

January 31, 2017

Dear Members of the Virginia General Assembly:

On behalf of the undersigned businesses, consumer organizations, think tanks and free speech advocates, we wish to express our support for SB 1413 and HB 1941, and urge the Senate Committee for Courts of Justice and the House Courts of Justice Committee to advance this important legislation.

Every day, millions of Americans speak out on issues of public importance, sharing their experiences and opinions; however, their right to free speech may be in danger. Unfair legal practices, known as Strategic Lawsuits Against Public Participation (SLAPPs), are increasingly being used to stifle public debate, threaten news reporting and punish civic engagement.

In fact, Virginians have felt the brunt of SLAPPs in recent years. Fairfax resident Jane Perez, a retired Army Captain, is one such victim. Just a few years ago, Perez used Yelp and Angie's List to post a cautionary review about a particularly bad experience with a contractor – only to have the contractor respond with a \$750,000 lawsuit and a preliminary injunction to remove her review from the site. Newspapers and journalists, like Charlottesville's *The Hook*, are regularly being sued for their reporting while community members like Christianburg residents Terry Ellen Carter and Tacy Newell-Foutz are sent to court for simply blogging about their own neighborhood.

Unfortunately this is an aspect of our legal system that can be easily abused, particularly in a state like Virginia. Virginia, unlike 28 other states, does not have an anti-SLAPP law on the books, leaving our citizens largely unprotected from such outrageous claims. While consumers have the right to speak freely on the issues that impact them and to participate in important public debates, when faced with the threat of a lengthy and expensive trial, participating in this type of dialogue is often not worth the risk. The natural extension of this fear-mongering can have a chilling effect on public debate. Further, SLAPPs don't just silence; they can cause irreparable financial strain on their victims.

Anti-SLAPP legislation – SB 1413 and HB 1941 – will go a long way in protecting Virginians' First Amendment rights by granting the court the authority to determine whether a lawsuit is a SLAPP or if it is a bogus claim that should be dismissed. This empowers citizens not to back down to bullies who threaten them with unjust lawsuits and encourages those with bogus claims to think twice before SLAPPING their next victim. This bill also includes a fee-shifting provision to ensure consumers are not saddled with expensive legal costs if they prevail in court.

Anti-SLAPP legislation is crucial in order to remedy this abuse and sure up the First Amendment right to freedom of expression. Today, more than half of the states and the District of Columbia have anti-SLAPP laws on the books. Over the past decade, Arizona, Arkansas, Illinois, Missouri, New Mexico, New York, Oregon, Texas and Utah have all signed anti-SLAPP legislation – and Virginia must be next.

We applaud Sen. Glen Sturtevant Jr. and Del. Terry Kilgore for introducing important anti-SLAPP legislation and we urge the Virginia legislature to advance this legislation without delay.

Respectfully,

*Thomas Jefferson Institute
for Public Policy*

