



**House
Legislative
Analysis
Section**

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**PROTECTIONS FOR “SLAPP” SUIT
DEFENDANTS**

House Bill 5593

Sponsor: Rep. Marc Shulman

House Bill 5594

Sponsor: Rep. David Woodward

House Bill 5595

Sponsor: Rep. James Koetje

House Bill 5596

Sponsor: Rep. Leon Drolet

House Bill 5597

Sponsor: Rep. Glenn S. Anderson

**Committee: Civil Law and the Judiciary
Complete to 9-5-02**

House Bills 5593-5597 (9-5-02)

A SUMMARY OF HOUSE BILLS 5593-5597 AS INTRODUCED 2-7-02

House Bills 5593 –5597 would amend the Revised Judicature Act (MCL 600.2972-600.2976) to provide certain protections for defendants in so-called “SLAPP” suits—i.e., “strategic lawsuits against public participation”. Under House Bill 5593, if a court found that a civil action was initiated with the primary purpose of harassing or intimidating the defendant or otherwise hindering his or her participation in the process of government, the defendant would be entitled to either treble damages, costs of the action, and reasonable attorney fees, or the sum of \$5,000, whichever was greater. To qualify, the civil action would have to be based on the defendant’s constitutionally protected “communication”—i.e., an oral statement, writing, electronic transmission, photograph, depiction, peaceful demonstration, or other expression—with a governmental unit, public official, or other person, in furtherance of the defendant’s constitutional right to petition. Also, the defendant’s original communication would have to have been aimed at procuring a governmental or electoral action, result, or outcome.

House Bill 5594 would require a court to award damages (as described above) upon a defendant’s motion, with two exceptions. First, an individual would not be entitled to recover damages if he or she knew that the communication that gave rise to the action was false or if he or she made the communication with reckless disregard as to the communication’s falsity. Second, an individual would not be entitled to recover damages if the communication included information that he or she was legally prohibited from disseminating.

House Bill 5596 would direct the court to award to the defendant costs that he or she incurred when bringing the motion against the plaintiff as well as any additional sanctions against the plaintiff and his or her attorney or law firm sufficient to deter them from filing an action for damages allegedly resulting from the defendant’s original communication. Also, a

defendant who had an action against him or her dismissed could bring an action, claim, cross-claim, or counter claim to recover actual and compensatory damages, costs and attorney fees, and exemplary damages from the person who commenced the action. House Bill 5595 would specify that these actual and compensatory damages, costs and attorney fees, and exemplary damages would be limited to amounts that had not already been recovered as costs or additional sanctions. The right to bring an action to recover the actual and compensatory damages, costs and attorney fees, and exemplary damages could be waived only if waived specifically.

House Bill 5597 defines terms used in House Bills 5593-5596. House Bills 5593, 5594, and 5597 are tie-barred to one another. House Bills 5595 and 5596 are tie-barred to the other bills.

Analyst: J. Caver

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.