaintiffs have quickly responded by asking the Supreme Court to lift the actual malice requirement. As Floyd Abrams put it, *Sullivan* thus finds itself “newly controversial and even potentially at risk.”⁷

Senate Bill 167 would mitigate this danger as well by providing that 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

³ See *New York Times v. Sullivan: The Case for Preserving an Essential Precedent* at 193, Media Law Resource Ctr. (Mar. 2022), <https://medialaw.org/new-york-times-v-sullivan-the-case-for-preserving-an-essential-precedent/>.

⁴ 376 U.S. 254 (1964).

⁵ *Id.* at 270-72.

⁶ See *McKee v. Cosby*, 139 S. Ct. 675 (2019) (Thomas, J., concurring in denial of certiorari); *Berisha v. Lawson*, 141 S. Ct. 2424 (2021) (Thomas, J., dissenting from denial of certiorari); *id.* at 2425 (Gorsuch, J., dissenting from denial of certiorari); *Coral Ridge Ministries Media, Inc. v. SPLC*, 142 S. Ct. 2453 (2022) (Thomas, J., dissenting from denial of certiorari).

⁷ See *supra* note 3 at iii.

the defendant’s right of petition or free speech under the U.S. Constitution, the Maryland Constitution, or the Maryland Declaration of Rights regarding any matter within the authority of a government body or any public issue or issue of public interest.” By requiring proof of actual malice as a matter of state law, therefore, Senate Bill 167 backstops *Sullivan* and reaffirms that Maryland will remain a leader in protecting free speech and a free press.⁸

Senate Bill 167 is a rare proposal in that it benefits everyone who speaks or publishes on matters of public concern: individuals and organizations, long-established institutions and fast-growing startups, for-profits and nonprofits, conservatives and liberals, the bipartisan and the nonpartisan and the apolitical alike. In short, Senate Bill 167 benefits the public by protecting the “freedom of expression upon public questions” necessary “to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.”⁹

With thanks in particular to Senator Hettleman for sponsoring this legislation, I very much appreciate the opportunity to offer my support for Senate Bill 167 and urge the Committee to report it favorably.

⁸ See, e.g., *Blankenship v. NBCUniversal, LLC*, 144 S. Ct. 5 (2023) (Thomas, J., concurring in denial of certiorari) (stating that lawsuit was not “an appropriate case” to “reconsider *New York Times*” where plaintiff’s “claims are independently subject to an actual-malice standard as a matter of state law”).

⁹ *Sullivan*, 376 U.S. at 269 (quoting *Roth v. United States*, 354 U.S. 476, 484 (1957)).

MDDC Support SB 167.pdf

Uploaded by: Rebecca Snyder

Position: FAV



Maryland | Delaware | DC Press Association

P.O. Box 26214 | Baltimore, MD 21210

443-768-3281 | rsnyder@mddcpres.com

www.mddcpres.com

To: Judicial Proceedings Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: January 15, 2025

Re: SB 167 - FAVORABLE

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of news media, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Maryland Gazette to publications such as The Daily Record, Baltimore Jewish Times, and online-only publications such as The Baltimore Banner, MarylandReporter.com and Baltimore Brew.

The Press Association is pleased to support Senate Bill 568, which would strengthen Maryland's anti-SLAPP law by removing Maryland's unusual "bad faith" provision, clarifying the definition of a SLAPP suit and dismissal proceedings, and shifting of attorneys' fees. We feel this legislation respects and maintains the difficult balance of protecting citizens' free speech while avoiding overly punitive measures so as not to deter the filing of valid lawsuits and ensure every deserving party gets their day in court.

This legislation would bring Maryland's law more in line with 30 other states who protect free speech. Most notably, Pennsylvania passed [HB 1466](#) in 2024 and Ohio has passed [SB 237](#), both of which conform more to the Uniform Public Expression Protection Act (UPEPA). SLAPPs stifle public debate, threaten news reporting and diminish civic engagement – principles fundamental to our democracy. This is especially important to members of the press because informing and engaging the public can leave publications vulnerable to frivolous lawsuits. As businesses, our members cannot absorb large litigation costs. Legal challenges can present a significant burden for news organizations, both financially, in the form of legal fees, and because responding to often-frivolous challenges can be a time-consuming distraction for editors, reporters, photographers and managers. That burden, in both money and time, diminishes our members' ability to cover the communities they serve. For a more in-dept discussion of SLAPP suits, please refer to MDDC's [Five Dubs podcast](#) with Max Mishkin of Ballard Spahr.

They also pose burdens for individuals. For instance, in 2021, residents of the Clipper Mill development in Baltimore were hit with a \$25 million lawsuit by developer ValStone for opposing additional housing units within the condo development. Larry Jennings, ValStone's co-founder and senior managing director, called the five residents and two community associations named in the suit "obstructionists." In December 2022, the Court of Special Appeals affirmed the lower court's decision in favor of the condo residents. Although the decision was favorable to the residents in this instance, it does not obviate the



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central to a strong and open society.**

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need to eliminate the obligation to demonstrate bad faith, which is an almost impossibly high bar. Many SLAPP lawsuits occur over development, with deep pocketed investors filing suit against individuals and homeowner associations.

Within our membership, SLAPP suits also take a toll. The Frederick News-Post, although fortunate in recent years to avoid the kind of drawn-out cases that can cost hundreds of thousands in legal fees, still has spent up to \$45,000 a year responding to legal challenges, typically cases of alleged defamation. In some, there may be legitimate questions of law at stake. Most, however, are frivolous, like the time the local restaurant sued them because that quoted a police report that used the restaurant's name in describing the location of a shooting. Getting that dismissed cost about \$7,500.

That is money that is not spent on reporting staff or on other investments to support their journalistic mission. For many news organizations, an expense like that could have a chilling effect on their willingness to report certain stories.

For instance, Carroll County Times and reporter Brett Lake were defendants in a 2012 suit that claimed then-reporter Lake defamed the Chief Deputy State's Attorney Daggett in a series of articles that were fairly reported and substantiated by PIA requests and witness testimony. Under the existing anti-SLAPP law, Landmark Communications, the then-owner of the Carroll County Times, moved for summary judgement. Daggett appealed and the case dragged on for another three years, resolving in favor of the Carroll County Times in 2015. This suit placed a considerable burden on the publication and cost it hundreds of thousands of dollars in legal fees. This lawsuit could have been prevented with the appeals process contemplated in this bill.

For some of our members, one SLAPP suit could mean financial ruin. Many of our members are small business owners who have put everything they own into their publication because they believe in the importance of covering their local community. Susan Lyons, a long-time publisher of Coastal Point, is one of those members. Her weekly publication covers nine small communities and sometimes their reporter is the only person sitting in a small-town planning and zoning meeting. Coastal Point reports what happened so neighbors know that a gas station is being built on the property next door to them, that parking fees are going up, that the school is having overpopulation problems, that drug addicts are breaking into cars and garages in their neighborhood. Things that they need to know that no one else is going to tell them. Not radio, not TV, not even daily papers. Community news is the glue that binds non-profits, businesses, schools, local government and families together in an area. Susan believes a SLAPP suit would devastate her business and publication. Defending a suit and spending thousands of dollars on litigation - even if she knew she was in the right - is something to think long and hard about. She says:

"I would have to take out loans (if I could even get them for something like this) and would have years of stress and worry that I might somehow lose. Would it be worth putting everything that I have worked so hard for on the line? It is my home, my reputation, my income, my family, my employees that depend on me that I am putting on the line. I can see where a small business could say that it is not worth the fight and just back off. Too much is at stake. **It is not right that whoever has the deepest pockets gets what they want even if it is not in the best interest of the community.**"

Any journalistic organization that does its job will occasionally discomfort the subjects of its reporting. When there is harm and a real cause for action, there should be recourse. We support the proposed changes to Maryland's anti-SLAPP legislation as an important rebalancing that makes it harder to silence journalists. We urge a favorable report.

SB167 Slapp Position Paper 2025 MAJ .pdf

Uploaded by: Ronald Jarashow

Position: FAV



2025 POSITION PAPER SB 167

SB167 Courts-Strategic Lawsuits Against Public Participation FAVORABLE

MAJ Position In Support of SB 167, Courts – Strategic Lawsuits Against Public Participation.

The Maryland Associations for Justice (MAJ) supports SB167 which modernizes the existing SLAPP statute, Md. Ann. Code, Courts §5-807, by modifying Maryland’s law to be consistent with other SLAPP statutes in other jurisdictions.

Starting in the 2020 General Assembly, the MAJ worked with bill sponsors and other supporters to modify the then-proposed SLAPP bill to improve it. SB167 incorporates those changes.

SLAPP actions are, as the acronym implies, a strategic lawsuit against public participation. Some litigants file a SLAPP lawsuit intended to suppress a citizen’s expressing free speech and criticism. SLAPP statutes exist in 34 states to protect people from lawsuits that have a purpose of suppressing free speech by providing grounds for dismissal, expedited motions to dismiss, and awards of attorney’s fees against the filing party. See “State Anti-Slapp Laws” <https://anti-slapp.org/your-states-free-speech-protection/#scorecard> [PDF attached]. Maryland’s statute is rated as a “D”, next to the lowest “F” rating. The attached chart rates Maryland’s law at “10” out of 100 points. Only Maryland and Virginia rate so low. The next lowest score is Florida at 21 points.

SB167 updates the Maryland law to provide better protection for free speech rights by discouraging litigants from commencing a lawsuit with the suppressive intent.

The MAJ requests a FAVORABLE Committee Report.

The Maryland Association for Justice urges a FAVORABLE Report on SB 167.

About Maryland Association for Justice

The Maryland Association for Justice (MAJ) represents over 1,250 trial attorneys throughout the state of Maryland. MAJ advocates for the preservation of the civil justice system, the protection of the rights of consumers and the education and professional development of its members.

10440 Little Patuxent Parkway, Suite 250
Columbia, MD 21044

(410) 872-0990 | FAX (410) 872-0993
info@mdforjustice.com

mdforjustice.com

State Anti-SLAPP Laws — Public Participation Proje

Uploaded by: Ronald Jarashow

Position: FAV



State Anti-SLAPP Laws

Much of PPP's work focuses on state anti-SLAPP legislation. PPP works with state-based organizations and activists, as well as state legislators, to build support for anti-SLAPP legislation, strengthen existing anti-SLAPP laws, and protect those laws from being gutted.

Scroll or click below for two useful tools for those seeking more information about their state anti-SLAPP laws:

[State Anti-SLAPP Law Scorecard](#)

[State Anti-SLAPP Reference Chart](#)

State Anti-SLAPP Law



Chart

Special thanks to the Institute for Free Speech for providing this score card in reference to states with Anti-SLAPP laws. If you wish to learn more about their scoring and grades you can learn more by hitting this button below.

Jurisdiction	Anti-SLAPP Law Procedures					Subscore
	Suspension of Court Proceedings Upon an Anti-SLAPP Motion	Burden of Proof on Plaintiff to Defeat an Anti-SLAPP Motion	Right to an Immediate Appeal	Award of Costs and Attorney Fees	Expansive Statutory Interpretation Instruction to Courts	
ULC Model Law	20	12	25	40	3	100
Arizona	9	6	13	10	0	38
Arkansas	20	12	0	10	0	42
California	18	12	25	38	3	96
Colorado	18	12	25	36	0	91
Connecticut	18	12	20	36	0	86
Delaware	5	12	0	10	0	27
District of Columbia	0	12	20	25	0	75
Florida	5	6	0	10	0	21
Georgia	20	12	25	40	3	100
Hawaii	20	12	25	40	3	100
Illinois	18	12	25	36	3	94
Indiana	18	0	0	36	0	54
Kansas	20	12	25	36	3	96
Kentucky	20	12	25	40	3	100
Louisiana	18	12	0	40	0	70
Maine	18	12	20	10	0	60
Maryland	10	0	0	0	0	10
Massachusetts	18	12	20	36	0	86
Missouri	18	0	5	36	0	59
Nebraska	5	12	0	10	0	27
Nevada	18	12	25	36	0	91
New Jersey	12	12	25	40	3	92
New Mexico	5	6	25	36	0	72
New York	20	12	25	40	0	97
Oklahoma	18	12	25	36	0	91
Oregon	18	12	25	40	3	98
Pennsylvania	2	6	25	36	0	69
Rhode Island	18	6	0	36	0	60
Tennessee	18	12	25	36	0	91
Texas	18	12	25	40	3	98
Utah	20	12	25	40	3	100
Vermont	18	12	25	36	0	91
Virginia	0	0	0	10	0	10
Washington	20	12	25	40	3	100

Learn more from IFS

SB167_Hettleman_JPR.pdf

Uploaded by: Shelly Hettleman

Position: FAV

SHELLY HETTLEMAN
Legislative District 11
Baltimore County

—
Chair
Rules Committee

Budget and Taxation Committee

Subcommittees

Health and Human Services

Pensions



James Senate Office Building
11 Bladen Street, Room 203
Annapolis, Maryland 21401
410-841-3131 · 301-858-3131
800-492-7122 Ext. 3131
Shelly.Hettleman@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR SHELLY HETTLEMAN
SB 167 COURTS – STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION

A Strategic Lawsuit Against Public Participation, also known as a SLAPP suit, is a meritless lawsuit intended to shut down free speech. SLAPP suits are often filed as defamation suits but can also be disguised as anything from breach of contract to an interference with some economic benefit. They require broad discovery and seek crippling damages. These suits are intended to silence, intimidate, and cause financial damage.

SB 167 clarifies that Maryland’s anti-SLAPP statute extends to speech beyond just before governmental entities to include online reviews and bloggers, letters to the editor, and other venues commonly used by community members to share thoughts and ideas and to assist the community in choosing goods and services in the marketplace.

The bill makes three significant improvements to our current anti-SLAPP statute:

1. It eliminates the requirement that a plaintiff demonstrate “bad faith” in bringing forth the suit. This was a unique provision in our law that proved difficult and costly, requiring extensive discovery and now earns our SLAPP law a “D” by the Public Participation Project. The current bill requires focus on a meritorious complaint.
2. It enables attorneys’ fees to be shifted, which creates a deterrent to a deep-pocketed plaintiff.
3. It requires courts to act promptly and hold discovery until there are expeditious rulings.

It’s important to note that none of these changes to the current law would serve as a chilling effect to legitimate lawsuits. Expedited procedures would weed out meritless claims efficiently. By requiring courts to act promptly and rule expeditiously, and by removing the “bad faith” requirement, defendants avoid costly discovery and other pre-trial preparation, and SLAPP plaintiffs are stopped from wasting our courts’ resources. Additionally, if it turns out that the anti-SLAPP motion is not granted and that the motion was intended to waste time, costs are awarded to the plaintiff.

The bill makes it explicit that communication to a government official is covered. Another clarifying section ensures that certain commercial speech does not qualify under the SLAPP statute enabling appropriate product liability and deceptive trade suits to remain outside the SLAPP scope. Many other states and D.C. have passed strong anti-SLAPP laws – Red states and Blue states - to preserve the right to speak freely. By passing SB 167, Maryland would enter the mainstream of being a First Amendment champion in our nation. This is not a partisan issue. It’s a Maryland issue. It’s an American issue.

I urge a favorable report on SB 167, and I thank you for your consideration.

SenateBill167.testimony2025.pdf

Uploaded by: Claudia Barber

Position: UNF

SENATE BILL 167

Senate Judicial Proceedings Committee

January 15, 2025 at 12:00 pm

OPPOSITION TO BILL

By Claudia Barber, Attorney at Law

I oppose Senate Bill 167. The Strategic Lawsuits Against Public Participation bill looks very meaningful on its face. However, it definitely has grave consequences against public figures by arming citizens with the right to report anything and everything to public entities and rewarding those citizens with ulterior motives, who do the reporting, with blanket immunity and attorney's fees. Not even civil rights litigants enjoy this special attention to resolve a case quickly by making a special motion.

On January 6, 2021, now known as INSURRECTION DAY, we saw how people engaged in conspiracy theories, wrongly claimed First Amendment protection for their insurrectionist acts of terror. The First Amendment should never again be used as a reason to harm individuals or destroy human beings.

One of the pitfalls of this legislation is that it does not protect innocent victims such as public figures or politicians who may have rivals instigating stories by using public records, resources and government agencies to create news stories to smear an opponent. It particularly impacts people of color and their communities when misinformation is spread to newspapers and destroys individuals' livelihood and reputation.

In 2016, an ex-judge filed an irresponsible ethics complaint against me asking my employer to remove me from office because I ran in a partisan primary. What the complainant did not do is tell my employer that the office of judge for the Circuit Court is not a partisan office. It was important to not tell this truth because that would have destroyed his plan to have me fired for an ethics violation, which was later used on campaign literature by four sitting

judges. The purpose of filing the ethics complaint was to harm my livelihood because the complainant demanded my employer terminate me. All this was done so four sitting judges could advance in their contested judicial election for a 15-year term in 2016.

After making Freedom of Information Act requests, I learned that the complainant's pursuit of my termination was deeper than just filing an ethics complaint. He provided my employer with multiple photos and documents that were intended to cast me in a negative light to my employer. For example, my presence at a festival where I was meeting and greeting voters at a democratic booth was intentionally misrepresented as engaging in partisan affairs, in hopes that would be sufficient evidence to include in a removal hearing.

When the complainant was sued for making many misrepresentations to my employer, he attempted to use the Anti-SLAPP act in another jurisdiction as a shield of immunity to protect him from liability.

Before voting yes on this legislation, please reconsider the impact this legislation has on the community and on individuals. This legislation impacts people of color who are often powerless to challenge vengeful acts of this type bent on advancing other people's candidacy. It has been more than six years since this ethics complaint was filed, and I have spent an enormous amount of legal expenses trying to defend my reputation. Many cases remain pending at this time. Just as Bryan Stevenson noted who authored JUST MERCY, and currently serves as the executive director for the Equal Justice Initiative, we cannot rely on the judiciary to protect the wrongly convicted. Nor can we rely on the judiciary to see ulterior motives and protect those innocently attacked as I was in 2016.

UNFAVORABLE.SLAPP.SB167.MDRTL.LauraBogley.pdf

Uploaded by: Laura Bogley

Position: UNF



Opposition Statement SB167
Courts – Strategic Lawsuits Against Public Participation
Laura Bogley, JD
Executive Director, Maryland Right to Life, Inc.

To the honorable Chairman Smith and Members of Senate Judicial Proceedings Committee,

We Respectfully Oppose SB167 because it would *enable* frivolous SLAPP suits and restrict the exercise of free speech in Maryland. The existing statute “as is” provides protections against frivolous lawsuits that this bill undermines.

On behalf of our chapters and members across the state, we respectfully urge you to protect free speech and the integrity of this Assembly, by rejecting SB167 and its broad **expansion of frivolous SLAPP suits**. The Maryland General Assembly enacted the underlying statute to defend the exercise of free speech against frivolous Strategic Lawsuits Against Public Participation and has rightly rejected this bill many times. But this bill creates a large legal loophole which will enable large media outlets and others to willfully malign and defame elected officials, nonprofits and individuals as they have done in the past – but now without legal repercussions.

THE BILL UNDERMINES THE INTENT OF THE GENERAL ASSEMBLY

The Assembly has seen fit to reject this bill several times as it would restrict free speech and deny legal remedy in conflict with the purpose of the original statute, which was enacted to *prevent* Strategic Lawsuits Against Public Participation or “SLAPP” suits, which waste public tax dollars and create judicial backlogs with frivolous lawsuits.

The bill would weaken the original statute and create a huge legal loophole for well –funded media conglomerates and bad actors to evade legal liability for acts of defamation including libel and slander. The bill favors those with economic and political advantage who can afford to drag out costly litigation in an attempt to bring individuals and nonprofit organizations to bankruptcy.

CONTENT DISCRIMINATION INFRINGES ON CONSTITUTIONAL RIGHTS

In 2021, the *Washington Post* testified in favor of this bill after a 2019 defamation lawsuit was filed against them by Nicolas Sandmann, a Catholic pro-life teenager who was the target of misleading, biased news coverage during the National March for Life in Washington, D.C. in 2019. The young man and his family were threatened with violence and his school was closed in response to threats against Catholic children resulting from the false reporting. In July 2020 the *Washington Post* reached a settlement with Sandmann for an undisclosed amount, after an independent investigation revealed that the Post’s accusations against the teen were in fact, false. **READ MORE.** But this bill would enable the Washington Post and other media outlets to wantonly malign innocent parties with no accountability.

THE BILL CREATES AN INEQUITABLE AND UNENFORCEABLE JUDICIAL STANDARD

The bill would unfairly burden individuals and organizations, by imposing a subjective set of criteria to deny only certain individuals and organizations legal remedy against SLAPP suits. This questionable standard would be impossible for courts to apply equitably and would be highly likely to have a discriminatory effect. The language would substitute free speech with content discrimination and personal or political value judgments. What may or may not be “in the public interest” or what may or may not “confer a significant benefit”, is not a settled matter of

law but of subjective opinion. **Our right to Freedom of Speech was designed to protect speech that is not popular.**

The bill also would undermine the judicial requirement of **standing**, by allowing legal actions on behalf of the general population or some subset of the population otherwise undefined.

THE BILL BROADLY CHILLS SPEECH, NOT LIMITED TO COMMERCIAL SPEECH

Contrary to prior testimony of the bill proponents, application of this bill would not be limited to consumer or trade practices (as evidenced by the word “OR” in Subsection (c) III.) We specifically object to the legal loophole created by the operative proposed language:

(C)A LAWSUIT IS NOT A SLAPP SUIT IF: (1) THE LAWSUIT IS BROUGHT IN THE PUBLIC INTEREST OR ON BEHALF OF THE GENERAL PUBLIC AND EACH OF THE FOLLOWING CONDITIONS EXISTS:

(I) EXCEPT FOR CLAIMS FOR ATTORNEY’S FEES, COSTS, OR PENALTIES, THE PLAINTIFF DOES NOT SEEK ANY RELIEF GREATER THAN OR DIFFERENT FROM THE RELIEF SOUGHT FOR THE GENERAL PUBLIC OR A CLASS OF WHICH THE PLAINTIFF IS A MEMBER;

(II)THE LAWSUIT, IF SUCCESSFUL, WOULD ENFORCE AN IMPORTANT RIGHT AFFECTING THE PUBLIC INTEREST AND WOULD CONFER A SIGNIFICANT BENEFIT, PECUNIARY OR NONPECUNIARY, TO THE GENERAL PUBLIC OR A LARGE CLASS OF PERSONS; AND

(III) PRIVATE ENFORCEMENT IS NECESSARY AND PLACES A DISPROPORTIONATE FINANCIAL BURDEN ON THE PLAINTIFF IN RELATION TO THE PLAINTIFF’S STAKE IN THE MATTER; **OR**

FEDERAL PRECEDENT PROHIBITS TARGETING PRO-LIFE SPEECH

In conflict with federal court precedent, this bill attempts to authorize frivolous and costly suits that will likely **target pro-life speech which has been under attack as commercial speech** in Maryland. In [*Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Baltimore*, 879 F.3d 101 \(4th Cir. 2018\)](#), the City of Baltimore acting on behalf of abortion advocates, attempted unsuccessfully to put pro-life pregnancy centers out of business by enacting a targeted ordinance against **commercial** speech as "deceptive advertising".

The federal appeals court for the 4th Circuit affirmed the lower court’s decision in favor of the pro-life pregnancy center, noting that *“the City has considerable latitude in regulating public health and deceptive advertising. But Baltimore’s chosen means here are too loose a fit with those ends, and in this case compel a politically and religiously motivated group to convey a message fundamentally at odds with its core beliefs and mission.”* The City also failed to establish that the pro-life pregnancy center was engaged in commercial or professional speech, which required the Court to apply higher scrutiny against the government action. Without proving the inefficacy of less restrictive alternatives, providing concrete evidence of deception, or more precisely targeting its regulation, the City did not prevail.

The Maryland General Assembly enacted the underlying statute to defend the exercise of free speech against Strategic Lawsuits Against Public Participation. We respectfully urge you to protect that right for all and to preserve the integrity of this Assembly, by rejecting SB167 and its broad expansion of frivolous SLAPP suits.

Respectfully Submitted,
Laura Bogley, JD
Maryland Right to Life, Inc.

Pro-Life Teen Nicholas Sandmann Wins Settlement From Washington Post For Smearing Him

National | Micaiah Bilger | Jul 24, 2020 | 1:15PM | Washington, DC

Covington Catholic High School teen Nicholas Sandman won a second defamation settlement against a major news outlet, he and his lawyers announced Thursday.

The pro-life teen was the target of misleading, biased news coverage during his Kentucky high school's trip to the March for Life in 2019. On Thursday, Sandmann said his lawyers and the Washington Post reached a settlement agreement, [WLWT News 5 reports](#).

"On 2/19/19, I filed \$250M defamation lawsuit against Washington Post. Today, I turned 18 & WaPo settled my lawsuit. Thanks to [attorneys Lin Wood and Todd McMurtry] for their advocacy. Thanks to my family & millions of you who have stood your ground by supporting me. I still have more to do," Sandmann wrote Friday on Twitter.

In the lawsuit, Sandmann accused the newspaper of "wrongfully targeting and bullying" him "because he was the white, Catholic student wearing a red 'Make America Great Again' souvenir cap on a school field trip to the Jan. 18 (2019) March for Life in Washington, D.C."

The details of the settlement were not released publicly. A spokesperson for The Washington Post [told Fox News](#), "We are pleased that we have been able to reach a mutually agreeable resolution of the remaining claims in this lawsuit."

Many news outlets implied Sandmann and other Covington students were racist based on [a short video showing a brief confrontation between them and Native American protester Nathan Phillips](#) near the Lincoln Memorial. The negative publicity [led to death threats and the temporary closure of his Catholic high school for several days](#) due to security concerns.

Later, however, longer video footage of the incident disproved many of the claims against Sandmann and other students from the school.

Click Like if you are pro-life to like the LifeNews Facebook page!

Wood congratulated the teen on the settlement Friday and wished him a happy birthday, noting that their lawsuits against other news outlets are still pending. These include NBC, ABC, CBS, Rolling Stone, Gannett and the New York Times.

"More presents to be delivered to you this next year," [Wood wrote on Twitter](#). "You deserve justice. We all deserve justice."

Earlier this year, Sandmann's lawyers [reached a similar settlement with CNN](#).

The lawsuits came after an independent investigation confirmed that a group of Covington Catholic teens told the truth about their viral confrontation with a Native American man in Washington, D.C. [The report by Greater Cincinnati Investigation, Inc.](#) states that the pro-life teens did not initiate the confrontation or use any racial slurs against Native American Nathan Phillips or the Black Hebrew Israelites group.

"We found no evidence of offensive or racist statements by students to Mr. Phillips or members of his group," the report states. "We found no evidence that the students performed a 'Build the Wall' chant."

Previously, Wood said Phillips told "lies and false accusations" about Sandmann and other students after the Jan. 18, 2019 incident.

Phillips did not participate in the independent investigation. According to Townhall, he lied about the students chanting "Build the wall!" and his Vietnam service.

"We have attempted to reach out to Mr. Phillips by phone and by e-mail, informing him that we desired to interview him in person and that we were prepared to meet him in Michigan or any location he might prefer," the investigators wrote. "We also sent Mr. Phillips' daughter an e-mail as they both appear to be involved in the Native Youth Alliance and have shared their e-mail addresses after the event to thank everyone for reaching out and supporting them."

They said Phillips never responded.

"Mr. Phillip's public interviews contain some inconsistencies, and we have not been able to resolve them or verify his comments due to our inability to contact him," the investigators continued.

They said it was the Black Hebrew Israelite group that yelled racial slurs against the boys as well as Native Americans.

In an statement after the initial publicity, Sandmann said he was confused by the whole incident and he smiled only to let the other protesters know that he would not be intimidated.

"I am a faithful Christian and practicing Catholic, and I always try to live up to the ideals my faith teaches me – to remain respectful of others, and to take no action that would lead to conflict or violence," he said.