

HOUSE BILL 1232

D3, P1, L6

8lr2795

By: **Delegates McDonough, Boteler, Elmore, George, Impallaria, Kach, Kipke, McConkey, and O'Donnell**

Introduced and read first time: February 8, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Citizens Rights Act**

3 FOR the purpose of providing that a registered voter under the laws of the State may
4 file a complaint alleging certain actions against certain officers and employees
5 of the State or of a local government for declaratory judgment and injunctive
6 relief; specifying that a person has standing to file a certain action against
7 certain officers and employees under certain circumstances; authorizing a court
8 to direct certain officers and employees to reimburse a person for certain fees
9 and costs under certain circumstances; providing that certain persons may not
10 avail themselves of the remedies provided under this Act; and generally relating
11 to the right to file actions against State and local officers and employees.

12 BY repealing and reenacting, without amendments,
13 Article – State Government
14 Section 8–502
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2007 Supplement)

17 BY adding to
18 Article – State Government
19 Section 8–502.1
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2007 Supplement)

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

24 **Article – State Government**

25 8–502.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) A member of a State board or commission shall be suspended
2 without pay from participation in the activities of the board or commission if the
3 member is convicted of or enters a plea of nolo contendere to any crime that:

4 (i) is a felony; or

5 (ii) is a misdemeanor related to the member's public duties and
6 responsibilities and involves moral turpitude for which the penalty may be
7 incarceration in any penal institution.

8 (2) The suspension shall continue during any period of appeal of the
9 conviction.

10 (3) If the conviction becomes final, the member shall be removed from
11 the office and the office shall be deemed vacant.

12 (b) If the conviction of the member is reversed or otherwise vacated:

13 (1) the member shall be reinstated to the office for the remainder, if
14 any, of the term of office during which the member was so suspended or removed; and

15 (2) all pay and benefits shall be restored from the date of the
16 suspension or removal.

17 **8-502.1.**

18 (A) **THIS SECTION APPLIES TO:**

19 (1) **A CIVIL OFFICER OR EMPLOYEE OF A UNIT OF STATE**
20 **GOVERNMENT OR OF A POLITICAL SUBDIVISION OF THE STATE; AND**

21 (2) **AN ELECTED OR APPOINTED OFFICER OF THE STATE SUBJECT**
22 **TO IMPEACHMENT UNDER THE MARYLAND CONSTITUTION.**

23 (B) **A REGISTERED VOTER UNDER THE LAWS OF THIS STATE MAY:**

24 (1) **FILE A COMPLAINT FOR DECLARATORY JUDGMENT AND**
25 **INJUNCTIVE RELIEF UNDER § 3-408.2 OF THE COURTS ARTICLE AGAINST AN**
26 **OFFICER OR EMPLOYEE SUBJECT TO THIS SECTION ALLEGING THAT THE**
27 **OFFICER OR EMPLOYEE:**

28 (I) **HAS ACTED OR DIRECTED THE ACTIONS OF ANOTHER**
29 **PERSON IN THE STATE IN A MANNER THAT VIOLATES, CONFLICTS WITH, OR IS**
30 **OTHERWISE PREEMPTED BY THE IMMIGRATION LAWS OF THE UNITED STATES;**

1 (II) HAS PERMITTED OR AUTHORIZED A PERSON OTHER
2 THAN A CITIZEN OF THE UNITED STATES TO VOTE IN A FEDERAL, STATE, OR
3 LOCAL ELECTION REQUIRED TO BE CONDUCTED IN ACCORDANCE WITH THE
4 ELECTION LAW ARTICLE; OR

5 (III) HAS ACTED OR DIRECTED THE ACTIONS OF ANY PERSON
6 IN THE STATE IN A MANNER THAT INFRINGES ON OR RESTRICTS IN ANY MANNER
7 A PRIVILEGE OR IMMUNITY OF A CITIZEN OF THE UNITED STATES DOMICILED
8 IN THIS STATE; AND

9 (2) REQUEST THAT ON A FINDING OF A VIOLATION OF
10 PARAGRAPH (1) OF THIS SUBSECTION, THE COURT DECLARE THAT:

11 (I) AS TO A CIVIL OFFICER OR EMPLOYEE, THE OFFICER OR
12 EMPLOYEE IS SUBJECT TO THE SUSPENSION AND REMOVAL SANCTIONS
13 PRESCRIBED UNDER § 8-502(A) OF THIS SUBTITLE; OR

14 (II) AS TO AN ELECTED OR APPOINTED OFFICER SUBJECT
15 TO IMPEACHMENT UNDER THE MARYLAND CONSTITUTION, THE OFFICER BE
16 REFERRED TO THE GENERAL ASSEMBLY FOR IMPEACHMENT.

17 (C) A PERSON HAS STANDING TO FILE A COMPLAINT UNDER THIS
18 SECTION AGAINST AN OFFICER OR EMPLOYEE SUBJECT TO THIS SECTION ONLY
19 AFTER THE PERSON EXHAUSTS ALL ADMINISTRATIVE REMEDIES AVAILABLE BY
20 LAW OR REGULATION TO THE PERSON.

21 (D) IF THE COURT DETERMINES THAT AN OFFICER OR EMPLOYEE
22 AGAINST WHOM A COMPLAINT IS FILED HAS ENGAGED IN A PATTERN OR
23 PRACTICE OF ACTS OF THE TYPE FOR WHICH DECLARATORY AND INJUNCTIVE
24 RELIEF IS SOUGHT UNDER THIS SECTION, THE COURT MAY DIRECT THAT THE
25 OFFICER OR EMPLOYEE PROVIDE THE COMPLAINANT REIMBURSEMENT FOR
26 REASONABLE ATTORNEY'S FEES AND COSTS.

27 (E) AN ACTION FOR AN EQUITABLE REMEDY FOR DECLARATORY
28 JUDGMENT AND INJUNCTIVE RELIEF AS PRESCRIBED UNDER THIS SECTION IS
29 NOT AVAILABLE TO A PERSON WHO IS NOT A CITIZEN OF THE UNITED STATES
30 OR A LEGAL PERMANENT RESIDENT ALIEN IN THE UNITED STATES.

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