

# SENATE BILL 653

M3, M1

4r1885  
CF 4r1884

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By: **Senator Augustine**

Introduced and read first time: January 29, 2024

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **Standing – Environmental and Natural Resources Protection Proceedings**  
3 **(Clean Water Justice Act of 2024)**

4 FOR the purpose of providing certain persons and associations standing in certain  
5 environmental and natural resources protection proceedings, including proceedings  
6 arising under provisions of law relating to water quality and water resources  
7 protection, subject to certain conditions; authorizing certain persons that meet  
8 certain standing requirements to bring certain civil actions under certain  
9 circumstances; authorizing a court to grant certain relief, award certain costs of  
10 litigation, and impose certain civil penalties in certain civil actions under certain  
11 circumstances; authorizing certain persons that meet certain standing requirements  
12 to intervene in certain proceedings under certain circumstances; and generally  
13 relating to standing in certain environmental and natural resources protection  
14 proceedings.

15 BY adding to

16 Article – Environment

17 Section 1–901 through 1–905 to be under the new subtitle “Subtitle 9. Clean Water  
18 Justice Act”

19 Annotated Code of Maryland

20 (2013 Replacement Volume and 2023 Supplement)

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

23 **Article – Environment**

24 **SUBTITLE 9. CLEAN WATER JUSTICE ACT.**

25 **1–901.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.





1           **(5) A SINGLE-PURPOSE DISTRICT; OR**

2           **(6) A SOIL CONSERVATION OR SANITARY DISTRICT.**

3           **(F) "SECRETARY" MEANS THE SECRETARY OF ANY STATE AGENCY,**  
4 **APPOINTED BY THE GOVERNOR.**

5           **(G) "STANDARD" MEANS ANY REQUIREMENT, PROHIBITION, LIMITATION,**  
6 **OR CONDITION ESTABLISHED BY STATUTE, REGULATION, PERMIT, ORDER, OR**  
7 **LICENSE ISSUED BY A SECRETARY OR ANY OTHER OFFICE OR AGENCY OF THE STATE,**  
8 **A LOCAL GOVERNMENT, OR A POLITICAL SUBDIVISION IN ACCORDANCE WITH TITLE**  
9 **4, TITLE 5, TITLE 9, OR TITLE 16 OF THIS ARTICLE.**

10 **1-902.**

11           **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON HAS**  
12 **STANDING IN CLAIMS ARISING UNDER TITLE 4, TITLE 5, TITLE 9, OR TITLE 16 OF**  
13 **THIS ARTICLE OR TITLE 1, SUBTITLE 3, TITLE 5, SUBTITLE 16, OR TITLE 8,**  
14 **SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE IF THE PERSON SUFFERS AN**  
15 **INJURY IN FACT THAT:**

16                       **(I) IS FAIRLY TRACEABLE TO THE CHALLENGED ACTION OR**  
17 **CONDUCT OF THE DEFENDANT; AND**

18                       **(II) IS LIKELY TO BE REDRESSED BY THE REQUESTED RELIEF**  
19 **OR A FAVORABLE JUDICIAL DECISION.**

20           **(2) AN INTEREST OR INJURY ASSERTED UNDER THIS SECTION SHALL**  
21 **FALL WITHIN THE ZONE OF INTERESTS SOUGHT TO BE PROTECTED BY TITLE 4,**  
22 **TITLE 5, TITLE 9, OR TITLE 16 OF THIS ARTICLE AND TITLE 1, SUBTITLE 3, TITLE**  
23 **5, SUBTITLE 16, OR TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.**

24           **(B) IN ADDITION TO SUBSECTION (A) OF THIS SECTION, AN ASSOCIATION**  
25 **HAS STANDING IN CLAIMS ARISING UNDER TITLE 4, TITLE 5, TITLE 9, OR TITLE 16**  
26 **OF THIS ARTICLE OR TITLE 1, SUBTITLE 3, TITLE 5, SUBTITLE 16, OR TITLE 8,**  
27 **SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE IF:**

28                       **(1) ONE OR MORE MEMBERS OF THE ASSOCIATION HAVE STANDING**  
29 **UNDER SUBSECTION (A) OF THIS SECTION;**

30                       **(2) THE INTERESTS THAT THE ASSOCIATION SEEKS TO PROTECT ARE**  
31 **GERMANE TO ITS PURPOSES; AND**

1           **(3) NEITHER THE CLAIM ASSERTED NOR THE RELIEF REQUESTED**  
2 **REQUIRES THE PARTICIPATION OF THE MEMBER.**

3 **1-903.**

4           **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PERSON THAT HAS**  
5 **STANDING UNDER § 1-902 OF THIS SUBTITLE MAY BRING A CIVIL ACTION ON THE**  
6 **PERSON'S OWN BEHALF AGAINST ANY PERSON OR GOVERNMENTAL ENTITY THAT IS**  
7 **ALLEGED TO HAVE VIOLATED OR TO BE IN VIOLATION OF ANY STANDARD.**

8           **(B) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN ACTION**  
9 **MAY BE BROUGHT UNDER SUBSECTION (A) OF THIS SECTION AT LEAST 60 DAYS**  
10 **AFTER THE PLAINTIFF HAS GIVEN NOTICE OF THE ALLEGED VIOLATION.**

11           **(2) NOTICE UNDER THIS SUBSECTION SHALL BE:**

12                   **(I) 1. BY CERTIFIED MAIL; OR**

13                           **2. PERSONAL SERVICE; AND**

14                   **(II) PROVIDED TO:**

15                           **1. THE APPROPRIATE SECRETARY;**

16                           **2. THE ATTORNEY GENERAL;**

17                           **3. ANY LOCAL JURISDICTION IN WHICH THE ALLEGED**  
18 **VIOLATION HAS OCCURRED; AND**

19                           **4. AN ALLEGED VIOLATOR OF THE STANDARD.**

20           **(3) (I) AN ACTION MAY NOT BE BROUGHT UNDER SUBSECTION (A)**  
21 **OF THIS SECTION IF THE SECRETARY HAS COMMENCED AND IS DILIGENTLY**  
22 **PROSECUTING A CIVIL OR CRIMINAL ACTION IN A COURT OF THE STATE TO REQUIRE**  
23 **COMPLIANCE FROM THE ALLEGED VIOLATOR WITHOUT UNDUE DELAY OR**  
24 **UNREASONABLE SCHEDULES FOR RETURNING TO COMPLIANCE.**

25                   **(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS**  
26 **PARAGRAPH, A PERSON THAT HAS STANDING UNDER § 1-902 OF THIS SUBTITLE MAY**  
27 **INTERVENE IN THE ACTION BROUGHT BY THE SECRETARY.**

28           **(4) NOTICE UNDER THIS SUBSECTION SHALL IDENTIFY:**

- 1                   **(I) A STANDARD VIOLATED;**
- 2                   **(II) AN ACTIVITY CONSTITUTING THE VIOLATION;**
- 3                   **(III) A PERSON SUSPECTED OF BEING RESPONSIBLE FOR THE**  
4 **VIOLATION;**
- 5                   **(IV) THE LOCATION OF THE VIOLATION;**
- 6                   **(V) THE DATES OF VIOLATIONS IF KNOWN; AND**
- 7                   **(VI) THE NAME AND ADDRESS OF THE PERSON GIVING NOTICE.**

8           **(C) AN ACTION BROUGHT IN ACCORDANCE WITH THIS SECTION SHALL BE**  
9 **BROUGHT IN ANY CIRCUIT COURT OF A COUNTY WHERE THE ALLEGED CONDITION,**  
10 **ACTIVITY, OR FAILURE IS OCCURRING, HAS OCCURRED, OR IS LIKELY TO OCCUR.**

11           **(D) A COURT MAY:**

12                   **(1) ORDER THE ENFORCEMENT OF A STANDARD CHALLENGED**  
13 **UNDER THIS SECTION;**

14                   **(2) GRANT:**

15                           **(I) TEMPORARY OR PERMANENT EQUITABLE RELIEF; OR**

16                           **(II) ANY OTHER RELIEF PROVIDED UNDER A STATUTE**  
17 **CHALLENGED UNDER THIS SECTION; AND**

18                   **(3) IMPOSE CONDITIONS ON A DEFENDANT TO REQUIRE THE**  
19 **PROTECTION OF LAND, AIR, WATER, AND OTHER NATURAL RESOURCES OR PUBLIC**  
20 **HEALTH FROM POLLUTION, IMPAIRMENT, OR DESTRUCTION.**

21           **(E) (1) IN AN ACTION UNDER THIS SECTION, THE COURT MAY AWARD THE**  
22 **COSTS OF LITIGATION TO:**

23                           **(I) A PREVAILING PLAINTIFF; OR**

24                           **(II) A SUBSTANTIALLY PREVAILING PLAINTIFF IF THE**  
25 **PLAINTIFF HAS:**

1                   1. PARTICIPATED IN AN ACTION TO ENFORCE A  
2 VIOLATION FOLLOWING THE ISSUANCE OF NOTICE UNDER SUBSECTION (B) OF THIS  
3 SECTION; AND

4                   2. A. SUCCESSFULLY ESTABLISHED THE LIABILITY  
5 OF A DEFENDANT IN FEWER THAN ALL OF THE ASSERTED CLAIMS; OR

6                   B. OTHERWISE ADVANCED THE PURPOSE OF THE  
7 RELEVANT STATUTES THROUGH THE OUTCOME OF THE ACTION BY IMPROVING  
8 ENVIRONMENTAL QUALITY, PROTECTING PUBLIC HEALTH, OR REDUCING  
9 POLLUTION.

10                  (2) IF A PARTY TO AN ACTION UNDER THIS SECTION ACTS IN BAD  
11 FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION IN MAINTAINING OR DEFENDING  
12 THE ACTION, THE COURT MAY AWARD TO THE ADVERSE PARTY THE COSTS OF  
13 LITIGATION.

14                  (F) (1) (I) A COURT MAY IMPOSE A CIVIL PENALTY AUTHORIZED IN  
15 ACCORDANCE WITH THE STATUTE UNDER WHICH AN ACTION IS BROUGHT UNDER  
16 THIS SECTION.

17                                 (II) INSTEAD OF IMPOSING A CIVIL PENALTY UNDER  
18 SUBPARAGRAPH (I) OF THIS PARAGRAPH, A COURT MAY ORDER A SUPPLEMENTAL  
19 ENVIRONMENTAL PROJECT.

20                  (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A CIVIL  
21 PENALTY COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED IN A MANNER  
22 SPECIFIED BY THE STATUTE.

23                  (3) IF THE ENFORCEMENT OF A STATUTORY DUTY HAS BEEN  
24 DELEGATED TO A LOCAL GOVERNMENT, UP TO 50% OF A CIVIL PENALTY COLLECTED  
25 UNDER THIS SUBSECTION MAY BE AWARDED TO THE LOCAL GOVERNMENT.

26 **1-904.**

27                  (A) THIS SECTION DOES NOT APPLY TO § 1-903(B)(3) OF THIS SUBTITLE.

28                  (B) A PERSON THAT HAS STANDING UNDER § 1-902 OF THIS SUBTITLE MAY  
29 INTERVENE AS A MATTER OF RIGHT IN AN ACTION ARISING UNDER TITLE 4, TITLE  
30 5, TITLE 9, OR TITLE 16 OF THIS ARTICLE OR TITLE 1, SUBTITLE 3, TITLE 5,  
31 SUBTITLE 16, OR TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE,  
32 UNLESS A DEFENDANT DEMONSTRATES THAT THE PERSON'S INTEREST IS  
33 ADEQUATELY REPRESENTED BY EXISTING PARTIES.

1           **(C) THE STATE MAY INTERVENE AS A MATTER OF RIGHT AT ANY TIME IN A**  
2 **PROCEEDING BROUGHT UNDER THIS SUBTITLE.**

3           **(D) NOTWITHSTANDING § 1-903(B)(3) OF THIS SUBTITLE AND SUBSECTION**  
4 **(A) OF THIS SECTION, A COURT MAY GRANT INTERVENTION ON MOTION BY ANY**  
5 **PARTY.**

6 **1-905.**

7           **THE PROVISIONS OF THIS SUBTITLE SUPERSEDE ANY INCONSISTENT**  
8 **PROVISION OF ANY STATE, COUNTY, OR MUNICIPAL LAW, ORDINANCE, OR**  
9 **REGULATION AND ANY JUDICIAL INTERPRETATION TO THE EXTENT OF THE**  
10 **INCONSISTENCY.**

11           SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or  
12 the application thereof to any person or circumstance is held invalid for any reason in a  
13 court of competent jurisdiction, the invalidity does not affect other provisions or any other  
14 application of this Act that can be given effect without the invalid provision or application,  
15 and for this purpose the provisions of this Act are declared severable.

16           SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General  
17 Assembly that this Act:

18           (1) provide certain remedies to abate the pollution, destruction, or  
19 substantial or unreasonable impairment to the public health, water quality, or any other  
20 natural resource of the State;

21           (2) may not abridge or alter any right of action or remedies that exist under  
22 law; and

23           (3) may not be construed as stopping or limiting the State or any person in  
24 the exercise of the right to:

25                   (i) protect the natural resources of the State;

26                   (ii) suppress nuisances; or

27                   (iii) abate pollution.

28           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2024.