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HOUSE BILL NO. 1888
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by Del. Simon
on January 29, 2025)
(Patron Prior to Substitute—Del. Simon)

A BILL to amend and reenact § 8.01-223.2 of the Code of Virginia, relating to immunity of persons for tort actions based on statements made in connection with certain proceedings; sanctions.

Be it enacted by the General Assembly of Virginia:

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

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

A. A person shall be immune from tort liability if the tort claim is based solely on statements (i) regarding matters of public concern that would be protected under the First Amendment to the Constitution of the United States made by that person that are communicated to a third party, (ii) made at a public hearing before, or otherwise communicated to, 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, (iii) *made at or in connection with any official proceeding authorized by law that is not described in clause (ii), or ~~(iii)~~ (iv) made by an employee against an employer where retaliatory action arising from such statements is prohibited by § 40.1-27.3.*

B. The immunity provided by this section shall not apply to any statements that the declarant knew or should have known were false or were made with reckless disregard for whether they were false.

C. Any person who has a suit against him dismissed or a witness subpoena or subpoena duces tecum quashed, or otherwise prevails in a legal action, pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs. *The court may further impose sanctions upon the party who brought the underlying legal action dismissed pursuant to the immunity provided by this section.*