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SB 251 — Uniform Public Expression Protection Act

SB 251, the Maryland Uniform Public Expression Protection Act (UPEPA), will update and strengthen Maryland's anti-SLAPP (Strategic Lawsuits Against Public Participation) law. The goal of a SLAPP is to entangle the defendant in expensive litigation, stifling the defendant's ability to engage in constitutionally protected activities. SB 251 is designed to challenge a SLAPP and quickly dismiss a claim without merit.

SB 251 is a uniform act, designed and supported by the Uniform Law Commission. Fifteen states have passed UPEPA, with six more (including Maryland) introducing the legislation in 2026¹. Just last month, in December 2025, Michigan unanimously passed a UPEPA². A uniform act provides consistency across states, so litigants and judges know what the law is and what to expect. It also cuts down on forum shopping.

Current Maryland law is outdated and does not provide adequate protection for free speech. Under Maryland law, a defendant must prove the plaintiff brought the suit intentionally and in bad faith - a nearly impossibly high standard that no other state requires. Last year we heard from attorney Tom Coale about someone he briefly represented before he too was sued by the same plaintiff. Those suits - plus the others that the plaintiff has filed - are clearly SLAPPs, but our current law is insufficient, so the defendant has been paying thousands of dollars for attorneys fees and costs, through 2 trials (which she won) over 5 years. And, she is still in litigation. Under UPEPA, this case would have been settled years ago. The defendant would not be out thousands of dollars, the plaintiff would be financially responsible for the SLAPPs, and it likely would have deterred the plaintiff from suing others who also had to pay for representation.

The process under SB 251, Maryland UPEPA, is as follows:

¹ [Uniform Law Commission: UPEPA bill tracking list](#)

² [Institute for Free Speech: Michigan Becomes the 39th State to Adopt an Anti-SLAPP Law](#)

The case starts when a plaintiff, usually a large corporation, powerful individual, or the government, files a lawsuit, usually against the press or advocates. The lawsuit often claims defamation, but there are other causes of action employed. The person or group who was sued believes this is not a suit to redress actual injury, but to chill criticism. So that individual or group files a motion with the court saying this is a SLAPP suit. Upon filing of that motion, all proceedings – including discovery – between the parties are stayed, with a few exceptions.

The court then addresses the motion in essentially three expedited phases:

In the first phase, the Court effectively decides whether the Act applies:

- The burden is upon the moving party to show that the original suit implicates their right to free speech, petition and association. If the moving party fails to do that, the motion is denied and the original case goes on.
- If the moving party succeeds in showing their First Amendment rights are at issue, the responding party can show its cause of action fits into one of the three exceptions. If they succeed, the motion is denied and the original case goes on.
- If the moving party succeeds in showing the Act applies and the responding party fails to show it falls within an exception, the court proceeds to step #2.

In the second phase, the Court determines if the responding party has a viable cause of action on its face:

- In this phase, the respondent (the one who filed the original case) has to establish a prima facie case for each essential element of the cause of action challenged.
- If the Court holds they did not do this, then the motion is granted and the original case is dismissed. The moving party is entitled to costs, attorneys fees and expenses for having to defend against the suit.
- If the respondent does show a prima facie case, then the court moves to the third phase.

In the third phase, the Court determines if the respondent has a *legally* viable case. Here, the burden shifts back to the moving party to show that the respondent failed to state a cause of action upon which relief can be granted, or that there is no genuine issue of material fact and they are entitled to judgement as a matter of law (summary judgment). If the moving party shows that, motion granted. If they fail to show that, the motion is denied and the underlying case goes on.

UPEPA has support from entities such as the press, the National ACLU, the National Right to Life, the Motion Picture Association, and the International Association of Better Business Bureaus, among others. It has been enacted in red, blue, and purple states. And I hope we will add Maryland to the list this year.

For these reasons, I respectfully request your favorable report on SB 251.