

SENATE BILL 272

C3, J1
SB 215/08 – JPR

9lr0001
CF HB 304

By: **The President (By Request – Administration) and Senators ~~Conway,~~
Frosh, Harrington, Lenett, Madaleno, Pinsky, Raskin, ~~and Robey~~
Robey, and Forehand**

Introduced and read first time: January 23, 2009
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 18, 2009

CHAPTER _____

1 AN ACT concerning

2 **Maryland False Health Claims Act of 2009**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 authorizing an employee to file a civil action against an employer that takes
 2 retaliatory action against the employee under certain circumstances; providing
 3 certain remedies for retaliatory action; requiring an employer to make certain
 4 disclosures to employees; requiring the Comptroller to deposit a certain penalty
 5 or damages in the General Fund of the State; requiring certain persons to report
 6 certain information annually to the General Assembly; authorizing the
 7 Department of Health and Mental Hygiene or the Inspector General of the
 8 Department to adopt certain regulations; defining certain terms; and generally
 9 relating to false claims against State health plans and State health programs.

10 BY adding to

11 Article – Health – General

12 Section 2–601 through ~~2–610~~ 2–611 to be under the new subtitle “Subtitle 6.
 13 False Claims Against State Health Plans and State Health Programs”

14 Annotated Code of Maryland

15 (2005 Replacement Volume and 2008 Supplement)

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

18 **Article – Health – General**

19 **SUBTITLE 6. FALSE CLAIMS AGAINST STATE HEALTH PLANS AND STATE**
 20 **HEALTH PROGRAMS.**

21 **2–601.**

22 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 23 INDICATED.

24 (B) “CLAIM” MEANS A REQUEST OR DEMAND, UNDER A CONTRACT OR
 25 OTHERWISE, FOR MONEY OR OTHER PROPERTY THAT IS MADE TO OR BY A
 26 CONTRACTOR, GRANTEE, PROVIDER, OR OTHER PERSON FOR THE PROVISION
 27 OF SERVICES IF:

28 (1) THE STATE OR THE DEPARTMENT, THROUGH A STATE
 29 HEALTH PLAN OR A STATE HEALTH PROGRAM, PROVIDES ANY PORTION OF THE
 30 MONEY OR OTHER PROPERTY THAT IS REQUESTED OR DEMANDED; OR

31 (2) THE STATE OR THE DEPARTMENT, THROUGH A STATE
 32 HEALTH PLAN OR A STATE HEALTH PROGRAM, REIMBURSES THE CONTRACTOR,
 33 GRANTEE, PROVIDER, OR OTHER PERSON FOR ANY PORTION OF THE MONEY OR
 34 OTHER PROPERTY THAT IS REQUESTED OR DEMANDED.

35 (C) “DOCUMENTARY MATERIAL” INCLUDES:

1 **(1) THE ORIGINAL OR A COPY OF:**

2 **(I) A BOOK;**

3 **(II) A RECORD;**

4 **(III) A REPORT;**

5 **(IV) A MEMORANDUM;**

6 **(V) A PAPER;**

7 **(VI) A COMMUNICATION;**

8 **(VII) A TABULATION;**

9 **(VIII) A CHART;**

10 **(IX) A DOCUMENT; OR**

11 **(X) DATA COMPILATION STORED IN OR ACCESSIBLE**
12 **THROUGH A COMPUTER OR OTHER INFORMATION RETRIEVAL SYSTEM,**
13 **INCLUDING INSTRUCTIONS AND ALL OTHER MATERIALS NECESSARY TO USE OR**
14 **INTERPRET THE DATA COMPILATION; AND**

15 **(2) ANY PRODUCT OF DISCOVERY, INCLUDING:**

16 **(I) THE ORIGINAL OR DUPLICATE OF ANY DEPOSITION,**
17 **INTERROGATORY, DOCUMENT, THING, RESULT OF AN INSPECTION OF LAND OR**
18 **OTHER PROPERTY, EXAMINATION, OR ADMISSION THAT IS OBTAINED BY ANY**
19 **METHOD OF DISCOVERY IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING OF**
20 **AN ADVERSARIAL NATURE;**

21 **(II) ANY DIGEST, ANALYSIS, SELECTION, COMPILATION, OR**
22 **DERIVATION OF ANY ITEM LISTED IN ITEM (I) OF THIS PARAGRAPH; AND**

23 **(III) ANY INDEX OR OTHER MANNER OF ACCESS TO ANY ITEM**
24 **LISTED IN ITEM (I) OF THIS PARAGRAPH.**

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

26 **(1) FOR AND UNDER THE CONTROL AND DIRECTION OF AN**
27 **EMPLOYER; AND**

1 **(2) UNDER AN EMPLOYER'S PROMISE OR IMPLIED PROMISE OF**
2 **PAYMENT OF WAGES OR OTHER REMUNERATION.**

3 **(E) (1) "EMPLOYER" MEANS A PERSON OR GROUP OF PERSONS WHO,**
4 **ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP**
5 **OF PERSONS:**

6 **(I) ALLOWS AN EMPLOYEE TO PERFORM SERVICES UNDER**
7 **THE EMPLOYER'S CONTROL AND DIRECTION; AND**

8 **(II) PROMISES OR IMPLIES THAT THE EMPLOYEE WILL**
9 **RECEIVE WAGES OR OTHER REMUNERATION IN PAYMENT FOR THE**
10 **PERFORMANCE OF THOSE SERVICES.**

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

15 **(I) THE STATE;**

16 **(II) A LOCAL GOVERNMENT;**

17 **(III) ANY OTHER POLITICAL SUBDIVISION;**

18 **(IV) A UNIT OF THE ENTITIES LISTED IN ITEMS (I) THROUGH**
19 **(III) OF THIS PARAGRAPH;**

20 **(V) A SCHOOL DISTRICT;**

21 **(VI) A SPECIAL DISTRICT OR AUTHORITY;**

22 **(VII) AN APPOINTED OR ELECTED COMMISSION OR BOARD;**

23 **OR**

24 **(VIII) AN AGENCY OR INSTRUMENTALITY OF THE ENTITIES**
25 **LISTED IN ITEMS (I) THROUGH (VII) OF THIS PARAGRAPH.**

26 **(F) "KNOWING" OR "KNOWINGLY" MEANS, WITH RESPECT TO**
27 **INFORMATION, THAT A PERSON:**

28 **(1) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;**

29 **(2) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY**
30 **OF THE INFORMATION; OR**

1 **(3) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF**
2 **THE INFORMATION, AND NO PROOF OF SPECIFIC INTENT TO DEFRAUD IS**
3 **REQUIRED.**

4 **(G) “PROVIDER” HAS THE MEANING STATED IN § 2-501 OF THIS TITLE.**

5 **(H) “PUBLIC BODY” MEANS:**

6 **(1) THE GENERAL ASSEMBLY OR ANY OTHER ELECTED BODY;**

7 **(2) A MEMBER OR EMPLOYEE OF THE GENERAL ASSEMBLY OR**
8 **OTHER ELECTED BODY;**

9 **(3) A STATE COURT;**

10 **(4) A MEMBER OR EMPLOYEE OF A STATE COURT;**

11 **(5) A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR**
12 **PUBLIC AGENCY OR AUTHORITY;**

13 **(6) AN INSTRUMENTALITY OF A STATE OR LOCAL REGULATORY,**
14 **ADMINISTRATIVE, OR PUBLIC AGENCY OR AUTHORITY;**

15 **(7) A STATE OR LOCAL LAW ENFORCEMENT AGENCY,**
16 **PROSECUTORIAL OFFICE, OR POLICE OR PEACE OFFICER;**

17 **(8) A STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH**
18 **OF GOVERNMENT; OR**

19 **(9) A DIVISION, BOARD, BUREAU, OFFICE, COMMITTEE, OR**
20 **COMMISSION OF ANY OF THE PUBLIC BODIES LISTED IN THIS SUBSECTION.**

21 **(I) “RETALIATORY ACTION” MEANS:**

22 **(1) THE DISCHARGE, SUSPENSION, OR DEMOTION OF AN**
23 **EMPLOYEE; OR**

24 **(2) ANY ADVERSE EMPLOYMENT ACTION TAKEN AGAINST AN**
25 **EMPLOYEE RELATING TO THE EMPLOYEE’S TERMS OR CONDITIONS OF**
26 **EMPLOYMENT.**

27 **(J) (1) “STATE HEALTH PLAN” MEANS:**

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

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

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

12 (2) **“STATE HEALTH PLAN” INCLUDES A PERSON WHO PROVIDES**
 13 **OR CONTRACTS OR SUBCONTRACTS TO PROVIDE HEALTH CARE SERVICES FOR**
 14 **AN ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.**

15 (K) **“STATE HEALTH PROGRAM” MEANS THE MEDICAL ASSISTANCE**
 16 **PROGRAM, THE CIGARETTE RESTITUTION FUND PROGRAM, THE MENTAL**
 17 **HYGIENE ADMINISTRATION, THE DEVELOPMENTAL DISABILITIES**
 18 **ADMINISTRATION, THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, THE**
 19 **FAMILY HEALTH ADMINISTRATION, THE COMMUNITY HEALTH**
 20 **ADMINISTRATION, OR ANY OTHER UNIT OF THE DEPARTMENT THAT PAYS A**
 21 **PROVIDER FOR A SERVICE RENDERED OR CLAIMED TO HAVE BEEN RENDERED**
 22 **TO A RECIPIENT.**

23 (L) **“SUPERVISOR” MEANS AN INDIVIDUAL WITHIN AN EMPLOYER’S**
 24 **ORGANIZATION WHO HAS THE AUTHORITY TO:**

25 (1) **DIRECT AND CONTROL THE WORK PERFORMANCE OF AN**
 26 **EMPLOYEE; OR**

27 (2) **TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF A**
 28 **LAW OR REGULATION THAT IS THE SUBJECT OF A COMPLAINT OR CHARGE**
 29 **UNDER THIS SUBTITLE.**

30 **2-602.**

31 (A) **A PERSON MAY NOT:**

32 (1) **KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED TO AN**
 33 **OFFICER, EMPLOYEE, OR AGENT OF THE STATE OR THE DEPARTMENT, OR TO**
 34 **ANY CONTRACTOR, GRANTEE, PROVIDER, OR OTHER PERSON RECEIVING STATE**
 35 **OR DEPARTMENTAL FUNDS, A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OR**

1 APPROVAL BY THE STATE OR THE DEPARTMENT UNDER A STATE HEALTH PLAN
2 OR A STATE HEALTH PROGRAM;

3 (2) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A
4 FALSE RECORD OR STATEMENT TO GET A FALSE OR FRAUDULENT CLAIM PAID
5 OR APPROVED BY THE STATE OR THE DEPARTMENT UNDER A STATE HEALTH
6 PLAN OR A STATE HEALTH PROGRAM;

7 (3) CONSPIRE TO DEFRAUD THE STATE OR THE DEPARTMENT BY
8 GETTING A FALSE OR FRAUDULENT CLAIM APPROVED OR PAID BY THE STATE
9 OR THE DEPARTMENT UNDER A STATE HEALTH PLAN OR A STATE HEALTH
10 PROGRAM;

11 (4) (I) HAVE POSSESSION, CUSTODY, OR CONTROL OF MONEY
12 OR OTHER PROPERTY USED OR TO BE USED BY THE STATE OR THE
13 DEPARTMENT UNDER A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM;
14 AND

15 (II) INTEND TO DEFRAUD THE STATE OR THE
16 DEPARTMENT, WILLFULLY CONCEAL THE MONEY OR OTHER PROPERTY, OR
17 DELIVER OR CAUSE TO BE DELIVERED TO THE STATE OR THE DEPARTMENT
18 LESS MONEY OR OTHER PROPERTY AS DESCRIBED IN ITEM (I) OF THIS ITEM
19 THAN THE AMOUNT FOR WHICH THE PERSON RECEIVES A RECEIPT OR OTHER
20 DOCUMENT CERTIFYING RECEIPT;

21 (5) (I) BE AUTHORIZED TO MAKE OR DELIVER A RECEIPT OR
22 OTHER DOCUMENT CERTIFYING RECEIPT OF MONEY OR OTHER PROPERTY USED
23 OR TO BE USED BY THE STATE OR THE DEPARTMENT UNDER A STATE HEALTH
24 PLAN OR A STATE HEALTH PROGRAM; AND

25 (II) INTEND TO DEFRAUD THE STATE OR THE DEPARTMENT
26 OR MAKE OR DELIVER A RECEIPT OR DOCUMENT WITHOUT KNOWING THAT THE
27 INFORMATION CONTAINED IN THE RECEIPT OR DOCUMENT IS TRUE;

28 (6) KNOWINGLY BUY, OR RECEIVE AS A PLEDGE OF AN
29 OBLIGATION OR DEBT, PUBLICLY OWNED PROPERTY FROM AN OFFICER,
30 EMPLOYEE, OR AGENT OF A STATE HEALTH PLAN OR A STATE HEALTH
31 PROGRAM WHO LAWFULLY MAY NOT SELL OR PLEDGE THE PROPERTY;

32 (7) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A
33 FALSE RECORD OR STATEMENT TO CONCEAL, AVOID, OR DECREASE AN
34 OBLIGATION TO PAY OR TRANSMIT MONEY OR OTHER PROPERTY TO THE STATE
35 OR THE DEPARTMENT UNDER A STATE HEALTH PLAN OR A STATE HEALTH
36 PROGRAM; OR

1 **(8) KNOWINGLY MAKE ANY OTHER FALSE OR FRAUDULENT CLAIM**
2 **AGAINST A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM.**

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

6 **(I) A CIVIL PENALTY OF NOT LESS THAN \$5,000 AND NOT**
7 **MORE THAN \$10,000 FOR EACH VIOLATION OF SUBSECTION (A) OF THIS**
8 **SECTION; AND**

9 **(II) AN ADDITIONAL AMOUNT EQUAL TO THREE TIMES THE**
10 **AMOUNT OF DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF THE ACTS OF**
11 **THAT PERSON IN VIOLATION OF SUBSECTION (A) OF THIS SECTION.**

12 **(2) AS AN ALTERNATIVE TO PARAGRAPH (1) OF THIS**
13 **SUBSECTION, A COURT MAY ASSESS NOT LESS THAN TWO TIMES THE AMOUNT OF**
14 **DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF A PERSON'S ACTS IN**
15 **VIOLATION OF SUBSECTION (A) OF THIS SECTION, AND NO CIVIL PENALTY, IF**
16 **THE COURT FINDS THAT:**

17 **(I) THE PERSON COMMITTING THE VIOLATION PROVIDED**
18 **STATE OFFICIALS RESPONSIBLE FOR INVESTIGATING FALSE CLAIMS**
19 **VIOLATIONS INVOLVING STATE HEALTH PLANS OR STATE HEALTH PROGRAMS**
20 **WITH ANY INFORMATION ABOUT THE VIOLATION KNOWN TO THE PERSON**
21 **WITHIN 30 DAYS AFTER THE DATE ON WHICH THE PERSON FIRST OBTAINED THE**
22 **INFORMATION;**

23 **(II) THE PERSON COOPERATED FULLY WITH ANY STATE**
24 **INVESTIGATION OF THE VIOLATION; AND**

25 **(III) AT THE TIME THE PERSON PROVIDED THE STATE WITH**
26 **THE INFORMATION ABOUT THE VIOLATION:**

27 **1. NO CRIMINAL PROSECUTION, CIVIL ACTION, OR**
28 **ADMINISTRATIVE ACTION RELATING TO THE SAME VIOLATION HAD BEEN**
29 **INITIATED; AND**

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

32 **(C) THE PENALTIES PROVIDED IN SUBSECTION (B) OF THIS SECTION**
33 **ARE IN ADDITION TO ANY CRIMINAL, CIVIL, OR ADMINISTRATIVE PENALTIES**
34 **PROVIDED UNDER ANY OTHER STATE OR FEDERAL STATUTE OR REGULATION.**

1 **2-603.**

2 (A) IF THE STATE, THROUGH THE OFFICE OF THE ATTORNEY
3 GENERAL, THE DEPARTMENT, A STATE HEALTH PLAN, OR A STATE HEALTH
4 PROGRAM, FINDS THAT A PERSON HAS VIOLATED § 2-602(A) OF THIS SUBTITLE,
5 THE STATE MAY FILE A CIVIL ACTION IN A COURT OF COMPETENT
6 JURISDICTION WITHIN THE STATE AGAINST THE PERSON.

7 (B) IN FILING A CIVIL ACTION UNDER THIS SECTION, THE STATE MAY
8 SEEK:

9 (1) THE PENALTIES PROVIDED UNDER § 2-602(B) OF THIS
10 SUBTITLE;

11 (2) COMPENSATORY DAMAGES TO COMPENSATE THE STATE FOR
12 INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 2-602(A) OF
13 THIS SUBTITLE; AND

14 (3) COURT COSTS AND ATTORNEY'S FEES.

15 **2-604.**

16 (A) (1) (I) A PERSON MAY FILE A CIVIL ACTION ON BEHALF OF THE
17 PERSON AND THE STATE IN A COURT OF COMPETENT JURISDICTION WITHIN
18 THE STATE AGAINST A PERSON WHO ACTS IN VIOLATION OF § 2-602(A) OF THIS
19 SUBTITLE.

20 (II) A CIVIL ACTION FILED UNDER SUBPARAGRAPH (I) OF
21 THIS PARAGRAPH SHALL BE BROUGHT IN THE NAME OF THE STATE.

22 (2) A PERSON FILING AN ACTION UNDER THIS SECTION MAY
23 SEEK:

24 (I) ANY REMEDY AVAILABLE IN COMMON LAW TORT;

25 (II) THE PENALTIES PROVIDED UNDER § 2-602(B) OF THIS
26 SUBTITLE;

27 (III) COMPENSATORY DAMAGES TO COMPENSATE THE STATE
28 FOR INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 2-602(A)
29 OF THIS SUBTITLE; AND

30 (IV) COURT COSTS AND ATTORNEY'S FEES.

1 **(3) (I) THE PERSON SHALL SERVE ON THE STATE A COPY OF**
2 **THE COMPLAINT AND A WRITTEN DISCLOSURE OF SUBSTANTIALLY ALL**
3 **MATERIAL EVIDENCE AND INFORMATION THAT THE PERSON POSSESSES, IN**
4 **ACCORDANCE WITH THE PROVISIONS OF TITLE 2 OF THE MARYLAND RULES**
5 **FOR SERVING PROCESS ON THE STATE.**

6 **(II) 1. THE COMPLAINT SHALL BE FILED IN CAMERA AND**
7 **SHALL REMAIN UNDER SEAL FOR AT LEAST 60 DAYS.**

8 **2. THE COMPLAINT MAY NOT BE SERVED ON THE**
9 **DEFENDANT UNTIL THE COMPLAINT IS UNSEALED AND THE COURT ORDERS THE**
10 **COMPLAINT SERVED.**

11 **3. WITHIN 60 DAYS AFTER THE STATE RECEIVES**
12 **THE COMPLAINT AND THE MATERIAL EVIDENCE AND INFORMATION, THE STATE**
13 **MAY ELECT TO INTERVENE AND PROCEED WITH THE ACTION.**

14 **(4) (I) FOR GOOD CAUSE SHOWN, THE STATE MAY MOVE THE**
15 **COURT FOR EXTENSIONS OF THE TIME DURING WHICH THE COMPLAINT**
16 **REMAINS UNDER SEAL UNDER PARAGRAPH (3)(II)1 OF THIS SUBSECTION.**

17 **(II) ANY MOTIONS MADE UNDER SUBPARAGRAPH (I) OF**
18 **THIS PARAGRAPH MAY BE SUPPORTED BY AFFIDAVITS OR OTHER SUBMISSIONS**
19 **IN CAMERA.**

20 **(5) (I) THE DEFENDANT MAY NOT BE REQUIRED TO ANSWER A**
21 **COMPLAINT FILED UNDER THIS SECTION UNTIL AFTER THE COMPLAINT IS:**

22 **1. UNSEALED AND ORDERED BY THE COURT TO BE**
23 **SERVED; AND**

24 **2. SERVED ON THE DEFENDANT IN ACCORDANCE**
25 **WITH TITLE 2 OF THE MARYLAND RULES.**

26 **(II) WHEN ANSWERING A COMPLAINT FILED UNDER THIS**
27 **SECTION, A DEFENDANT SHALL FOLLOW THE TIME FRAMES AND OTHER**
28 **PROVISIONS FOR FILING ANSWERS TO A COMPLAINT AS REQUIRED UNDER**
29 **TITLE 2, CHAPTER 300 OF THE MARYLAND RULES.**

30 **(6) BEFORE THE LATER OF THE EXPIRATION OF THE 60-DAY**
31 **PERIOD DURING WHICH THE COMPLAINT REMAINS UNDER SEAL UNDER**
32 **PARAGRAPH (3)(II)1 OF THIS SUBSECTION OR ANY EXTENSION OF THE 60-DAY**
33 **PERIOD OBTAINED UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE STATE**
34 **SHALL:**

1 (I) **INTERVENE AND PROCEED WITH THE ACTION IN A**
2 **COURT OF COMPETENT JURISDICTION WITHIN THE STATE; OR**

3 (II) **NOTIFY THE COURT THAT IT WILL NOT INTERVENE AND**
4 **PROCEED WITH THE ACTION.**

5 (7) **IF A PERSON INITIATES AN ACTION UNDER THIS SECTION, NO**
6 **PERSON OTHER THAN THE STATE MAY INTERVENE IN THE ACTION OR INITIATE**
7 **A RELATED ACTION BASED ON THE FACTS UNDERLYING THE PENDING ACTION.**

8 (B) (1) **IF THE STATE INTERVENES AND PROCEEDS WITH THE ACTION**
9 **UNDER SUBSECTION (A)(6)(I) OF THIS SECTION:**

10 (I) **THE STATE SHALL HAVE THE PRIMARY RESPONSIBILITY**
11 **FOR PROCEEDING WITH THE ACTION AND MAY NOT BE BOUND BY ANY ACT OF**
12 **THE PERSON WHO INITIATED THE ACTION; AND**

13 (II) **SUBJECT TO PARAGRAPHS (3) THROUGH (6) OF THIS**
14 **SUBSECTION, THE PERSON WHO INITIATED THE ACTION MAY CONTINUE AS A**
15 **PARTY TO THE ACTION.**

16 (2) (1) **DURING AN INVESTIGATION BY THE STATE CONDUCTED**
17 **EITHER INDEPENDENTLY OR IN CONJUNCTION WITH A CIVIL ACTION FILED**
18 **UNDER THIS SUBTITLE, THE ATTORNEY GENERAL SHALL HAVE THE SAME**
19 **RIGHTS OF DISCOVERY AS A CIVIL LITIGANT IN THE CIRCUIT COURT UNDER**
20 **TITLE 2, CHAPTER 400 OF THE MARYLAND RULES.**

21 (II) **A PERSON FROM WHOM THE ATTORNEY GENERAL**
22 **SEEKS DISCOVERY SHALL BE CONSIDERED A PARTY UNDER TITLE 2, CHAPTER**
23 **400 OF THE MARYLAND RULES.**

24 (3) **NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
25 **INITIATING THE ACTION, THE STATE MAY PETITION THE COURT TO DISMISS AN**
26 **ACTION IF:**

27 (I) **THE PERSON INITIATING THE ACTION IS NOTIFIED BY**
28 **THE STATE OF THE FILING OF THE MOTION TO DISMISS; AND**

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

31 (4) **NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
32 **INITIATING THE ACTION, IF THE COURT DETERMINES AFTER A HEARING THAT A**
33 **PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER THE**

1 CIRCUMSTANCES, THE STATE MAY SETTLE A CIVIL ACTION FILED UNDER THIS
2 SECTION.

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

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

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

10 2. BE REPETITIOUS, IRRELEVANT, OR HARASSING
11 TO THE DEFENDANT; OR

12 (II) THE DEFENDANT SHOWS THAT UNRESTRICTED
13 PARTICIPATION BY THE PERSON INITIATING THE ACTION WOULD HARASS THE
14 DEFENDANT OR CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY
15 EXPENSE.

16 (6) LIMITATIONS IMPOSED BY THE COURT UNDER PARAGRAPH
17 (5) OF THIS SUBSECTION MAY INCLUDE:

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

20 (II) A LIMITATION ON THE LENGTH OF THE TESTIMONY OF
21 WITNESSES CALLED BY THE PERSON;

22 (III) A LIMITATION ON THE PERSON'S CROSS-EXAMINATION
23 OF WITNESSES; OR

24 (IV) OTHERWISE LIMITING THE PARTICIPATION OF THE
25 PERSON IN THE LITIGATION.

26 (C) (1) IF THE STATE ELECTS NOT TO INTERVENE AND PROCEED
27 WITH THE ACTION UNDER SUBSECTION (A)(6)(II) OF THIS SECTION, THE PERSON
28 INITIATING THE ACTION SHALL HAVE THE RIGHT TO PROCEED WITH THE
29 ACTION.

30 (2) NOTWITHSTANDING THE STATE'S ELECTION NOT TO
31 INTERVENE, IF THE STATE REQUESTS, THE COURT SHALL ORDER THAT THE
32 STATE BE SERVED AT ITS OWN EXPENSE WITH COPIES OF:

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

2 (II) ALL DEPOSITION TRANSCRIPTS.

3 (3) (I) IF A PERSON PROCEEDS WITH AN ACTION UNDER
4 PARAGRAPH (1) OF THIS SUBSECTION, THE COURT, WITHOUT LIMITING THE
5 STATUS AND RIGHTS OF THE PERSON INITIATING THE ACTION, MAY ALLOW THE
6 STATE TO INTERVENE AT A LATER DATE ON A SHOWING OF GOOD CAUSE.

7 (II) IF THE STATE SUBSEQUENTLY INTERVENES UNDER
8 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PERSON INITIATING THE ACTION
9 SHALL THEREAFTER BE SUBJECT TO THE LIMITATIONS PROVIDED UNDER
10 SUBSECTION (B)(3) THROUGH (6) OF THIS SECTION.

11 (D) (1) INSTEAD OF PROCEEDING WITH A CIVIL ACTION FILED UNDER
12 THIS SUBTITLE, THE STATE MAY PURSUE ANY ALTERNATIVE REMEDY
13 AVAILABLE TO THE STATE, INCLUDING ANY APPROPRIATE ADMINISTRATIVE
14 PROCEEDING TO DETERMINE A CIVIL MONEY PENALTY.

15 (2) IF THE STATE SEEKS AN ALTERNATIVE REMEDY IN ANOTHER
16 PROCEEDING AFTER INTERVENING IN A CIVIL ACTION FILED UNDER THIS
17 SECTION, THE PERSON INITIATING THE ACTION SHALL HAVE THE SAME RIGHTS
18 IN THE ALTERNATIVE PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE
19 CIVIL ACTION HAD CONTINUED UNDER THIS SECTION.

20 (3) (I) A FINDING OF FACT OR CONCLUSION OF LAW MADE IN
21 ANY ALTERNATIVE PROCEEDING THAT HAS BECOME FINAL SHALL BE
22 CONCLUSIVE ON ALL PARTIES TO AN ACTION FILED UNDER THIS SUBTITLE.

23 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS
24 PARAGRAPH, A FINDING OR CONCLUSION IS FINAL IF:

25 1. IT HAS BEEN FINALLY DETERMINED ON APPEAL
26 TO THE APPROPRIATE COURT OF THE STATE;

27 2. ALL TIME FOR FILING THE APPEAL WITH
28 RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED; OR

29 3. THE FINDING OR CONCLUSION IS NOT SUBJECT
30 TO JUDICIAL REVIEW.

31 (E) (1) WHETHER OR NOT THE STATE INTERVENES AND PROCEEDS
32 WITH A CIVIL ACTION FILED UNDER THIS SECTION, ON A SHOWING IN CAMERA
33 BY THE STATE THAT CERTAIN ACTIONS OF DISCOVERY BY THE PERSON
34 INITIATING THE ACTION WOULD INTERFERE WITH THE STATE'S INVESTIGATION

1 OR PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING OUT OF THE SAME
2 FACTS, THE COURT MAY STAY THE DISCOVERY FOR A PERIOD OF NOT MORE
3 THAN 60 DAYS.

4 (2) THE COURT MAY EXTEND THE 60-DAY PERIOD ON A FURTHER
5 SHOWING IN CAMERA THAT:

6 (I) THE STATE HAS PURSUED THE CRIMINAL OR CIVIL
7 INVESTIGATION OR PROCEEDING WITH REASONABLE DILIGENCE; AND

8 (II) ANY PROPOSED DISCOVERY IN THE CIVIL ACTION WILL
9 INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION OR
10 PROCEEDING.

11 **2-605.**

12 (A) (1) IF THE STATE INTERVENES AND PROCEEDS WITH AN ACTION
13 FILED UNDER § 2-604 OF THIS SUBTITLE AND THE STATE PREVAILS, THE COURT
14 SHALL AWARD THE PERSON INITIATING THE ACTION AN AMOUNT THAT IS:

15 (I) NOT LESS THAN 15% AND NOT MORE THAN 25% OF THE
16 PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND

17 (II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT
18 THAT THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE FINAL RESOLUTION
19 OF THE CIVIL ACTION.

20 (2) (I) IF THE COURT FINDS THAT THE ACTION IS BASED
21 PRIMARILY ON DISCLOSURES OF SPECIFIC INFORMATION RELATING TO
22 ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE
23 HEARING, IN A LEGISLATIVE OR ADMINISTRATIVE REPORT, HEARING, AUDIT, OR
24 INVESTIGATION, OR FROM THE NEWS MEDIA, THE COURT MAY MAKE AN AWARD
25 TO THE PERSON INITIATING THE ACTION THAT:

26 1. THE COURT CONSIDERS APPROPRIATE, TAKING
27 INTO ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF
28 THE PERSON INITIATING THE ACTION IN ADVANCING THE CASE TO LITIGATION;
29 AND

30 2. DOES NOT EXCEED 10% OF THE PROCEEDS OF
31 THE ACTION.

32 (II) THE INFORMATION DESCRIBED IN SUBPARAGRAPH (I)
33 OF THIS PARAGRAPH DOES NOT INCLUDE INFORMATION DISCLOSED AND
34 PROVIDED BY THE PERSON INITIATING THE ACTION.

1 **(3) ANY PAYMENT TO A PERSON UNDER PARAGRAPH (1) OR (2) OF**
2 **THIS SUBSECTION SHALL BE MADE FROM THE PROCEEDS OF THE ACTION.**

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

6 **1. AN AMOUNT FOR REASONABLE EXPENSES THAT**
7 **THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND**

8 **2. REASONABLE ATTORNEY'S FEES AND COSTS.**

9 **(II) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER**
10 **THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.**

11 **(B) (1) IF THE STATE DOES NOT INTERVENE AND PROCEED WITH AN**
12 **ACTION FILED UNDER § 2-604 OF THIS SUBTITLE AND THE PERSON INITIATING**
13 **THE ACTION PREVAILS, THE COURT SHALL AWARD THE PERSON INITIATING THE**
14 **ACTION AN AMOUNT THAT IS REASONABLE FOR COLLECTING THE CIVIL**
15 **PENALTY AND DAMAGES ON THE STATE'S BEHALF.**

16 **(2) AN AMOUNT AWARDED UNDER PARAGRAPH (1) OF THIS**
17 **SUBSECTION SHALL BE:**

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

20 **(II) PAID OUT OF THE PROCEEDS OF THE ACTION.**

21 **(3) (I) THE COURT ALSO SHALL AWARD THE PERSON**
22 **INITIATING THE ACTION:**

23 **1. AN AMOUNT FOR REASONABLE EXPENSES THAT**
24 **THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND**

25 **2. REASONABLE ATTORNEY'S FEES AND COSTS.**

26 **(II) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER**
27 **THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.**

28 **(C) (1) WHETHER OR NOT THE STATE INTERVENES AND PROCEEDS**
29 **WITH AN ACTION FILED UNDER § 2-604 OF THIS SUBTITLE, IF A COURT FINDS**
30 **THAT THE ACTION IS INITIATED BY A PERSON WHO PLANNED AND INITIATED OR**
31 **OTHERWISE DELIBERATELY PARTICIPATED IN THE VIOLATION ON WHICH THE**

1 ACTION WAS BASED, THE COURT MAY, TO THE EXTENT IT CONSIDERS
2 APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS OF THE ACTION THAT
3 THE PERSON OTHERWISE WOULD HAVE RECEIVED UNDER THIS SECTION.

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

7 (I) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO
8 LITIGATION; AND

9 (II) ANY RELEVANT CIRCUMSTANCES RELATING TO THE
10 UNDERLYING VIOLATION.

11 (3) (I) IF THE PERSON INITIATING A CIVIL ACTION UNDER §
12 2-604 OF THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM
13 THE PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS
14 BASED PRIOR TO A FINAL DETERMINATION OF THE ACTION, THE PERSON:

15 1. SHALL BE DISMISSED FROM THE ACTION; AND

16 2. MAY NOT RECEIVE ANY SHARE OF THE PROCEEDS
17 OF THE ACTION.

18 (II) THE DISMISSAL OF THE PERSON INITIATING THE
19 ACTION IN ACCORDANCE WITH THIS PARAGRAPH DOES NOT PREJUDICE THE
20 RIGHT OF THE STATE TO CONTINUE THE ACTION.

21 (4) IF THE PERSON INITIATING A CIVIL ACTION UNDER § 2-604 OF
22 THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM THE
23 PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS
24 BASED 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 (D) A COURT ~~MAY~~ SHALL AWARD REASONABLE ATTORNEY'S FEES AND
28 EXPENSES TO A DEFENDANT AND AGAINST THE PERSON INITIATING THE ACTION
29 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 INTERVENE AND PROCEED WITH THE**
2 **ACTION, AND THE PERSON INITIATING THE ACTION CONDUCTED THE ACTION.**

3 **2-606.**

4 **(A) THE STATE MAY NOT BE SUED AS A DEFENDANT UNDER THIS**
5 **SUBTITLE.**

6 **(B) NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN**
7 **ACTION FILED UNDER § 2-604 OF THIS SUBTITLE AGAINST ANY MEMBER OF THE**
8 **LEGISLATIVE BRANCH OR THE JUDICIARY OF THE STATE, ANY MEMBER OF THE**
9 **GOVERNOR'S EXECUTIVE COUNCIL, THE ATTORNEY GENERAL, THE**
10 **COMPTROLLER, OR THE STATE TREASURER IF THE ACTION IS BASED ON**
11 **EVIDENCE OR INFORMATION KNOWN TO THE STATE WHEN THE ACTION WAS**
12 **FILED.**

13 **(C) A PERSON MAY NOT BRING AN ACTION UNDER § 2-604 OF THIS**
14 **SUBTITLE THAT IS BASED ON ALLEGATIONS OR TRANSACTIONS THAT ARE THE**
15 **SUBJECT OF A CIVIL SUIT OR AN ADMINISTRATIVE CIVIL MONEY PENALTY**
16 **PROCEEDING IN WHICH THE STATE IS ALREADY A PARTY.**

17 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
18 **SUBSECTION, NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN**
19 **ACTION FILED UNDER § 2-604 OF THIS SUBTITLE THAT IS BASED ON THE**
20 **PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS:**

21 **(I) IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING;**

22 **(II) IN A LEGISLATIVE OR ADMINISTRATIVE REPORT,**
23 **HEARING, AUDIT, OR INVESTIGATION; OR**

24 **(III) FROM THE NEWS MEDIA.**

25 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF**
26 **THE ACTION IS INITIATED BY A PERSON WHO:**

27 **(I) HAS DIRECT AND INDEPENDENT KNOWLEDGE OF THE**
28 **INFORMATION ON WHICH THE ALLEGATIONS ARE BASED; AND**

29 **(II) HAS VOLUNTARILY PROVIDED THE INFORMATION TO**
30 **THE STATE BEFORE FILING AN ACTION UNDER § 2-604 OF THIS SUBTITLE THAT**
31 **IS BASED ON THE INFORMATION.**

1 **(3) THE STATE, THROUGH THE ATTORNEY GENERAL, MAY FILE A**
2 **CIVIL ACTION UNDER § 2-603 OF THIS SUBTITLE BASED ON THE PUBLIC**
3 **DISCLOSURE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.**

4 **(E) THE STATE IS NOT LIABLE FOR EXPENSES THAT A PERSON INCURS**
5 **IN BRINGING AN ACTION UNDER § 2-604 OF THIS SUBTITLE.**

6 **(F) A PERSON WHO IS OR WAS EMPLOYED BY THE STATE, A LOCAL**
7 **GOVERNMENT, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE AS AN**
8 **AUDITOR, INVESTIGATOR, ATTORNEY, FINANCIAL OFFICER, OR CONTRACTING**
9 **OFFICER MAY NOT BRING AN ACTION UNDER § 2-604 OF THIS SUBTITLE THAT IS**
10 **BASED ON ALLEGATIONS OR TRANSACTIONS THAT THE PERSON DISCOVERED OR**
11 **LEARNED OF WHILE ACTING IN THE PERSON'S CAPACITY AS AN AUDITOR,**
12 **INVESTIGATOR, ATTORNEY, FINANCIAL OFFICER, OR CONTRACTING OFFICER**
13 **FOR THE STATE, LOCAL GOVERNMENT, OR OTHER POLITICAL SUBDIVISION OF**
14 **THE STATE.**

15 **2-607.**

16 **(A) AN EMPLOYER MAY NOT TAKE A RETALIATORY ACTION AGAINST AN**
17 **EMPLOYEE BECAUSE THE EMPLOYEE:**

18 **(1) ACTS LAWFULLY ON BEHALF OF THE EMPLOYEE OR OTHERS**
19 **IN FURTHERANCE OF AN ACTION FILED UNDER THIS SUBTITLE, INCLUDING AN**
20 **INVESTIGATION FOR, INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN**
21 **ACTION FILED OR TO BE FILED UNDER THIS SUBTITLE;**

22 **(2) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR**
23 **OR TO A PUBLIC BODY AN ACTIVITY, POLICY, OR PRACTICE OF THE EMPLOYER**
24 **THAT THE EMPLOYEE REASONABLY BELIEVES IS IN VIOLATION OF § 2-602(A) OF**
25 **THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE;**

26 **(3) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A**
27 **PUBLIC BODY CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO A**
28 **VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED**
29 **UNDER THIS SUBTITLE THAT IS ALLEGEDLY OR ACTUALLY COMMITTED BY THE**
30 **EMPLOYER; OR**

31 **(4) OBJECTS TO OR REFUSES TO PARTICIPATE IN ANY ACTIVITY,**
32 **POLICY, OR PRACTICE THAT THE EMPLOYEE REASONABLY BELIEVES IS IN**
33 **VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED**
34 **UNDER THIS SUBTITLE.**

35 **(B) (1) AN EMPLOYEE MAY FILE A CIVIL ACTION AGAINST AN**
36 **EMPLOYER OTHER THAN A SUPERVISOR IN STATE GOVERNMENT, AN**

1 APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE HEAD OF A
2 PRINCIPAL UNIT IN STATE GOVERNMENT IF THE EMPLOYER TAKES A
3 RETALIATORY ACTION AGAINST THE EMPLOYEE IN VIOLATION OF SUBSECTION
4 (A) OF THIS SECTION.

5 (2) THE EMPLOYEE MAY SEEK IN THE CIVIL ACTION:

6 (I) AN INJUNCTION TO RESTRAIN A CONTINUING
7 VIOLATION OF SUBSECTION (A) OF THIS SECTION;

8 (II) REINSTATEMENT OF THE EMPLOYEE TO THE SAME
9 POSITION HELD BEFORE THE RETALIATORY ACTION OR TO AN EQUIVALENT
10 POSITION;

11 (III) REINSTATEMENT OF FULL FRINGE BENEFITS AND
12 SENIORITY RIGHTS;

13 (IV) TWO TIMES THE AMOUNT OF LOST WAGES, BENEFITS,
14 AND OTHER REMUNERATION, INCLUDING ANY INTEREST ACCUMULATED;

15 (V) PAYMENT BY THE EMPLOYER OF REASONABLE COSTS
16 AND ATTORNEY'S FEES;

17 (VI) PUNITIVE DAMAGES; OR

18 (VII) AN ASSESSMENT OF A CIVIL PENALTY:

19 1. NOT EXCEEDING \$1,000 FOR THE FIRST
20 VIOLATION; AND

21 2. NOT EXCEEDING \$5,000 FOR EACH SUBSEQUENT
22 VIOLATION.

23 (3) THE REMEDIES PROVIDED UNDER THIS SECTION DO NOT
24 DIMINISH OR AFFECT THE RIGHTS, PRIVILEGES, OR REMEDIES AVAILABLE TO
25 THE EMPLOYEE UNDER:

26 (I) ANY OTHER FEDERAL OR STATE STATUTE OR
27 REGULATION; OR

28 (II) ANY COLLECTIVE BARGAINING AGREEMENT OR
29 EMPLOYEE CONTRACT.

30 (C) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE AS DEFINED IN §
31 1-501 OF THE HEALTH OCCUPATIONS ARTICLE OR A STATE EMPLOYEE.

1 (D) (1) AN EMPLOYEE AS DEFINED IN § 1-501 OF THE HEALTH
2 OCCUPATIONS ARTICLE WHO IS SUBJECT TO RETALIATORY ACTION IN
3 VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY FILE A CIVIL ACTION
4 UNDER TITLE 1, SUBTITLE 5 OF THE HEALTH OCCUPATIONS ARTICLE.

5 (2) A STATE EMPLOYEE WHO IS SUBJECT TO RETALIATORY
6 ACTION IN VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY FILE A
7 COMPLAINT UNDER TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND
8 PENSIONS ARTICLE.

9 **2-608.**

10 AN EMPLOYER SHALL:

11 (1) CONSPICUOUSLY DISPLAY NOTICES OF THE PROTECTIONS
12 PROVIDED TO AND OBLIGATIONS REQUIRED OF ITS EMPLOYEES UNDER THIS
13 SUBTITLE; AND

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

16 **2-609.**

17 (A) A CIVIL ACTION FILED UNDER § 2-604 OF THIS SUBTITLE MAY NOT
18 BE FILED AFTER THE LATER OF:

19 (1) 6 YEARS AFTER THE DATE ON WHICH THE UNDERLYING
20 VIOLATION OF § 2-602(A) OF THIS SUBTITLE OCCURRED; OR

21 (2) 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO THE
22 RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN,
23 BUT IN NO EVENT MORE THAN 10 YEARS AFTER THE DATE ON WHICH THE
24 UNDERLYING VIOLATION OF § 2-602(A) OF THIS SUBTITLE IS COMMITTED.

25 (B) A CIVIL ACTION MAY BE FILED UNDER § 2-604 OF THIS SUBTITLE
26 FOR ACTIVITY THAT OCCURRED PRIOR TO OCTOBER 1, 2009, IF THE
27 LIMITATIONS PERIOD UNDER SUBSECTION (A) OF THIS SECTION HAS NOT
28 LAPSED.

29 (C) IN AN ACTION FILED UNDER THIS SUBTITLE, ALL ESSENTIAL
30 ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, SHALL BE PROVEN
31 BY A PREPONDERANCE OF THE EVIDENCE.

1 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE OF
2 PROCEDURE OR EVIDENCE IN THE MARYLAND RULES, A FINAL JUDGMENT
3 RENDERED IN FAVOR OF THE STATE IN ANY CRIMINAL PROCEEDING CHARGING
4 FRAUD OR FALSE STATEMENTS, WHETHER ON A VERDICT AFTER TRIAL OR ON A
5 PLEA OF GUILTY OR NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT FROM
6 DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION FILED
7 UNDER THIS SUBTITLE THAT INVOLVES THE SAME ACT, TRANSACTION, OR
8 OCCURRENCE AS IN THE CRIMINAL PROCEEDING.

9 **2-610.**

10 (A) ANY REMEDY PROVIDED UNDER THIS SUBTITLE IS IN ADDITION TO
11 ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF PROVIDED UNDER ANY
12 OTHER APPLICABLE STATE OR FEDERAL STATUTE OR REGULATION.

13 (B) THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR
14 DAMAGES ASSESSED UNDER THIS SUBTITLE IN THE GENERAL FUND OF THE
15 STATE.

16 (C) THE DEPARTMENT OR THE INSPECTOR GENERAL OF THE
17 DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF
18 THIS SUBTITLE.

19 **2-611.**

20 (A) BEGINNING OCTOBER 1, 2010, THE INSPECTOR GENERAL OF THE
21 DEPARTMENT AND THE DIRECTOR OF THE MEDICAID FRAUD CONTROL UNIT
22 IN THE OFFICE OF THE ATTORNEY GENERAL SHALL REPORT ANNUALLY TO THE
23 GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE
24 GOVERNMENT ARTICLE, THE FOLLOWING INFORMATION FOR THE PREVIOUS
25 FISCAL YEAR:

26 (1) THE NUMBER OF CIVIL ACTIONS FILED UNDER THIS
27 SUBTITLE;

28 (2) THE NUMBER OF CIVIL ACTIONS UNDER THIS SUBTITLE IN
29 WHICH A JUDGMENT WAS ENTERED, WHETHER BY SETTLEMENT OR
30 ADJUDICATION; AND

31 (3) THE NUMBER OF CLAIMS MADE BY THE STATE BASED ON
32 ALLEGED VIOLATIONS OF § 2-602(A) OF THIS SUBTITLE THAT ARE SETTLED
33 WITHOUT THE FILING OF A CIVIL ACTION UNDER THIS SUBTITLE.

1 **(B) UNLESS THE ACTION IS UNDER SEAL IN ACCORDANCE WITH § 2-604**
 2 **OF THIS SUBTITLE, FOR EACH CIVIL ACTION REPORTED UNDER SUBSECTION**
 3 **(A)(1) OR (2) OF THIS SECTION, THE REPORT SHALL STATE:**

4 **(1) WHETHER THE ACTION WAS FILED BY THE STATE OR BY A**
 5 **PERSON ON BEHALF OF THE STATE AND, IF FILED BY A PERSON, WHETHER THE**
 6 **STATE INTERVENED AND PROCEEDED WITH THE ACTION;**

7 **(2) THE NAME OF THE DEFENDANT;**

8 **(3) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION**
 9 **OF § 2-602 OF THIS SUBTITLE; AND**

10 **(4) THE AMOUNT SOUGHT IN THE ACTION AND, IF APPLICABLE,**
 11 **THE AMOUNT FOR WHICH THE DEFENDANT IS LIABLE UNDER A SETTLEMENT**
 12 **AGREEMENT OR COURT ORDER.**

13 **(C) FOR EACH CLAIM REPORTED UNDER SUBSECTION (A)(3) OF THIS**
 14 **SECTION, THE REPORT SHALL STATE:**

15 **(1) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION**
 16 **OF § 2-602 OF THIS SUBTITLE;**

17 **(2) THE RESOLUTION OF THE CLAIM;**

18 **(3) THE AMOUNT, IF ANY, THE PERSON AGAINST WHOM THE**
 19 **CLAIM WAS MADE AGREED TO PAY IN SETTLEMENT OF THE CLAIM; AND**

20 **(4) THE AMOUNT, IF ANY, COLLECTED BY THE STATE.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 October 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.