
By: **Senator Hafer**

Introduced and read first time: February 4, 2005

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2005

CHAPTER _____

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
RECIPIENTS.

3

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; OR

21 (III) A LOCAL GOVERNMENT, A UNIT OF LOCAL GOVERNMENT, OR A
22 BI-COUNTY AGENCY DELIVERING GOVERNMENT SERVICES.

23 10-1302.

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

27 10-1303.

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

30 (1) DISCLOSES INFORMATION THAT THE EMPLOYEE REASONABLY
31 BELIEVES EVIDENCES:

32 (I) AN ABUSE OF AUTHORITY, GROSS MISMANAGEMENT, OR GROSS
33 WASTE OF MONEY;

1 (II) A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR
2 SAFETY; OR

3 (III) A VIOLATION OF LAW;

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

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

8 10-1304.

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

12 (1) THE ALLEGED VIOLATION OCCURRED;

13 (2) THE EMPLOYEE RESIDES; OR

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

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

19 10-1305.

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

21 (1) ISSUE AN INJUNCTION TO RESTRAIN CONTINUED VIOLATION OF §
22 10-1303 OF THIS SUBTITLE;

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

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

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

28 (5) REQUIRE COMPENSATION FOR LOST WAGES, BENEFITS, AND OTHER
29 REMUNERATION;

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

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

1 10-1306.

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

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