

SENATE BILL 279

C3, J1

0lr0001
CF HB 525

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2010

CHAPTER _____

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 requiring the court to consider and give special attention to certain factors in
7 determining the amount of fines and penalties provided for in this Act;
8 authorizing the State to file a civil action against a person who makes a false
9 claim against a State health plan or a State health program under certain
10 circumstances; authorizing a person other than the State to file a civil action on
11 behalf of the person and the State against a person who makes a false claim
12 against a State health plan or a State health program; providing for the
13 procedures to be followed in a civil action; providing for certain remedies under
14 a civil action; requiring the State to investigate a civil action alleging a false
15 claim against a State health plan or a State health program; requiring the State
16 to make certain efforts to coordinate certain investigations and to establish a
17 certain objective for the State; authorizing the State to intervene and proceed
18 with the action with or without the person who initiated the action; authorizing
19 the State to elect not to intervene and proceed with the action; ~~authorizing the~~
20 ~~person that initiated the action to proceed~~ requiring the court to dismiss the
21 action if the State elects not to intervene; authorizing the court to limit the
22 participation of the person who initiated the action under certain
23 circumstances; authorizing the State ~~to intervene at a later time in the~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~proceedings~~ or to pursue alternative remedies; providing for certain damages
 2 and payments to the person who initiated the action under certain
 3 circumstances; providing for certain payments to the person charged under
 4 certain circumstances if the person charged prevails; providing certain
 5 limitations on civil actions filed under this Act; prohibiting a person from taking
 6 retaliatory action against an employee, contractor, or agent under certain
 7 circumstances; authorizing an employee, contractor, or agent to file a civil
 8 action against a person who takes retaliatory action against the employee,
 9 contractor, or agent under certain circumstances; providing certain remedies for
 10 retaliatory action; requiring an employer to make certain disclosures to
 11 employees; requiring the Comptroller to deposit a certain penalty or damages in
 12 the General Fund of the State; requiring certain persons to report certain
 13 information annually to the General Assembly; authorizing the Department of
 14 Health and Mental Hygiene or the Inspector General of the Department to
 15 adopt certain regulations; defining certain terms; and generally relating to false
 16 claims against State health plans and State health programs.

17 BY adding to

18 Article – Health – General

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

21 Annotated Code of Maryland

22 (2009 Replacement Volume)

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

25 **Article – Health – General**

26 **SUBTITLE 6. FALSE CLAIMS AGAINST STATE HEALTH PLANS AND STATE**
 27 **HEALTH PROGRAMS.**

28 **2–601.**

29 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 30 **INDICATED.**

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

34 **(I) PRESENTED THROUGH A STATE HEALTH PLAN OR A**
 35 **STATE HEALTH PROGRAM TO AN OFFICER, EMPLOYEE, OR AGENT OF THE**
 36 **STATE; OR**

1 **(II) MADE TO A CONTRACTOR, GRANTEE, OR OTHER**
2 **RECIPIENT, IF THE MONEY OR OTHER PROPERTY IS TO BE SPENT OR USED ON**
3 **THE STATE’S BEHALF OR TO ADVANCE A STATE INTEREST THROUGH A STATE**
4 **HEALTH PLAN OR STATE HEALTH PROGRAM, AND THE STATE:**

5 **1. PROVIDES OR HAS PROVIDED ANY PORTION OF**
6 **THE MONEY OR OTHER PROPERTY REQUESTED OR DEMANDED; OR**

7 **2. WILL REIMBURSE THE CONTRACTOR, GRANTEE,**
8 **OR OTHER RECIPIENT FOR ANY PORTION OF THE MONEY OR OTHER PROPERTY**
9 **THAT IS REQUESTED OR DEMANDED.**

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

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

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

18 **(i) A BOOK;**

19 **(ii) A RECORD;**

20 **(iii) A REPORT;**

21 **(iv) A MEMORANDUM;**

22 **(v) A PAPER;**

23 **(vi) A COMMUNICATION;**

24 **(vii) A TABULATION;**

25 **(viii) A CHART;**

26 **(ix) A DOCUMENT; OR**

27 **(x) DATA COMPILATION STORED IN OR ACCESSIBLE**
28 **THROUGH A COMPUTER OR OTHER INFORMATION RETRIEVAL SYSTEM,**
29 **INCLUDING INSTRUCTIONS AND ALL OTHER MATERIALS NECESSARY TO USE OR**
30 **INTERPRET THE DATA COMPILATION; AND**

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

2 **(I) THE ORIGINAL OR DUPLICATE OF ANY DEPOSITION,**
3 **INTERROGATORY, DOCUMENT, THING, RESULT OF AN INSPECTION OF LAND OR**
4 **OTHER PROPERTY, EXAMINATION, OR ADMISSION THAT IS OBTAINED BY ANY**
5 **METHOD OF DISCOVERY IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING OF**
6 **AN ADVERSARIAL NATURE;**

7 **(II) ANY DIGEST, ANALYSIS, SELECTION, COMPILATION, OR**
8 **DERIVATION OF ANY ITEM LISTED IN ITEM (I) OF THIS ITEM; AND**

9 **(III) ANY INDEX OR OTHER MANNER OF ACCESS TO ANY ITEM**
10 **LISTED IN ITEM (I) OF THIS ITEM.**

11 **(D) “EMPLOYEE” MEANS AN INDIVIDUAL WHO PERFORMS SERVICES:**

12 **(1) FOR AND UNDER THE CONTROL AND DIRECTION OF AN**
13 **EMPLOYER; AND**

14 **(2) UNDER AN EMPLOYER’S PROMISE OR IMPLIED PROMISE OF**
15 **PAYMENT OF WAGES OR OTHER REMUNERATION.**

16 **(E) “EMPLOYER” MEANS A PERSON OR GROUP OF PERSONS WHO,**
17 **ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP**
18 **OF PERSONS:**

19 **(1) ALLOWS AN EMPLOYEE TO PERFORM SERVICES UNDER THE**
20 **EMPLOYER’S CONTROL AND DIRECTION; AND**

21 **(2) PROMISES OR IMPLIES THAT THE EMPLOYEE WILL RECEIVE**
22 **WAGES OR OTHER REMUNERATION IN PAYMENT FOR THE PERFORMANCE OF**
23 **THOSE SERVICES.**

24 **(F) (1) “KNOWING” OR “KNOWINGLY” MEANS, WITH RESPECT TO**
25 **INFORMATION AND WITHOUT REQUIRING PROOF OF SPECIFIC INTENT TO**
26 **DEFRAUD, THAT A PERSON:**

27 ~~(1)~~ **(I) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;**

28 ~~(2)~~ **(II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR**
29 **FALSITY OF THE INFORMATION; OR**

30 ~~(3)~~ **(III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR**
31 **FALSITY OF THE INFORMATION.**

1 **(2) “KNOWING” OR “KNOWINGLY” DOES NOT MEAN, WITH**
2 **RESPECT TO INFORMATION, THAT A PERSON ACTS IN A MANNER THAT**
3 **CONSTITUTES MISTAKE OR NEGLIGENCE.**

4 **(G) “MATERIAL” MEANS HAVING A NATURAL TENDENCY TO INFLUENCE**
5 **OR BE CAPABLE OF INFLUENCING THE PAYMENT OR RECEIPT OF MONEY OR**
6 **OTHER PROPERTY.**

7 **(H) “OBLIGATION” MEANS AN ESTABLISHED DUTY, WHETHER OR NOT**
8 **FIXED, ARISING FROM:**

9 **(1) AN EXPRESS OR IMPLIED:**

10 **(I) CONTRACTUAL RELATIONSHIP;**

11 **(II) GRANTOR–GRANTEE RELATIONSHIP; OR**

12 **(III) LICENSO–LICENSEE RELATIONSHIP;**

13 **(2) A FEE–BASED OR SIMILAR RELATIONSHIP;**

14 **(3) STATUTE OR REGULATION; OR**

15 **(4) THE RETENTION OF AN OVERPAYMENT.**

16 **(I) “PROVIDER” HAS THE MEANING STATED IN § 2–501 OF THIS TITLE.**

17 **(J) “PUBLIC BODY” MEANS:**

18 **(1) THE GENERAL ASSEMBLY OR ANY OTHER ELECTED BODY;**

19 **(2) A MEMBER OR AN EMPLOYEE OF THE GENERAL ASSEMBLY OR**
20 **OTHER ELECTED BODY;**

21 **(3) A STATE COURT;**

22 **(4) A MEMBER OR AN EMPLOYEE OF A STATE COURT;**

23 **(5) A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR**
24 **PUBLIC AGENCY OR AUTHORITY;**

25 **(6) AN INSTRUMENTALITY OF A STATE OR LOCAL REGULATORY,**
26 **ADMINISTRATIVE, OR PUBLIC AGENCY OR AUTHORITY;**

1 (7) A STATE OR LOCAL LAW ENFORCEMENT AGENCY,
2 PROSECUTORIAL OFFICE, OR POLICE OR PEACE OFFICER;

3 (8) A STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH
4 OF GOVERNMENT; OR

5 (9) A DIVISION, BOARD, BUREAU, OFFICE, COMMITTEE, OR
6 COMMISSION OF ANY OF THE PUBLIC BODIES LISTED IN THIS SUBSECTION.

7 (K) "RETALIATORY ACTION" MEANS:

8 (1) DISCHARGING, SUSPENDING, DEMOTING, THREATENING,
9 HARASSING, OR DISCRIMINATING AGAINST AN EMPLOYEE, CONTRACTOR, OR
10 AGENT; OR

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

14 (L) (1) "STATE HEALTH PLAN" MEANS:

15 (I) THE STATE MEDICAL ASSISTANCE PLAN ESTABLISHED
16 IN ACCORDANCE WITH THE FEDERAL SOCIAL SECURITY ACT OF 1939, AS
17 AMENDED;

18 (II) A MEDICAL ASSISTANCE PLAN ESTABLISHED BY THE
19 STATE; OR

20 (III) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH
21 MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION AS DEFINED IN
22 § 15-101 OF THIS ARTICLE, HEALTH CARE COOPERATIVE OR ALLIANCE, OR
23 ANOTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE
24 SERVICES THAT ARE WHOLLY OR PARTIALLY REIMBURSED BY, OR ARE A
25 REQUIRED BENEFIT OF, A HEALTH PLAN ESTABLISHED IN ACCORDANCE WITH
26 THE FEDERAL SOCIAL SECURITY ACT OF 1939, AS AMENDED, OR BY THE STATE.

27 (2) "STATE HEALTH PLAN" INCLUDES A PERSON WHO PROVIDES
28 OR CONTRACTS OR SUBCONTRACTS TO PROVIDE HEALTH CARE SERVICES FOR
29 AN ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

30 (M) "STATE HEALTH PROGRAM" MEANS THE MEDICAL ASSISTANCE
31 PROGRAM, THE CIGARETTE RESTITUTION FUND PROGRAM, THE MENTAL
32 HYGIENE ADMINISTRATION, THE DEVELOPMENTAL DISABILITIES
33 ADMINISTRATION, THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, THE
34 FAMILY HEALTH ADMINISTRATION, THE ~~COMMUNITY~~ INFECTIONIOUS DISEASE

1 AND ENVIRONMENTAL HEALTH ADMINISTRATION, OR ANY OTHER UNIT OF THE
2 DEPARTMENT THAT PAYS A PROVIDER FOR A SERVICE RENDERED OR CLAIMED
3 TO HAVE BEEN RENDERED TO A RECIPIENT.

4 (N) "SUPERVISOR" MEANS AN INDIVIDUAL WITHIN AN EMPLOYER'S
5 ORGANIZATION WHO HAS THE AUTHORITY TO:

6 (1) DIRECT AND CONTROL THE WORK PERFORMANCE OF AN
7 EMPLOYEE; OR

8 (2) TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF A
9 LAW OR REGULATION THAT IS THE SUBJECT OF A COMPLAINT OR CHARGE
10 UNDER THIS SUBTITLE.

11 **2-602.**

12 (A) A PERSON MAY NOT:

13 (1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED A FALSE
14 OR FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;

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

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

18 (4) HAVE POSSESSION, CUSTODY, OR CONTROL OF MONEY OR
19 OTHER PROPERTY USED BY OR ON BEHALF OF THE STATE UNDER A STATE
20 HEALTH PLAN OR A STATE HEALTH PROGRAM AND KNOWINGLY DELIVER OR
21 CAUSE TO BE DELIVERED TO THE STATE LESS THAN ALL OF THAT MONEY OR
22 OTHER PROPERTY;

23 (5) (I) BE AUTHORIZED TO MAKE OR DELIVER A RECEIPT OR
24 OTHER DOCUMENT CERTIFYING RECEIPT OF MONEY OR OTHER PROPERTY USED
25 OR TO BE USED BY THE STATE UNDER A STATE HEALTH PLAN OR A STATE
26 HEALTH PROGRAM; AND

27 (II) INTENDING TO DEFRAUD THE STATE OR THE
28 DEPARTMENT, MAKE OR DELIVER A RECEIPT OR DOCUMENT KNOWING THAT
29 THE INFORMATION CONTAINED IN THE RECEIPT OR DOCUMENT IS NOT TRUE;

30 (6) KNOWINGLY BUY OR RECEIVE AS A PLEDGE OF AN
31 OBLIGATION OR DEBT PUBLICLY OWNED PROPERTY FROM AN OFFICER,
32 EMPLOYEE, OR AGENT OF A STATE HEALTH PLAN OR A STATE HEALTH
33 PROGRAM WHO LAWFULLY MAY NOT SELL OR PLEDGE THE PROPERTY;

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

4 (8) KNOWINGLY CONCEAL, OR KNOWINGLY AND IMPROPERLY
5 AVOID OR DECREASE, AN OBLIGATION TO PAY OR TRANSMIT MONEY OR OTHER
6 PROPERTY TO THE STATE; OR

7 (9) KNOWINGLY MAKE ANY OTHER FALSE OR FRAUDULENT CLAIM
8 AGAINST A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM.

9 (B) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
10 ~~SUBSECTION, A~~ A PERSON WHO IS FOUND TO HAVE VIOLATED SUBSECTION (A)
11 OF THIS SECTION IS LIABLE TO THE STATE FOR:

12 (I) A CIVIL PENALTY OF ~~NOT LESS THAN \$5,000 AND~~ NOT
13 MORE THAN \$10,000 FOR EACH VIOLATION OF SUBSECTION (A) OF THIS
14 SECTION; AND

15 (II) AN ADDITIONAL AMOUNT ~~EQUAL TO~~ OF NOT MORE THAN
16 THREE TIMES THE AMOUNT OF DAMAGES THAT THE STATE SUSTAINS AS A
17 RESULT OF THE ACTS OF THAT PERSON IN VIOLATION OF SUBSECTION (A) OF
18 THIS SECTION.

19 ~~(2) AS AN ALTERNATIVE TO PARAGRAPH (1) OF THIS~~
20 ~~SUBSECTION, A COURT MAY ASSESS NOT LESS THAN TWO TIMES THE AMOUNT OF~~
21 ~~DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF A PERSON'S ACTS IN~~
22 ~~VIOLATION OF SUBSECTION (A) OF THIS SECTION, AND NO CIVIL PENALTY, IF~~
23 ~~THE COURT FINDS THAT:~~

24 ~~(i) THE PERSON COMMITTING THE VIOLATION PROVIDED~~
25 ~~STATE OFFICIALS RESPONSIBLE FOR INVESTIGATING FALSE CLAIMS~~
26 ~~VIOLATIONS INVOLVING STATE HEALTH PLANS OR STATE HEALTH PROGRAMS~~
27 ~~WITH ANY INFORMATION ABOUT THE VIOLATION KNOWN TO THE PERSON~~
28 ~~WITHIN 30 DAYS AFTER THE DATE ON WHICH THE PERSON FIRST OBTAINED THE~~
29 ~~INFORMATION;~~

30 ~~(ii) THE PERSON COOPERATED FULLY WITH ANY STATE~~
31 ~~INVESTIGATION OF THE VIOLATION; AND~~

32 ~~(iii) AT THE TIME THE PERSON PROVIDED THE STATE WITH~~
33 ~~THE INFORMATION ABOUT THE VIOLATION;~~

1 ~~1. NO CRIMINAL PROSECUTION, CIVIL ACTION, OR~~
2 ~~ADMINISTRATIVE ACTION RELATING TO THE SAME VIOLATION HAD BEEN~~
3 ~~INITIATED; AND~~

4 ~~2. THE PERSON DID NOT HAVE ACTUAL PRIOR~~
5 ~~KNOWLEDGE OF THE EXISTENCE OF AN INVESTIGATION OF THE VIOLATION.~~

6 (2) THE TOTAL AMOUNT OWED BY A PERSON UNDER PARAGRAPH
7 (1) OF THIS SUBSECTION MAY NOT BE LESS THAN THE AMOUNT OF THE ACTUAL
8 DAMAGES THE STATE HEALTH PLAN OR STATE HEALTH PROGRAM INCURS AS A
9 RESULT OF THE PERSON'S VIOLATION OF SUBSECTION (A) OF THIS SECTION.

10 (C) (1) IN DETERMINING THE APPROPRIATE AMOUNT OF FINES AND
11 DAMAGES UNDER SUBSECTION (B) OF THIS SECTION, THE COURT SHALL
12 CONSIDER:

13 (I) THE NUMBER, NATURE, AND SEVERITY OF THE
14 VIOLATIONS OF THIS SUBTITLE FOR WHICH THE PERSON HAS BEEN FOUND
15 LIABLE;

16 (II) THE NUMBER, NATURE, AND SEVERITY OF ANY
17 PREVIOUS VIOLATIONS OF THIS SUBTITLE;

18 (III) THE DEGREE OF LOSS SUFFERED BY THE STATE
19 HEALTH PLAN OR STATE HEALTH PROGRAM;

20 (IV) THE PERSON'S HISTORY OF BILLING COMPLIANCE;

21 (V) WHETHER THE PERSON HAS A COMPLIANCE PROGRAM
22 IN PLACE;

23 (VI) THE EXTENT TO WHICH THE PERSON HAS TAKEN STEPS
24 TO ADDRESS AND CORRECT THE VIOLATION SINCE THE PERSON BECAME AWARE
25 OF THE VIOLATION;

26 (VII) THE EXTENT TO WHICH THE VIOLATION CAUSED HARM
27 OR DETRIMENT TO PATIENTS OR CONSUMERS OF THE STATE HEALTH PLAN OR
28 STATE HEALTH PROGRAM;

29 (VIII) ANY FUNDS PREVIOUSLY RETURNED TO THE STATE
30 HEALTH PLAN OR STATE HEALTH PROGRAM IN COMPLIANCE WITH FEDERAL
31 REQUIREMENTS REGARDING OVERPAYMENTS, TO THE EXTENT THE FUNDS
32 REPRESENTED LOSSES TO THE STATE HEALTH PLAN OR STATE HEALTH
33 PROGRAM CAUSED BY THE VIOLATION;

1 (IX) WHETHER THE PERSON SELF-REPORTED THE
2 VIOLATION, THE TIMELINESS OF THE SELF-REPORTING, THE EXTENT TO WHICH
3 THE PERSON OTHERWISE COOPERATED IN THE INVESTIGATION OF THE
4 VIOLATION, AND THE EXTENT TO WHICH THE PERSON HAD PRIOR KNOWLEDGE
5 OF AN INVESTIGATION OR OTHER ACTION RELATING TO THE VIOLATION; AND

6 (X) ANY OTHER FACTOR AS JUSTICE REQUIRES.

7 (2) IN WEIGHING THE FACTORS SET FORTH IN PARAGRAPH (1) OF
8 THIS SUBSECTION, THE COURT SHALL, WHERE APPROPRIATE, GIVE SPECIAL
9 CONSIDERATION TO:

10 (I) THE EXTENT TO WHICH THE PERSON'S SIZE,
11 OPERATIONS, OR FINANCIAL CONDITION MAY HAVE AFFECTED EACH OF THE
12 FACTORS SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION; AND

13 (II) THE EXTENT TO WHICH THE PERSON'S SIZE,
14 OPERATIONS, OR FINANCIAL CONDITION MAY AFFECT THE PERSON'S ABILITY TO
15 PROVIDE CARE AND CONTINUE OPERATIONS AFTER PAYMENT OF DAMAGES AND
16 FINES.

17 ~~(C)~~ (D) THE PENALTIES PROVIDED IN SUBSECTION (B) OF THIS
18 SECTION ARE IN ADDITION TO ANY CRIMINAL, CIVIL, OR ADMINISTRATIVE
19 PENALTIES PROVIDED UNDER ANY OTHER STATE OR FEDERAL STATUTE OR
20 REGULATION.

21 **2-603.**

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

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

28 (1) THE PENALTIES PROVIDED UNDER § 2-602(B) OF THIS
29 SUBTITLE; AND

30 ~~(2) COMPENSATORY DAMAGES TO COMPENSATE THE STATE FOR~~
31 ~~INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 2-602(A) OF~~
32 ~~THIS SUBTITLE; AND~~

33 ~~(3) COURT SUBJECT TO THE GUIDELINES SET FORTH IN §~~
34 2-605(A)(4) OF THIS SUBTITLE, COURT COSTS AND ATTORNEY'S FEES.

1 **2-604.**

2 (A) (1) (I) A PERSON MAY FILE A CIVIL ACTION ON BEHALF OF THE
3 PERSON AND THE STATE IN A COURT OF COMPETENT JURISDICTION WITHIN
4 THE STATE AGAINST A PERSON WHO HAS ACTED OR IS ACTING IN VIOLATION OF
5 § 2-602(A) OF THIS SUBTITLE.

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

8 (2) A PERSON FILING AN ACTION UNDER THIS SECTION MAY
9 SEEK:

10 (I) ~~ANY REMEDY AVAILABLE IN COMMON LAW TORT;~~

11 ~~(II) THE PENALTIES PROVIDED UNDER § 2-602(B) OF THIS~~
12 ~~SUBTITLE; AND~~

13 ~~(III) COMPENSATORY DAMAGES TO COMPENSATE THE STATE~~
14 ~~FOR INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 2-602(A)~~
15 ~~OF THIS SUBTITLE; AND~~

16 ~~(IV) (II) COURT SUBJECT TO THE GUIDELINES SET FORTH~~
17 ~~IN § 2-605(A)(4) OF THIS SUBTITLE, COURT COSTS AND ATTORNEY'S FEES.~~

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

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

25 2. THE COMPLAINT MAY NOT BE SERVED ON THE
26 DEFENDANT UNTIL THE COMPLAINT IS UNSEALED AND THE COURT ORDERS THE
27 COMPLAINT SERVED.

28 3. WITHIN 60 DAYS AFTER THE STATE RECEIVES
29 THE COMPLAINT AND THE MATERIAL EVIDENCE AND INFORMATION, THE STATE
30 MAY ELECT TO INTERVENE AND PROCEED WITH THE ACTION.

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

4 (II) ANY MOTIONS MADE UNDER SUBPARAGRAPH (I) OF
5 THIS PARAGRAPH MAY BE SUPPORTED BY AFFIDAVITS OR OTHER SUBMISSIONS
6 IN CAMERA.

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

9 1. UNSEALED AND ORDERED BY THE COURT TO BE
10 SERVED; AND

11 2. SERVED ON THE DEFENDANT IN ACCORDANCE
12 WITH TITLE 2 OF THE MARYLAND RULES.

13 (II) WHEN ANSWERING A COMPLAINT FILED UNDER THIS
14 SECTION, A DEFENDANT SHALL FOLLOW THE TIME FRAMES AND OTHER
15 PROVISIONS FOR FILING ANSWERS TO A COMPLAINT AS REQUIRED UNDER
16 TITLE 2, CHAPTER 300 OF THE MARYLAND RULES.

17 (III) DURING THE PERIOD IN WHICH THE COMPLAINT IS
18 UNDER SEAL, IF THE STATE'S INVESTIGATION REVEALS THAT THE ACT,
19 TRANSACTION, OR OCCURRENCE THAT GAVE RISE TO THE ALLEGED VIOLATION
20 OF THIS SUBTITLE IS REASONABLY LIKELY TO BE CONTINUING, THE STATE
21 SHALL NOTIFY THE DEFENDANT AS SOON AS PRACTICABLE WITHOUT
22 JEOPARDIZING THE COURSE AND CONDUCT OF THE STATE'S OR THE FEDERAL
23 GOVERNMENT'S INVESTIGATION OF THE VIOLATION, COMPROMISING THE
24 DEVELOPMENT OF EVIDENCE, OR VIOLATING ANY STATE OR FEDERAL LAW.

25 (6) BEFORE THE LATER OF THE EXPIRATION OF THE 60-DAY
26 PERIOD DURING WHICH THE COMPLAINT REMAINS UNDER SEAL UNDER
27 PARAGRAPH (3)(II)1 OF THIS SUBSECTION OR ANY EXTENSION OF THE 60-DAY
28 PERIOD OBTAINED UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE STATE
29 SHALL:

30 (I) INTERVENE AND PROCEED WITH THE ACTION IN A
31 COURT OF COMPETENT JURISDICTION WITHIN THE STATE; OR

32 (II) NOTIFY THE COURT THAT IT WILL NOT INTERVENE AND
33 PROCEED WITH THE ACTION.

1 **(7) IF THE STATE DOES NOT ELECT TO INTERVENE AND PROCEED**
2 **WITH THE ACTION UNDER PARAGRAPH (6) OF THIS SUBSECTION, BEFORE**
3 **UNSEALING THE COMPLAINT, THE COURT SHALL DISMISS THE ACTION.**

4 ~~(7)~~ **(8)** IF A PERSON INITIATES AN ACTION UNDER THIS
5 SECTION, NO PERSON OTHER THAN THE STATE MAY INTERVENE IN THE ACTION
6 OR INITIATE A RELATED ACTION BASED ON THE FACTS UNDERLYING THE
7 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) (I) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
25 **INITIATING THE ACTION, THE STATE MAY ~~PETITION THE COURT TO DISMISS AN~~**
26 **~~ACTION IF:~~ ELECT AT ANY POINT TO WITHDRAW ITS INTERVENTION AS A PARTY**
27 **TO THE ACTION.**

28 **(II) IF THE STATE ELECTS TO WITHDRAW AS A PARTY TO**
29 **THE ACTION:**

30 **1. THE STATE SHALL NOTIFY THE COURT AND THE**
31 **PARTY INITIATING THE ACTION; AND**

32 **2. THE COURT SHALL DISMISS THE ACTION.**

33 ~~(I) THE PERSON INITIATING THE ACTION IS NOTIFIED BY~~
34 ~~THE STATE OF THE FILING OF THE MOTION TO DISMISS; AND~~

1 ~~(H) THE COURT PROVIDES THE PERSON INITIATING THE~~
2 ~~ACTION WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION TO DISMISS.~~

3 (4) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON
4 INITIATING THE ACTION, IF THE COURT DETERMINES AFTER A HEARING THAT A
5 PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER THE
6 CIRCUMSTANCES, THE STATE MAY SETTLE A CIVIL ACTION FILED UNDER THIS
7 SECTION.

8 (5) THE ON MOTION OF THE STATE OR THE DEFENDANT OR ON
9 THE COURT'S OWN MOTION, THE COURT MAY IMPOSE LIMITATIONS ON THE
10 PARTICIPATION OF THE PERSON INITIATING AN ACTION UNDER THIS SECTION
11 IF:

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

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

16 2. BE REPETITIOUS, IRRELEVANT, OR HARASSING
17 TO THE DEFENDANT; OR

18 (II) THE DEFENDANT SHOWS THAT UNRESTRICTED
19 PARTICIPATION BY THE PERSON INITIATING THE ACTION WOULD HARASS THE
20 DEFENDANT OR CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY
21 EXPENSE.

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

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

26 (II) A LIMITATION ON THE LENGTH OF THE TESTIMONY OF
27 WITNESSES CALLED BY THE PERSON;

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

30 (IV) A LIMITATION ON THE PARTICIPATION OF THE PERSON
31 IN THE LITIGATION.

1 ~~(C) (1) IF THE STATE ELECTS NOT TO INTERVENE AND PROCEED~~
2 ~~WITH THE ACTION UNDER SUBSECTION (A)(6)(II) OF THIS SECTION, THE PERSON~~
3 ~~INITIATING THE ACTION SHALL HAVE THE RIGHT TO PROCEED WITH THE~~
4 ~~ACTION.~~

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

8 ~~(I) ALL PLEADINGS FILED IN THE ACTION; AND~~

9 ~~(II) ALL DEPOSITION TRANSCRIPTS.~~

10 ~~(3) (I) IF A PERSON PROCEEDS WITH AN ACTION UNDER~~
11 ~~PARAGRAPH (1) OF THIS SUBSECTION, THE COURT, WITHOUT LIMITING THE~~
12 ~~STATUS AND RIGHTS OF THE PERSON INITIATING THE ACTION, MAY ALLOW THE~~
13 ~~STATE TO INTERVENE AT A LATER DATE ON A SHOWING OF GOOD CAUSE.~~

14 ~~(II) IF THE STATE SUBSEQUENTLY INTERVENES UNDER~~
15 ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PERSON INITIATING THE ACTION~~
16 ~~SHALL THEREAFTER BE SUBJECT TO THE LIMITATIONS PROVIDED UNDER~~
17 ~~SUBSECTION (B)(3) THROUGH (6) OF THIS SECTION.~~

18 ~~(D) (C) (1) INSTEAD OF PROCEEDING WITH A CIVIL ACTION FILED~~
19 ~~UNDER THIS SUBTITLE, THE STATE MAY PURSUE ANY ALTERNATIVE REMEDY~~
20 ~~AVAILABLE TO THE STATE, INCLUDING ANY APPROPRIATE ADMINISTRATIVE~~
21 ~~PROCEEDING TO DETERMINE A CIVIL MONEY PENALTY.~~

22 (2) IF THE STATE SEEKS AN ALTERNATIVE REMEDY IN ANOTHER
23 PROCEEDING AFTER INTERVENING IN A CIVIL ACTION FILED UNDER THIS
24 SECTION, THE PERSON INITIATING THE ACTION SHALL HAVE THE SAME RIGHTS
25 IN THE ALTERNATIVE PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE
26 CIVIL ACTION HAD CONTINUED UNDER THIS SECTION.

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

30 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS
31 PARAGRAPH, A FINDING OR CONCLUSION IS FINAL IF:

32 1. IT HAS BEEN FINALLY DETERMINED ON APPEAL
33 TO THE APPROPRIATE COURT OF THE STATE;

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

3 3. THE FINDING OR CONCLUSION IS NOT SUBJECT
4 TO JUDICIAL REVIEW.

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

12 (2) THE COURT MAY EXTEND THE 60-DAY PERIOD ON A FURTHER
13 SHOWING IN CAMERA THAT:

14 (i) THE STATE HAS PURSUED THE CRIMINAL OR CIVIL
15 INVESTIGATION OR PROCEEDING WITH REASONABLE DILIGENCE; AND

16 (ii) ANY PROPOSED DISCOVERY IN THE CIVIL ACTION WILL
17 INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION OR
18 PROCEEDING.

19 **2-605.**

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

23 (i) NOT LESS THAN 15% AND NOT MORE THAN 25% OF THE
24 PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND

25 (ii) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT
26 THAT THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE FINAL RESOLUTION
27 OF THE CIVIL ACTION.

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

1 1. THE COURT CONSIDERS APPROPRIATE, TAKING
2 INTO ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF
3 THE PERSON INITIATING THE ACTION IN ADVANCING THE CASE TO LITIGATION;
4 AND

5 2. DOES NOT EXCEED 10% OF THE PROCEEDS OF
6 THE ACTION.

7 (ii) THE INFORMATION DESCRIBED IN SUBPARAGRAPH (i)
8 OF THIS PARAGRAPH DOES NOT INCLUDE INFORMATION DISCLOSED AND
9 PROVIDED BY THE PERSON INITIATING THE ACTION.

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

12 (4) (i) IN ADDITION TO THE AMOUNT PROVIDED UNDER
13 PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A COURT ~~SHALL~~ MAY AWARD
14 THE PERSON INITIATING THE ACTION:

15 1. AN AMOUNT FOR REASONABLE EXPENSES THAT
16 THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND

17 2. REASONABLE ATTORNEY'S FEES AND COSTS.

18 (ii) IN DETERMINING THE AMOUNT OF ANY AWARD UNDER
19 SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE COURT SHALL CONSIDER THE
20 AMOUNT OF ANY PENALTIES AND DAMAGES RECOVERED IN THE ACTION AND
21 ANY OTHER FACTOR AS JUSTICE MAY REQUIRE.

22 ~~(ii)~~ (iii) ~~ALL~~ ANY EXPENSES, FEES, AND COSTS AWARDED
23 UNDER THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.

24 ~~(b) (1) IF THE STATE DOES NOT INTERVENE AND PROCEED WITH AN~~
25 ~~ACTION FILED UNDER § 2-604 OF THIS SUBTITLE AND THE PERSON INITIATING~~
26 ~~THE ACTION PREVAILS, THE COURT SHALL AWARD THE PERSON INITIATING THE~~
27 ~~ACTION AN AMOUNT THAT IS REASONABLE FOR COLLECTING THE CIVIL~~
28 ~~PENALTY AND DAMAGES ON THE STATE'S BEHALF.~~

29 ~~(2) AN AMOUNT AWARDED UNDER PARAGRAPH (1) OF THIS~~
30 ~~SUBSECTION SHALL BE:~~

31 ~~(i) NOT LESS THAN 25% OR MORE THAN 30% OF THE~~
32 ~~PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND~~

33 ~~(ii) PAID OUT OF THE PROCEEDS OF THE ACTION.~~

1 ~~(3) (i) THE COURT ALSO SHALL AWARD THE PERSON~~
2 ~~INITIATING THE ACTION:~~

3 ~~1. AN AMOUNT FOR REASONABLE EXPENSES THAT~~
4 ~~THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND~~

5 ~~2. REASONABLE ATTORNEY'S FEES AND COSTS.~~

6 ~~(ii) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER~~
7 ~~THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.~~

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

16 **(2) IN REDUCING THE SHARE OF THE PROCEEDS OF THE PERSON**
17 **INITIATING THE ACTION UNDER THIS SUBSECTION, THE COURT SHALL**
18 **CONSIDER:**

19 **(i) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO**
20 **LITIGATION; AND**

21 **(ii) ANY RELEVANT CIRCUMSTANCES RELATING TO THE**
22 **UNDERLYING VIOLATION.**

23 **(3) (i) IF THE PERSON INITIATING A CIVIL ACTION UNDER**
24 **§ 2-604 OF THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING**
25 **FROM THE PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION**
26 **WAS BASED PRIOR TO A FINAL DETERMINATION OF THE ACTION, THE PERSON:**

27 **1. SHALL BE DISMISSED FROM THE ACTION; AND**

28 **2. MAY NOT RECEIVE ANY SHARE OF THE PROCEEDS**
29 **OF THE ACTION.**

30 **(ii) THE DISMISSAL OF THE PERSON INITIATING THE**
31 **ACTION IN ACCORDANCE WITH THIS PARAGRAPH DOES NOT PREJUDICE THE**
32 **RIGHT OF THE STATE TO CONTINUE THE ACTION.**

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

7 ~~(D)~~ (C) A COURT ~~SHALL~~ MAY AWARD REASONABLE ATTORNEY'S FEES
8 AND EXPENSES TO A DEFENDANT AND AGAINST THE PERSON INITIATING THE
9 ACTION IF:

10 (1) THE DEFENDANT PREVAILS IN THE ACTION; AND

11 (2) THE COURT FINDS THAT THE CLAIM OF THE PERSON
12 INITIATING THE ACTION WAS ~~CLEARLY FRIVOLOUS, VEXATIOUS, OR~~ BROUGHT
13 PRIMARILY FOR PURPOSES OF HARASSMENT OR OTHERWISE BROUGHT IN BAD
14 FAITH; AND

15 ~~(3) THE STATE DID NOT INTERVENE AND PROCEED WITH THE~~
16 ~~ACTION, AND THE PERSON INITIATING THE ACTION CONDUCTED THE ACTION.~~

17 **2-606.**

18 (A) NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN
19 ACTION FILED UNDER § 2-604 OF THIS SUBTITLE AGAINST ANY MEMBER OF THE
20 LEGISLATIVE BRANCH OR THE JUDICIARY OF THE STATE, ANY MEMBER OF THE
21 GOVERNOR'S EXECUTIVE COUNCIL, THE ATTORNEY GENERAL, THE
22 COMPTROLLER, OR THE STATE TREASURER IF THE ACTION IS BASED ON
23 EVIDENCE OR INFORMATION KNOWN TO THE STATE WHEN THE ACTION WAS
24 FILED.

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

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

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

33 (C) A PERSON MAY NOT BRING AN ACTION UNDER § 2-604 OF THIS
34 SUBTITLE THAT IS BASED ON ALLEGATIONS OR TRANSACTIONS THAT ARE THE

1 SUBJECT OF A CIVIL SUIT OR AN ADMINISTRATIVE CIVIL MONEY PENALTY
2 PROCEEDING IN WHICH THE STATE IS ALREADY A PARTY.

3 (D) (1) EXCEPT AS PROVIDED IN ~~PARAGRAPH (2)~~ PARAGRAPHS (2)
4 AND (3) OF THIS SUBSECTION, NO COURT IN THIS STATE SHALL HAVE
5 JURISDICTION OVER AN ACTION FILED UNDER § 2-604 OF THIS SUBTITLE THAT
6 IS BASED ON THE PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS:

7 (I) IN A CRIMINAL, CIVIL, OR AN ADMINISTRATIVE
8 HEARING;

9 (II) IN A LEGISLATIVE OR AN ADMINISTRATIVE REPORT, A
10 HEARING, AN AUDIT, OR AN INVESTIGATION; OR

11 (III) FROM THE NEWS MEDIA.

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

14 (I) HAS DIRECT AND INDEPENDENT KNOWLEDGE OF THE
15 INFORMATION ON WHICH THE ALLEGATIONS ARE BASED; AND

16 (II) HAS VOLUNTARILY PROVIDED THE INFORMATION TO
17 THE STATE BEFORE FILING AN ACTION UNDER § 2-604 OF THIS SUBTITLE THAT
18 IS BASED ON THE INFORMATION.

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

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

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

33 2-607.

1 **(A) A PERSON MAY NOT TAKE A RETALIATORY ACTION AGAINST AN**
2 **EMPLOYEE, CONTRACTOR, OR GRANTEE BECAUSE THE EMPLOYEE,**
3 **CONTRACTOR, OR GRANTEE:**

4 **(1) ACTS LAWFULLY IN FURTHERANCE OF AN ACTION FILED**
5 **UNDER THIS SUBTITLE, INCLUDING AN INVESTIGATION FOR, INITIATION OF,**
6 **TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO BE FILED UNDER**
7 **THIS SUBTITLE;**

8 **(2) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR**
9 **OR TO A PUBLIC BODY AN ACTIVITY, POLICY, OR PRACTICE OF THE PERSON**
10 **THAT THE EMPLOYEE, CONTRACTOR, OR GRANTEE REASONABLY BELIEVES IS IN**
11 **VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED**
12 **UNDER THIS SUBTITLE;**

13 **(3) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A**
14 **PUBLIC BODY CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO A**
15 **VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED**
16 **UNDER THIS SUBTITLE THAT IS ALLEGEDLY OR ACTUALLY COMMITTED BY THE**
17 **PERSON; OR**

18 **(4) OBJECTS TO OR REFUSES TO PARTICIPATE IN ANY ACTIVITY,**
19 **POLICY, OR PRACTICE THAT THE EMPLOYEE, CONTRACTOR, OR GRANTEE**
20 **REASONABLY BELIEVES IS IN VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A**
21 **REGULATION ADOPTED UNDER THIS SUBTITLE.**

22 **(B) (1) AN EMPLOYEE, CONTRACTOR, OR GRANTEE MAY FILE A CIVIL**
23 **ACTION AGAINST A PERSON OTHER THAN A SUPERVISOR IN STATE**
24 **GOVERNMENT, AN APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE**
25 **HEAD OF A PRINCIPAL UNIT IN STATE GOVERNMENT IF THE PERSON TAKES A**
26 **RETALIATORY ACTION AGAINST THE EMPLOYEE, CONTRACTOR, OR GRANTEE IN**
27 **VIOLATION OF SUBSECTION (A) OF THIS SECTION.**

28 **(2) THE EMPLOYEE, CONTRACTOR, OR GRANTEE MAY SEEK IN**
29 **THE CIVIL ACTION:**

30 **(I) AN INJUNCTION TO RESTRAIN A CONTINUING**
31 **VIOLATION OF SUBSECTION (A) OF THIS SECTION;**

32 **(II) REINSTATEMENT TO THE SAME SENIORITY STATUS**
33 **HELD BEFORE THE RETALIATORY ACTION;**

34 **(III) REINSTATEMENT OF FULL FRINGE BENEFITS AND**
35 **SENIORITY RIGHTS;**

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

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

5 (VI) PUNITIVE DAMAGES;

6 (VII) AN ASSESSMENT OF A CIVIL PENALTY:

7 1. NOT EXCEEDING \$1,000 FOR THE FIRST
8 VIOLATION; AND

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

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

13 (3) THE REMEDIES PROVIDED UNDER THIS SECTION DO NOT
14 DIMINISH OR AFFECT THE RIGHTS, PRIVILEGES, OR REMEDIES AVAILABLE TO
15 THE EMPLOYEE, CONTRACTOR, OR GRANTEE UNDER:

16 (I) ANY OTHER FEDERAL OR STATE STATUTE OR
17 REGULATION; OR

18 (II) ANY COLLECTIVE BARGAINING AGREEMENT OR
19 EMPLOYEE CONTRACT.

20 (C) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE AS DEFINED IN §
21 1-501 OF THE HEALTH OCCUPATIONS ARTICLE OR A STATE EMPLOYEE.

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

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

30 2-608.

31 AN EMPLOYER SHALL:

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

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

6 **2-609.**

7 (A) A CIVIL ACTION FILED UNDER ~~§ 2-604~~ OF THIS SUBTITLE MAY NOT
8 BE FILED AFTER THE LATER OF:

9 (1) 6 YEARS AFTER THE DATE ON WHICH THE UNDERLYING
10 VIOLATION OF § 2-602(A) OF THIS SUBTITLE OCCURRED; OR

11 (2) 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO THE
12 RIGHT OF ACTION ARE KNOWN BY THE RELATOR, THE STATE'S INSPECTOR
13 GENERAL, OR THE DIRECTOR OF THE STATE'S MEDICAID FRAUD CONTROL
14 UNIT OR REASONABLY SHOULD HAVE BEEN KNOWN, BUT IN NO EVENT MORE
15 THAN 10 YEARS AFTER THE DATE ON WHICH THE UNDERLYING VIOLATION OF §
16 2-602(A) OF THIS SUBTITLE IS COMMITTED.

17 (B) A CIVIL ACTION MAY BE FILED UNDER ~~§ 2-604~~ OF THIS SUBTITLE
18 FOR ACTIVITY THAT OCCURRED PRIOR TO OCTOBER 1, 2010, IF THE
19 LIMITATIONS PERIOD UNDER SUBSECTION (A) OF THIS SECTION HAS NOT
20 LAPSED.

21 (C) IF THE STATE ELECTS TO INTERVENE AND PROCEED WITH AN
22 ACTION BROUGHT UNDER THIS SUBTITLE, THE STATE, THROUGH THE OFFICE
23 OF THE ATTORNEY GENERAL, MAY:

24 (1) FILE ITS OWN COMPLAINT; OR

25 (2) AMEND THE COMPLAINT OF THE PERSON WHO BROUGHT THE
26 ACTION TO CLARIFY, ADD DETAIL TO THE COMPLAINT, OR ADD ADDITIONAL
27 CLAIMS TO THE COMPLAINT.

28 (D) TO THE EXTENT THAT THE CLAIM OF THE STATE ARISES OUT OF
29 THE CONDUCT, TRANSACTIONS, OR OCCURRENCES SET FORTH, OR ATTEMPTED
30 TO BE SET FORTH BY A PERSON, A STATE PLEADING RELATES BACK TO THE
31 FILING DATE OF THE COMPLAINT OF THE PERSON WHO ORIGINALLY BROUGHT
32 THE ACTION.

1 (E) IN AN ACTION FILED UNDER THIS SUBTITLE, ALL ESSENTIAL
2 ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, SHALL BE PROVEN
3 BY A PREPONDERANCE OF THE EVIDENCE.

4 (F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE OF
5 PROCEDURE OR EVIDENCE IN THE MARYLAND RULES, A FINAL JUDGMENT
6 RENDERED IN FAVOR OF THE STATE IN ANY CRIMINAL PROCEEDING CHARGING
7 FRAUD OR FALSE STATEMENTS, WHETHER ON A VERDICT AFTER TRIAL OR ON A
8 PLEA OF GUILTY OR NOLO CONTENDERE, SHALL STOP THE DEFENDANT FROM
9 DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION FILED
10 UNDER THIS SUBTITLE THAT INVOLVES THE SAME ACT, TRANSACTION, OR
11 OCCURRENCE AS IN THE CRIMINAL PROCEEDING.

12 2-610.

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

16 (B) (1) THE STATE SHALL MAKE ALL REASONABLE EFFORTS TO
17 COORDINATE ANY INVESTIGATION OF AN ALLEGED VIOLATION UNDER THIS
18 SUBTITLE WITH ANY INVESTIGATION CONDUCTED BY THE FEDERAL
19 GOVERNMENT INVOLVING THE SAME VIOLATION.

20 (2) THE STATE'S OBJECTIVE SHALL BE TO AVOID UNNECESSARY
21 DUPLICATION OF EFFORT ON THE PART OF THE PERSON ALLEGED TO HAVE
22 COMMITTED THE VIOLATION AND TO MINIMIZE THE BURDEN OF THE
23 INVESTIGATION ON THE PERSON.

24 ~~(B)~~ (C) THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR
25 DAMAGES COLLECTED UNDER THIS SUBTITLE IN THE GENERAL FUND OF THE
26 STATE.

27 ~~(C)~~ (D) THE DEPARTMENT OR THE INSPECTOR GENERAL OF THE
28 DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF
29 THIS SUBTITLE.

30 2-611.

31 (A) BEGINNING OCTOBER 1, 2010, THE INSPECTOR GENERAL OF THE
32 DEPARTMENT AND THE DIRECTOR OF THE MEDICAID FRAUD CONTROL UNIT
33 IN THE OFFICE OF THE ATTORNEY GENERAL SHALL REPORT ANNUALLY TO THE
34 GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE

1 GOVERNMENT ARTICLE, THE FOLLOWING INFORMATION FOR THE PREVIOUS
2 FISCAL YEAR:

3 (1) THE NUMBER OF CIVIL ACTIONS FILED UNDER THIS
4 SUBTITLE;

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

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

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

14 (1) WHETHER THE ACTION WAS FILED BY THE STATE OR BY A
15 PERSON ON BEHALF OF THE STATE AND, IF FILED BY A PERSON, WHETHER THE
16 STATE INTERVENED AND PROCEEDED WITH THE ACTION;

17 (2) THE NAME OF THE DEFENDANT; AND THE FOLLOWING
18 INFORMATION ABOUT THE DEFENDANT:

19 (i) THE NUMBER OF EMPLOYEES AND ANY OTHER DATA
20 RELEVANT TO THE SIZE OF THE DEFENDANT;

21 (ii) THE AMOUNT OF PAYMENTS MADE TO THE DEFENDANT
22 IN THE YEAR PRIOR TO THE FILING OF THE ACTION FROM STATE HEALTH PLANS
23 AND, TO THE EXTENT KNOWN BY THE INSPECTOR GENERAL AND THE MEDICAID
24 FRAUD CONTROL UNIT, FROM OTHER SOURCES; AND

25 (iii) WHETHER THE DEFENDANT IS A MINORITY-OWNED
26 BUSINESS ENTERPRISE AS DEFINED BY § 14-301 OF THE STATE FINANCE AND
27 PROCUREMENT ARTICLE.

28 (3) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION
29 OF § 2-602 OF THIS SUBTITLE; AND

30 (4) THE AMOUNT SOUGHT IN THE ACTION AND, IF APPLICABLE,
31 THE AMOUNT FOR WHICH THE DEFENDANT IS LIABLE UNDER A SETTLEMENT
32 AGREEMENT OR COURT ORDER.

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

3 (1) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION
4 OF § 2-602 OF THIS SUBTITLE;

5 (2) THE RESOLUTION OF THE CLAIM;

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.