

SENATE BILL 272

C3, J1
SB 215/08 – JPR

9lr0001
CF 9lr0248

By: **The President (By Request – Administration) and Senators Conway, Frosh, Harrington, Lenett, Madaleno, Pinsky, Raskin, and Robey**
Introduced and read first time: January 23, 2009
Assigned to: Judicial Proceedings

A BILL ENTITLED

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;
25 authorizing an employee to file a civil action against an employer that takes
26 retaliatory action against the employee under certain circumstances; providing
27 certain remedies for retaliatory action; requiring an employer to make certain
28 disclosures to employees; requiring the Comptroller to deposit a certain penalty
29 or damages in the General Fund of the State; authorizing the Department of
30 Health and Mental Hygiene or the Inspector General of the Department to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 adopt certain regulations; defining certain terms; and generally relating to false
2 claims against State health plans and State health programs.

3 BY adding to

4 Article – Health – General

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

7 Annotated Code of Maryland

8 (2005 Replacement Volume and 2008 Supplement)

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

11 **Article – Health – General**

12 **SUBTITLE 6. FALSE CLAIMS AGAINST STATE HEALTH PLANS AND STATE**
13 **HEALTH PROGRAMS.**

14 **2–601.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

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

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

24 (2) THE STATE OR THE DEPARTMENT, THROUGH A STATE
25 HEALTH PLAN OR A STATE HEALTH PROGRAM, REIMBURSES THE CONTRACTOR,
26 GRANTEE, PROVIDER, OR OTHER PERSON FOR ANY PORTION OF THE MONEY OR
27 OTHER PROPERTY THAT IS REQUESTED OR DEMANDED.

28 (C) “DOCUMENTARY MATERIAL” INCLUDES:

29 (1) THE ORIGINAL OR A COPY OF:

30 (I) A BOOK;

31 (II) A RECORD;

- 1 (III) A REPORT;
- 2 (IV) A MEMORANDUM;
- 3 (V) A PAPER;
- 4 (VI) A COMMUNICATION;
- 5 (VII) A TABULATION;
- 6 (VIII) A CHART;
- 7 (IX) A DOCUMENT; OR
- 8 (X) DATA COMPILATION STORED IN OR ACCESSIBLE
- 9 THROUGH A COMPUTER OR OTHER INFORMATION RETRIEVAL SYSTEM,
- 10 INCLUDING INSTRUCTIONS AND ALL OTHER MATERIALS NECESSARY TO USE OR
- 11 INTERPRET THE DATA COMPILATION; AND

12 (2) ANY PRODUCT OF DISCOVERY, INCLUDING:

13 (I) THE ORIGINAL OR DUPLICATE OF ANY DEPOSITION,

14 INTERROGATORY, DOCUMENT, THING, RESULT OF AN INSPECTION OF LAND OR

15 OTHER PROPERTY, EXAMINATION, OR ADMISSION THAT IS OBTAINED BY ANY

16 METHOD OF DISCOVERY IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING OF

17 AN ADVERSARIAL NATURE;

18 (II) ANY DIGEST, ANALYSIS, SELECTION, COMPILATION, OR

19 DERIVATION OF ANY ITEM LISTED IN ITEM (I) OF THIS PARAGRAPH; AND

20 (III) ANY INDEX OR OTHER MANNER OF ACCESS TO ANY ITEM

21 LISTED IN ITEM (I) OF THIS PARAGRAPH.

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

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

24 EMPLOYER; AND

25 (2) UNDER AN EMPLOYER'S PROMISE OR IMPLIED PROMISE OF

26 PAYMENT OF WAGES OR OTHER REMUNERATION.

27 (E) (1) "EMPLOYER" MEANS A PERSON OR GROUP OF PERSONS WHO,

28 ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP

29 OF PERSONS:

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

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

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

10 (I) THE STATE;

11 (II) A LOCAL GOVERNMENT;

12 (III) ANY OTHER POLITICAL SUBDIVISION;

13 (IV) A UNIT OF THE ENTITIES LISTED IN ITEMS (I) THROUGH
14 (III) OF THIS PARAGRAPH;

15 (V) A SCHOOL DISTRICT;

16 (VI) A SPECIAL DISTRICT OR AUTHORITY;

17 (VII) AN APPOINTED OR ELECTED COMMISSION OR BOARD;

18 OR

19 (VIII) AN AGENCY OR INSTRUMENTALITY OF THE ENTITIES
20 LISTED IN ITEMS (I) THROUGH (VII) OF THIS PARAGRAPH.

21 (F) "KNOWING" OR "KNOWINGLY" MEANS, WITH RESPECT TO
22 INFORMATION, THAT A PERSON:

23 (1) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;

24 (2) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY
25 OF THE INFORMATION; OR

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

1 (G) "PROVIDER" HAS THE MEANING STATED IN § 2-501 OF THIS TITLE.

2 (H) "PUBLIC BODY" MEANS:

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

4 (2) A MEMBER OR EMPLOYEE OF THE GENERAL ASSEMBLY OR
5 OTHER ELECTED BODY;

6 (3) A STATE COURT;

7 (4) A MEMBER OR EMPLOYEE OF A STATE COURT;

8 (5) A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR
9 PUBLIC AGENCY OR AUTHORITY;

10 (6) AN INSTRUMENTALITY OF A STATE OR LOCAL REGULATORY,
11 ADMINISTRATIVE, OR PUBLIC AGENCY OR AUTHORITY;

12 (7) A STATE OR LOCAL LAW ENFORCEMENT AGENCY,
13 PROSECUTORIAL OFFICE, OR POLICE OR PEACE OFFICER;

14 (8) A STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH
15 OF GOVERNMENT; OR

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

18 (I) "RETALIATORY ACTION" MEANS:

19 (1) THE DISCHARGE, SUSPENSION, OR DEMOTION OF AN
20 EMPLOYEE; OR

21 (2) ANY ADVERSE EMPLOYMENT ACTION TAKEN AGAINST AN
22 EMPLOYEE RELATING TO THE EMPLOYEE'S TERMS OR CONDITIONS OF
23 EMPLOYMENT.

24 (J) (1) "STATE HEALTH PLAN" MEANS:

25 (I) THE STATE MEDICAL ASSISTANCE PLAN ESTABLISHED
26 IN ACCORDANCE WITH THE FEDERAL SOCIAL SECURITY ACT OF 1939;

27 (II) A MEDICAL ASSISTANCE PLAN ESTABLISHED BY THE
28 STATE; OR

1 (III) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH
2 MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION AS DEFINED IN
3 § 15-101 OF THIS ARTICLE, HEALTH CARE COOPERATIVE OR ALLIANCE, OR
4 OTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE
5 SERVICES THAT ARE WHOLLY OR PARTIALLY REIMBURSED BY, OR ARE A
6 REQUIRED BENEFIT OF, A HEALTH PLAN ESTABLISHED IN ACCORDANCE WITH
7 THE FEDERAL SOCIAL SECURITY ACT OF 1939 OR BY THE STATE.

8 (2) "STATE HEALTH PLAN" INCLUDES A PERSON WHO PROVIDES
9 OR CONTRACTS OR SUBCONTRACTS TO PROVIDE HEALTH CARE SERVICES FOR
10 AN ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

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

19 (L) "SUPERVISOR" MEANS AN INDIVIDUAL WITHIN AN EMPLOYER'S
20 ORGANIZATION WHO HAS THE AUTHORITY TO:

21 (1) DIRECT AND CONTROL THE WORK PERFORMANCE OF AN
22 EMPLOYEE; OR

23 (2) TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF A
24 LAW OR REGULATION THAT IS THE SUBJECT OF A COMPLAINT OR CHARGE
25 UNDER THIS SUBTITLE.

26 2-602.

27 (A) A PERSON MAY NOT:

28 (1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED TO AN
29 OFFICER, EMPLOYEE, OR AGENT OF THE STATE OR THE DEPARTMENT, OR TO
30 ANY CONTRACTOR, GRANTEE, PROVIDER, OR OTHER PERSON RECEIVING STATE
31 OR DEPARTMENTAL FUNDS, A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OR
32 APPROVAL BY THE STATE OR THE DEPARTMENT UNDER A STATE HEALTH PLAN
33 OR A STATE HEALTH PROGRAM;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **(III) AT THE TIME THE PERSON PROVIDED THE STATE WITH**
24 **THE INFORMATION ABOUT THE VIOLATION:**

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

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

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

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) (I) 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

1 PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER THE
2 CIRCUMSTANCES, THE STATE MAY SETTLE A CIVIL ACTION FILED UNDER THIS
3 SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (II) ALL DEPOSITION TRANSCRIPTS.

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

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

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

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

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

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

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

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

32 3. THE FINDING OR CONCLUSION IS NOT SUBJECT
33 TO JUDICIAL REVIEW.

1 **(E) (1) WHETHER OR NOT THE STATE INTERVENES AND PROCEEDS**
2 **WITH A CIVIL ACTION FILED UNDER THIS SECTION, ON A SHOWING IN CAMERA**
3 **BY THE STATE THAT CERTAIN ACTIONS OF DISCOVERY BY THE PERSON**
4 **INITIATING THE ACTION WOULD INTERFERE WITH THE STATE'S INVESTIGATION**
5 **OR PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING OUT OF THE SAME**
6 **FACTS, THE COURT MAY STAY THE DISCOVERY FOR A PERIOD OF NOT MORE**
7 **THAN 60 DAYS.**

8 **(2) THE COURT MAY EXTEND THE 60-DAY PERIOD ON A FURTHER**
9 **SHOWING IN CAMERA THAT:**

10 **(I) THE STATE HAS PURSUED THE CRIMINAL OR CIVIL**
11 **INVESTIGATION OR PROCEEDING WITH REASONABLE DILIGENCE; AND**

12 **(II) ANY PROPOSED DISCOVERY IN THE CIVIL ACTION WILL**
13 **INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION OR**
14 **PROCEEDING.**

15 **2-605.**

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

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

21 **(II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT**
22 **THAT THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE FINAL RESOLUTION**
23 **OF THE CIVIL ACTION.**

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

30 **1. THE COURT CONSIDERS APPROPRIATE, TAKING**
31 **INTO ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF**
32 **THE PERSON INITIATING THE ACTION IN ADVANCING THE CASE TO LITIGATION;**
33 **AND**

1 **2. DOES NOT EXCEED 10% OF THE PROCEEDS OF**
2 **THE ACTION.**

3 **(II) THE INFORMATION DESCRIBED IN SUBPARAGRAPH (I)**
4 **OF THIS PARAGRAPH DOES NOT INCLUDE INFORMATION DISCLOSED AND**
5 **PROVIDED BY THE PERSON INITIATING THE ACTION.**

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

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

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

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

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

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

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

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

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

26 **(3) (I) THE COURT ALSO SHALL AWARD THE PERSON**
27 **INITIATING THE ACTION:**

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

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

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

3 **(C) (1) WHETHER OR NOT THE STATE INTERVENES AND PROCEEDS**
4 **WITH AN ACTION FILED UNDER § 2-604 OF THIS SUBTITLE, IF A COURT FINDS**
5 **THAT THE ACTION IS INITIATED BY A PERSON WHO PLANNED AND INITIATED OR**
6 **OTHERWISE DELIBERATELY PARTICIPATED IN THE VIOLATION ON WHICH THE**
7 **ACTION WAS BASED, THE COURT MAY, TO THE EXTENT IT CONSIDERS**
8 **APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS OF THE ACTION THAT**
9 **THE PERSON OTHERWISE WOULD HAVE RECEIVED UNDER THIS SECTION.**

10 **(2) IN REDUCING THE SHARE OF THE PROCEEDS OF THE PERSON**
11 **INITIATING THE ACTION UNDER THIS SUBSECTION, THE COURT SHALL**
12 **CONSIDER:**

13 **(I) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO**
14 **LITIGATION; AND**

15 **(II) ANY RELEVANT CIRCUMSTANCES RELATING TO THE**
16 **UNDERLYING VIOLATION.**

17 **(3) (I) IF THE PERSON INITIATING A CIVIL ACTION UNDER §**
18 **2-604 OF THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM**
19 **THE PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS**
20 **BASED PRIOR TO A FINAL DETERMINATION OF THE ACTION, THE PERSON:**

21 **1. SHALL BE DISMISSED FROM THE ACTION; AND**

22 **2. MAY NOT RECEIVE ANY SHARE OF THE PROCEEDS**
23 **OF THE ACTION.**

24 **(II) THE DISMISSAL OF THE PERSON INITIATING THE**
25 **ACTION IN ACCORDANCE WITH THIS PARAGRAPH DOES NOT PREJUDICE THE**
26 **RIGHT OF THE STATE TO CONTINUE THE ACTION.**

27 **(4) IF THE PERSON INITIATING A CIVIL ACTION UNDER § 2-604 OF**
28 **THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM THE**
29 **PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS**
30 **BASED AFTER THE PROCEEDS FROM THE ACTION ARE AWARDED TO THAT**
31 **PERSON, THE COURT SHALL ORDER THE PERSON TO REPAY THE PROCEEDS**
32 **PREVIOUSLY AWARDED.**

1 (D) A COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND
2 EXPENSES TO A DEFENDANT AND AGAINST THE PERSON INITIATING THE ACTION
3 IF:

4 (1) THE DEFENDANT PREVAILS IN THE ACTION;

5 (2) THE COURT FINDS THAT THE CLAIM OF THE PERSON
6 INITIATING THE ACTION WAS CLEARLY FRIVOLOUS, VEXATIOUS, OR BROUGHT
7 PRIMARILY FOR PURPOSES OF HARASSMENT; AND

8 (3) THE STATE DID NOT INTERVENE AND PROCEED WITH THE
9 ACTION, AND THE PERSON INITIATING THE ACTION CONDUCTED THE ACTION.

10 **2-606.**

11 (A) THE STATE MAY NOT BE SUED AS A DEFENDANT UNDER THIS
12 SUBTITLE.

13 (B) NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN
14 ACTION FILED UNDER § 2-604 OF THIS SUBTITLE AGAINST ANY MEMBER OF THE
15 LEGISLATIVE BRANCH OR THE JUDICIARY OF THE STATE, ANY MEMBER OF THE
16 GOVERNOR'S EXECUTIVE COUNCIL, THE ATTORNEY GENERAL, THE
17 COMPTROLLER, OR THE STATE TREASURER IF THE ACTION IS BASED ON
18 EVIDENCE OR INFORMATION KNOWN TO THE STATE WHEN THE ACTION WAS
19 FILED.

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

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

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

29 (II) IN A LEGISLATIVE OR ADMINISTRATIVE REPORT,
30 HEARING, AUDIT, OR INVESTIGATION; OR

31 (III) FROM THE NEWS MEDIA.

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

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

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

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

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

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

22 **2-607.**

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

25 **(1) ACTS LAWFULLY ON BEHALF OF THE EMPLOYEE OR OTHERS**
26 **IN FURTHERANCE OF AN ACTION FILED UNDER THIS SUBTITLE, INCLUDING AN**
27 **INVESTIGATION FOR, INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN**
28 **ACTION FILED OR TO BE FILED UNDER THIS SUBTITLE;**

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

33 **(3) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A**
34 **PUBLIC BODY CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO A**

1 VIOLATION OF § 2-602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED
2 UNDER THIS SUBTITLE THAT IS ALLEGEDLY OR ACTUALLY COMMITTED BY THE
3 EMPLOYER; OR

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

8 (B) (1) AN EMPLOYEE MAY FILE A CIVIL ACTION AGAINST AN
9 EMPLOYER OTHER THAN A SUPERVISOR IN STATE GOVERNMENT, AN
10 APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE HEAD OF A
11 PRINCIPAL UNIT IN STATE GOVERNMENT IF THE EMPLOYER TAKES A
12 RETALIATORY ACTION AGAINST THE EMPLOYEE IN VIOLATION OF SUBSECTION
13 (A) OF THIS SECTION.

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

15 (I) AN INJUNCTION TO RESTRAIN A CONTINUING
16 VIOLATION OF SUBSECTION (A) OF THIS SECTION;

17 (II) REINSTATEMENT OF THE EMPLOYEE TO THE SAME
18 POSITION HELD BEFORE THE RETALIATORY ACTION OR TO AN EQUIVALENT
19 POSITION;

20 (III) REINSTATEMENT OF FULL FRINGE BENEFITS AND
21 SENIORITY RIGHTS;

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

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

26 (VI) PUNITIVE DAMAGES; OR

27 (VII) AN ASSESSMENT OF A CIVIL PENALTY:

28 1. NOT EXCEEDING \$1,000 FOR THE FIRST
29 VIOLATION; AND

30 2. NOT EXCEEDING \$5,000 FOR EACH SUBSEQUENT
31 VIOLATION.

1 **(3) THE REMEDIES PROVIDED UNDER THIS SECTION DO NOT**
2 **DIMINISH OR AFFECT THE RIGHTS, PRIVILEGES, OR REMEDIES AVAILABLE TO**
3 **THE EMPLOYEE UNDER:**

4 **(I) ANY OTHER FEDERAL OR STATE STATUTE OR**
5 **REGULATION; OR**

6 **(II) ANY COLLECTIVE BARGAINING AGREEMENT OR**
7 **EMPLOYEE CONTRACT.**

8 **(C) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE AS DEFINED IN §**
9 **1-501 OF THE HEALTH OCCUPATIONS ARTICLE OR A STATE EMPLOYEE.**

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

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

18 **2-608.**

19 **AN EMPLOYER SHALL:**

20 **(1) CONSPICUOUSLY DISPLAY NOTICES OF THE PROTECTIONS**
21 **PROVIDED TO AND OBLIGATIONS REQUIRED OF ITS EMPLOYEES UNDER THIS**
22 **SUBTITLE; AND**

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

25 **2-609.**

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

28 **(1) 6 YEARS AFTER THE DATE ON WHICH THE UNDERLYING**
29 **VIOLATION OF § 2-602(A) OF THIS SUBTITLE OCCURRED; OR**

30 **(2) 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO THE**
31 **RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN,**

1 BUT IN NO EVENT MORE THAN 10 YEARS AFTER THE DATE ON WHICH THE
2 UNDERLYING VIOLATION OF § 2-602(A) OF THIS SUBTITLE IS COMMITTED.

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

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

10 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE OF
11 PROCEDURE OR EVIDENCE IN THE MARYLAND RULES, A FINAL JUDGMENT
12 RENDERED IN FAVOR OF THE STATE IN ANY CRIMINAL PROCEEDING CHARGING
13 FRAUD OR FALSE STATEMENTS, WHETHER ON A VERDICT AFTER TRIAL OR ON A
14 PLEA OF GUILTY OR NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT FROM
15 DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION FILED
16 UNDER THIS SUBTITLE THAT INVOLVES THE SAME ACT, TRANSACTION, OR
17 OCCURRENCE AS IN THE CRIMINAL PROCEEDING.

18 **2-610.**

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

22 (B) THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR
23 DAMAGES ASSESSED UNDER THIS SUBTITLE IN THE GENERAL FUND OF THE
24 STATE.

25 (C) THE DEPARTMENT OR THE INSPECTOR GENERAL OF THE
26 DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF
27 THIS SUBTITLE.

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