
By: **Senators Frosh and Sfikas**
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CHAPTER _____

1 AN ACT concerning

2 **Maryland False Health Claims Act**

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

24 BY adding to
25 Article - State Government
26 Section 12-601 through 12-608, inclusive, to be under the new subtitle "Subtitle
27 6. Reporting of False Claims Against State Health Plans"

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2000 Supplement)

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

5 **Article - State Government**

6 SUBTITLE 6. REPORTING OF FALSE CLAIMS AGAINST STATE HEALTH PLANS.

7 12-601.

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

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

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

15 (2) THE STATE REIMBURSES THE CONTRACTOR, GRANTEE, OR OTHER
16 PERSON FOR ANY PORTION OF THE MONEY OR PROPERTY THAT IS REQUESTED OR
17 DEMANDED.

18 (C) "DOCUMENTARY MATERIAL" INCLUDES:

19 (1) THE ORIGINAL OR A COPY OF:

20 (I) A BOOK;

21 (II) A RECORD;

22 (III) A REPORT;

23 (IV) A MEMORANDUM;

24 (V) A PAPER;

25 (VI) A COMMUNICATION;

26 (VII) A TABULATION;

27 (VIII) A CHART;

28 (IX) A DOCUMENT; OR

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

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

3 (3) ANY PRODUCT OF DISCOVERY.

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

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

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

9 (E) (1) "EMPLOYER" MEANS A PERSON OR GROUP OF PERSONS WHO, ACTING
10 DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP OF
11 PERSONS:

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

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

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

21 (I) THE STATE;

22 (II) A LOCAL GOVERNMENT;

23 (III) ANY OTHER POLITICAL SUBDIVISION;

24 (IV) A UNIT OF:

25 1. THE STATE;

26 2. A LOCAL GOVERNMENT; OR

27 3. A POLITICAL SUBDIVISION;

28 (V) A SCHOOL DISTRICT;

29 (VI) A SPECIAL DISTRICT OR AUTHORITY;

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

31 (VIII) AN AGENCY OR INSTRUMENTALITY OF ITEMS (I) THROUGH (VII)
32 OF THIS PARAGRAPH.

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

2 (1) HAVING ACTUAL KNOWLEDGE OF INFORMATION;

3 (2) ACTING IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF
4 INFORMATION; OR

5 (3) ACTING IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF
6 INFORMATION.

7 (G) "PUBLIC BODY" MEANS:

8 (1) THE MARYLAND GENERAL ASSEMBLY OR ANY OTHER ELECTED
9 BODY;

10 (2) A MEMBER OR EMPLOYEE OF THE GENERAL ASSEMBLY OR OTHER
11 ELECTED BODY;

12 (3) A STATE COURT;

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

14 (5) A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR PUBLIC
15 AGENCY OR AUTHORITY;

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

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

20 (8) A STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH OF
21 GOVERNMENT; OR

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

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

27 (1) THE DISCHARGE, SUSPENSION, OR DEMOTION OF THE EMPLOYEE;
28 OR

29 (2) ANY ADVERSE EMPLOYMENT ACTION TAKEN AGAINST THE
30 EMPLOYEE RELATING TO THE EMPLOYEE'S TERMS OR CONDITIONS OF
31 EMPLOYMENT.

32 (I) (1) "STATE HEALTH PLAN" MEANS:

1 (I) THE STATE MEDICAL ASSISTANCE PLAN ESTABLISHED IN
2 ACCORDANCE WITH THE FEDERAL SOCIAL SECURITY ACT OF 1939;

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

4 (III) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH
5 MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION AS DEFINED IN §
6 15-101 OF THE HEALTH - GENERAL ARTICLE, HEALTH CARE COOPERATIVE OR
7 ALLIANCE, OR OTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH
8 CARE SERVICES THAT ARE WHOLLY OR PARTLY REIMBURSED BY OR ARE A
9 REQUIRED BENEFIT OF A HEALTH PLAN ESTABLISHED IN ACCORDANCE WITH THE
10 FEDERAL SOCIAL SECURITY ACT OF 1939 OR BY THE STATE.

11 (2) "STATE HEALTH PLAN" INCLUDES A PERSON THAT PROVIDES,
12 CONTRACTS, OR SUBCONTRACTS TO PROVIDE HEALTH CARE SERVICES FOR AN
13 ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

14 (J) "SUPERVISOR" MEANS AN INDIVIDUAL WITH AN EMPLOYER'S
15 ORGANIZATION WHO HAS THE AUTHORITY TO:

16 (1) DIRECT AND CONTROL THE WORK PERFORMANCE OF AN EMPLOYEE;
17 OR

18 (2) TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF A LAW
19 OR REGULATION THAT IS THE SUBJECT OF A COMPLAINT OR CHARGE UNDER THIS
20 SUBTITLE.

21 12-602.

22 (A) A PERSON MAY NOT:

23 (1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED TO AN OFFICER
24 OR EMPLOYEE OF THE STATE A FALSE OR FRAUDULENT STATE HEALTH PLAN CLAIM
25 FOR PAYMENT OR APPROVAL;

26 (2) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A FALSE
27 RECORD OR STATEMENT TO GET A FALSE OR FRAUDULENT STATE HEALTH PLAN
28 CLAIM PAID OR APPROVED BY THE STATE;

29 (3) CONSPIRE TO DEFRAUD A STATE HEALTH PLAN BY GETTING A FALSE
30 OR FRAUDULENT STATE HEALTH PLAN CLAIM APPROVED OR PAID;

31 (4) WITH INTENT TO DEFRAUD A STATE HEALTH PLAN:

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

34 (II) DELIVER OR CAUSE TO BE DELIVERED LESS PROPERTY OR
35 MONEY THAN THE AMOUNT FOR WHICH THE PERSON RECEIVES A CERTIFICATE OR
36 RECEIPT;

1 (5) WITH INTENT TO DEFRAUD A STATE HEALTH PLAN:

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

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

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

9 (7) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A FALSE
10 RECORD OR STATEMENT TO CONCEAL, AVOID, OR DECREASE AN OBLIGATION TO PAY
11 OR TRANSMIT MONEY OR PROPERTY TO A STATE HEALTH PLAN; OR

12 (8) KNOWINGLY MAKE ANY OTHER FALSE CLAIM AGAINST A STATE
13 HEALTH PLAN.

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

17 (I) A CIVIL FINE OF NOT LESS THAN \$5,000 AND NOT MORE THAN
18 \$10,000; AND

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

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

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

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

32 (III) AT THE TIME THE PERSON FURNISHED THE STATE WITH THE
33 DOCUMENTARY MATERIAL ABOUT THE VIOLATION:

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

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

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

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

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

10 (II) NOTIFY THE COURT THAT IT WILL NOT PROCEED WITH THE
11 ACTION.

12 (4) IF THE STATE NOTIFIES THE COURT THAT IT WILL NOT PROCEED
13 WITH THE ACTION, THE PERSON WHO INITIATED THE ACTION MAY CONDUCT THE
14 ACTION.

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

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

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

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

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

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

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

35 (2) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON INITIATING
36 THE ACTION, IF THE COURT DETERMINES AFTER A HEARING THAT A PROPOSED

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

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

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

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

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

11 (II) THE PERSON CHARGED WITH VIOLATING THIS SUBTITLE
12 SHOWS THAT UNRESTRICTED PARTICIPATION BY THE PERSON INITIATING THE
13 ACTION WOULD HARASS OR CAUSE THE PERSON CHARGED AN UNDUE BURDEN OR
14 UNNECESSARY EXPENSE.

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

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

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

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

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

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

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

28 (II) ALL DEPOSITION TRANSCRIPTS.

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

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

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

5 (2) IF THE STATE SEEKS AN ALTERNATIVE REMEDY IN ANOTHER
6 PROCEEDING, THE PERSON INITIATING THE ACTION SHALL HAVE THE SAME RIGHTS
7 IN THE ALTERNATIVE PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE
8 ACTION HAD CONTINUED UNDER THIS SUBTITLE.

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

12 12-604.

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

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

18 1. ANY DAMAGES RECOVERED IN THE ACTION THAT RESULT
19 FROM THE INFORMATION CONTAINED IN THE ORIGINAL ACTION BROUGHT BY THE
20 PERSON; OR

21 2. ANY SETTLEMENT OF THE CLAIM; AND

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

24 (2) THE AWARD UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE
25 PERSON INITIATING THE ACTION SHALL BE PAID OUT OF THE PROCEEDS OF THE
26 ACTION.

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

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

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

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

35 (B) IF THE ACTION IS ONE WHICH THE COURT FINDS IS BASED PRIMARILY ON
36 SPECIFIC DOCUMENTARY MATERIALS OR INFORMATION DISCLOSED BY A PERSON

1 OTHER THAN THE PERSON WHO INITIATED THE ACTION, THE COURT MAY MAKE AN
2 AWARD TO THE PERSON WHO MADE THE DISCLOSURE THAT:

3 (1) THE COURT CONSIDERS APPROPRIATE; AND

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

5 (C) (1) IF THE STATE DOES NOT PROCEED WITH AN ACTION UNDER THIS
6 PARAGRAPH AND THE PERSON INITIATING THE ACTION PREVAILS, THE COURT
7 SHALL AWARD THE PERSON INITIATING THE ACTION AN AMOUNT THAT IS
8 REASONABLE FOR COLLECTING THE CIVIL PENALTY AND DAMAGES ON THE STATE'S
9 BEHALF.

10 (2) AN AMOUNT AWARDED UNDER PARAGRAPH (1) OF THIS SUBSECTION
11 SHALL BE:

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

14 (II) PAID OUT OF THE PROCEEDS.

15 (3) THE COURT ALSO SHALL AWARD THE PERSON INITIATING THE
16 ACTION AN AMOUNT FOR THAT PERSON'S REASONABLE ATTORNEY'S FEES AND
17 COSTS.

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

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

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

29 (I) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO
30 LITIGATION; AND

31 (II) ANY RELEVANT CIRCUMSTANCES RELATING TO THE
32 VIOLATION.

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

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

4 (G) IF A PERSON INITIATING A CIVIL ACTION UNDER § 12-603 OF THIS
5 SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM A VIOLATION OF
6 THIS SUBTITLE AFTER THE PROCEEDS FROM THE ACTION ARE AWARDED TO THAT
7 PERSON, THE COURT SHALL ORDER THE PERSON TO REPAY THE PROCEEDS
8 PREVIOUSLY AWARDED.

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

12 (1) THE DEFENDANT PREVAILS IN THE ACTION;

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

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

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

18 12-605.

19 (A) AN EMPLOYER MAY NOT TAKE A RETALIATORY ACTION AGAINST AN
20 EMPLOYEE BECAUSE THE EMPLOYEE:

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

25 (2) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A PUBLIC BODY
26 CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO A VIOLATION BY THE
27 EMPLOYER UNDER THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS
28 SUBTITLE; OR

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

32 (B) (1) THE STATE OR AN EMPLOYEE OTHER THAN A STATE EMPLOYEE MAY
33 FILE A CIVIL ACTION AGAINST AN EMPLOYER OTHER THAN A SUPERVISOR IN STATE
34 GOVERNMENT, AN APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE HEAD
35 OF A PRINCIPAL UNIT IN STATE GOVERNMENT IF THE EMPLOYER TAKES A
36 RETALIATORY ACTION AGAINST THE EMPLOYEE.

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

- 1 (I) AN INJUNCTION TO RESTRAIN A CONTINUING VIOLATION OF
2 THIS SUBTITLE;
- 3 (II) REINSTATEMENT OF THE EMPLOYEE TO THE SAME POSITION
4 HELD BEFORE THE RETALIATORY ACTION OR TO AN EQUIVALENT POSITION;
- 5 (III) REINSTATEMENT OF FULL FRINGE BENEFITS AND SENIORITY
6 RIGHTS;
- 7 (IV) COMPENSATION FOR LOST WAGES, BENEFITS, AND OTHER
8 REMUNERATION;
- 9 (V) PAYMENT BY THE EMPLOYER OF REASONABLE COSTS AND
10 ATTORNEY'S FEES;
- 11 (VI) PUNITIVE DAMAGES; OR
- 12 (VII) AN ASSESSMENT OF A FINE:
- 13 1. NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION; AND
14 2. NOT EXCEEDING \$5,000 FOR EACH SUBSEQUENT
15 VIOLATION.
- 16 (3) THE REMEDIES PROVIDED UNDER THIS SECTION DO NOT DIMINISH
17 OR AFFECT THE RIGHTS, PRIVILEGES, OR REMEDIES AVAILABLE TO THE EMPLOYEE
18 UNDER:
- 19 (I) ANY OTHER FEDERAL OR STATE LAW OR REGULATION; OR
- 20 (II) ANY COLLECTIVE BARGAINING AGREEMENT OR EMPLOYEE
21 CONTRACT.
- 22 (C) A STATE EMPLOYEE WHO IS SUBJECT TO A RETALIATORY ACTION:
- 23 (1) MAY FILE A COMPLAINT UNDER TITLE 5, SUBTITLE 3 OF THE STATE
24 PERSONNEL AND PENSIONS ARTICLE; BUT
- 25 (2) MAY NOT FILE A CIVIL ACTION UNDER SUBSECTION (B) OF THIS
26 SECTION.
- 27 12-606.
- 28 (A) A CIVIL ACTION UNDER THIS SUBTITLE MAY NOT BE BROUGHT:
- 29 (1) MORE THAN 6 YEARS AFTER THE DATE ON WHICH THE VIOLATION
30 OCCURS; OR
- 31 (2) MORE THAN 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO
32 THE RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN

1 BY THE OFFICIAL OF THE STATE CHARGED WITH THE RESPONSIBILITY FOR ACTING
2 UNDER THE CIRCUMSTANCES.

3 (B) IN AN ACTION BROUGHT UNDER THIS SUBTITLE, THE STATE OR THE
4 PERSON INITIATING THE ACTION SHALL PROVE ALL ESSENTIAL ELEMENTS OF THE
5 CAUSE OF ACTION, INCLUDING DAMAGES, BY A PREPONDERANCE OF THE EVIDENCE.

6 12-607.

7 AN EMPLOYER SHALL:

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

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

12 12-608.

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

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2001.