



Rep. McDonough

Maryland representative Patrick McDonough apparently believes that Maryland law clinics should be restricted to representing only the indigent. He just introduced a bill, [HB 751](#), that attempts to legislate just that:

Except for pro bono litigation on behalf of an indigent individual, a law clinic affiliated with a law school at a constituent institution of the University System of Maryland may not initiate or participate in litigation.

(I grew up in Maryland, so I take a particular interest in the crazy things Maryland's legislature spends its time on.)

This is a not particularly veiled attempt by Rep. McDonough to keep the University of Maryland law school clinic from representing the Waterkeeper Alliance in a [suit over poultry waste discharge](#) into the Chesapeake Bay watershed. Governor O'Malley [previously sent a letter](#) criticizing the suit.

Apparently Gov. O'Malley and Rep. McDonough are concerned that the "deep-pocket" nonprofit environmental group is unfairly targeting the "family farm" that raises half a million chickens for Perdue Farms. Yes, Perdue Farms, the nation's third-largest broiler chicken producer. So much phosphorus runs off of Perdue chicken farms that it shifts the phosphorus-nitrogen balance from excess nitrogen in the northern end to excess phosphorus in the southern end of the bay, making the Bay almost unique among estuaries in that respect.

HB 751 really gives away the game in its statement of purpose, in which it admits that the bill is:

FOR the purpose of prohibiting the law clinic of a law school at a constituent institution of the University System of Maryland from participating in *certain types* of litigation . . . .

That sounds to me like HB 751 is targeting law clinics because the legislature disapproves of the content of certain litigation. In lawyer terms, this bill is not content-neutral and would

face strict scrutiny in a First Amendment challenge. (Not to say that a court would necessarily strike it down, but HB 751 seems like a particularly poor way to regulate law clinics in light of First Amendment principles.)

Perhaps Rep. McDonough and Gov. O'Malley should devote their energy to fixing the agricultural runoff problems in the Chesapeake Bay Watershed, obviating the need for such litigation in the first place. Or maybe we should just move half a million chickens to Rep. McDonough's backyard . . .