



TO: Senate Government Oversight & Reform Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
DATE: June 6, 2018
RE: Senate Bill 206 – Proponent Testimony

To Chairman Coley, Vice Chair Uecker, Ranking Member Schiavoni, and members of the Senate Government Oversight & Reform Committee, my name is Gary Daniels, chief lobbyist for the American Civil Liberties Union of Ohio (“ACLU of Ohio”) and I appear to present proponent testimony on Senate Bill 206.

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Senate Bill 206 is long overdue legislation to halt the ongoing use of Ohio courts to silence your constituents when they dare to share opinions and information regarding various matters of public concern. More specifically, SB 206 addresses what are often referred to as “SLAPP suits” i.e. Strategic Lawsuits Against Public Participation.

The ACLU of Ohio is well-acquainted with SLAPP suits as we have provided legal representation to those sued. We do this because of our concerns about utilizing the court system to quash speech otherwise protected by the First Amendment. Our interest in this issue also extends to advocating for state laws to eliminate these lawsuits, including today’s testimony.

To be sure, the only concern of those who file SLAPP suits is shutting up their opposition, whether that is one person, an entire organization, the news media, or even elected and government officials.

Those responsible for filing SLAPP suits know many of those sued are financially unable to defend themselves against these lawsuits. Because of this fact, the result of many SLAPP suits include – 1) the party speaking on a matter of public concern settles the lawsuit because they cannot afford to proceed any longer, 2) the sued party stops engaging in the speech that led to the SLAPP suit against them, 3) some choose to never engage in speech for fear they will be subjected to these frivolous and meritless SLAPP suits.

So, even when a large, well-funded entity uses Ohio's court system – as they have and continue to do – to crush those they perceive as hostile to their interests, they are not doing so because their own concerns have merit. They are doing it because they know full well they are financial Goliaths against sparsely-funded Davids and the best way to silence the opposition is to sue them until they are broke and/or silenced.

SB 206 provides a welcome reversal to this harmful practice in a number of ways that provide immunity to Ohioans against SLAPP suits while not impacting legitimate lawsuits and court actions. In short, SB 206:

- Permits those sued to file in court a motion to strike the action and creates a procedure for the court to review the facts and determine if the lawsuit in question should proceed;
- If the court grants a motion to strike the action, requires the court to award reasonable attorneys' fees and court costs to the person or entity who was sued;
- Permits a court to award punitive monetary damages against the filer of the SLAPP suit should their lawsuit or related action be struck;
- Establishes a mechanism for Ohioans to protect themselves against SLAPP suits filed in other states but affecting them here;
- Protects the anonymity of those communicating online unless the court where an alleged SLAPP suit is filed grants permission;
- Balances all of the above with procedures and mechanisms to ensure meritorious lawsuits may continue.

With the passage of SB 206, Ohio will join at least 28 other states in protecting their citizens against this frivolous hijacking of our courts to avoid criticism, unwelcome opinions, and inconvenient facts.

The ACLU urges members of the Senate Government Oversight & Reform Committee to pass Senate Bill 206 so Ohioans may express themselves without fear their speech and advocacy will unfairly bankrupt them.