

---

By: **Senator Hafer**

Introduced and read first time: February 4, 2005

Assigned to: Finance

---

A BILL ENTITLED

1 AN ACT concerning

2 **Whistleblower Protection for Employees of State Grant Recipients**

3 FOR the purpose of requiring certain employers that receive certain grants from the  
4 State to provide written notice of certain protections and remedies to employees;  
5 prohibiting an employer from taking or refusing to take certain personnel  
6 actions against employees who disclose unlawful behavior, refuse to participate  
7 in unlawful behavior, or seek certain remedies following certain disclosures;  
8 authorizing certain employees to institute a civil action in the county where a  
9 certain violation occurred, where the employee resides, or where the employer  
10 maintains its principal office in the State; requiring certain employees to file a  
11 civil action under this Act within a certain period after the employee first  
12 became aware of the alleged retaliatory personnel action; establishing the  
13 remedies for certain employees that a court may grant; providing a defense that  
14 the personnel action was based on grounds other than those protected under  
15 this Act; defining certain terms; and generally relating to whistleblower  
16 protection for employees of State grant recipients.

17 BY adding to

18 Article - State Government

19 Section 10-1301 through 10-1306, inclusive, to be under the new subtitle

20 "Subtitle 13. Whistleblower Protection for Employees of State Grant  
21 Recipients"

22 Annotated Code of Maryland

23 (2004 Replacement Volume)

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

1 **Article - State Government**

2 SUBTITLE 13. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF STATE GRANT  
3 RECIPIENTS.

4 10-1301.

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

7 (B) (1) "EMPLOYEE" MEANS ANY INDIVIDUAL WHO PERFORMS SERVICES  
8 FOR, OR UNDER THE CONTROL AND DIRECTION OF, AN EMPLOYER FOR WAGES OR  
9 OTHER REMUNERATION.

10 (2) "EMPLOYEE" DOES NOT INCLUDE AN EMPLOYEE AS DEFINED IN §  
11 1-501(C)(1) OF THE HEALTH OCCUPATIONS ARTICLE.

12 (C) (1) "EMPLOYER" MEANS A NONPROFIT ENTITY, OR A PERSON ENGAGED  
13 IN A BUSINESS, INDUSTRY, PROFESSION, OR OTHER ENTERPRISE, THAT RECEIVES A  
14 GRANT FROM THE STATE TO PROVIDE SERVICES FOR THE STATE.

15 (2) "EMPLOYER" DOES NOT INCLUDE:

16 (I) A UNIT OF STATE GOVERNMENT SUBJECT TO THE PROVISIONS  
17 OF TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE OR THE  
18 JUDICIAL BRANCH OF STATE GOVERNMENT; OR

19 (II) AN EMPLOYER AS DEFINED IN § 11-301(C)(1) OF THE STATE  
20 FINANCE AND PROCUREMENT ARTICLE.

21 10-1302.

22 AN EMPLOYER SUBJECT TO THIS SUBTITLE SHALL PROVIDE EMPLOYEES WITH  
23 WRITTEN NOTICE OF THE PROTECTIONS AND REMEDIES PROVIDED BY THIS  
24 SUBTITLE.

25 10-1303.

26 AN EMPLOYER MAY NOT TAKE OR REFUSE TO TAKE ANY PERSONNEL ACTION  
27 AS A REPRISAL AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE:

28 (1) DISCLOSES INFORMATION THAT THE EMPLOYEE REASONABLY  
29 BELIEVES EVIDENCES:

30 (I) AN ABUSE OF AUTHORITY, GROSS MISMANAGEMENT, OR GROSS  
31 WASTE OF MONEY;

32 (II) A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR  
33 SAFETY; OR

34 (III) A VIOLATION OF LAW;

1 (2) OBJECTS TO OR REFUSES TO PARTICIPATE IN ANY ACTIVITY, POLICY,  
2 OR PRACTICE IN VIOLATION OF LAW; OR

3 (3) FOLLOWING A DISCLOSURE UNDER ITEM (1) OF THIS SECTION,  
4 SEEKS A REMEDY PROVIDED UNDER THIS SUBTITLE.

5 10-1304.

6 (A) ANY EMPLOYEE WHO IS SUBJECT TO A PERSONNEL ACTION IN VIOLATION  
7 OF § 10-1303 OF THIS SUBTITLE MAY INSTITUTE A CIVIL ACTION IN THE COUNTY  
8 WHERE:

9 (1) THE ALLEGED VIOLATION OCCURRED;

10 (2) THE EMPLOYEE RESIDES; OR

11 (3) THE EMPLOYER MAINTAINS ITS PRINCIPAL OFFICE IN THE STATE.

12 (B) THE ACTION SHALL BE BROUGHT WITHIN 1 YEAR AFTER THE ALLEGED  
13 VIOLATION OF § 10-1303 OF THIS SUBTITLE OCCURRED OR WITHIN 1 YEAR AFTER THE  
14 EMPLOYEE FIRST BECAME AWARE OF THE ALLEGED VIOLATION OF § 10-1303 OF THIS  
15 SUBTITLE.

16 10-1305.

17 IN ANY ACTION BROUGHT UNDER THIS SUBTITLE, A COURT MAY:

18 (1) ISSUE AN INJUNCTION TO RESTRAIN CONTINUED VIOLATION OF §  
19 10-1303 OF THIS SUBTITLE;

20 (2) REINSTATE THE EMPLOYEE TO THE SAME OR AN EQUIVALENT  
21 POSITION HELD BEFORE THE VIOLATION OF § 10-1303 OF THIS SUBTITLE;

22 (3) REMOVE ANY ADVERSE PERSONNEL RECORD ENTRIES BASED ON OR  
23 RELATED TO THE VIOLATION OF § 10-1303 OF THIS SUBTITLE;

24 (4) REINSTATE FULL FRINGE BENEFITS AND SENIORITY RIGHTS;

25 (5) REQUIRE COMPENSATION FOR LOST WAGES, BENEFITS, AND OTHER  
26 REMUNERATION;

27 (6) AWARD COSTS OF LITIGATION AND REASONABLE ATTORNEY'S FEES  
28 TO THE PREVAILING EMPLOYEE; AND

29 (7) AWARD ANY OTHER APPROPRIATE DAMAGES AND RELIEF.

30 10-1306.

31 IN ANY ACTION BROUGHT UNDER THIS SUBTITLE, IT IS A DEFENSE THAT THE  
32 PERSONNEL ACTION WAS BASED ON GROUNDS OTHER THAN THE EMPLOYEE'S  
33 EXERCISE OF ANY RIGHTS PROTECTED UNDER THIS SUBTITLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2005.