

SENATE BILL 665

P1

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CF 7lr2119

By: **Senators Kasemeyer, Madaleno, Astle, Benson, Conway, Currie, DeGrange, Feldman, Ferguson, Guzzone, Kagan, Kelley, King, Lee, Manno, McFadden, Middleton, Miller, Muse, Nathan–Pulliam, Peters, Pinsky, Ramirez, Robinson, Rosapepe, Smith, Young, Zirkin, and Zucker**

Introduced and read first time: February 3, 2017

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Attorney General – Powers – Maryland Defense Act of 2017**

3 FOR the purpose of authorizing the Attorney General to take certain actions regarding civil
4 and criminal suits and actions that are based on the federal government’s action or
5 inaction that threatens the public interest and welfare of the residents of the State;
6 requiring the Attorney General, except under certain circumstances, to provide the
7 Governor with certain notice and an opportunity to review and comment on certain
8 suits and actions before commencing certain suits and actions; requiring the
9 Governor, under certain circumstances, to provide in writing reasons for certain
10 objections to the Attorney General within a certain time period; requiring the
11 Attorney General, except under certain circumstances, to consider the Governor’s
12 objections before commencing a certain suit or action; requiring the Governor’s
13 proposed budget for a certain fiscal year and annually thereafter to appropriate at
14 least a certain amount to the Attorney General to be used only for certain purposes;
15 stating the findings of the General Assembly; providing for the construction of this
16 Act; making the provisions of this Act severable; and generally relating to the powers
17 of the Attorney General.

18 BY adding to

19 Article – State Government
20 Section 6–106.1
21 Annotated Code of Maryland
22 (2014 Replacement Volume and 2016 Supplement)

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

25 **Article – State Government**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **6-106.1.**

2 (A) **THE GENERAL ASSEMBLY FINDS THAT:**

3 (1) **THE FEDERAL GOVERNMENT'S ACTION OR FAILURE TO TAKE**
4 **ACTION MAY POSE A THREAT TO THE HEALTH AND WELFARE OF THE RESIDENTS OF**
5 **THE STATE; AND**

6 (2) **THE STATE SHOULD INVESTIGATE AND OBTAIN RELIEF FROM ANY**
7 **ARBITRARY, UNLAWFUL, OR UNCONSTITUTIONAL FEDERAL ACTION OR INACTION**
8 **AND PREVENT SUCH ACTION OR INACTION FROM HARMING THE RESIDENTS OF THE**
9 **STATE.**

10 (B) (1) **IN ADDITION TO ANY OTHER POWERS AND DUTIES AND SUBJECT**
11 **TO THE REQUIREMENTS OF THIS SUBSECTION, THE ATTORNEY GENERAL MAY**
12 **INVESTIGATE, COMMENCE, AND PROSECUTE OR DEFEND ANY CIVIL OR CRIMINAL**
13 **SUIT OR ACTION THAT IS BASED ON THE FEDERAL GOVERNMENT'S ACTION OR**
14 **INACTION THAT THREATENS THE PUBLIC INTEREST AND WELFARE OF THE**
15 **RESIDENTS OF THE STATE WITH RESPECT TO:**

16 (I) **PROTECTING THE HEALTH OF THE RESIDENTS OF THE**
17 **STATE AND ENSURING THE AVAILABILITY OF AFFORDABLE HEALTH CARE;**

18 (II) **SAFEGUARDING PUBLIC SAFETY AND SECURITY;**

19 (III) **PROTECTING CIVIL LIBERTIES;**

20 (IV) **PRESERVING AND ENHANCING THE ECONOMIC SECURITY**
21 **OF WORKERS AND RETIREES;**

22 (V) **PROTECTING FINANCIAL SECURITY OF THE RESIDENTS OF**
23 **THE STATE, INCLUDING THEIR PENSIONS, SAVINGS, AND INVESTMENTS, AND**
24 **ENSURING FAIRNESS IN MORTGAGES, STUDENT LOANS, AND THE MARKETPLACE;**

25 (VI) **PROTECTING THE RESIDENTS OF THE STATE AGAINST**
26 **FRAUD AND OTHER DECEPTIVE AND PREDATORY PRACTICES;**

27 (VII) **PROTECTING THE NATURAL RESOURCES AND**
28 **ENVIRONMENT OF THE STATE;**

1 (VIII) PROTECTING THE RESIDENTS OF THE STATE AGAINST
2 ILLEGAL AND UNCONSTITUTIONAL FEDERAL IMMIGRATION AND TRAVEL
3 RESTRICTIONS; OR

4 (IX) OTHERWISE PROTECTING, AS PARENS PATRIAE, THE
5 STATE'S INTEREST IN THE GENERAL HEALTH AND WELL-BEING OF ITS RESIDENTS.

6 (2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,
7 BEFORE COMMENCING A SUIT OR AN ACTION UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION, THE ATTORNEY GENERAL SHALL PROVIDE TO THE GOVERNOR:

9 (I) WRITTEN NOTICE OF THE INTENDED SUIT OR ACTION; AND

10 (II) AN OPPORTUNITY TO REVIEW AND COMMENT ON THE
11 INTENDED SUIT OR ACTION.

12 (3) IF THE GOVERNOR OBJECTS TO THE INTENDED SUIT OR ACTION
13 FOR WHICH NOTICE WAS PROVIDED UNDER THIS SUBSECTION:

14 (I) THE GOVERNOR SHALL PROVIDE IN WRITING TO THE
15 ATTORNEY GENERAL THE REASONS FOR THE OBJECTION WITHIN 10 DAYS AFTER
16 RECEIVING THE NOTICE; AND

17 (II) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS
18 SUBSECTION, THE ATTORNEY GENERAL SHALL CONSIDER THE GOVERNOR'S
19 OBJECTION BEFORE COMMENCING THE SUIT OR ACTION.

20 (4) IF THE ATTORNEY GENERAL DETERMINES THAT EMERGENCY
21 CIRCUMSTANCES REQUIRE THE IMMEDIATE COMMENCEMENT OF A SUIT OR AN
22 ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ATTORNEY GENERAL
23 SHALL PROVIDE TO THE GOVERNOR NOTICE OF THE SUIT OR ACTION AS SOON AS
24 REASONABLY PRACTICABLE.

25 (C) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2019, AND FOR
26 EACH FISCAL YEAR THEREAFTER, SHALL APPROPRIATE AT LEAST \$1,000,000 TO
27 THE ATTORNEY GENERAL TO BE USED ONLY FOR:

28 (1) CARRYING OUT THIS SECTION; AND

29 (2) EMPLOYING FIVE ATTORNEYS IN THE OFFICE OF THE ATTORNEY
30 GENERAL.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
2 expand the powers of the Attorney General and may not be construed to limit in any way
3 the constitutional and statutory authority of the Attorney General that existed before the
4 enactment of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
6 the application thereof to any person or circumstance is held invalid for any reason in a
7 court of competent jurisdiction, the invalidity does not affect other provisions or any other
8 application of this Act that can be given effect without the invalid provision or application,
9 and for this purpose the provisions of this Act are declared severable.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
11 1, 2017.