
By: **Senator Frosh**

Introduced and read first time: February 3, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland False Claims Act**

3 FOR the purpose of prohibiting certain actions constituting false claims against the
4 State; providing certain penalties for making false claims against the State;
5 authorizing a person other than the State to file a civil action on behalf of the
6 State against a person who makes a false claim; providing for the procedures to
7 be followed in a civil action; providing for certain remedies under a civil action;
8 requiring the State to investigate a civil action alleging a false claim;
9 authorizing the State to proceed with the action with or without the person that
10 initiated the action; authorizing the State to choose not to proceed with the
11 action but allow the person that initiated the action to proceed; authorizing the
12 court to limit the participation of the person that initiated the action under
13 certain circumstances; authorizing the State to intervene at a later time in the
14 proceedings or to pursue alternative remedies; providing for certain damages
15 and payments to the person that initiated the action; providing for certain
16 payments to a person that provides certain documentary materials or
17 information; providing for certain payments to the person charged under certain
18 circumstances if the person charged prevails; prohibiting an employer from
19 taking retaliatory action against an employee under certain circumstances;
20 providing certain remedies for retaliatory action; requiring an employer to make
21 certain disclosures to employees; providing certain limitations on civil actions
22 filed under this Act; and generally relating to false claims against the State.

23 BY adding to

24 Article - State Government

25 Section 12-601 through 12-608, inclusive, to be under the new subtitle "Subtitle

26 6. Reporting of False Claims Against the State"

27 Annotated Code of Maryland

28 (1999 Replacement Volume)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

30 MARYLAND, That the Laws of Maryland read as follows:

1

Article - State Government

2

SUBTITLE 6. REPORTING OF FALSE CLAIMS AGAINST THE STATE.

3 12-601.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "CLAIM" MEANS A REQUEST OR DEMAND FOR MONEY OR PROPERTY, MADE
7 UNDER CONTRACT OR OTHERWISE, BY A CONTRACTOR, GRANTEE, OR OTHER PERSON
8 WITH AN ALLEGED CLAIM TO MONEY OR PROPERTY IF:

9 (1) THE STATE PROVIDES ANY PORTION OF THE MONEY OR PROPERTY
10 THAT IS REQUESTED OR DEMANDED; OR

11 (2) THE STATE REIMBURSES THE CONTRACTOR, GRANTEE, OR OTHER
12 PERSON FOR ANY PORTION OF THE MONEY OR PROPERTY THAT IS REQUESTED OR
13 DEMANDED.

14 (C) "DOCUMENTARY MATERIAL" INCLUDES:

15 (1) THE ORIGINAL OR A COPY OF:

16 (I) A BOOK;

17 (II) A RECORD;

18 (III) A REPORT;

19 (IV) A MEMORANDUM;

20 (V) A PAPER;

21 (VI) A COMMUNICATION;

22 (VII) A TABULATION;

23 (VIII) A CHART;

24 (IX) A DOCUMENT; OR

25 (X) A DATA COMPILATION STORED IN OR ACCESSIBLE THROUGH A
26 COMPUTER OR OTHER INFORMATION RETRIEVAL SYSTEM;

27 (2) INSTRUCTIONS OR ANY MATERIAL NECESSARY TO USE OR
28 INTERPRET A DATA COMPILATION; AND

29 (3) ANY PRODUCT OF DISCOVERY.

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

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

3 (2) UNDER AN EMPLOYER'S PROMISE OR IMPLIED PROMISE OF
4 PAYMENT OF WAGES OR REMUNERATION.

5 (E) (1) "EMPLOYER" MEANS A PERSON OR GROUP OF PERSONS WHO, ACTING
6 DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP OF
7 PERSONS:

8 (I) ALLOWS AN EMPLOYEE TO PERFORM SERVICES UNDER THE
9 EMPLOYER'S CONTROL AND DIRECTION; AND

10 (II) PROMISES OR IMPLIES THAT THE EMPLOYEE WILL RECEIVE
11 WAGES OR OTHER REMUNERATION IN PAYMENT FOR THE PERFORMANCE OF THOSE
12 SERVICES.

13 (2) "EMPLOYER" INCLUDES ANY OF THE FOLLOWING ENTITIES WHEN
14 THE ENTITY ALLOWS AN EMPLOYEE TO PERFORM SERVICES UNDER THE
15 EMPLOYER'S CONTROL AND DIRECTION IN EXCHANGE FOR A PROMISE OR IMPLIED
16 PROMISE OF PAYMENT OF WAGES OR OTHER REMUNERATION:

17 (I) THE STATE;

18 (II) A LOCAL GOVERNMENT;

19 (III) ANY OTHER POLITICAL SUBDIVISION;

20 (IV) A UNIT OF:

21 1. THE STATE;

22 2. A LOCAL GOVERNMENT; OR

23 3. A POLITICAL SUBDIVISION;

24 (V) A SCHOOL DISTRICT;

25 (VI) A SPECIAL DISTRICT OR AUTHORITY;

26 (VII) AN APPOINTED OR ELECTED COMMISSION OR BOARD; OR

27 (VIII) AN AGENCY OR INSTRUMENTALITY OF ITEMS (I) THROUGH (VII)
28 OF THIS PARAGRAPH.

29 (F) "KNOWING" OR "KNOWINGLY" MEANS:

30 (1) HAVING ACTUAL KNOWLEDGE OF INFORMATION;

31 (2) ACTING IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF
32 INFORMATION; OR

1 (3) ACTING IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF
2 INFORMATION.

3 (G) "PUBLIC BODY" MEANS:

4 (1) THE MARYLAND GENERAL ASSEMBLY OR ANY OTHER ELECTED
5 BODY;

6 (2) A MEMBER OR EMPLOYEE OF THE GENERAL ASSEMBLY OR OTHER
7 ELECTED BODY;

8 (3) A STATE COURT;

9 (4) A MEMBER OR EMPLOYEE OF A STATE COURT;

10 (5) A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR PUBLIC
11 AGENCY OR AUTHORITY;

12 (6) AN INSTRUMENTALITY OF A STATE OR LOCAL REGULATORY,
13 ADMINISTRATIVE, OR PUBLIC AGENCY OR AUTHORITY;

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

16 (8) A STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH OF
17 GOVERNMENT; OR

18 (9) A DIVISION, BOARD, BUREAU, OFFICE, COMMITTEE, OR COMMISSION
19 OF ANY OF THE PUBLIC BODIES DESCRIBED IN THIS SUBSECTION.

20 (H) IF UNDERTAKEN IN RESPONSE TO AN INITIATION OF, OR PARTICIPATION
21 IN, AN ACTION BY AN EMPLOYEE UNDER THIS SUBTITLE, "RETALIATORY ACTION"
22 MEANS:

23 (1) THE DISCHARGE, SUSPENSION, OR DEMOTION OF THE EMPLOYEE;
24 OR

25 (2) ANY ADVERSE EMPLOYMENT ACTION TAKEN AGAINST THE
26 EMPLOYEE RELATING TO THE EMPLOYEE'S TERMS OR CONDITIONS OF
27 EMPLOYMENT.

28 (I) "SUPERVISOR" MEANS AN INDIVIDUAL WITH AN EMPLOYER'S
29 ORGANIZATION WHO HAS THE AUTHORITY TO:

30 (1) DIRECT AND CONTROL THE WORK PERFORMANCE OF AN EMPLOYEE;
31 OR

32 (2) TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF A LAW
33 OR REGULATION THAT IS THE SUBJECT OF A COMPLAINT OR CHARGE UNDER THIS
34 SUBTITLE.

1 12-602.

2 (A) A PERSON MAY NOT:

3 (1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED TO AN OFFICER
4 OR EMPLOYEE OF THE STATE A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OR
5 APPROVAL;

6 (2) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED, A FALSE
7 RECORD OR STATEMENT TO GET A FALSE OR FRAUDULENT CLAIM PAID OR
8 APPROVED BY THE STATE;

9 (3) CONSPIRE TO DEFRAUD THE STATE BY GETTING A FALSE OR
10 FRAUDULENT CLAIM APPROVED OR PAID;

11 (4) WITH INTENT TO DEFRAUD THE STATE:

12 (I) POSSESS, TAKE CUSTODY OF, OR CONTROL PROPERTY OR
13 MONEY USED OR TO BE USED BY THE STATE; AND

14 (II) DELIVER OR CAUSE TO BE DELIVERED LESS PROPERTY OR
15 MONEY THAN THE AMOUNT FOR WHICH THE PERSON RECEIVES A CERTIFICATE OR
16 RECEIPT;

17 (5) WITH INTENT TO DEFRAUD THE STATE:

18 (I) AUTHORIZE TO MAKE OR DELIVER A DOCUMENT CERTIFYING
19 RECEIPT OF PROPERTY USED, OR TO BE USED, BY THE STATE; AND

20 (II) MAKE OR DELIVER THE RECEIPT WITHOUT KNOWING THAT
21 THE INFORMATION CONTAINED IN THE RECEIPT IS TRUE;

22 (6) KNOWINGLY BUY OR RECEIVE, AS A PLEDGE OF AN OBLIGATION OR
23 DEBT, PUBLICLY OWNED PROPERTY FROM AN OFFICER OR EMPLOYEE OF THE STATE
24 WHO LAWFULLY MAY NOT SELL OR PLEDGE THE PROPERTY;

25 (7) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED, A FALSE
26 RECORD OR STATEMENT TO CONCEAL, AVOID, OR DECREASE AN OBLIGATION TO PAY
27 OR TRANSMIT MONEY OR PROPERTY TO THE STATE; OR

28 (8) KNOWINGLY MAKE ANY OTHER FALSE CLAIM AGAINST THE STATE.

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

32 (I) A FINE OF NOT LESS THAN \$5,000 AND NOT MORE THAN \$10,000;
33 AND

1 (II) AN ADDITIONAL AMOUNT EQUAL TO THREE TIMES THE
2 AMOUNT OF DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF THE ACT FOR
3 WHICH THE PERSON IS FINED.

4 (2) AS AN ALTERNATIVE TO PARAGRAPH (1)(II) OF THIS SUBSECTION, A
5 COURT MAY ASSESS NOT MORE THAN TWO TIMES THE AMOUNT OF DAMAGES THAT
6 THE STATE SUSTAINS AS A RESULT OF A PERSON COMMITTING A VIOLATION OF THIS
7 SUBTITLE IF THE COURT FINDS THAT:

8 (I) WITHIN 30 DAYS AFTER THE DATE ON WHICH THE PERSON
9 FIRST OBTAINED THE INFORMATION, THE PERSON FURNISHED STATE OFFICIALS
10 RESPONSIBLE FOR INVESTIGATING FALSE CLAIMS VIOLATIONS WITH ALL
11 DOCUMENTARY MATERIAL KNOWN TO THE PERSON ABOUT THE VIOLATION;

12 (II) THE PERSON FULLY COOPERATED WITH ANY STATE
13 INVESTIGATION OF THE VIOLATION; AND

14 (III) AT THE TIME THE PERSON FURNISHED THE STATE WITH THE
15 DOCUMENTARY MATERIAL ABOUT THE VIOLATION:

16 1. A CIVIL OR ADMINISTRATIVE ACTION RELATING TO THE
17 VIOLATION HAD NOT BEEN BROUGHT UNDER THIS SUBTITLE; AND

18 2. THE PERSON DID NOT HAVE ACTUAL PRIOR KNOWLEDGE
19 OF THE EXISTENCE OF AN INVESTIGATION OF THE VIOLATION.

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

23 12-603.

24 (A) (1) A PERSON MAY FILE A CIVIL ACTION ON BEHALF OF THE PERSON
25 AND THE STATE IN A COURT OF COMPETENT JURISDICTION WITHIN THE STATE
26 AGAINST A PERSON WHO HAS MADE A FALSE CLAIM AGAINST THE STATE IN
27 VIOLATION OF § 12-602 OF THIS SUBTITLE.

28 (2) AN ACTION FILED UNDER THIS SECTION MAY SEEK:

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

30 (II) THE PENALTIES PROVIDED UNDER § 12-602(B) OF THIS
31 SUBTITLE;

32 (III) COMPENSATORY DAMAGES TO COMPENSATE THE STATE FOR
33 INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 12-602 OF THIS
34 SUBTITLE; AND

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

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

6 (II) THE COMPLAINT SHALL BE FILED IN SECRET AND SHALL
7 REMAIN UNDER SEAL FOR AT LEAST 60 DAYS OR UNTIL THE COURT ORDERS THE
8 COMPLAINT SERVED ON THE DEFENDANT.

9 (III) THE PERSON MAY NOT SERVE THE COMPLAINT ON THE
10 DEFENDANT UNTIL THE COURT ORDERS THE COMPLAINT SERVED, AND THE
11 DEFENDANT MAY NOT BE REQUIRED TO RESPOND TO A COMPLAINT FILED UNDER
12 THIS SECTION UNTIL 30 DAYS AFTER THE COMPLAINT IS:

13 1. UNSEALED; AND

14 2. SERVED ON THE DEFENDANT IN ACCORDANCE WITH
15 TITLE 2 OF THE MARYLAND RULES.

16 (2) (I) WITHIN 120 DAYS AFTER THE STATE RECEIVES THE
17 COMPLAINT AND THE MATERIAL EVIDENCE AND INFORMATION, THE STATE MAY
18 INTERVENE AND PROCEED WITH THE ACTION.

19 (II) 1. FOR GOOD CAUSE SHOWN, THE STATE MAY REQUEST
20 THAT THE COURT ORDER AN EXTENSION OF THE 120-DAY PERIOD FOR THE STATE TO
21 INTERVENE.

22 2. THE COMPLAINT SHALL REMAIN UNDER SEAL DURING
23 ANY EXTENSION OF THE PERIOD FOR THE STATE TO INTERVENE.

24 (3) BEFORE THE LATER OF ANY EXPIRATION OF THE 120-DAY PERIOD OR
25 ANY EXTENSION OF THE 120 DAY PERIOD, THE STATE SHALL:

26 (I) PROCEED WITH THE ACTION IN A COURT OF COMPETENT
27 JURISDICTION WITHIN THE STATE; OR

28 (II) NOTIFY THE COURT THAT IT WILL NOT PROCEED WITH THE
29 ACTION.

30 (4) IF THE STATE NOTIFIES THE COURT THAT IT WILL NOT PROCEED
31 WITH THE ACTION, THE PERSON WHO INITIATED THE ACTION MAY CONDUCT THE
32 ACTION.

33 (5) (I) DURING AN INVESTIGATION BY THE STATE CONDUCTED
34 EITHER INDEPENDENTLY OR IN CONJUNCTION WITH A SUIT FILED UNDER THIS
35 SUBTITLE, THE ATTORNEY GENERAL SHALL HAVE THE SAME RIGHTS OF DISCOVERY
36 AS A CIVIL LITIGANT IN THE CIRCUIT COURT UNDER TITLE 2, SUBTITLE 4 OF THE
37 MARYLAND RULES.

1 (II) A PERSON FROM WHOM THE ATTORNEY GENERAL SEEKS DISCOVERY
2 SHALL BE CONSIDERED A PARTY UNDER TITLE 2, SUBTITLE 4 OF THE MARYLAND
3 RULES.

4 (6) (I) IF THE STATE PROCEEDS WITH THE ACTION, IT HAS THE
5 PRIMARY RESPONSIBILITY FOR PROCEEDING WITH THE ACTION AND IS NOT BOUND
6 BY ANY ACT OF THE PERSON WHO INITIATED THE ACTION.

7 (II) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTIONS (C)
8 AND (D) OF THIS SECTION, THE PERSON WHO INITIATED THE ACTION MAY CONTINUE
9 AS A PARTY TO THE ACTION.

10 (C) (1) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON INITIATING
11 THE ACTION, THE STATE MAY PETITION THE COURT TO DISMISS AN ACTION IF:

12 (I) THE PERSON INITIATING THE ACTION IS NOTIFIED BY THE
13 STATE OF THE FILING OF THE MOTION TO DISMISS; AND

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

16 (2) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON INITIATING
17 THE ACTION, IF THE COURT DETERMINES AFTER A HEARING THAT A PROPOSED
18 SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER THE CIRCUMSTANCES,
19 THE STATE MAY SETTLE A CIVIL ACTION UNDER THIS SECTION.

20 (D) (1) THE COURT MAY IMPOSE LIMITATIONS ON THE PARTICIPATION OF
21 THE PERSON INITIATING AN ACTION UNDER THIS SECTION IF:

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

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

26 2. BE REPETITIOUS, IRRELEVANT, OR HARASSING TO THE
27 PERSON CHARGED WITH VIOLATING THIS SUBTITLE; OR

28 (II) THE PERSON CHARGED WITH VIOLATING THIS SUBTITLE
29 SHOWS THAT UNRESTRICTED PARTICIPATION BY THE PERSON INITIATING THE
30 ACTION WOULD HARASS OR CAUSE THE PERSON CHARGED AN UNDUE BURDEN OR
31 UNNECESSARY EXPENSE.

32 (2) LIMITATIONS IMPOSED BY THE COURT MAY INCLUDE:

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

35 (II) A LIMITATION ON THE LENGTH OF THE TESTIMONY OF
36 WITNESSES CALLED BY THE PERSON; OR

1 (III) A LIMITATION ON THE PERSON'S CROSS-EXAMINATION OF
2 WITNESSES.

3 (E) (1) IF THE STATE ELECTS NOT TO PROCEED WITH THE ACTION, THE
4 PERSON INITIATING THE ACTION HAS THE RIGHT TO PROCEED WITH THE ACTION.

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

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

9 (II) ALL DEPOSITION TRANSCRIPTS.

10 (3) (I) WITHOUT LIMITING THE STATUS AND RIGHTS OF THE PERSON
11 INITIATING THE ACTION, THE COURT MAY ALLOW THE STATE TO INTERVENE AT A
12 LATER DATE ON A SHOWING OF GOOD CAUSE.

13 (II) IF THE STATE INTERVENES, THE PERSON INITIATING THE
14 ACTION SHALL THEREAFTER BE SUBJECT TO THE LIMITATIONS PROVIDED UNDER
15 SUBSECTIONS (C) AND (D) OF THIS SECTION.

16 (F) (1) INSTEAD OF PROCEEDING WITH THE CIVIL ACTION, THE STATE MAY
17 PURSUE ANY ALTERNATIVE REMEDY AVAILABLE TO THE STATE, INCLUDING ANY
18 APPROPRIATE ADMINISTRATIVE PROCEEDING TO CONSIDER A CIVIL MONEY
19 PENALTY.

20 (2) IF THE STATE SEEKS AN ALTERNATIVE REMEDY IN ANOTHER
21 PROCEEDING, THE PERSON INITIATING THE ACTION SHALL HAVE THE SAME RIGHTS
22 IN THE ALTERNATIVE PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE
23 ACTION HAD CONTINUED UNDER THIS SUBTITLE.

24 (3) A FINDING OF FACT OR CONCLUSION OF LAW MADE IN ANY
25 ALTERNATIVE PROCEEDING THAT HAS BECOME FINAL SHALL BE CONCLUSIVE ON
26 ALL PARTIES AS IF IN AN ACTION BROUGHT UNDER THIS SUBTITLE.

27 12-604.

28 (A) (1) IF THE STATE PROCEEDS WITH AN ACTION BROUGHT BY A PERSON
29 INITIATING AN ACTION UNDER § 12-603 OF THIS SUBTITLE AND THE STATE PREVAILS
30 BY A PREPONDERANCE OF THE EVIDENCE, THE COURT SHALL AWARD THE PERSON
31 INITIATING THE ACTION AN AMOUNT THAT IS:

32 (I) NOT LESS THAN 10% AND NOT MORE THAN 25% OF:

33 1. ANY DAMAGES RECOVERED IN THE ACTION THAT RESULT
34 FROM THE INFORMATION CONTAINED IN THE ORIGINAL ACTION BROUGHT BY THE
35 PERSON; OR

36 2. ANY SETTLEMENT OF THE CLAIM; AND

1 (II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT THAT
2 THE PERSON CONTRIBUTED TO THE FINAL RESOLUTION OF THE CIVIL ACTION.

3 (2) THE AWARD UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE
4 PERSON INITIATING THE ACTION SHALL BE PAID OUT OF THE PROCEEDS OF THE
5 ACTION.

6 (3) IN ADDITION TO THE AMOUNT PROVIDED UNDER PARAGRAPH (1) OF
7 THIS SUBSECTION, A COURT SHALL AWARD A PERSON INITIATING AN ACTION:

8 (I) AN AMOUNT FOR REASONABLE EXPENSES THAT THE COURT
9 FINDS TO HAVE BEEN NECESSARILY INCURRED; AND

10 (II) REASONABLE ATTORNEY'S FEES AND COSTS.

11 (4) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER PARAGRAPH (3)
12 OF THIS SUBSECTION SHALL BE AWARDED AGAINST THE PERSON FOUND TO HAVE
13 VIOLATED THIS SUBTITLE.

14 (B) IF THE ACTION IS ONE WHICH THE COURT FINDS IS BASED PRIMARILY ON
15 SPECIFIC DOCUMENTARY MATERIALS OR INFORMATION DISCLOSED BY A PERSON
16 OTHER THAN THE PERSON WHO INITIATED THE ACTION, THE COURT MAY MAKE AN
17 AWARD TO THE PERSON WHO MADE THE DISCLOSURE THAT:

18 (1) THE COURT CONSIDERS APPROPRIATE; AND

19 (2) DOES NOT EXCEED 10% OF THE PROCEEDS OF THE ACTION.

20 (C) (1) IF THE STATE DOES NOT PROCEED WITH AN ACTION UNDER THIS
21 PARAGRAPH AND THE PERSON INITIATING THE ACTION PREVAILS, THE COURT
22 SHALL AWARD THE PERSON INITIATING THE ACTION AN AMOUNT THAT IS
23 REASONABLE FOR COLLECTING THE CIVIL PENALTY AND DAMAGES ON THE STATE'S
24 BEHALF.

25 (2) AN AMOUNT AWARDED UNDER PARAGRAPH (1) OF THIS SUBSECTION
26 SHALL BE:

27 (I) NOT LESS THAN 25% OR MORE THAN 30% OF THE PROCEEDS OF
28 THE ACTION OR SETTLEMENT OF THE CLAIM; AND

29 (II) PAID OUT OF THE PROCEEDS.

30 (3) THE COURT ALSO SHALL AWARD THE PERSON INITIATING THE
31 ACTION AN AMOUNT FOR THAT PERSON'S REASONABLE ATTORNEY'S FEES AND
32 COSTS.

33 (D) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER SUBSECTION (C)(3) OF
34 THIS SECTION SHALL BE AWARDED AGAINST THE INDIVIDUAL FOUND TO HAVE
35 BROUGHT THE FALSE CLAIM.

1 (E) (1) WHETHER OR NOT THE STATE PROCEEDS WITH AN ACTION, IF A
2 COURT FINDS THAT THE ACTION WAS BROUGHT BY A PERSON WHO DELIBERATELY
3 PARTICIPATED IN THE VIOLATION ON WHICH THE ACTION WAS BASED, THE COURT
4 MAY, TO THE EXTENT IT CONSIDERS APPROPRIATE, REDUCE THE SHARE OF THE
5 PROCEEDS OF THE ACTION WHICH THE INDIVIDUAL WOULD OTHERWISE HAVE
6 RECEIVED UNDER THIS SECTION.

7 (2) IN REDUCING THE SHARE OF THE PROCEEDS OF THE PERSON
8 INITIATING THE ACTION UNDER THIS SUBSECTION, THE COURT SHALL CONSIDER:

9 (I) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO
10 LITIGATION; AND

11 (II) ANY RELEVANT CIRCUMSTANCES RELATING TO THE
12 VIOLATION.

13 (F) (1) IF A PERSON INITIATING A CIVIL ACTION UNDER § 12-603 OF THIS
14 SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM A VIOLATION OF
15 THIS SUBTITLE PRIOR TO A FINAL DETERMINATION OF THE ACTION, THE COURT
16 SHALL DISMISS THE PERSON FROM THE ACTION SO THAT THE PERSON DOES NOT
17 RECEIVE ANY SHARE OF THE PROCEEDS OF THE ACTION.

18 (2) THE DISMISSAL OF THE PERSON INITIATING THE ACTION SHALL NOT
19 PREJUDICE THE RIGHT OF THE STATE OR OF ANY OTHER PERSON TO CONTINUE THE
20 ACTION.

21 (G) IF A PERSON INITIATING A CIVIL ACTION UNDER § 12-603 OF THIS
22 SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM A VIOLATION OF
23 THIS SUBTITLE AFTER THE PROCEEDS FROM THIS ACTION ARE AWARDED TO THAT
24 PERSON, THE COURT SHALL ORDER THE PERSON TO REPAY THE PROCEEDS
25 PREVIOUSLY AWARDED.

26 (H) A COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND EXPENSES TO
27 A PERSON CHARGED WITH MAKING A FALSE CLAIM AND AGAINST THE PERSON
28 INITIATING THE ACTION IF:

29 (1) THE DEFENDANT PREVAILS IN THE ACTION;

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

33 (3) THE STATE DID NOT PROCEED WITH THE ACTION.

34 (I) THE STATE MAY NOT BE SUED AS A DEFENDANT UNDER THIS SUBTITLE.

35 12-605.

36 (A) AN EMPLOYER MAY NOT TAKE A RETALIATORY ACTION AGAINST AN
37 EMPLOYEE BECAUSE THE EMPLOYEE:

1 (1) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR OR TO A
2 PUBLIC BODY AN ACTIVITY, POLICY, OR PRACTICE OF THE EMPLOYER THAT THE
3 EMPLOYEE REASONABLY BELIEVES IS IN VIOLATION OF THIS SUBTITLE OR A
4 REGULATION ADOPTED UNDER THIS SUBTITLE; OR

5 (2) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A PUBLIC BODY
6 CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO A VIOLATION BY THE
7 EMPLOYER UNDER THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS
8 SUBTITLE; OR

9 (3) OBJECTS TO, OR REFUSES TO PARTICIPATE IN ANY ACTIVITY, POLICY,
10 OR PRACTICE THAT THE EMPLOYEE REASONABLY BELIEVES IS IN VIOLATION OF
11 THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE.

12 (B) (1) THE STATE OR AN EMPLOYEE OTHER THAN A STATE EMPLOYEE MAY
13 FILE A CIVIL ACTION AGAINST AN EMPLOYER OTHER THAN A SUPERVISOR IN STATE
14 GOVERNMENT, AN APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE HEAD
15 OF A PRINCIPAL UNIT IN STATE GOVERNMENT IF THE EMPLOYER TAKES A
16 RETALIATORY ACTION AGAINST THE EMPLOYEE.

17 (2) THE STATE OR THE EMPLOYEE MAY SEEK IN THE CIVIL ACTION:

18 (I) AN INJUNCTION TO RESTRAIN A CONTINUING VIOLATION OF
19 THIS SUBTITLE;

20 (II) REINSTATEMENT OF THE EMPLOYEE TO THE SAME POSITION
21 HELD BEFORE THE RETALIATORY ACTION OR TO AN EQUIVALENT POSITION;

22 (III) REINSTATEMENT OF FULL FRINGE BENEFITS AND SENIORITY
23 RIGHTS;

24 (IV) COMPENSATION FOR LOST WAGES, BENEFITS, AND OTHER
25 REMUNERATION;

26 (V) PAYMENT BY THE EMPLOYER OF REASONABLE COSTS AND
27 ATTORNEY'S FEES;

28 (VI) PUNITIVE DAMAGES; OR

29 (VII) AN ASSESSMENT OF A FINE:

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

31 2. NOT EXCEEDING \$5,000 FOR EACH SUBSEQUENT

32 VIOLATION.

33 (3) THE REMEDIES PROVIDED UNDER THIS SECTION DO NOT DIMINISH
34 OR AFFECT THE RIGHTS, PRIVILEGES, OR REMEDIES AVAILABLE TO THE EMPLOYEE
35 UNDER:

36 (I) ANY OTHER FEDERAL OR STATE LAW OR REGULATION; OR

1 (II) ANY COLLECTIVE BARGAINING AGREEMENT OR EMPLOYEE
2 CONTRACT.

3 (C) A STATE EMPLOYEE WHO IS SUBJECT TO A RETALIATORY ACTION:

4 (1) MAY FILE A COMPLAINT UNDER TITLE 5, SUBTITLE 3 OF THE
5 STATE PERSONNEL AND PENSIONS ARTICLE; BUT

6 (2) MAY NOT FILE A CIVIL ACTION UNDER SUBSECTION (B) OF THIS
7 SECTION.

8 12-606.

9 (A) A CIVIL ACTION UNDER THIS SUBTITLE MAY NOT BE BROUGHT:

10 (1) MORE THAN 6 YEARS AFTER THE DATE ON WHICH THE VIOLATION
11 OCCURS; OR

12 (2) MORE THAN 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO
13 THE RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN
14 BY THE OFFICIAL OF THE STATE CHARGED WITH THE RESPONSIBILITY FOR ACTING
15 UNDER THE CIRCUMSTANCES.

16 (B) IN AN ACTION BROUGHT UNDER THIS SUBTITLE, THE STATE OR THE
17 PERSON INITIATING THE ACTION SHALL PROVE ALL ESSENTIAL ELEMENTS OF THE
18 CAUSE OF ACTION, INCLUDING DAMAGES, BY A PREPONDERANCE OF THE EVIDENCE.
19 12-607.

20 AN EMPLOYER SHALL:

21 (1) CONSPICUOUSLY DISPLAY NOTICES OF ITS EMPLOYEES'
22 PROTECTIONS AND OBLIGATIONS UNDER THIS SUBTITLE; AND

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

25 12-608.

26 (A) ANY REMEDY PROVIDED UNDER THIS SUBTITLE IS IN ADDITION TO ANY
27 OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF PROVIDED UNDER ANY OTHER
28 STATE OR FEDERAL STATUTE OR REGULATION.

29 (B) THE COMPTROLLER OF THE STATE SHALL DEPOSIT ANY FINE ASSESSED
30 UNDER THIS SUBTITLE IN THE GENERAL FUND OF THE STATE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2000.