

SENATE BILL 279

C3, J1

0lr0001
CF 0lr0172

By: **The President (By Request – Administration) and Senators Frosh, Lenett, Currie, Della, Gladden, Harrington, Kelley, Klausmeier, Madaleno, Middleton, Pinsky, Raskin, Robey, and Rosapepe**

Introduced and read first time: January 22, 2010

Assigned to: Judicial Proceedings and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland False Health Claims Act of 2010**

3 FOR the purpose of prohibiting certain actions constituting false claims against a
4 State health plan or a State health program; providing certain penalties for
5 making false claims against a State health plan or a State health program;
6 authorizing the State to file a civil action against a person who makes a false
7 claim against a State health plan or a State health program under certain
8 circumstances; authorizing a person other than the State to file a civil action on
9 behalf of the person and the State against a person who makes a false claim
10 against a State health plan or a State health program; providing for the
11 procedures to be followed in a civil action; providing for certain remedies under
12 a civil action; requiring the State to investigate a civil action alleging a false
13 claim against a State health plan or a State health program; authorizing the
14 State to intervene and proceed with the action with or without the person who
15 initiated the action; authorizing the State to elect not to intervene and proceed
16 with the action; authorizing the person that initiated the action to proceed if the
17 State elects not to intervene; authorizing the court to limit the participation of
18 the person who initiated the action under certain circumstances; authorizing
19 the State to intervene at a later time in the proceedings or to pursue alternative
20 remedies; providing for certain damages and payments to the person who
21 initiated the action under certain circumstances; providing for certain payments
22 to the person charged under certain circumstances if the person charged
23 prevails; providing certain limitations on civil actions filed under this Act;
24 prohibiting a person from taking retaliatory action against an employee,
25 contractor, or agent under certain circumstances; authorizing an employee,
26 contractor, or agent to file a civil action against a person who takes retaliatory
27 action against the employee, contractor, or agent under certain circumstances;
28 providing certain remedies for retaliatory action; requiring an employer to make
29 certain disclosures to employees; requiring the Comptroller to deposit a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 penalty or damages in the General Fund of the State; requiring certain persons
 2 to report certain information annually to the General Assembly; authorizing the
 3 Department of Health and Mental Hygiene or the Inspector General of the
 4 Department to adopt certain regulations; defining certain terms; and generally
 5 relating to false claims against State health plans and State health programs.

6 BY adding to

7 Article – Health – General

8 Section 2–601 through 2–611 to be under the new subtitle “Subtitle 6. False
 9 Claims Against State Health Plans and State Health Programs”

10 Annotated Code of Maryland

11 (2009 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Health – General**

15 **SUBTITLE 6. FALSE CLAIMS AGAINST STATE HEALTH PLANS AND STATE**
 16 **HEALTH PROGRAMS.**

17 **2–601.**

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 19 INDICATED.

20 (B) (1) “CLAIM” MEANS A REQUEST OR DEMAND, UNDER A CONTRACT
 21 OR OTHERWISE, FOR MONEY OR OTHER PROPERTY, WHETHER OR NOT THE
 22 STATE HAS TITLE TO THE MONEY OR PROPERTY, THAT IS:

23 (I) PRESENTED THROUGH A STATE HEALTH PLAN OR A
 24 STATE HEALTH PROGRAM TO AN OFFICER, EMPLOYEE, OR AGENT OF THE
 25 STATE; OR

26 (II) MADE TO A CONTRACTOR, GRANTEE, OR OTHER
 27 RECIPIENT, IF THE MONEY OR OTHER PROPERTY IS TO BE SPENT OR USED ON
 28 THE STATE’S BEHALF OR TO ADVANCE A STATE INTEREST THROUGH A STATE
 29 HEALTH PLAN OR STATE HEALTH PROGRAM, AND THE STATE:

30 1. PROVIDES OR HAS PROVIDED ANY PORTION OF
 31 THE MONEY OR OTHER PROPERTY REQUESTED OR DEMANDED; OR

32 2. WILL REIMBURSE THE CONTRACTOR, GRANTEE,
 33 OR OTHER RECIPIENT FOR ANY PORTION OF THE MONEY OR OTHER PROPERTY
 34 THAT IS REQUESTED OR DEMANDED.

1 **(2) “CLAIM” DOES NOT INCLUDE REQUESTS OR DEMANDS FOR**
2 **MONEY OR OTHER PROPERTY THAT THE STATE THROUGH A STATE HEALTH**
3 **PLAN OR STATE HEALTH PROGRAM HAS PAID TO AN INDIVIDUAL AS**
4 **COMPENSATION FOR STATE EMPLOYMENT OR AS AN INCOME SUBSIDY WITH NO**
5 **RESTRICTIONS ON THAT INDIVIDUAL’S USE OF THE MONEY OR OTHER**
6 **PROPERTY.**

7 **(c) “DOCUMENTARY MATERIAL” INCLUDES:**

8 **(1) THE ORIGINAL OR A COPY OF:**

9 **(I) A BOOK;**

10 **(II) A RECORD;**

11 **(III) A REPORT;**

12 **(IV) A MEMORANDUM;**

13 **(V) A PAPER;**

14 **(VI) A COMMUNICATION;**

15 **(VII) A TABULATION;**

16 **(VIII) A CHART;**

17 **(IX) A DOCUMENT; OR**

18 **(X) DATA COMPILATION STORED IN OR ACCESSIBLE**
19 **THROUGH A COMPUTER OR OTHER INFORMATION RETRIEVAL SYSTEM,**
20 **INCLUDING INSTRUCTIONS AND ALL OTHER MATERIALS NECESSARY TO USE OR**
21 **INTERPRET THE DATA COMPILATION; AND**

22 **(2) ANY PRODUCT OF DISCOVERY, INCLUDING:**

23 **(I) THE ORIGINAL OR DUPLICATE OF ANY DEPOSITION,**
24 **INTERROGATORY, DOCUMENT, THING, RESULT OF AN INSPECTION OF LAND OR**
25 **OTHER PROPERTY, EXAMINATION, OR ADMISSION THAT IS OBTAINED BY ANY**
26 **METHOD OF DISCOVERY IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING OF**
27 **AN ADVERSARIAL NATURE;**

1 (II) ANY DIGEST, ANALYSIS, SELECTION, COMPILATION, OR
2 DERIVATION OF ANY ITEM LISTED IN ITEM (I) OF THIS ITEM; AND

3 (III) ANY INDEX OR OTHER MANNER OF ACCESS TO ANY ITEM
4 LISTED IN ITEM (I) OF THIS ITEM.

5 (D) "EMPLOYEE" MEANS AN INDIVIDUAL WHO PERFORMS SERVICES:

6 (1) FOR AND UNDER THE CONTROL AND DIRECTION OF AN
7 EMPLOYER; AND

8 (2) UNDER AN EMPLOYER'S PROMISE OR IMPLIED PROMISE OF
9 PAYMENT OF WAGES OR OTHER REMUNERATION.

10 (E) "EMPLOYER" MEANS A PERSON OR GROUP OF PERSONS WHO,
11 ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP
12 OF PERSONS:

13 (1) ALLOWS AN EMPLOYEE TO PERFORM SERVICES UNDER THE
14 EMPLOYER'S CONTROL AND DIRECTION; AND

15 (2) PROMISES OR IMPLIES THAT THE EMPLOYEE WILL RECEIVE
16 WAGES OR OTHER REMUNERATION IN PAYMENT FOR THE PERFORMANCE OF
17 THOSE SERVICES.

18 (F) "KNOWING" OR "KNOWINGLY" MEANS, WITH RESPECT TO
19 INFORMATION AND WITHOUT REQUIRING SPECIFIC INTENT TO DEFRAUD, THAT
20 A PERSON:

21 (1) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;

22 (2) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY
23 OF THE INFORMATION; OR

24 (3) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF
25 THE INFORMATION.

26 (G) "MATERIAL" MEANS HAVING A NATURAL TENDENCY TO INFLUENCE
27 OR BE CAPABLE OF INFLUENCING THE PAYMENT OR RECEIPT OF MONEY OR
28 OTHER PROPERTY.

29 (H) "OBLIGATION" MEANS AN ESTABLISHED DUTY, WHETHER OR NOT
30 FIXED, ARISING FROM:

- 1 **(1) AN EXPRESS OR IMPLIED:**
- 2 **(I) CONTRACTUAL RELATIONSHIP;**
- 3 **(II) GRANTOR–GRANTEE RELATIONSHIP; OR**
- 4 **(III) LICENSOR–LICENSEE RELATIONSHIP;**
- 5 **(2) A FEE–BASED OR SIMILAR RELATIONSHIP;**
- 6 **(3) STATUTE OR REGULATION; OR**
- 7 **(4) THE RETENTION OF AN OVERPAYMENT.**
- 8 **(I) “PROVIDER” HAS THE MEANING STATED IN § 2–501 OF THIS TITLE.**
- 9 **(J) “PUBLIC BODY” MEANS:**
- 10 **(1) THE GENERAL ASSEMBLY OR ANY OTHER ELECTED BODY;**
- 11 **(2) A MEMBER OR AN EMPLOYEE OF THE GENERAL ASSEMBLY OR**
12 **OTHER ELECTED BODY;**
- 13 **(3) A STATE COURT;**
- 14 **(4) A MEMBER OR AN EMPLOYEE OF A STATE COURT;**
- 15 **(5) A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR**
16 **PUBLIC AGENCY OR AUTHORITY;**
- 17 **(6) AN INSTRUMENTALITY OF A STATE OR LOCAL REGULATORY,**
18 **ADMINISTRATIVE, OR PUBLIC AGENCY OR AUTHORITY;**
- 19 **(7) A STATE OR LOCAL LAW ENFORCEMENT AGENCY,**
20 **PROSECUTORIAL OFFICE, OR POLICE OR PEACE OFFICER;**
- 21 **(8) A STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH**
22 **OF GOVERNMENT; OR**
- 23 **(9) A DIVISION, BOARD, BUREAU, OFFICE, COMMITTEE, OR**
24 **COMMISSION OF ANY OF THE PUBLIC BODIES LISTED IN THIS SUBSECTION.**
- 25 **(K) “RETALIATORY ACTION” MEANS:**

1 (1) DISCHARGING, SUSPENDING, DEMOTING, THREATENING,
2 HARASSING, OR DISCRIMINATING AGAINST AN EMPLOYEE, CONTRACTOR, OR
3 AGENT; OR

4 (2) ANY OTHER ADVERSE ACTION TAKEN AGAINST AN EMPLOYEE,
5 CONTRACTOR, OR AGENT RELATING TO THE CONDITIONS OF EMPLOYMENT,
6 CONTRACT, OR AGENCY.

7 (L) (1) “STATE HEALTH PLAN” MEANS:

8 (I) THE STATE MEDICAL ASSISTANCE PLAN ESTABLISHED
9 IN ACCORDANCE WITH THE FEDERAL SOCIAL SECURITY ACT OF 1939, AS
10 AMENDED;

11 (II) A MEDICAL ASSISTANCE PLAN ESTABLISHED BY THE
12 STATE; OR

13 (III) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH
14 MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION AS DEFINED IN
15 § 15-101 OF THIS ARTICLE, HEALTH CARE COOPERATIVE OR ALLIANCE, OR
16 ANOTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE
17 SERVICES THAT ARE WHOLLY OR PARTIALLY REIMBURSED BY, OR ARE A
18 REQUIRED BENEFIT OF, A HEALTH PLAN ESTABLISHED IN ACCORDANCE WITH
19 THE FEDERAL SOCIAL SECURITY ACT OF 1939, AS AMENDED, OR BY THE STATE.

20 (2) “STATE HEALTH PLAN” INCLUDES A PERSON WHO PROVIDES
21 OR CONTRACTS OR SUBCONTRACTS TO PROVIDE HEALTH CARE SERVICES FOR
22 AN ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

23 (M) “STATE HEALTH PROGRAM” MEANS THE MEDICAL ASSISTANCE
24 PROGRAM, THE CIGARETTE RESTITUTION FUND PROGRAM, THE MENTAL
25 HYGIENE ADMINISTRATION, THE DEVELOPMENTAL DISABILITIES
26 ADMINISTRATION, THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, THE
27 FAMILY HEALTH ADMINISTRATION, THE COMMUNITY HEALTH
28 ADMINISTRATION, OR ANY OTHER UNIT OF THE DEPARTMENT THAT PAYS A
29 PROVIDER FOR A SERVICE RENDERED OR CLAIMED TO HAVE BEEN RENDERED
30 TO A RECIPIENT.

31 (N) “SUPERVISOR” MEANS AN INDIVIDUAL WITHIN AN EMPLOYER’S
32 ORGANIZATION WHO HAS THE AUTHORITY TO:

33 (1) DIRECT AND CONTROL THE WORK PERFORMANCE OF AN
34 EMPLOYEE; OR

1 **(2) TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF A**
2 **LAW OR REGULATION THAT IS THE SUBJECT OF A COMPLAINT OR CHARGE**
3 **UNDER THIS SUBTITLE.**

4 **2-602.**

5 **(A) A PERSON MAY NOT:**

6 **(1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED A FALSE**
7 **OR FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;**

8 **(2) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A**
9 **FALSE RECORD OR STATEMENT MATERIAL TO A FALSE OR FRAUDULENT CLAIM;**

10 **(3) CONSPIRE TO COMMIT A VIOLATION UNDER THIS SUBTITLE;**

11 **(4) HAVE POSSESSION, CUSTODY, OR CONTROL OF MONEY OR**
12 **OTHER PROPERTY USED BY OR ON BEHALF OF THE STATE UNDER A STATE**
13 **HEALTH PLAN OR A STATE HEALTH PROGRAM AND KNOWINGLY DELIVER OR**
14 **CAUSE TO BE DELIVERED TO THE STATE LESS THAN ALL OF THAT MONEY OR**
15 **OTHER PROPERTY;**

16 **(5) (I) BE AUTHORIZED TO MAKE OR DELIVER A RECEIPT OR**
17 **OTHER DOCUMENT CERTIFYING RECEIPT OF MONEY OR OTHER PROPERTY USED**
18 **OR TO BE USED BY THE STATE UNDER A STATE HEALTH PLAN OR A STATE**
19 **HEALTH PROGRAM; AND**

20 **(II) INTENDING TO DEFRAUD THE STATE OR THE**
21 **DEPARTMENT, MAKE OR DELIVER A RECEIPT OR DOCUMENT KNOWING THAT**
22 **THE INFORMATION CONTAINED IN THE RECEIPT OR DOCUMENT IS NOT TRUE;**

23 **(6) KNOWINGLY BUY OR RECEIVE AS A PLEDGE OF AN**
24 **OBLIGATION OR DEBT PUBLICLY OWNED PROPERTY FROM AN OFFICER,**
25 **EMPLOYEE, OR AGENT OF A STATE HEALTH PLAN OR A STATE HEALTH**
26 **PROGRAM WHO LAWFULLY MAY NOT SELL OR PLEDGE THE PROPERTY;**

27 **(7) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED, A**
28 **FALSE RECORD OR STATEMENT MATERIAL TO AN OBLIGATION TO PAY OR**
29 **TRANSMIT MONEY OR OTHER PROPERTY TO THE STATE;**

30 **(8) KNOWINGLY CONCEAL, OR KNOWINGLY AND IMPROPERLY**
31 **AVOID OR DECREASE, AN OBLIGATION TO PAY OR TRANSMIT MONEY OR OTHER**
32 **PROPERTY TO THE STATE; OR**

1 **(9) KNOWINGLY MAKE ANY OTHER FALSE OR FRAUDULENT CLAIM**
2 **AGAINST A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM.**

3 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
4 **SUBSECTION, A PERSON WHO IS FOUND TO HAVE VIOLATED SUBSECTION (A) OF**
5 **THIS SECTION IS LIABLE TO THE STATE FOR:**

6 **(I) A CIVIL PENALTY OF NOT LESS THAN \$5,000 AND NOT**
7 **MORE THAN \$10,000 FOR EACH VIOLATION OF SUBSECTION (A) OF THIS**
8 **SECTION; AND**

9 **(II) AN ADDITIONAL AMOUNT EQUAL TO THREE TIMES THE**
10 **AMOUNT OF DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF THE ACTS OF**
11 **THAT PERSON IN VIOLATION OF SUBSECTION (A) OF THIS SECTION.**

12 **(2) AS AN ALTERNATIVE TO PARAGRAPH (1) OF THIS**
13 **SUBSECTION, A COURT MAY ASSESS NOT LESS THAN TWO TIMES THE AMOUNT OF**
14 **DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF A PERSON'S ACTS IN**
15 **VIOLATION OF SUBSECTION (A) OF THIS SECTION, AND NO CIVIL PENALTY, IF**
16 **THE COURT FINDS THAT:**

17 **(I) THE PERSON COMMITTING THE VIOLATION PROVIDED**
18 **STATE OFFICIALS RESPONSIBLE FOR INVESTIGATING FALSE CLAIMS**
19 **VIOLATIONS INVOLVING STATE HEALTH PLANS OR STATE HEALTH PROGRAMS**
20 **WITH ANY INFORMATION ABOUT THE VIOLATION KNOWN TO THE PERSON**
21 **WITHIN 30 DAYS AFTER THE DATE ON WHICH THE PERSON FIRST OBTAINED THE**
22 **INFORMATION;**

23 **(II) THE PERSON COOPERATED FULLY WITH ANY STATE**
24 **INVESTIGATION OF THE VIOLATION; AND**

25 **(III) AT THE TIME THE PERSON PROVIDED THE STATE WITH**
26 **THE INFORMATION ABOUT THE VIOLATION:**

27 **1. NO CRIMINAL PROSECUTION, CIVIL ACTION, OR**
28 **ADMINISTRATIVE ACTION RELATING TO THE SAME VIOLATION HAD BEEN**
29 **INITIATED; AND**

30 **2. THE PERSON DID NOT HAVE ACTUAL PRIOR**
31 **KNOWLEDGE OF THE EXISTENCE OF AN INVESTIGATION OF THE VIOLATION.**

32 **(C) THE PENALTIES PROVIDED IN SUBSECTION (B) OF THIS SECTION**
33 **ARE IN ADDITION TO ANY CRIMINAL, CIVIL, OR ADMINISTRATIVE PENALTIES**
34 **PROVIDED UNDER ANY OTHER STATE OR FEDERAL STATUTE OR REGULATION.**

1 **2-603.**

2 (A) IF THE STATE FINDS THAT A PERSON HAS VIOLATED OR IS
3 VIOLATING § 2-602(A) OF THIS SUBTITLE, THE STATE MAY FILE A CIVIL ACTION
4 IN A COURT OF COMPETENT JURISDICTION WITHIN THE STATE AGAINST THE
5 PERSON.

6 (B) IN FILING A CIVIL ACTION UNDER THIS SECTION, THE STATE MAY
7 SEEK:

8 (1) THE PENALTIES PROVIDED UNDER § 2-602(B) OF THIS
9 SUBTITLE;

10 (2) COMPENSATORY DAMAGES TO COMPENSATE THE STATE FOR
11 INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 2-602(A) OF
12 THIS SUBTITLE; AND

13 (3) COURT COSTS AND ATTORNEY'S FEES.

14 **2-604.**

15 (A) (1) (I) A PERSON MAY FILE A CIVIL ACTION ON BEHALF OF THE
16 PERSON AND THE STATE IN A COURT OF COMPETENT JURISDICTION WITHIN
17 THE STATE AGAINST A PERSON WHO HAS ACTED OR IS ACTING IN VIOLATION OF
18 § 2-602(A) OF THIS SUBTITLE.

19 (II) A CIVIL ACTION FILED UNDER SUBPARAGRAPH (I) OF
20 THIS PARAGRAPH SHALL BE BROUGHT IN THE NAME OF THE STATE.

21 (2) A PERSON FILING AN ACTION UNDER THIS SECTION MAY
22 SEEK:

23 (I) ANY REMEDY AVAILABLE IN COMMON LAW TORT;

24 (II) THE PENALTIES PROVIDED UNDER § 2-602(B) OF THIS
25 SUBTITLE;

26 (III) COMPENSATORY DAMAGES TO COMPENSATE THE STATE
27 FOR INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 2-602(A)
28 OF THIS SUBTITLE; AND

29 (IV) COURT COSTS AND ATTORNEY'S FEES.

1 **(3) (I) THE PERSON SHALL SERVE ON THE STATE A COPY OF**
2 **THE COMPLAINT AND A WRITTEN DISCLOSURE OF SUBSTANTIALLY ALL**
3 **MATERIAL EVIDENCE AND INFORMATION THAT THE PERSON POSSESSES, IN**
4 **ACCORDANCE WITH THE PROVISIONS OF TITLE 2 OF THE MARYLAND RULES**
5 **FOR SERVING PROCESS ON THE STATE.**

6 **(II) 1. THE COMPLAINT SHALL BE FILED IN CAMERA AND**
7 **SHALL REMAIN UNDER SEAL FOR AT LEAST 60 DAYS.**

8 **2. THE COMPLAINT MAY NOT BE SERVED ON THE**
9 **DEFENDANT UNTIL THE COMPLAINT IS UNSEALED AND THE COURT ORDERS THE**
10 **COMPLAINT SERVED.**

11 **3. WITHIN 60 DAYS AFTER THE STATE RECEIVES**
12 **THE COMPLAINT AND THE MATERIAL EVIDENCE AND INFORMATION, THE STATE**
13 **MAY ELECT TO INTERVENE AND PROCEED WITH THE ACTION.**

14 **(4) (I) FOR GOOD CAUSE SHOWN, THE STATE MAY MOVE THE**
15 **COURT FOR EXTENSIONS OF THE TIME DURING WHICH THE COMPLAINT**
16 **REMAINS UNDER SEAL UNDER PARAGRAPH (3)(II)1 OF THIS SUBSECTION.**

17 **(II) ANY MOTIONS MADE UNDER SUBPARAGRAPH (I) OF**
18 **THIS PARAGRAPH MAY BE SUPPORTED BY AFFIDAVITS OR OTHER SUBMISSIONS**
19 **IN CAMERA.**

20 **(5) (I) THE DEFENDANT MAY NOT BE REQUIRED TO ANSWER A**
21 **COMPLAINT FILED UNDER THIS SECTION UNTIL AFTER THE COMPLAINT IS:**

22 **1. UNSEALED AND ORDERED BY THE COURT TO BE**
23 **SERVED; AND**

24 **2. SERVED ON THE DEFENDANT IN ACCORDANCE**
25 **WITH TITLE 2 OF THE MARYLAND RULES.**

26 **(II) WHEN ANSWERING A COMPLAINT FILED UNDER THIS**
27 **SECTION, A DEFENDANT SHALL FOLLOW THE TIME FRAMES AND OTHER**
28 **PROVISIONS FOR FILING ANSWERS TO A COMPLAINT AS REQUIRED UNDER**
29 **TITLE 2, CHAPTER 300 OF THE MARYLAND RULES.**

30 **(6) BEFORE THE LATER OF THE EXPIRATION OF THE 60-DAY**
31 **PERIOD DURING WHICH THE COMPLAINT REMAINS UNDER SEAL UNDER**
32 **PARAGRAPH (3)(II)1 OF THIS SUBSECTION OR ANY EXTENSION OF THE 60-DAY**
33 **PERIOD OBTAINED UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE STATE**
34 **SHALL:**

1 **(I) INTERVENE AND PROCEED WITH THE ACTION IN A**
2 **COURT OF COMPETENT JURISDICTION WITHIN THE STATE; OR**

3 **(II) NOTIFY THE COURT THAT IT WILL NOT INTERVENE AND**
4 **PROCEED WITH THE ACTION.**

5 **(7) IF A PERSON INITIATES AN ACTION UNDER THIS SECTION, NO**
6 **PERSON OTHER THAN THE STATE MAY INTERVENE IN THE ACTION OR INITIATE**
7 **A RELATED ACTION BASED ON THE FACTS UNDERLYING THE PENDING ACTION.**

8 **(B) (1) IF THE STATE INTERVENES AND PROCEEDS WITH THE ACTION**
9 **UNDER SUBSECTION (A)(6)(I) OF THIS SECTION:**

10 **(I) THE STATE SHALL HAVE THE PRIMARY RESPONSIBILITY**
11 **FOR PROCEEDING WITH THE ACTION AND MAY NOT BE BOUND BY ANY ACT OF**
12 **THE PERSON WHO INITIATED THE ACTION; AND**

13 **(II) SUBJECT TO PARAGRAPHS (3) THROUGH (6) OF THIS**
14 **SUBSECTION, THE PERSON WHO INITIATED THE ACTION MAY CONTINUE AS A**
15 **PARTY TO THE ACTION.**

16 **(2) (I) DURING AN INVESTIGATION BY THE STATE CONDUCTED**
17 **EITHER INDEPENDENTLY OR IN CONJUNCTION WITH A CIVIL ACTION FILED**
18 **UNDER THIS SUBTITLE, THE ATTORNEY GENERAL SHALL HAVE THE SAME**
19 **RIGHTS OF DISCOVERY AS A CIVIL LITIGANT IN THE CIRCUIT COURT UNDER**
20 **TITLE 2, CHAPTER 400 OF THE MARYLAND RULES.**

21 **(II) A PERSON FROM WHOM THE ATTORNEY GENERAL**
22 **SEEKS DISCOVERY SHALL BE CONSIDERED A PARTY UNDER TITLE 2, CHAPTER**
23 **400 OF THE MARYLAND RULES.**

24 **(3) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
25 **INITIATING THE ACTION, THE STATE MAY PETITION THE COURT TO DISMISS AN**
26 **ACTION IF:**

27 **(I) THE PERSON INITIATING THE ACTION IS NOTIFIED BY**
28 **THE STATE OF THE FILING OF THE MOTION TO DISMISS; AND**

29 **(II) THE COURT PROVIDES THE PERSON INITIATING THE**
30 **ACTION WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION TO DISMISS.**

31 **(4) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
32 **INITIATING THE ACTION, IF THE COURT DETERMINES AFTER A HEARING THAT A**

1 PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER THE
2 CIRCUMSTANCES, THE STATE MAY SETTLE A CIVIL ACTION FILED UNDER THIS
3 SECTION.

4 (5) THE COURT MAY IMPOSE LIMITATIONS ON THE
5 PARTICIPATION OF THE PERSON INITIATING AN ACTION UNDER THIS SECTION
6 IF:

7 (I) THE STATE SHOWS THAT THE PERSON'S UNRESTRICTED
8 PARTICIPATION IN THE ACTION WOULD:

9 1. INTERFERE WITH OR UNDULY DELAY THE STATE
10 IN ITS PURSUIT OF THE CIVIL ACTION; OR

11 2. BE REPETITIOUS, IRRELEVANT, OR HARASSING
12 TO THE DEFENDANT; OR

13 (II) THE DEFENDANT SHOWS THAT UNRESTRICTED
14 PARTICIPATION BY THE PERSON INITIATING THE ACTION WOULD HARASS THE
15 DEFENDANT OR CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY
16 EXPENSE.

17 (6) LIMITATIONS IMPOSED BY THE COURT UNDER PARAGRAPH
18 (5) OF THIS SUBSECTION MAY INCLUDE:

19 (I) A LIMITATION ON THE NUMBER OF WITNESSES THE
20 PERSON MAY CALL TO TESTIFY;

21 (II) A LIMITATION ON THE LENGTH OF THE TESTIMONY OF
22 WITNESSES CALLED BY THE PERSON;

23 (III) A LIMITATION ON THE PERSON'S CROSS-EXAMINATION
24 OF WITNESSES; OR

25 (IV) A LIMITATION ON THE PARTICIPATION OF THE PERSON
26 IN THE LITIGATION.

27 (C) (1) IF THE STATE ELECTS NOT TO INTERVENE AND PROCEED
28 WITH THE ACTION UNDER SUBSECTION (A)(6)(II) OF THIS SECTION, THE PERSON
29 INITIATING THE ACTION SHALL HAVE THE RIGHT TO PROCEED WITH THE
30 ACTION.

1 **(2) NOTWITHSTANDING THE STATE'S ELECTION NOT TO**
2 **INTERVENE, IF THE STATE REQUESTS, THE COURT SHALL ORDER THAT THE**
3 **STATE BE SERVED AT THE STATE'S OWN EXPENSE WITH COPIES OF:**

4 **(I) ALL PLEADINGS FILED IN THE ACTION; AND**

5 **(II) ALL DEPOSITION TRANSCRIPTS.**

6 **(3) (I) IF A PERSON PROCEEDS WITH AN ACTION UNDER**
7 **PARAGRAPH (1) OF THIS SUBSECTION, THE COURT, WITHOUT LIMITING THE**
8 **STATUS AND RIGHTS OF THE PERSON INITIATING THE ACTION, MAY ALLOW THE**
9 **STATE TO INTERVENE AT A LATER DATE ON A SHOWING OF GOOD CAUSE.**

10 **(II) IF THE STATE SUBSEQUENTLY INTERVENES UNDER**
11 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PERSON INITIATING THE ACTION**
12 **SHALL THEREAFTER BE SUBJECT TO THE LIMITATIONS PROVIDED UNDER**
13 **SUBSECTION (B)(3) THROUGH (6) OF THIS SECTION.**

14 **(D) (1) INSTEAD OF PROCEEDING WITH A CIVIL ACTION FILED UNDER**
15 **THIS SUBTITLE, THE STATE MAY PURSUE ANY ALTERNATIVE REMEDY**
16 **AVAILABLE TO THE STATE, INCLUDING ANY APPROPRIATE ADMINISTRATIVE**
17 **PROCEEDING TO DETERMINE A CIVIL MONEY PENALTY.**

18 **(2) IF THE STATE SEEKS AN ALTERNATIVE REMEDY IN ANOTHER**
19 **PROCEEDING AFTER INTERVENING IN A CIVIL ACTION FILED UNDER THIS**
20 **SECTION, THE PERSON INITIATING THE ACTION SHALL HAVE THE SAME RIGHTS**
21 **IN THE ALTERNATIVE PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE**
22 **CIVIL ACTION HAD CONTINUED UNDER THIS SECTION.**

23 **(3) (I) A FINDING OF FACT OR CONCLUSION OF LAW MADE IN**
24 **ANY ALTERNATIVE PROCEEDING THAT HAS BECOME FINAL SHALL BE**
25 **CONCLUSIVE ON ALL PARTIES TO AN ACTION FILED UNDER THIS SUBTITLE.**

26 **(II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS**
27 **PARAGRAPH, A FINDING OR CONCLUSION IS FINAL IF:**

28 **1. IT HAS BEEN FINALLY DETERMINED ON APPEAL**
29 **TO THE APPROPRIATE COURT OF THE STATE;**

30 **2. ALL TIME FOR FILING THE APPEAL WITH**
31 **RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED; OR**

32 **3. THE FINDING OR CONCLUSION IS NOT SUBJECT**
33 **TO JUDICIAL REVIEW.**

1 **(E) (1) WHETHER OR NOT THE STATE INTERVENES AND PROCEEDS**
2 **WITH A CIVIL ACTION FILED UNDER THIS SECTION, ON A SHOWING IN CAMERA**
3 **BY THE STATE THAT CERTAIN ACTIONS OF DISCOVERY BY THE PERSON**
4 **INITIATING THE ACTION WOULD INTERFERE WITH THE STATE’S INVESTIGATION**
5 **OR PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING OUT OF THE SAME**
6 **FACTS, THE COURT MAY STAY THE DISCOVERY FOR A PERIOD OF NOT MORE**
7 **THAN 60 DAYS.**

8 **(2) THE COURT MAY EXTEND THE 60-DAY PERIOD ON A FURTHER**
9 **SHOWING IN CAMERA THAT:**

10 **(I) THE STATE HAS PURSUED THE CRIMINAL OR CIVIL**
11 **INVESTIGATION OR PROCEEDING WITH REASONABLE DILIGENCE; AND**

12 **(II) ANY PROPOSED DISCOVERY IN THE CIVIL ACTION WILL**
13 **INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION OR**
14 **PROCEEDING.**

15 **2-605.**

16 **(A) (1) IF THE STATE INTERVENES AND PROCEEDS WITH AN ACTION**
17 **FILED UNDER § 2-604 OF THIS SUBTITLE AND THE STATE PREVAILS, THE COURT**
18 **SHALL AWARD THE PERSON INITIATING THE ACTION AN AMOUNT THAT IS:**

19 **(I) NOT LESS THAN 15% AND NOT MORE THAN 25% OF THE**
20 **PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND**

21 **(II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT**
22 **THAT THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE FINAL RESOLUTION**
23 **OF THE CIVIL ACTION.**

24 **(2) (I) IF THE COURT FINDS THAT THE ACTION IS BASED**
25 **PRIMARILY ON DISCLOSURES OF SPECIFIC INFORMATION RELATING TO**
26 **ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE**
27 **HEARING, IN A LEGISLATIVE OR ADMINISTRATIVE REPORT, HEARING, AUDIT, OR**
28 **INVESTIGATION, OR FROM THE NEWS MEDIA, THE COURT MAY MAKE AN AWARD**
29 **TO THE PERSON INITIATING THE ACTION THAT:**

30 **1. THE COURT CONSIDERS APPROPRIATE, TAKING**
31 **INTO ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF**
32 **THE PERSON INITIATING THE ACTION IN ADVANCING THE CASE TO LITIGATION;**
33 **AND**

1 **2. DOES NOT EXCEED 10% OF THE PROCEEDS OF**
2 **THE ACTION.**

3 **(II) THE INFORMATION DESCRIBED IN SUBPARAGRAPH (I)**
4 **OF THIS PARAGRAPH DOES NOT INCLUDE INFORMATION DISCLOSED AND**
5 **PROVIDED BY THE PERSON INITIATING THE ACTION.**

6 **(3) ANY PAYMENT TO A PERSON UNDER PARAGRAPH (1) OR (2) OF**
7 **THIS SUBSECTION SHALL BE MADE FROM THE PROCEEDS OF THE ACTION.**

8 **(4) (I) IN ADDITION TO THE AMOUNT PROVIDED UNDER**
9 **PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A COURT SHALL AWARD THE**
10 **PERSON INITIATING THE ACTION:**

11 **1. AN AMOUNT FOR REASONABLE EXPENSES THAT**
12 **THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND**

13 **2. REASONABLE ATTORNEY'S FEES AND COSTS.**

14 **(II) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER**
15 **THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.**

16 **(B) (1) IF THE STATE DOES NOT INTERVENE AND PROCEED WITH AN**
17 **ACTION FILED UNDER § 2-604 OF THIS SUBTITLE AND THE PERSON INITIATING**
18 **THE ACTION PREVAILS, THE COURT SHALL AWARD THE PERSON INITIATING THE**
19 **ACTION AN AMOUNT THAT IS REASONABLE FOR COLLECTING THE CIVIL**
20 **PENALTY AND DAMAGES ON THE STATE'S BEHALF.**

21 **(2) AN AMOUNT AWARDED UNDER PARAGRAPH (1) OF THIS**
22 **SUBSECTION SHALL BE:**

23 **(I) NOT LESS THAN 25% OR MORE THAN 30% OF THE**
24 **PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND**

25 **(II) PAID OUT OF THE PROCEEDS OF THE ACTION.**

26 **(3) (I) THE COURT ALSO SHALL AWARD THE PERSON**
27 **INITIATING THE ACTION:**

28 **1. AN AMOUNT FOR REASONABLE EXPENSES THAT**
29 **THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND**

30 **2. REASONABLE ATTORNEY'S FEES AND COSTS.**

1 **(II) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER**
2 **THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.**

3 **(C) (1) WHETHER OR NOT THE STATE INTERVENES AND PROCEEDS**
4 **WITH AN ACTION FILED UNDER § 2-604 OF THIS SUBTITLE, IF A COURT FINDS**
5 **THAT THE ACTION IS INITIATED BY A PERSON WHO PLANNED AND INITIATED OR**
6 **OTHERWISE DELIBERATELY PARTICIPATED IN THE VIOLATION ON WHICH THE**
7 **ACTION WAS BASED, THE COURT MAY, TO THE EXTENT IT CONSIDERS**
8 **APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS OF THE ACTION THAT**
9 **THE PERSON OTHERWISE WOULD HAVE RECEIVED UNDER THIS SECTION.**

10 **(2) IN REDUCING THE SHARE OF THE PROCEEDS OF THE PERSON**
11 **INITIATING THE ACTION UNDER THIS SUBSECTION, THE COURT SHALL**
12 **CONSIDER:**

13 **(I) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO**
14 **LITIGATION; AND**

15 **(II) ANY RELEVANT CIRCUMSTANCES RELATING TO THE**
16 **UNDERLYING VIOLATION.**

17 **(3) (I) IF THE PERSON INITIATING A CIVIL ACTION UNDER**
18 **§ 2-604 OF THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING**
19 **FROM THE PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION**
20 **WAS BASED PRIOR TO A FINAL DETERMINATION OF THE ACTION, THE PERSON:**

21 1. **SHALL BE DISMISSED FROM THE ACTION; AND**
22 2. **MAY NOT RECEIVE ANY SHARE OF THE PROCEEDS**
23 **OF THE ACTION.**

24 **(II) THE DISMISSAL OF THE PERSON INITIATING THE**
25 **ACTION IN ACCORDANCE WITH THIS PARAGRAPH DOES NOT PREJUDICE THE**
26 **RIGHT OF THE STATE TO CONTINUE THE ACTION.**

27 **(4) IF THE PERSON INITIATING A CIVIL ACTION UNDER § 2-604 OF**
28 **THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM THE**
29 **PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS**
30 **BASED AFTER THE PROCEEDS FROM THE ACTION ARE AWARDED TO THAT**
31 **PERSON, THE COURT SHALL ORDER THE PERSON TO REPAY THE PROCEEDS**
32 **PREVIOUSLY AWARDED.**

1 (D) A COURT SHALL AWARD REASONABLE ATTORNEY'S FEES AND
2 EXPENSES TO A DEFENDANT AND AGAINST THE PERSON INITIATING THE ACTION
3 IF:

4 (1) THE DEFENDANT PREVAILS IN THE ACTION;

5 (2) THE COURT FINDS THAT THE CLAIM OF THE PERSON
6 INITIATING THE ACTION WAS CLEARLY FRIVOLOUS, VEXATIOUS, OR BROUGHT
7 PRIMARILY FOR PURPOSES OF HARASSMENT; AND

8 (3) THE STATE DID NOT INTERVENE AND PROCEED WITH THE
9 ACTION, AND THE PERSON INITIATING THE ACTION CONDUCTED THE ACTION.

10 **2-606.**

11 (A) NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN
12 ACTION FILED UNDER § 2-604 OF THIS SUBTITLE AGAINST ANY MEMBER OF THE
13 LEGISLATIVE BRANCH OR THE JUDICIARY OF THE STATE, ANY MEMBER OF THE
14 GOVERNOR'S EXECUTIVE COUNCIL, THE ATTORNEY GENERAL, THE
15 COMPTROLLER, OR THE STATE TREASURER IF THE ACTION IS BASED ON
16 EVIDENCE OR INFORMATION KNOWN TO THE STATE WHEN THE ACTION WAS
17 FILED.

18 (B) A CIVIL ACTION MAY NOT BE BROUGHT UNDER THIS SUBTITLE BY A
19 PERSON WHO IS OR WAS A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL IF THE
20 ALLEGATIONS OF THE ACTION ARE BASED SUBSTANTIALLY ON:

21 (1) ALLEGATIONS OF WRONGDOING OR MISCONDUCT THAT THE
22 PERSON HAD A DUTY OR OBLIGATION TO REPORT OR INVESTIGATE WITHIN THE
23 SCOPE OF THE PERSON'S PUBLIC EMPLOYMENT OR OFFICE; OR

24 (2) INFORMATION OR RECORDS TO WHICH THE PERSON HAD
25 ACCESS AS A RESULT OF THE PERSON'S PUBLIC EMPLOYMENT OR OFFICE.

26 (C) A PERSON MAY NOT BRING AN ACTION UNDER § 2-604 OF THIS
27 SUBTITLE THAT IS BASED ON ALLEGATIONS OR TRANSACTIONS THAT ARE THE
28 SUBJECT OF A CIVIL SUIT OR AN ADMINISTRATIVE CIVIL MONEY PENALTY
29 PROCEEDING IN WHICH THE STATE IS ALREADY A PARTY.

30 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
31 SUBSECTION, NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN
32 ACTION FILED UNDER § 2-604 OF THIS SUBTITLE THAT IS BASED ON THE
33 PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS:

1 **(I) IN A CRIMINAL, CIVIL, OR AN ADMINISTRATIVE**
2 **HEARING;**

3 **(II) IN A LEGISLATIVE OR AN ADMINISTRATIVE REPORT, A**
4 **HEARING, AN AUDIT, OR AN INVESTIGATION; OR**

5 **(III) FROM THE NEWS MEDIA.**

6 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF**
7 **THE ACTION IS INITIATED BY A PERSON WHO:**

8 **(I) HAS DIRECT AND INDEPENDENT KNOWLEDGE OF THE**
9 **INFORMATION ON WHICH THE ALLEGATIONS ARE BASED; AND**

10 **(II) HAS VOLUNTARILY PROVIDED THE INFORMATION TO**
11 **THE STATE BEFORE FILING AN ACTION UNDER § 2-604 OF THIS SUBTITLE THAT**
12 **IS BASED ON THE INFORMATION.**

13 **(3) THE STATE, THROUGH THE ATTORNEY GENERAL, MAY FILE A**
14 **CIVIL ACTION UNDER § 2-603 OF THIS SUBTITLE BASED ON THE PUBLIC**
15 **DISCLOSURE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.**

16 **(E) THE STATE IS NOT LIABLE FOR EXPENSES THAT A PERSON INCURS**
17 **IN BRINGING AN ACTION UNDER § 2-604 OF THIS SUBTITLE.**

18 **(F) A PERSON WHO IS OR WAS EMPLOYED BY THE STATE, A LOCAL**
19 **GOVERNMENT, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE AS AN**
20 **AUDITOR, INVESTIGATOR, ATTORNEY, FINANCIAL OFFICER, OR CONTRACTING**
21 **OFFICER MAY NOT BRING AN ACTION UNDER § 2-604 OF THIS SUBTITLE THAT IS**
22 **BASED ON ALLEGATIONS OR TRANSACTIONS THAT THE PERSON DISCOVERED OR**
23 **LEARNED OF WHILE ACTING IN THE PERSON'S CAPACITY AS AN AUDITOR,**
24 **INVESTIGATOR, ATTORNEY, FINANCIAL OFFICER, OR CONTRACTING OFFICER**
25 **FOR THE STATE, LOCAL GOVERNMENT, OR OTHER POLITICAL SUBDIVISION OF**
26 **THE STATE.**

27 **2-607.**

28 **(A) A PERSON MAY NOT TAKE A RETALIATORY ACTION AGAINST AN**
29 **EMPLOYEE, CONTRACTOR, OR GRANTEE BECAUSE THE EMPLOYEE,**
30 **CONTRACTOR, OR GRANTEE:**

31 **(1) ACTS LAWFULLY IN FURTHERANCE OF AN ACTION FILED**
32 **UNDER THIS SUBTITLE, INCLUDING AN INVESTIGATION FOR, INITIATION OF,**

1 TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO BE FILED UNDER
2 THIS SUBTITLE;

3 (2) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR
4 OR TO A PUBLIC BODY AN ACTIVITY, POLICY, OR PRACTICE OF THE PERSON
5 THAT THE EMPLOYEE, CONTRACTOR, OR GRANTEE REASONABLY BELIEVES IS IN
6 VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED
7 UNDER THIS SUBTITLE;

8 (3) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A
9 PUBLIC BODY CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO A
10 VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED
11 UNDER THIS SUBTITLE THAT IS ALLEGEDLY OR ACTUALLY COMMITTED BY THE
12 PERSON; OR

13 (4) OBJECTS TO OR REFUSES TO PARTICIPATE IN ANY ACTIVITY,
14 POLICY, OR PRACTICE THAT THE EMPLOYEE, CONTRACTOR, OR GRANTEE
15 REASONABLY BELIEVES IS IN VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A
16 REGULATION ADOPTED UNDER THIS SUBTITLE.

17 (B) (1) AN EMPLOYEE, CONTRACTOR, OR GRANTEE MAY FILE A CIVIL
18 ACTION AGAINST A PERSON OTHER THAN A SUPERVISOR IN STATE
19 GOVERNMENT, AN APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE
20 HEAD OF A PRINCIPAL UNIT IN STATE GOVERNMENT IF THE PERSON TAKES A
21 RETALIATORY ACTION AGAINST THE EMPLOYEE, CONTRACTOR, OR GRANTEE IN
22 VIOLATION OF SUBSECTION (A) OF THIS SECTION.

23 (2) THE EMPLOYEE, CONTRACTOR, OR GRANTEE MAY SEEK IN
24 THE CIVIL ACTION:

25 (I) AN INJUNCTION TO RESTRAIN A CONTINUING
26 VIOLATION OF SUBSECTION (A) OF THIS SECTION;

27 (II) REINSTATEMENT TO THE SAME SENIORITY STATUS
28 HELD BEFORE THE RETALIATORY ACTION;

29 (III) REINSTATEMENT OF FULL FRINGE BENEFITS AND
30 SENIORITY RIGHTS;

31 (IV) TWO TIMES THE AMOUNT OF LOST WAGES, BENEFITS,
32 AND OTHER REMUNERATION, INCLUDING ANY INTEREST ACCUMULATED;

33 (V) PAYMENT BY THE PERSON OF REASONABLE COSTS AND
34 ATTORNEY'S FEES;

1 (VI) PUNITIVE DAMAGES;

2 (VII) AN ASSESSMENT OF A CIVIL PENALTY:

3 1. NOT EXCEEDING \$1,000 FOR THE FIRST
4 VIOLATION; AND

5 2. NOT EXCEEDING \$5,000 FOR EACH SUBSEQUENT
6 VIOLATION; AND

7 (VIII) ANY OTHER RELIEF NECESSARY TO MAKE THE
8 EMPLOYEE, CONTRACTOR, OR GRANTEE WHOLE.

9 (3) THE REMEDIES PROVIDED UNDER THIS SECTION DO NOT
10 DIMINISH OR AFFECT THE RIGHTS, PRIVILEGES, OR REMEDIES AVAILABLE TO
11 THE EMPLOYEE, CONTRACTOR, OR GRANTEE UNDER:

12 (I) ANY OTHER FEDERAL OR STATE STATUTE OR
13 REGULATION; OR

14 (II) ANY COLLECTIVE BARGAINING AGREEMENT OR
15 EMPLOYEE CONTRACT.

16 (C) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE AS DEFINED IN §
17 1-501 OF THE HEALTH OCCUPATIONS ARTICLE OR A STATE EMPLOYEE.

18 (D) (1) AN EMPLOYEE AS DEFINED IN § 1-501 OF THE HEALTH
19 OCCUPATIONS ARTICLE WHO IS SUBJECT TO RETALIATORY ACTION IN
20 VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY FILE A CIVIL ACTION
21 UNDER TITLE 1, SUBTITLE 5 OF THE HEALTH OCCUPATIONS ARTICLE.

22 (2) A STATE EMPLOYEE WHO IS SUBJECT TO RETALIATORY
23 ACTION IN VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY FILE A
24 COMPLAINT UNDER TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND
25 PENSIONS ARTICLE.

26 **2-608.**

27 AN EMPLOYER SHALL:

28 (1) CONSPICUOUSLY DISPLAY NOTICES OF THE PROTECTIONS
29 PROVIDED TO AND OBLIGATIONS REQUIRED OF ITS EMPLOYEES UNDER THIS
30 SUBTITLE; AND

1 **(2) USE ANY APPROPRIATE MEANS TO INFORM ITS EMPLOYEES**
2 **OF THE PROTECTIONS AND OBLIGATIONS PROVIDED UNDER THIS SUBTITLE.**

3 **2-609.**

4 **(A) A CIVIL ACTION FILED UNDER § 2-604 OF THIS SUBTITLE MAY NOT**
5 **BE FILED AFTER THE LATER OF:**

6 **(1) 6 YEARS AFTER THE DATE ON WHICH THE UNDERLYING**
7 **VIOLATION OF § 2-602(A) OF THIS SUBTITLE OCCURRED; OR**

8 **(2) 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO THE**
9 **RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN,**
10 **BUT IN NO EVENT MORE THAN 10 YEARS AFTER THE DATE ON WHICH THE**
11 **UNDERLYING VIOLATION OF § 2-602(A) OF THIS SUBTITLE IS COMMITTED.**

12 **(B) A CIVIL ACTION MAY BE FILED UNDER § 2-604 OF THIS SUBTITLE**
13 **FOR ACTIVITY THAT OCCURRED PRIOR TO OCTOBER 1, 2010, IF THE**
14 **LIMITATIONS PERIOD UNDER SUBSECTION (A) OF THIS SECTION HAS NOT**
15 **LAPSED.**

16 **(C) IF THE STATE ELECTS TO INTERVENE AND PROCEED WITH AN**
17 **ACTION BROUGHT UNDER THIS SUBTITLE, THE STATE, THROUGH THE OFFICE**
18 **OF THE ATTORNEY GENERAL, MAY:**

19 **(1) FILE ITS OWN COMPLAINT; OR**

20 **(2) AMEND THE COMPLAINT OF THE PERSON WHO BROUGHT THE**
21 **ACTION TO CLARIFY, ADD DETAIL TO THE COMPLAINT, OR ADD ADDITIONAL**
22 **CLAIMS TO THE COMPLAINT.**

23 **(D) TO THE EXTENT THAT THE CLAIM OF THE STATE ARISES OUT OF**
24 **THE CONDUCT, TRANSACTIONS, OR OCCURRENCES SET FORTH, OR ATTEMPTED**
25 **TO BE SET FORTH BY A PERSON, A STATE PLEADING RELATES BACK TO THE**
26 **FILING DATE OF THE COMPLAINT OF THE PERSON WHO ORIGINALLY BROUGHT**
27 **THE ACTION.**

28 **(E) IN AN ACTION FILED UNDER THIS SUBTITLE, ALL ESSENTIAL**
29 **ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, SHALL BE PROVEN**
30 **BY A PREPONDERANCE OF THE EVIDENCE.**

31 **(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE OF**
32 **PROCEDURE OR EVIDENCE IN THE MARYLAND RULES, A FINAL JUDGMENT**

1 RENDERED IN FAVOR OF THE STATE IN ANY CRIMINAL PROCEEDING CHARGING
2 FRAUD OR FALSE STATEMENTS, WHETHER ON A VERDICT AFTER TRIAL OR ON A
3 PLEA OF GUILTY OR NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT FROM
4 DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION FILED
5 UNDER THIS SUBTITLE THAT INVOLVES THE SAME ACT, TRANSACTION, OR
6 OCCURRENCE AS IN THE CRIMINAL PROCEEDING.

7 **2-610.**

8 (A) ANY REMEDY PROVIDED UNDER THIS SUBTITLE IS IN ADDITION TO
9 ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF PROVIDED UNDER ANY
10 OTHER APPLICABLE STATE OR FEDERAL STATUTE OR REGULATION.

11 (B) THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR
12 DAMAGES COLLECTED UNDER THIS SUBTITLE IN THE GENERAL FUND OF THE
13 STATE.

14 (C) THE DEPARTMENT OR THE INSPECTOR GENERAL OF THE
15 DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF
16 THIS SUBTITLE.

17 **2-611.**

18 (A) BEGINNING OCTOBER 1, 2010, THE INSPECTOR GENERAL OF THE
19 DEPARTMENT AND THE DIRECTOR OF THE MEDICAID FRAUD CONTROL UNIT
20 IN THE OFFICE OF THE ATTORNEY GENERAL SHALL REPORT ANNUALLY TO THE
21 GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE
22 GOVERNMENT ARTICLE, THE FOLLOWING INFORMATION FOR THE PREVIOUS
23 FISCAL YEAR:

24 (1) THE NUMBER OF CIVIL ACTIONS FILED UNDER THIS
25 SUBTITLE;

26 (2) THE NUMBER OF CIVIL ACTIONS UNDER THIS SUBTITLE IN
27 WHICH A JUDGMENT WAS ENTERED, WHETHER BY SETTLEMENT OR
28 ADJUDICATION; AND

29 (3) THE NUMBER OF CLAIMS MADE BY THE STATE BASED ON
30 ALLEGED VIOLATIONS OF § 2-602(A) OF THIS SUBTITLE THAT ARE SETTLED
31 WITHOUT THE FILING OF A CIVIL ACTION UNDER THIS SUBTITLE.

32 (B) UNLESS THE ACTION IS UNDER SEAL IN ACCORDANCE WITH § 2-604
33 OF THIS SUBTITLE, FOR EACH CIVIL ACTION REPORTED UNDER SUBSECTION
34 (A)(1) OR (2) OF THIS SECTION, THE REPORT SHALL STATE:

1 **(1) WHETHER THE ACTION WAS FILED BY THE STATE OR BY A**
2 **PERSON ON BEHALF OF THE STATE AND, IF FILED BY A PERSON, WHETHER THE**
3 **STATE INTERVENED AND PROCEEDED WITH THE ACTION;**

4 **(2) THE NAME OF THE DEFENDANT;**

5 **(3) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION**
6 **OF § 2-602 OF THIS SUBTITLE; AND**

7 **(4) THE AMOUNT SOUGHT IN THE ACTION AND, IF APPLICABLE,**
8 **THE AMOUNT FOR WHICH THE DEFENDANT IS LIABLE UNDER A SETTLEMENT**
9 **AGREEMENT OR COURT ORDER.**

10 **(C) FOR EACH CLAIM REPORTED UNDER SUBSECTION (A)(3) OF THIS**
11 **SECTION, THE REPORT SHALL STATE:**

12 **(1) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION**
13 **OF § 2-602 OF THIS SUBTITLE;**

14 **(2) THE RESOLUTION OF THE CLAIM;**

15 **(3) THE AMOUNT, IF ANY, THE PERSON AGAINST WHOM THE**
16 **CLAIM WAS MADE AGREED TO PAY IN SETTLEMENT OF THE CLAIM; AND**

17 **(4) THE AMOUNT, IF ANY, COLLECTED BY THE STATE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2010.