

HOUSE BILL 292

P3, D3

8lr0932

By: **Delegates Smigiel, Aumann, Kelly, Kramer, Krebs, McComas, Shewell, and Sossi**

Introduced and read first time: January 23, 2008

Assigned to: Judiciary and Health and Government Operations

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 requiring the Attorney General to investigate certain violations; authorizing a
6 person other than the State to file a civil action on behalf of the State against a
7 person who makes a false claim against the State; providing for the procedures
8 to be followed in a civil action; authorizing the State to proceed with the action
9 with or without the person that initiated the action; authorizing the State to
10 choose not to proceed with the action but allow the person that initiated the
11 action to proceed; authorizing the court to limit the participation of the person
12 that initiated the action under certain circumstances; authorizing the State to
13 intervene at a later time in the proceedings or to pursue alternative remedies;
14 authorizing the State to stay certain discovery under certain circumstances;
15 providing for certain damages and payments to the person that initiated the
16 action; providing for certain payments to a person that provides certain
17 documentary materials or information; providing for certain payments to the
18 person charged under certain circumstances if the person charged prevails;
19 prohibiting an employer from taking retaliatory action against an employee
20 under certain circumstances; providing certain remedies for retaliatory action;
21 providing certain limitations on civil actions filed under this Act; providing that
22 certain civil actions may be brought retroactively under certain circumstances;
23 providing that certain guilty verdicts shall estop certain defendants from
24 denying certain elements in a certain civil action; making the provisions of this
25 Act severable; providing that a certain subtitle be liberally construed; defining
26 certain terms; and generally relating to false claims against the State.

27 BY adding to
28 Article – State Government

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 12-601 through 12-609 to be under the new subtitle "Subtitle 6.
2 Maryland False Claims Act"
3 Annotated Code of Maryland
4 (2004 Replacement Volume and 2007 Supplement)

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

7 **Article - State Government**

8 **SUBTITLE 6. MARYLAND FALSE CLAIMS ACT.**

9 **12-601.**

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

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

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

18 (2) THE STATE REIMBURSES THE CONTRACTOR, GRANTEE, OR
19 OTHER PERSON FOR ANY PORTION OF THE MONEY OR PROPERTY THAT IS
20 REQUESTED OR DEMANDED.

21 (C) "EMPLOYEE" MEANS AN INDIVIDUAL WHO PERFORMS SERVICES:

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

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

26 (D) (1) "EMPLOYER" MEANS A PERSON OR GROUP OF PERSONS THAT,
27 ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP
28 OF PERSONS:

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

1 (II) PROMISES OR IMPLIES THAT THE EMPLOYEE WILL
2 RECEIVE WAGES OR OTHER REMUNERATION IN PAYMENT FOR THE
3 PERFORMANCE OF THOSE SERVICES.

4 (2) "EMPLOYER" INCLUDES ANY UNIT OF THE STATE
5 GOVERNMENT INVOLVED IN A NONGOVERNMENTAL FUNCTION SUCH AS A STATE
6 INSTITUTION OF HIGHER EDUCATION OR STATE HOSPITAL.

7 (E) (1) "KNOWING" AND "KNOWINGLY" MEAN THAT A PERSON, WITH
8 RESPECT TO INFORMATION:

9 (I) HAS ACTUAL KNOWLEDGE OF INFORMATION;

10 (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR
11 FALSITY OF THE INFORMATION; OR

12 (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR
13 FALSITY OF THE INFORMATION.

14 (2) "KNOWING" AND "KNOWINGLY" DO NOT REQUIRE PROOF OF
15 SPECIFIC INTENT TO DEFRAUD.

16 12-602.

17 (A) A PERSON MAY NOT:

18 (1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED TO AN
19 OFFICER, EMPLOYEE, OR AGENT OF THE STATE A FALSE OR FRAUDULENT
20 CLAIM FOR PAYMENT OR APPROVAL;

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

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

26 (4) HAVE POSSESSION, CUSTODY, OR CONTROL OF PROPERTY OR
27 MONEY USED OR TO BE USED BY THE STATE AND KNOWINGLY DELIVER OR
28 CAUSE TO BE DELIVERED LESS PROPERTY OR MONEY THAN THE AMOUNT FOR
29 WHICH THE PERSON RECEIVES A CERTIFICATE OR RECEIPT;

30 (5) BE AUTHORIZED TO MAKE OR DELIVER A DOCUMENT
31 CERTIFYING RECEIPT OF PROPERTY USED OR TO BE USED BY THE STATE AND

1 KNOWINGLY MAKE OR DELIVER A RECEIPT WITHOUT KNOWING THAT THE
2 INFORMATION CONTAINED IN THE RECEIPT IS TRUE;

3 (6) KNOWINGLY BUY OR RECEIVE, AS A PLEDGE OF AN
4 OBLIGATION OR DEBT, PUBLICLY OWNED PROPERTY FROM A PERSON WHO
5 LAWFULLY MAY NOT SELL OR PLEDGE THE PROPERTY;

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

9 (8) BE A BENEFICIARY OF AN INADVERTENT SUBMISSION OF A
10 FALSE CLAIM TO THE STATE, DISCOVER THE FALSITY OF THE CLAIM, AND FAIL
11 TO DISCLOSE THE FALSE CLAIM TO THE STATE WITHIN A REASONABLE TIME
12 AFTER THE DISCOVERY.

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

16 (I) THREE TIMES THE AMOUNT OF DAMAGES THAT THE
17 STATE SUSTAINS BECAUSE OF THE ACT OF THE PERSON;

18 (II) A CIVIL FINE OF NOT LESS THAN \$5,000 OR MORE THAN
19 \$10,000; AND

20 (III) THE COSTS OF A CIVIL ACTION BROUGHT TO RECOVER
21 ANY PENALTIES OR DAMAGES UNDER THIS SUBTITLE.

22 (2) A COURT MAY ASSESS NOT LESS THAN TWO TIMES THE
23 AMOUNT OF DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF A PERSON
24 COMMITTING A VIOLATION OF THIS SUBTITLE IF THE COURT FINDS THAT:

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

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

31 (III) AT THE TIME THE PERSON FURNISHED THE STATE WITH
32 THE INFORMATION ABOUT THE VIOLATION:

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

3 **2. THE PERSON DID NOT HAVE ACTUAL PRIOR**
4 **KNOWLEDGE OF THE EXISTENCE OF AN INVESTIGATION OF THE VIOLATION.**

5 **(C) LIABILITY UNDER THIS SECTION SHALL BE JOINT AND SEVERAL**
6 **FOR AN ACT COMMITTED BY TWO OR MORE PERSONS.**

7 **(D) THE PENALTIES PROVIDED FOR IN THIS SECTION ARE IN ADDITION**
8 **TO ANY OTHER REMEDIES PROVIDED FOR IN ANY OTHER LAW.**

9 **(E) THIS SECTION DOES NOT APPLY TO CLAIMS, RECORDS, OR**
10 **STATEMENTS MADE IN ACCORDANCE WITH THE TAX – GENERAL ARTICLE AND**
11 **THE TAX – PROPERTY ARTICLE.**

12 **12-603.**

13 **(A) THE ATTORNEY GENERAL SHALL INVESTIGATE A VIOLATION**
14 **UNDER THIS SUBTITLE AND THE ATTORNEY GENERAL MAY FILE A CIVIL ACTION**
15 **AGAINST A PERSON WHO HAS MADE A FALSE CLAIM AGAINST THE STATE IN**
16 **VIOLATION OF THIS SUBTITLE.**

17 **(B) A PERSON MAY FILE A CIVIL ACTION ON BEHALF OF THE PERSON**
18 **AND THE STATE IN A COURT OF COMPETENT JURISDICTION AGAINST A PERSON**
19 **WHO HAS MADE A FALSE CLAIM AGAINST THE STATE IN VIOLATION OF THIS**
20 **SUBTITLE.**

21 **(C) (1) A CIVIL ACTION FILED UNDER THIS SUBTITLE SHALL BE**
22 **BROUGHT IN THE NAME OF THE STATE.**

23 **(2) A CIVIL ACTION FILED UNDER THIS SUBTITLE MAY BE**
24 **DISMISSED ONLY IF THE COURT GIVES WRITTEN CONSENT, TAKING INTO**
25 **ACCOUNT THE BEST INTEREST OF THE PARTIES INVOLVED AND THE PURPOSES**
26 **OF THIS SUBTITLE.**

27 **(D) (1) ON THE SAME DAY A PERSON FILES A COMPLAINT UNDER**
28 **SUBSECTION (B) OF THIS SECTION, THE PERSON SHALL SERVE ON THE STATE A**
29 **COPY OF THE COMPLAINT AND A WRITTEN DISCLOSURE OF SUBSTANTIALLY ALL**
30 **MATERIAL EVIDENCE AND INFORMATION THAT THE PERSON POSSESSES, IN**
31 **ACCORDANCE WITH THE PROVISIONS OF TITLE 2 OF THE MARYLAND RULES**
32 **FOR SERVING PROCESS ON THE STATE.**

1 **(2) THE COMPLAINT SHALL BE FILED IN CAMERA AND SHALL**
2 **REMAIN UNDER SEAL FOR AT LEAST 60 DAYS OR UNTIL THE COURT ORDERS THE**
3 **COMPLAINT SERVED ON THE DEFENDANT.**

4 **(3) THE PERSON MAY NOT SERVE THE COMPLAINT ON THE**
5 **DEFENDANT UNTIL THE COURT ORDERS THE COMPLAINT SERVED, AND THE**
6 **DEFENDANT MAY NOT BE REQUIRED TO RESPOND TO A COMPLAINT FILED**
7 **UNDER THIS SECTION UNTIL AFTER THE COMPLAINT IS:**

8 **(I) UNSEALED; AND**

9 **(II) SERVED ON THE DEFENDANT IN ACCORDANCE WITH**
10 **TITLE 2 OF THE MARYLAND RULES.**

11 **(E) (1) WITHIN 60 DAYS AFTER THE STATE RECEIVES A COMPLAINT**
12 **AND MATERIAL EVIDENCE AND INFORMATION SERVED IN ACCORDANCE WITH**
13 **SUBSECTION (D) OF THIS SECTION, THE STATE MAY INTERVENE AND PROCEED**
14 **WITH THE CIVIL ACTION.**

15 **(2) (I) FOR GOOD CAUSE SHOWN, THE STATE MAY REQUEST**
16 **THAT THE COURT ORDER AN EXTENSION OF THE 60-DAY PERIOD FOR UP TO 90**
17 **DAYS.**

18 **(II) THE COMPLAINT SHALL REMAIN UNDER SEAL DURING**
19 **ANY EXTENSION OF THE PERIOD FOR THE STATE TO INTERVENE.**

20 **(3) BEFORE THE LATER OF ANY EXPIRATION OF THE 60-DAY**
21 **PERIOD OR AN EXTENSION OF THE 60-DAY PERIOD, THE STATE SHALL:**

22 **(I) PROCEED WITH THE CIVIL ACTION IN A COURT OF**
23 **COMPETENT JURISDICTION WITHIN THE STATE; OR**

24 **(II) NOTIFY THE COURT THAT IT WILL NOT PROCEED WITH**
25 **THE CIVIL ACTION.**

26 **(4) IF THE STATE NOTIFIES THE COURT THAT IT WILL NOT**
27 **PROCEED WITH AN ACTION, THE PERSON WHO INITIATED THE ACTION MAY**
28 **CONDUCT THE ACTION.**

29 **(F) IF A PERSON BRINGS A VALID CIVIL ACTION UNDER THIS**
30 **SUBSECTION, NO PERSON OTHER THAN THE STATE MAY INTERVENE OR BRING A**
31 **RELATED ACTION BASED ON THE FACTS UNDERLYING THE PENDING CIVIL**
32 **ACTION.**

1 **12-604.**

2 (A) (1) IF THE STATE PROCEEDS WITH A CIVIL ACTION UNDER THIS
3 SUBTITLE, IT HAS THE PRIMARY RESPONSIBILITY FOR PROCEEDING WITH THE
4 ACTION AND IS NOT BOUND BY ANY ACT OF THE PERSON WHO INITIATED THE
5 ACTION.

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

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

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

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

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

21 (C) (1) THE COURT MAY IMPOSE LIMITATIONS ON THE
22 PARTICIPATION OF THE PERSON INITIATING A CIVIL ACTION UNDER THIS
23 SECTION IF:

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

26 1. INTERFERE WITH OR UNDULY DELAY THE STATE
27 IN ITS PURSUIT OF THE ACTION; OR

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

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

1 **(2) LIMITATIONS IMPOSED BY THE COURT MAY INCLUDE:**

2 **(I) A LIMITATION ON THE NUMBER OF WITNESSES THE**
3 **PERSON MAY CALL TO TESTIFY;**

4 **(II) A LIMITATION ON THE LENGTH OF THE TESTIMONY OF**
5 **WITNESSES CALLED BY THE PERSON;**

6 **(III) A LIMITATION ON THE PERSON'S CROSS-EXAMINATION**
7 **OF WITNESSES; OR**

8 **(IV) OTHERWISE LIMITING THE PARTICIPATION BY THE**
9 **PERSON THAT INITIATED THE CIVIL ACTION.**

10 **(D) (1) IF THE STATE ELECTS NOT TO PROCEED WITH THE CIVIL**
11 **ACTION, THE PERSON INITIATING THE ACTION HAS THE RIGHT TO PROCEED**
12 **WITH THE ACTION.**

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

16 **(I) ALL PLEADINGS FILED IN THE CIVIL ACTION; AND**

17 **(II) ALL DEPOSITION TRANSCRIPTS.**

18 **(3) WITHOUT LIMITING THE STATUS AND RIGHTS OF THE PERSON**
19 **INITIATING THE CIVIL ACTION, THE COURT MAY ALLOW THE STATE TO**
20 **INTERVENE AT A LATER DATE ON A SHOWING OF GOOD CAUSE.**

21 **(E) (1) WHETHER OR NOT THE STATE PROCEEDS WITH A CIVIL**
22 **ACTION, ON A SHOWING BY THE STATE THAT CERTAIN ACTIONS OF DISCOVERY**
23 **BY THE PERSON INITIATING THE ACTION WOULD INTERFERE WITH THE STATE'S**
24 **INVESTIGATION OR PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING**
25 **OUT OF THE SAME FACTS, THE COURT MAY STAY THE DISCOVERY FOR A PERIOD**
26 **OF NOT MORE THAN 60 DAYS.**

27 **(2) THE COURT MAY EXTEND THE 60-DAY PERIOD ON A FURTHER**
28 **SHOWING THAT THE STATE HAS PURSUED THE CRIMINAL OR CIVIL**
29 **INVESTIGATION OR PROCEEDINGS WITH REASONABLE DILIGENCE AND ANY**
30 **PROPOSED DISCOVERY IN THE CIVIL ACTION WILL INTERFERE WITH THE**
31 **ONGOING CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDING.**

1 (3) THE SHOWINGS UNDER THIS SUBSECTION SHALL BE IN
2 CAMERA.

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

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

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

14 **12-605.**

15 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF THE
16 STATE PROCEEDS WITH AN ACTION BROUGHT BY A PERSON INITIATING A CIVIL
17 ACTION UNDER THIS SUBTITLE AND THE STATE PREVAILS BY A
18 PREPONDERANCE OF THE EVIDENCE, THE COURT SHALL AWARD THE PERSON
19 INITIATING THE ACTION AN AMOUNT THAT IS:

20 (I) NOT LESS THAN 15% AND NOT MORE THAN 25% OF:

21 1. ANY DAMAGES RECOVERED IN THE ACTION THAT
22 RESULT FROM THE INFORMATION CONTAINED IN THE ORIGINAL ACTION
23 BROUGHT BY THE PERSON; OR

24 2. ANY SETTLEMENT OF THE CLAIM; AND

25 (II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT
26 THAT THE PERSON CONTRIBUTED TO THE FINAL RESOLUTION OF THE CIVIL
27 ACTION.

28 (2) IF A CIVIL ACTION IS ONE THAT THE COURT FINDS IS BASED
29 PRIMARILY ON SPECIFIC DOCUMENTARY MATERIALS OR INFORMATION
30 DISCLOSED BY A PERSON OTHER THAN THE PERSON WHO INITIATED THE
31 ACTION, THE COURT MAY MAKE AN AWARD THAT:

32 (I) THE COURT CONSIDERS APPROPRIATE; AND

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

3 (3) AWARDS UNDER PARAGRAPHS (1) AND (2) OF THIS
4 SUBSECTION SHALL BE PAID OUT OF THE PROCEEDS OF THE ACTION.

5 (4) IN ADDITION TO THE AMOUNT PROVIDED UNDER
6 PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A COURT SHALL AWARD A
7 PERSON INITIATING AN ACTION:

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

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

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

14 (B) (1) IF THE STATE DOES NOT PROCEED WITH AN ACTION UNDER
15 THIS SUBTITLE AND THE PERSON INITIATING THE ACTION PREVAILS, THE
16 COURT SHALL AWARD THE PERSON INITIATING THE ACTION AN AMOUNT THAT
17 IS:

18 (I) NOT LESS THAN 25% OR MORE THAN 30% OF THE
19 PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM;

20 (II) REASONABLE FOR COLLECTING THE CIVIL PENALTY
21 AND DAMAGES ON THE STATE'S BEHALF; AND

22 (III) PAID OUT OF THE PROCEEDS.

23 (2) IN ADDITION TO THE AMOUNT PROVIDED UNDER PARAGRAPH
24 (1) OF THIS SUBSECTION, A COURT SHALL AWARD A PERSON INITIATING AN
25 ACTION:

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

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

29 (3) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER
30 PARAGRAPH (2) OF THIS SUBSECTION SHALL BE AWARDED AGAINST THE
31 PERSON FOUND TO HAVE VIOLATED THIS SUBTITLE.

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

8 **(2) IN REDUCING THE SHARE OF THE PROCEEDS OF THE PERSON**
9 **INITIATING THE CIVIL ACTION, THE COURT SHALL CONSIDER:**

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

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

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

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

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

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

30 **(1) THE DEFENDANT PREVAILS IN THE ACTION;**

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

1 **(3) THE STATE DID NOT PROCEED WITH THE ACTION.**

2 **(G) THE STATE IS NOT LIABLE FOR EXPENSES THAT A PERSON INCURS**
3 **BY BRINGING AN ACTION UNDER THIS SUBTITLE.**

4 **12-606.**

5 **(A) A COURT MAY NOT HAVE JURISDICTION OVER AN ACTION BROUGHT**
6 **UNDER THIS SUBTITLE AGAINST A MEMBER OF THE STATE LEGISLATIVE**
7 **BRANCH, A MEMBER OF THE JUDICIARY, OR A SENIOR EXECUTIVE BRANCH**
8 **OFFICIAL IF THE ACTION IS BASED ON EVIDENCE OR INFORMATION KNOWN TO**
9 **THE STATE WHEN THE ACTION WAS BROUGHT.**

10 **(B) A PERSON MAY NOT BRING AN ACTION UNDER THIS SUBTITLE THAT**
11 **IS BASED ON AN ALLEGATION OR TRANSACTION THAT IS THE SUBJECT OF A**
12 **CIVIL SUIT OR AN ADMINISTRATIVE CIVIL MONEY PENALTY PROCEEDING IN**
13 **WHICH THE STATE IS ALREADY A PARTY.**

14 **(C) ON THE MOTION OF THE ATTORNEY GENERAL, THE COURT MAY**
15 **DISMISS A CLAIM IF THE ELEMENTS ALLEGED IN THE CLAIM HAVE BEEN**
16 **PUBLICLY DISCLOSED IN THE NEWS MEDIA OR IN A PUBLICLY DISSEMINATED**
17 **GOVERNMENTAL REPORT AT THE TIME THE COMPLAINT IS FILED.**

18 **12-607.**

19 **(A) AN EMPLOYEE WHO IS DISCHARGED, DEMOTED, SUSPENDED,**
20 **THREATENED, HARASSED, OR OTHERWISE DISCRIMINATED AGAINST IN THE**
21 **TERMS AND CONDITIONS OF EMPLOYMENT BECAUSE OF LAWFUL ACTS DONE BY**
22 **THE EMPLOYEE IN FURTHERANCE OF A CIVIL ACTION UNDER THIS SUBTITLE**
23 **SHALL BE ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE EMPLOYEE**
24 **WHOLE.**

25 **(B) RELIEF SHALL INCLUDE:**

26 **(1) REINSTATEMENT WITH THE SAME SENIORITY STATUS SUCH**
27 **EMPLOYEE WOULD HAVE HAD BUT FOR THE DISCRIMINATION;**

28 **(2) TWO TIMES THE AMOUNT OF BACK PAY;**

29 **(3) INTEREST ON BACK PAY; AND**

30 **(4) COMPENSATION FOR SPECIAL DAMAGES SUSTAINED AS A**
31 **RESULT OF THE DISCRIMINATION, INCLUDING LITIGATION COSTS, REASONABLE**
32 **ATTORNEY'S FEES, AND WHERE APPROPRIATE, PUNITIVE DAMAGES.**

1 (C) AN EMPLOYEE MAY BRING AN ACTION IN THE APPROPRIATE COURT
2 OF THE STATE FOR RELIEF PROVIDED IN THIS SECTION.

3 **12-608.**

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

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

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

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

15 (C) A CIVIL ACTION UNDER THIS SUBTITLE MAY BE BROUGHT FOR
16 ACTIVITY PRIOR TO OCTOBER 1, 2008, IF THE LIMITATION PERIOD SET UNDER
17 SUBSECTION (A) OF THIS SECTION HAS NOT LAPSED.

18 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GUILTY
19 VERDICT RENDERED IN A CRIMINAL PROCEEDING CHARGING FALSE
20 STATEMENTS OR FRAUD, WHETHER ON A VERDICT AFTER TRIAL OR ON A PLEA
21 OF GUILTY OR NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT FROM
22 DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN A CIVIL ACTION THAT
23 INVOLVES THE SAME TRANSACTION AS IN THE CRIMINAL PROCEEDING AND
24 THAT IS BROUGHT UNDER THIS SUBTITLE.

25 **12-609.**

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

29 (B) IF A PROVISION OF THIS SUBTITLE OR THE APPLICATION OF THIS
30 SUBTITLE TO ANY PERSON OR CIRCUMSTANCE IS HELD TO BE
31 UNCONSTITUTIONAL, THE REMAINDER OF THIS SUBTITLE AND THE
32 APPLICATION OF THE PROVISION TO OTHER PERSONS OR CIRCUMSTANCES MAY
33 NOT BE AFFECTED.

1 **(C) THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED AND APPLIED TO**
2 **PROMOTE PUBLIC INTEREST.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2008.