



**Testimony for the Senate Judicial Proceedings Committee
March 12, 2020**

**SB 1042 – Civil Actions – Strategic Lawsuit Against Public
Participation**

FAVORABLE

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The ACLU of Maryland supports SB 1042, which would strengthen Maryland’s anti-SLAPP law to better protect free speech rights against lawsuits intended to stifle debate of matters of public concern.

Strategic Lawsuits Against Public Participation, or “SLAPP” lawsuits are designed for individuals in positions of power to censor, intimidate, and silence their critics by burdening them with expensive, baseless lawsuits and threats of huge damage awards. Advocates, journalists, consumers, and concerned residents are forced to defend in court against abusive litigation, simply because they offended the wrong person while exercising their Constitutional rights. Freedom of speech necessarily protects speech that some find offensive. However, free speech rights and the right to petition are such fundamental rights, because they allow us to fully participate in our democracy and the process of self-government. It is therefore vital to have robust safeguards to protect against those who use their power to infringe on such important individual rights.

This bill balances the competing rights of free speech with legitimate concerns about defamation, misrepresentation, and fraud. It helps ensure that people with lawful claims have their day in court without silencing critics in the public square.

In particular, this bill:

- clarifies the definition of a SLAPP suit, particularly removing a “bad faith” provision and aligning language around the Constitutional rights of free speech and petition;
- provides to parties a new opportunity to appeal a ruling on a motion to dismiss; and
- shifts attorneys’ fees.

In so doing, the bill lessens the legal and financial barriers for those who find themselves facing unconstitutional claims, and makes it easier for courts to dismiss those frivolous claims without forcing individuals through a lengthy and costly trial.



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SB 1042 addresses one of the most fundamental rights of what it means to live in this country: the right to speak our minds and engage in public debate on government policies, political candidates, and other matters of public interest. The result of SLAPP lawsuits is a system in which only those with means are afforded their full Constitutional rights. This bill is an important step toward ensuring that these rights are afforded to all.

For the foregoing reasons, we urge a favorable report on SB 1042.