

SENATE BILL 727

P5

3lr0928

By: **Senators Muse, Colburn, and Jacobs**

Introduced and read first time: February 1, 2013

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Members of the General Assembly – Whistleblower Protection**

3 FOR the purpose of requiring the Attorney General to provide written notice of certain
4 protections and remedies to members of the General Assembly; prohibiting an
5 employer from taking or refusing to take certain personnel actions against
6 employees who are members of the General Assembly who disclose unlawful
7 behavior, refuse to participate in unlawful behavior, or seek certain remedies
8 following certain disclosures; providing for a certain limitation; requiring that a
9 certain disclosure be made to the Attorney General under certain
10 circumstances; authorizing a certain member of the General Assembly to
11 institute a civil action in the county where a certain violation occurred, where
12 the member resides, or where the member's employer maintains its principal
13 office in the State; requiring the civil action to be brought within a certain
14 period of time; establishing the remedies for certain members of the General
15 Assembly that a court may grant; providing a certain defense; requiring the
16 Attorney General to designate a certain assistant Attorney General to take
17 certain information from certain members of the General Assembly, investigate
18 certain allegations, and take certain actions; defining a certain term; and
19 generally relating to whistleblower protection for members of the General
20 Assembly.

21 BY adding to

22 Article – State Government

23 Section 2–1703

24 Annotated Code of Maryland

25 (2009 Replacement Volume and 2012 Supplement)

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

28 **Article – State Government**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **2-1703.**

2 (A) (1) IN THIS SECTION, "EMPLOYER" MEANS:

3 (I) A PERSON ENGAGED IN A BUSINESS, INDUSTRY,
4 PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE;

5 (II) THE STATE AND ITS UNITS;

6 (III) A COUNTY AND ITS UNITS; AND

7 (IV) A MUNICIPAL GOVERNMENT IN THE STATE.

8 (2) "EMPLOYER" INCLUDES A PERSON WHO ACTS DIRECTLY OR
9 INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

10 (B) THE ATTORNEY GENERAL SHALL PROVIDE MEMBERS OF THE
11 GENERAL ASSEMBLY WITH WRITTEN NOTICE OF THE PROTECTIONS AND
12 REMEDIES PROVIDED BY THIS SECTION.

13 (C) SUBJECT TO THE LIMITATION OF SUBSECTION (D) OF THIS SECTION,
14 AN EMPLOYER MAY NOT TAKE OR REFUSE TO TAKE ANY PERSONNEL ACTION AS
15 A REPRISAL AGAINST A MEMBER OF THE GENERAL ASSEMBLY WHO IS AN
16 EMPLOYEE BECAUSE THE MEMBER:

17 (1) DISCLOSES INFORMATION THAT THE MEMBER REASONABLY
18 BELIEVES EVIDENCES:

19 (I) AN ABUSE OF AUTHORITY; OR

20 (II) A VIOLATION OF LAW;

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

23 (3) FOLLOWING A DISCLOSURE UNDER ITEM (1) OF THIS
24 SUBSECTION, SEEKS A REMEDY PROVIDED UNDER THIS SECTION.

25 (D) SUBSECTION (C) OF THIS SECTION APPLIES TO A DISCLOSURE THAT
26 IS SPECIFICALLY PROHIBITED BY LAW ONLY IF THAT DISCLOSURE IS MADE
27 EXCLUSIVELY TO THE ATTORNEY GENERAL IN THE MANNER ALLOWED IN
28 SUBSECTION (H) OF THIS SECTION.

1 **(E) (1) ANY MEMBER OF THE GENERAL ASSEMBLY WHO IS SUBJECT**
2 **TO A PERSONNEL ACTION IN VIOLATION OF SUBSECTION (C) OF THIS SECTION**
3 **MAY INSTITUTE A CIVIL ACTION IN THE COUNTY WHERE:**

4 **(I) THE ALLEGED VIOLATION OCCURRED;**

5 **(II) THE MEMBER OF THE GENERAL ASSEMBLY RESIDES; OR**

6 **(III) THE EMPLOYER MAINTAINS ITS PRINCIPAL OFFICE IN**
7 **THE STATE.**

8 **(2) AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION**
9 **SHALL BE BROUGHT WITHIN 1 YEAR AFTER:**

10 **(I) THE ALLEGED VIOLATION OF SUBSECTION (C) OF THIS**
11 **SECTION OCCURRED; OR**

12 **(II) THE MEMBER OF THE GENERAL ASSEMBLY FIRST**
13 **BECAME AWARE OF THE ALLEGED VIOLATION OF SUBSECTION (C) OF THIS**
14 **SECTION.**

15 **(F) IN ANY ACTION BROUGHT UNDER THIS SECTION, A COURT MAY:**

16 **(1) ISSUE AN INJUNCTION TO RESTRAIN CONTINUED VIOLATION**
17 **OF SUBSECTION (C) OF THIS SECTION;**

18 **(2) REINSTATE THE MEMBER OF THE GENERAL ASSEMBLY WHO**
19 **IS AN EMPLOYEE TO THE SAME OR AN EQUIVALENT POSITION HELD BEFORE THE**
20 **VIOLATION OF SUBSECTION (C) OF THIS SECTION;**

21 **(3) REMOVE ANY ADVERSE PERSONNEL RECORD ENTRIES BASED**
22 **ON OR RELATED TO THE VIOLATION OF SUBSECTION (C) OF THIS SECTION;**

23 **(4) REINSTATE FULL FRINGE BENEFITS AND SENIORITY RIGHTS;**

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

26 **(6) AWARD COSTS OF LITIGATION AND REASONABLE ATTORNEY'S**
27 **FEEES TO THE PREVAILING MEMBER OF THE GENERAL ASSEMBLY; AND**

28 **(7) AWARD ANY OTHER APPROPRIATE DAMAGES AND RELIEF.**

1 **(G) IN ANY ACTION BROUGHT UNDER THIS SECTION, IT IS A DEFENSE**
2 **THAT THE PERSONNEL ACTION WAS BASED ON GROUNDS OTHER THAN THE**
3 **EMPLOYEE'S EXERCISE OF ANY RIGHTS PROTECTED UNDER THIS SECTION.**

4 **(H) FOR PURPOSES OF THIS SECTION, THE ATTORNEY GENERAL SHALL:**

5 **(1) DESIGNATE AN ASSISTANT ATTORNEY GENERAL TO RECEIVE**
6 **FROM MEMBERS OF THE GENERAL ASSEMBLY ANY INFORMATION THE**
7 **DISCLOSURE OF WHICH IS OTHERWISE PROTECTED BY LAW;**

8 **(2) INVESTIGATE EACH ALLEGATION OF ILLEGALITY OR**
9 **IMPROPRIETY; AND**

10 **(3) TAKE APPROPRIATE LEGAL ACTION.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2013.