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## HOUSE BILL NO. 2446

Offered January 20, 2017

A BILL to amend and reenact §§ 8.01-223.2 and 8.01-271.1 of the Code of Virginia, relating to immunity of persons; defamation; statements regarding matters of public concern; sanctions.

Patron—Levine

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-223.2 and 8.01-271.1 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-223.2. Immunity of persons for statements made at public hearing or communicated to third party.

A. For purposes of this section, "matters of public concern" means matters of interest to the community, which includes written or spoken statements relating to (i) health or safety; (ii) environmental, economic, or community well-being; (iii) the government; (iv) a public official or public figure; or (v) a good, product, or service in the marketplace.

B. A person shall be immune from civil liability for a violation of § 18.2-499 ~~or~~, a claim of tortious interference with an existing contract or a business or contractual expectancy, or a claim of defamation based solely on statements regarding matters of public concern made by that person that are communicated to a third party, including those made at a public hearing before the governing body of any locality or other political subdivision, or the boards, commissions, agencies, and authorities thereof, and other governing bodies of any local governmental entity concerning matters properly before such body. The immunity provided by this section shall not apply to any statements made with knowledge that they are false, or reckless disregard for whether they are false. The court shall give priority on its docket to any pleading invoking immunity under this section. Upon the filing of any such pleading invoking immunity under this section, the court shall issue an order staying discovery proceedings related to the underlying claim pending the outcome of the court's ruling on any such pleading. On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the pleading invoking immunity.

C. Any person who has a suit against him dismissed pursuant to the immunity provided by this section may shall be awarded reasonable attorney fees and costs.

§ 8.01-271.1. Signing of pleadings, motions, and other papers; oral motions; sanctions.

Except as otherwise provided in §§ 16.1-260 and 63.2-1901, every pleading, written motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, and the attorney's address shall be stated on the first pleading filed by that attorney in the action. A party who is not represented by an attorney, including a person confined in a state or local correctional facility proceeding pro se, shall sign his pleading, motion, or other paper and state his address.

The signature of an attorney or party constitutes a certificate by him that (i) he has read the pleading, motion, or other paper, (ii) to the best of his knowledge, information and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and (iii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, written motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

An oral motion made by an attorney or party in any court of the Commonwealth constitutes a representation by him that (i) (a) to the best of his knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (ii) (b) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

If a pleading, motion, or other paper is signed or made in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed the paper or made the motion, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper or making of the motion, including a reasonable attorney's attorney fee.

At the request of a party against whom a legal action is brought, the court shall issue findings

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59 regarding whether a legal action was brought to deter or prevent such party from exercising  
60 constitutional rights and is brought for an improper purpose, including to harass or to cause  
61 unnecessary delay or to increase the cost of litigation.

62 If the court issues such a finding, the court shall award to the party requesting such a finding  
63 sanctions against the party who brought the legal action as the court determines sufficient to deter the  
64 party who brought the legal action from bringing similar actions.

65 If the court finds that such a request for findings, or any motion or pleading filed by such party  
66 claiming a legal action is brought to deter or prevent such party from exercising constitutional rights or  
67 is brought for an improper purpose, is frivolous or solely intended to delay, the court may award court  
68 costs and reasonable attorney fees to the responding party.