


**COUNCIL OF THE DISTRICT OF COLUMBIA**  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

**Memorandum**

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To: Members of the Council  
From:   
Cynthia Brock-Smith, Secretary to the Council  
Date: July 7, 2010  
Subject: (Correction)  
Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, June 29, 2010. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Anti-SLAPP Act of 2010", B18-0893

INTRODUCED BY: Councilmembers Cheh and Mendelson

CO-SPONSORED BY: Councilmember M. Brown

The Chairman is referring this legislation to the Committee on Public Safety and the Judiciary.

Attachment

cc: General Counsel  
Budget Director  
Legislative Services



Councilmember Phil Mendelson



Councilmember Mary M. Cheh

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmembers Mary M. Cheh and Phil Mendelson introduced the following bill, which was referred to the Committee on \_\_\_\_\_.

To provide a special motion for the quick and efficient dismissal of strategic lawsuits against public participation (SLAPPs), to stay proceedings until the motion is considered, to provide a motion to quash attempts to seek personally identifying information; and to award the costs of litigation to the successful party on a special motion.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Anti-SLAPP Act of 2010".

Sec. 2. Definitions.

For the purposes of this Act, the term:

(1) "Act in furtherance of the right of free speech" means:

(A) Any written or oral statement made:

(i) In connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law;

(ii) In a place open to the public or a public forum in connection with an issue of public interest; or

1 (B) Any other conduct in furtherance of the exercise of the constitutional  
2 right to petition the government or the constitutional right of free expression in  
3 connection with an issue of public interest.

4 (2) "Issue of public interest" means an issue related to health or safety;  
5 environmental, economic or community well-being; the District government; a public  
6 figure; or a good, product or service in the market place. The term "issue of public  
7 interest" shall not be construed to include private interests, such as statements directed  
8 primarily toward protecting the speaker's commercial interests rather than toward  
9 commenting on or sharing information about a matter of public significance.

10 (3) "Claim" includes any civil lawsuit, claim, complaint, cause of action, cross-  
11 claim, counterclaim, or other judicial pleading or filing requesting relief.

12 (4) "Government entity" means the Government of the District of Columbia and  
13 its branches, subdivisions, and departments.

14 Sec. 3. Special Motion to Dismiss.

15 (a) A party may file a special motion to dismiss any claim arising from an act in  
16 furtherance of the right of free speech within 45 days after service of the claim.

17 (b) A party filing a special motion to dismiss under this section must make a  
18 prima facie showing that the claim at issue arises from an act in furtherance of the right  
19 of free speech. If the moving party makes such a showing, the responding party may  
20 demonstrate that the claim is likely to succeed on the merits.

21 (c) Upon the filing of a special motion to dismiss, discovery proceedings on the  
22 claim shall be stayed until notice of entry of an order disposing of the motion, except that  
23 the court, for good cause shown, may order that specified discovery be conducted.

1 (d) The court shall hold an expedited hearing on the special motion to dismiss,  
2 and issue a ruling as soon as practicable after the hearing. If the special motion to dismiss  
3 is granted, dismissal shall be with prejudice.

4 (e) The defendant shall have a right of immediate appeal from a court order  
5 denying a special motion to dismiss in whole or in part.

6 Sec. 4. Special Motion to Quash.

7 (a) A person whose personally identifying information is sought, pursuant to a  
8 discovery order, request, or subpoena, in connection with an action arising from an act in  
9 furtherance of the right of free speech may make a special motion to quash the discovery  
10 order, request, or subpoena.

11 (b) The person bringing a special motion to quash under this section must make a  
12 prima facie showing that the underlying claim arises from an act in furtherance of the  
13 right of free speech. If the person makes such a showing, the claimant in the underlying  
14 action may demonstrate that the underlying claim is likely to succeed on the merits.

15 Sec. 5. Fees and costs.

16 (a) The court may award a person who substantially prevails on a motion brought  
17 under sections 3 or 4 of this Act the costs of litigation, including reasonable attorney fees.

18 (b) If the court finds that a motion brought under sections 3 or 4 of this Act is  
19 frivolous or is solely intended to cause unnecessary delay, the court may award  
20 reasonable attorney fees and costs to the responding party.

21 Sec. 6. Exemptions.

22 (a) This Act shall not apply to claims brought solely on behalf of the public or  
23 solely to enforce an important right affecting the public interest.

1 (b) This Act shall not apply to claims brought against a person primarily engaged  
2 in the business of selling or leasing goods or services, if the statement or conduct from  
3 which the claim arises is a representation of fact made for the purpose of promoting,  
4 securing, or completing sales or leases of, or commercial transactions in, the person's  
5 goods or services, and the intended audience is an actual or potential buyer or customer.

6 Sec. 7: Fiscal impact statement.

7 The Council adopts the fiscal impact statement in the committee report as the  
8 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home  
9 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
10 206.02(c)(3)).

11 Sec. 8. Effective date.

12 This act shall take effect following approval by the Mayor (or in the event of veto  
13 by the Mayor, action by the Council to override the veto), a 30-day period of  
14 Congressional review as provided in section 602(c)(1) of the District of Columbia Home  
15 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
16 206.02(c)(1)), and publication in the District of Columbia Register.