

My name is Reuben Guttman, and I am a founding partner of Guttman, Buschner & Brooks, PLLC in Washington, DC.

I have represented whistleblowers in cases that in the aggregate have returned more than \$6 billion to federal and state governments.

In addition to the practice of law, I am an adjunct faculty member of the American University School of Public Affairs. I have authored more than 100 published articles and I am a co-author of the text *Pretrial Advocacy* with Professor JC Lore of Rutgers law (Wolters Klower/NITA 2022). I am also co-author with University of Maryland law Professor Liza Vertinsky of the article, "Public-Private Litigation for Health" (2021 ULR 1173).

Cases we have brought on behalf of whistleblowers against the healthcare industry have not only returned money to the government but have revealed practices by providers, pharmaceutical and device manufacturers that have exposed patients to harm and have caused death.

The FCA is designed to create a public-private partnership with regard to the pursuit of individuals or entities that file or cause to be filed false or fraudulent claims with the government. The statute - whose remedy is the return of money - is essentially a consumer statute that has the impact of lending transparency - or shedding sunlight as Justice Brandeis might say - on impropriety that injures people.

The amendments proposed by HB 0073 are essential and fully consistent with legislation in many other states. Indeed, they bring Maryland into a state of law conformity.

First, because contemporary fraud is complex, the government does not always have the time or resources to investigate and make an intervention decision during the period that the case is unsealed. Hence allowing the Relator to go forward with the case absent government intervention is essential. Providing the government a right to enter or intervene in the case at a later date - as facts develop - maximizes government resources and is consistent with legislation at the federal and state level.

Second, allowing the government subpoena power or the power to secure documents during the seal period allows the Attorney General to make the most informed decisions about intervention and even pre-complaint resolution.

Third, the language regarding enhanced civil penalties is critical. Too often damages cannot be measured in actual loss terms. Consider understaffing in nursing homes, double booking surgeries, and making misrepresentations on patient informed consent forms. These are derelictions that absolutely merit relief that will have a deterrent impact.

For the above reasons, I write in support of the Bill.