

HOUSE BILL 1101

M3, M1

4lr1884
CF SB 653

By: **Delegates Love, Charkoudian, Foley, Fraser–Hidalgo, J. Long, Ruth, and Stewart**

Introduced and read first time: February 7, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Standing – Environmental and Natural Resources Protection Proceedings**
3 **(Clean Water Justice Act of 2024)**

4 FOR the purpose of providing certain persons and associations standing in certain
5 environmental and natural resources protection proceedings, including proceedings
6 arising under provisions of law relating to water quality and water resources
7 protection, subject to certain conditions; authorizing certain persons that meet
8 certain standing requirements to bring certain civil actions under certain
9 circumstances; authorizing a court to grant certain relief, award certain costs of
10 litigation, and impose certain civil penalties in certain civil actions under certain
11 circumstances; authorizing certain persons that meet certain standing requirements
12 to intervene in certain proceedings under certain circumstances; and generally
13 relating to standing in certain environmental and natural resources protection
14 proceedings.

15 BY adding to
16 Article – Environment
17 Section 1–901 through 1–905 to be under the new subtitle “Subtitle 9. Clean Water
18 Justice Act”
19 Annotated Code of Maryland
20 (2013 Replacement Volume and 2023 Supplement)

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

23 **Article – Environment**

24 **SUBTITLE 9. CLEAN WATER JUSTICE ACT.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **1-901.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "ASSOCIATION" MEANS AN ASSOCIATION, A CORPORATION, OR ANY
5 OTHER ORGANIZATION THAT CONSISTS OF TWO OR MORE MEMBERS JOINED BY
6 MUTUAL CONSENT FOR A COMMON PURPOSE.

7 (C) "COSTS OF LITIGATION" INCLUDES REASONABLE ATTORNEY'S FEES,
8 COURT COSTS, EXPERT WITNESS FEES, AND DOCUMENTED COSTS INCURRED IN
9 INVESTIGATING ALLEGED VIOLATIONS.

10 (D) (1) "INJURY IN FACT" MEANS AN INVASION OF A LEGALLY
11 PROTECTED INTEREST THAT IS:

12 (I) CONCRETE AND PARTICULARIZED;

13 (II) ACTUAL OR IMMINENT; AND

14 (III) NOT CONJECTURAL OR HYPOTHETICAL.

15 (2) "INJURY IN FACT" INCLUDES:

16 (I) A PROPERTY RIGHT OR PERSONAL INTEREST THAT IS
17 DISTINCT FROM, OR SPECIFICALLY AFFECTED IN A WAY THAT IS DISTINCT FROM, A
18 PROPERTY RIGHT OR PERSONAL INTEREST OF THE GENERAL PUBLIC; AND

19 (II) A NEGATIVE IMPACT, OR THE THREAT OF A NEGATIVE
20 IMPACT, TO A PERSON'S HEALTH OR TO THE USE AND ENJOYMENT OF A NATURAL
21 RESOURCE OR ENVIRONMENT, INCLUDING A NEGATIVE IMPACT TO AESTHETIC,
22 RECREATIONAL, CONSERVATIONAL, AND ECONOMIC INTERESTS THAT MAY BE
23 SHARED AMONG COMMUNITY MEMBERS.

24 (E) "POLITICAL SUBDIVISION" MEANS:

25 (1) A COUNTY;

26 (2) THE CITY OF BALTIMORE;

27 (3) A MULTICOUNTY AGENCY;

28 (4) A MUNICIPAL CORPORATION;

1 **(5) A SINGLE-PURPOSE DISTRICT; OR**

2 **(6) A SOIL CONSERVATION OR SANITARY DISTRICT.**

3 **(F) “SECRETARY” MEANS THE SECRETARY OF ANY STATE AGENCY,**
4 **APPOINTED BY THE GOVERNOR.**

5 **(G) “STANDARD” MEANS ANY REQUIREMENT, PROHIBITION, LIMITATION,**
6 **OR CONDITION ESTABLISHED BY STATUTE, REGULATION, PERMIT, ORDER, OR**
7 **LICENSE ISSUED BY A SECRETARY OR ANY OTHER OFFICE OR AGENCY OF THE STATE,**
8 **A LOCAL GOVERNMENT, OR A POLITICAL SUBDIVISION IN ACCORDANCE WITH TITLE**
9 **4, TITLE 5, TITLE 9, OR TITLE 16 OF THIS ARTICLE.**

10 **1-902.**

11 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON HAS**
12 **STANDING IN CLAIMS ARISING UNDER TITLE 4, TITLE 5, TITLE 9, OR TITLE 16 OF**
13 **THIS ARTICLE OR TITLE 1, SUBTITLE 3, TITLE 5, SUBTITLE 16, OR TITLE 8,**
14 **SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE IF THE PERSON SUFFERS AN**
15 **INJURY IN FACT THAT:**

16 **(I) IS FAIRLY TRACEABLE TO THE CHALLENGED ACTION OR**
17 **CONDUCT OF THE DEFENDANT; AND**

18 **(II) IS LIKELY TO BE REDRESSED BY THE REQUESTED RELIEF**
19 **OR A FAVORABLE JUDICIAL DECISION.**

20 **(2) AN INTEREST OR INJURY ASSERTED UNDER THIS SECTION SHALL**
21 **FALL WITHIN THE ZONE OF INTERESTS SOUGHT TO BE PROTECTED BY TITLE 4,**
22 **TITLE 5, TITLE 9, OR TITLE 16 OF THIS ARTICLE AND TITLE 1, SUBTITLE 3, TITLE**
23 **5, SUBTITLE 16, OR TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.**

24 **(B) IN ADDITION TO SUBSECTION (A) OF THIS SECTION, AN ASSOCIATION**
25 **HAS STANDING IN CLAIMS ARISING UNDER TITLE 4, TITLE 5, TITLE 9, OR TITLE 16**
26 **OF THIS ARTICLE OR TITLE 1, SUBTITLE 3, TITLE 5, SUBTITLE 16, OR TITLE 8,**
27 **SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE IF:**

28 **(1) ONE OR MORE MEMBERS OF THE ASSOCIATION HAVE STANDING**
29 **UNDER SUBSECTION (A) OF THIS SECTION;**

30 **(2) THE INTERESTS THAT THE ASSOCIATION SEEKS TO PROTECT ARE**
31 **GERMANE TO ITS PURPOSES; AND**

**(3) NEITHER THE CLAIM ASSERTED NOR THE RELIEF REQUESTED
REQUIRES THE PARTICIPATION OF THE MEMBER.**

1-903.

**(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PERSON THAT HAS
STANDING UNDER § 1-902 OF THIS SUBTITLE MAY BRING A CIVIL ACTION ON THE
PERSON'S OWN BEHALF AGAINST ANY PERSON OR GOVERNMENTAL ENTITY THAT IS
ALLEGED TO HAVE VIOLATED OR TO BE IN VIOLATION OF ANY STANDARD.**

**(B) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN ACTION
MAY BE BROUGHT UNDER SUBSECTION (A) OF THIS SECTION AT LEAST 60 DAYS
AFTER THE PLAINTIFF HAS GIVEN NOTICE OF THE ALLEGED VIOLATION.**

(2) NOTICE UNDER THIS SUBSECTION SHALL BE:

(I) 1. BY CERTIFIED MAIL; OR

2. PERSONAL SERVICE; AND

(II) PROVIDED TO:

1. THE APPROPRIATE SECRETARY;

2. THE ATTORNEY GENERAL;

**3. ANY LOCAL JURISDICTION IN WHICH THE ALLEGED
VIOLATION HAS OCCURRED; AND**

4. AN ALLEGED VIOLATOR OF THE STANDARD.

**(3) (I) AN ACTION MAY NOT BE BROUGHT UNDER SUBSECTION (A)
OF THIS SECTION IF THE SECRETARY HAS COMMENCED AND IS DILIGENTLY
PROSECUTING A CIVIL OR CRIMINAL ACTION IN A COURT OF THE STATE TO REQUIRE
COMPLIANCE FROM THE ALLEGED VIOLATOR WITHOUT UNDUE DELAY OR
UNREASONABLE SCHEDULES FOR RETURNING TO COMPLIANCE.**

**(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS
PARAGRAPH, A PERSON THAT HAS STANDING UNDER § 1-902 OF THIS SUBTITLE MAY
INTERVENE IN THE ACTION BROUGHT BY THE SECRETARY.**

(4) NOTICE UNDER THIS SUBSECTION SHALL IDENTIFY:

1 (I) A STANDARD VIOLATED;

2 (II) AN ACTIVITY CONSTITUTING THE VIOLATION;

3 (III) A PERSON SUSPECTED OF BEING RESPONSIBLE FOR THE
4 VIOLATION;

5 (IV) THE LOCATION OF THE VIOLATION;

6 (V) THE DATES OF VIOLATIONS IF KNOWN; AND

7 (VI) THE NAME AND ADDRESS OF THE PERSON GIVING NOTICE.

8 (C) AN ACTION BROUGHT IN ACCORDANCE WITH THIS SECTION SHALL BE
9 BROUGHT IN ANY CIRCUIT COURT OF A COUNTY WHERE THE ALLEGED CONDITION,
10 ACTIVITY, OR FAILURE IS OCCURRING, HAS OCCURRED, OR IS LIKELY TO OCCUR.

11 (D) A COURT MAY:

12 (1) ORDER THE ENFORCEMENT OF A STANDARD CHALLENGED
13 UNDER THIS SECTION;

14 (2) GRANT:

15 (I) TEMPORARY OR PERMANENT EQUITABLE RELIEF; OR

16 (II) ANY OTHER RELIEF PROVIDED UNDER A STATUTE
17 CHALLENGED UNDER THIS SECTION; AND

18 (3) IMPOSE CONDITIONS ON A DEFENDANT TO REQUIRE THE
19 PROTECTION OF LAND, AIR, WATER, AND OTHER NATURAL RESOURCES OR PUBLIC
20 HEALTH FROM POLLUTION, IMPAIRMENT, OR DESTRUCTION.

21 (E) (1) IN AN ACTION UNDER THIS SECTION, THE COURT MAY AWARD THE
22 COSTS OF LITIGATION TO:

23 (I) A PREVAILING PLAINTIFF; OR

24 (II) A SUBSTANTIALLY PREVAILING PLAINTIFF IF THE
25 PLAINTIFF HAS:

1 1. PARTICIPATED IN AN ACTION TO ENFORCE A
2 VIOLATION FOLLOWING THE ISSUANCE OF NOTICE UNDER SUBSECTION (B) OF THIS
3 SECTION; AND

4 2. A. SUCCESSFULLY ESTABLISHED THE LIABILITY
5 OF A DEFENDANT IN FEWER THAN ALL OF THE ASSERTED CLAIMS; OR

6 B. OTHERWISE ADVANCED THE PURPOSE OF THE
7 RELEVANT STATUTES THROUGH THE OUTCOME OF THE ACTION BY IMPROVING
8 ENVIRONMENTAL QUALITY, PROTECTING PUBLIC HEALTH, OR REDUCING
9 POLLUTION.

10 (2) IF A PARTY TO AN ACTION UNDER THIS SECTION ACTS IN BAD
11 FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION IN MAINTAINING OR DEFENDING
12 THE ACTION, THE COURT MAY AWARD TO THE ADVERSE PARTY THE COSTS OF
13 LITIGATION.

14 (F) (1) (I) A COURT MAY IMPOSE A CIVIL PENALTY AUTHORIZED IN
15 ACCORDANCE WITH THE STATUTE UNDER WHICH AN ACTION IS BROUGHT UNDER
16 THIS SECTION.

17 (II) INSTEAD OF IMPOSING A CIVIL PENALTY UNDER
18 SUBPARAGRAPH (I) OF THIS PARAGRAPH, A COURT MAY ORDER A SUPPLEMENTAL
19 ENVIRONMENTAL PROJECT.

20 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A CIVIL
21 PENALTY COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED IN A MANNER
22 SPECIFIED BY THE STATUTE.

23 (3) IF THE ENFORCEMENT OF A STATUTORY DUTY HAS BEEN
24 DELEGATED TO A LOCAL GOVERNMENT, UP TO 50% OF A CIVIL PENALTY COLLECTED
25 UNDER THIS SUBSECTION MAY BE AWARDED TO THE LOCAL GOVERNMENT.

26 1-904.

27 (A) THIS SECTION DOES NOT APPLY TO § 1-903(B)(3) OF THIS SUBTITLE.

28 (B) A PERSON THAT HAS STANDING UNDER § 1-902 OF THIS SUBTITLE MAY
29 INTERVENE AS A MATTER OF RIGHT IN AN ACTION ARISING UNDER TITLE 4, TITLE
30 5, TITLE 9, OR TITLE 16 OF THIS ARTICLE OR TITLE 1, SUBTITLE 3, TITLE 5,
31 SUBTITLE 16, OR TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE,
32 UNLESS A DEFENDANT DEMONSTRATES THAT THE PERSON'S INTEREST IS
33 ADEQUATELY REPRESENTED BY EXISTING PARTIES.

(C) THE STATE MAY INTERVENE AS A MATTER OF RIGHT AT ANY TIME IN A PROCEEDING BROUGHT UNDER THIS SUBTITLE.

(D) NOTWITHSTANDING § 1-903(B)(3) OF THIS SUBTITLE AND SUBSECTION (A) OF THIS SECTION, A COURT MAY GRANT INTERVENTION ON MOTION BY ANY PARTY.

1-905.

THE PROVISIONS OF THIS SUBTITLE SUPERSEDE ANY INCONSISTENT PROVISION OF ANY STATE, COUNTY, OR MUNICIPAL LAW, ORDINANCE, OR REGULATION AND ANY JUDICIAL INTERPRETATION TO THE EXTENT OF THE INCONSISTENCY.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act:

(1) provide certain remedies to abate the pollution, destruction, or substantial or unreasonable impairment to the public health, water quality, or any other natural resource of the State;

(2) may not abridge or alter any right of action or remedies that exist under law; and

(3) may not be construed as stopping or limiting the State or any person in the exercise of the right to:

(i) protect the natural resources of the State;

(ii) suppress nuisances; or

(iii) abate pollution.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.