



March 23, 2023

The Honorable Debbie Mayfield
The Honorable Keith Perry
Senate Committee on Rules
404 South Monroe Street
Tallahassee, FL 32399-1100

The Honorable Tommy Gregory
The Honorable Tobin Rogers Overdorf
House Judiciary Committee
402 South Monroe Street
Tallahassee, FL 32399-1300

Dear Senator Mayfield, Senator Perry, Representative Gregory, and Representative Overdorf:

The undersigned Chief Executive Officers of the Better Business Bureaus serving Florida are writing to express concerns about the unintended consequences of HB 991 and SB 1220.

Better Business Bureau is a network of nonprofit organizations throughout North America with the common mission of advancing marketplace trust. For more than 100 years, consumers and businesses have relied on BBB self-regulation to set standards for marketplace trust, encourage best practices, identify role models, and call out substandard marketplace behavior. Trustworthy businesses know BBB levels the playing field by alerting consumers to the practices of unethical competitors, and consumers know BBB is an unbiased source of pre-purchase information and fraud alerts.

BBB Business Profiles and other publications include a wealth of information to help consumers make wise buying decisions. BBB issues press releases to advise consumers about significant warning signs or indicators of fraud. BBB publishes a rating that represents BBB's opinion of how a business will interact with its customers. BBB publishes alerts describing information we believe to be important for consumers when deciding whether to transact with a business, such as patterns of consumer complaints, bankruptcy filings, manipulation of consumer reviews, or legal actions by governmental agencies. BBB also allows consumers to publish the narratives of their complaints and reviews, remaining neutral in these public conversations between a business and its customer to retain the protections provided by Section 230 of the Federal Communications Decency Act.

To effectively serve the business and consumer communities and honestly call out questionable or fraudulent marketplace behavior, BBB often publishes facts or reports of consumer experiences that some businesses find objectionable. Some businesses go so far as to threaten or initiate legal action to try to coerce BBB to remove an alert, BBB rating, or consumer complaints. Although BBBs are nonprofit organizations with limited resources, we

also recognize that we must maintain the integrity of the information we publish and cannot give in to intimidation. For these reasons, we vigorously defend our right to publish important information that protects consumers and trustworthy businesses.

The Anti-SLAPP statute is an essential tool that places Florida BBBs in a stronger position to fight intimidation. The Anti-SLAPP statute increases costs for businesses who file unwarranted lawsuits and allows BBBs to recover litigation costs that we can use to fund our mission. Earlier this year a Florida Court of Appeal affirmed an Anti-SLAPP ruling in favor of BBB Serving West Florida, dismissing the plaintiff's lawsuit and ordering the plaintiff to reimburse the BBB's attorney's fees and costs. This Anti-SLAPP case sent a warning to untrustworthy businesses that attempting to sanitize an unfavorable BBB report can be costly.

Because BBB's marketplace impartiality is essential to our nonprofit mission and benefits all consumers and trustworthy businesses, BBB is scrupulously non-partisan and rarely takes a position supporting or opposing particular legislation. However, we believe we must express our concerns about two bills recently introduced in the Florida Legislature. H.B. 991 and S.B. 1220 would drastically rewrite the Anti-SLAPP statute to delete provisions awarding costs to successful defendants in defamation lawsuits and replace them with provisions awarding costs to successful plaintiffs. These bills would increase the risks to Florida BBBs of defending ourselves against unjustified defamation lawsuits. If these provisions were to be enacted, unscrupulous businesses would be encouraged to threaten Florida BBBs with defamation claims to remove true but undesirable information that consumers should be aware of. Florida BBBs would be susceptible to more frivolous lawsuits and therefore be more cautious about publicizing untrustworthy marketplace behavior. Trustworthy businesses more often would be undercut by dishonest competitors. Florida consumers, particularly seniors, would have less information to help them stay safe from unscrupulous operators and scams.

Diminished BBB reporting would also be felt by Florida state and local governments. Florida BBBs provide information about marketplace conduct to the Federal Trade Commission's Consumer Sentinel to support enforcement actions at all levels of government. The Florida Attorney General, Department of Business Professional Regulation, local law enforcement, and other agencies receive essential marketplace information directly from the Florida BBBs. Increasing the Florida BBBs' legal risks in disseminating accurate information will cause BBBs to limit their reports to these agencies, resulting in decreased insight into potentially illegal practices.

We ask the House Judiciary Committee and Senate Committee on Judiciary to amend HB 991 and SB 1220 to delete revisions to the Florida Anti-SLAPP statute and retain the protections for individuals and entities like BBB whose exercise of the right to free speech benefits the Florida economy and protects the interests of Florida consumers and businesses.

Signed,

Rodney L. Davis
President and CEO
BBB of Southeast Florida & the Caribbean
4411 Beacon Circle
West Palm Beach, FL 33407

Christine Mathis
President and CEO
BBB of Northwest Florida
912 E. Gadsden St.
Pensacola, FL 32501

Karen Nalven
President
BBB Serving West Florida
2655 McCormick Drive
Clearwater, FL 33759

Holly Salmons
President & CEO
BBB of Central Florida
1600 S. Grant St.
Longwood, FL 32750

Tom Stephens
President/CEO
BBB of Northeast Florida and the Southeast Atlantic
4417 Beach Blvd., Suite 202
Jacksonville, FL 32207