

SENATE BILL 366

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By: **Senator Ellis**

Introduced and read first time: January 17, 2025

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Campaign Finance – Civil Penalties – Process**

3 FOR the purpose of requiring the State Board of Elections to issue a certain notice to
4 persons the State Board believes are committing or have committed certain
5 campaign finance violations; requiring the State Board to adopt comprehensive
6 regulations establishing an appeal process for persons issued the notice; altering the
7 circumstances under which the State Board is authorized to issue a citation to
8 persons the State Board believes are committing or have committed certain
9 campaign finance violations; and generally relating to civil penalties for campaign
10 finance violations.

11 BY repealing and reenacting, with amendments,
12 Article – Election Law
13 Section 13–604.1
14 Annotated Code of Maryland
15 (2022 Replacement Volume and 2024 Supplement)

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

18 **Article – Election Law**

19 13–604.1.

20 (a) In this section, “person” includes a political committee.

21 (b) The State Board may impose a civil penalty in accordance with this section for
22 the following violations:

23 (1) making a disbursement in a manner not authorized in § 13–218(b)(2),
24 (c), and (d) of this title;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) failure to maintain a campaign bank account as required in § 13–220(a) of this title;

(3) making a disbursement by a method not authorized in § 13–220(d) of this title;

(4) failure to maintain detailed and accurate account books and records as required in § 13–221 of this title;

(5) fund–raising during the General Assembly session in a manner not authorized in § 13–235 of this title;

(6) failure to report all contributions received and expenditures made as required in § 13–304(b) of this title;

(7) failure to include an authority line on campaign material as required in § 13–401 of this title;

(8) failure to retain a copy of campaign material as required in § 13–403 of this title;

(9) failure to include a disclosure on online campaign material as required in § 13–401.1(b) of this title;

(10) soliciting a recurring contribution or donation without the affirmative consent of the contributor or donor as required in § 13–244 of this title;

(11) making a monetary contribution or monetary donation using any currency other than United States currency or accepting a monetary contribution or monetary donation made using any currency other than United States currency in violation of § 13–238 of this title; and

(12) making a monetary expenditure using any currency other than United States currency in violation of § 13–250 of this title.

(c) A civil penalty imposed under this section for a violation specified in subsection (b) of this section is in addition to any other sanction provided by law.

(d) (1) Except as otherwise provided in this title or as provided in paragraph (2) of this subsection, the amount of a civil penalty imposed under this section may not exceed \$1,000 for each violation.

(2) As to a violation of § 13–235 of this title, the campaign finance entity that receives a contribution as a result of a violation shall:

(i) refund the contribution to the contributor; and

(ii) pay a civil penalty that equals \$1,000 plus the amount of the contribution, unless the State Board at its discretion assesses a lesser penalty for good cause.

[(e) The civil penalty is payable to the State Board by the person charged in a citation within 20 calendar days after service of the citation.]

(E) (1) IF THE STATE BOARD BELIEVES A PERSON IS COMMITTING OR HAS COMMITTED A VIOLATION SPECIFIED IN SUBSECTION (B) OF THIS SECTION, THE STATE BOARD SHALL ISSUE A “NOTICE OF PENDING CIVIL PENALTY” TO THE PERSON THAT INCLUDES:

(I) THE NATURE, TIME, AND PLACE OF THE ALLEGED VIOLATION;

(II) THE MANNER IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED;

(III) THE AMOUNT OF THE PENALTY;

(IV) NOTICE THAT THE PERSON MAY ADMIT THE VIOLATION BY PAYING THE PENALTY AND THE MANNER IN WHICH THE PENALTY MAY BE PAID;

(V) INFORMATION REGARDING THE APPEAL PROCESS ESTABLISHED BY REGULATION UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

(VI) NOTICE OF THE RIGHT OF THE PERSON ALLEGED TO HAVE COMMITTED THE VIOLATION TO REQUEST A HEARING BEFORE THE STATE BOARD.

(2) THE STATE BOARD SHALL ADOPT COMPREHENSIVE REGULATIONS ESTABLISHING AN APPEAL PROCESS FOR PERSONS ISSUED A “NOTICE OF PENDING CIVIL PENALTY” UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT INCLUDES:

(I) CLEARLY DEFINED GROUNDS FOR APPEAL;

(II) CONTACT INFORMATION FOR ASSISTANCE OR INQUIRIES REGARDING THE APPEAL PROCESS;

(III) STEP-BY-STEP PROCEDURES FOR INITIATING AN APPEAL;

(IV) TIMELINES FOR EACH STAGE OF THE APPEAL PROCESS;

(V) CRITERIA FOR THE EVALUATION AND ADJUDICATION OF APPEALS;

(VI) A RIGHT FOR A PERSON ALLEGED TO HAVE COMMITTED A VIOLATION TO REQUEST A HEARING BEFORE THE STATE BOARD; AND

(VII) GUIDELINES FOR THE RESOLUTION OF APPEALS AND THE COMMUNICATION OF DECISIONS REGARDING APPEALS.

(3) THE STATE BOARD SHALL:

(I) PUBLISH THE APPEAL PROCESS ESTABLISHED BY REGULATION UNDER PARAGRAPH (2) OF THIS SUBSECTION, INCLUDING ALL RELEVANT FORMS AND INSTRUCTIONS, ON ITS WEBSITE ON A WEBPAGE THAT IS COMPLIANT WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT; AND

(II) PROVIDE PRINTED COPIES OF THE APPEAL PROCESS ON REQUEST.

(4) THE STATE BOARD SHALL DEVELOP A COMMUNICATION PLAN TO INFORM AUTHORIZED CANDIDATE CAMPAIGN COMMITTEES AND OTHER PERSONS OF THE APPEAL PROCESS ESTABLISHED BY REGULATION UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT INCLUDES:

(I) TRAINING ON THE APPEAL PROCESS FOR RELEVANT STAFF MEMBERS OF THE STATE BOARD TO ENSURE THAT THE STAFF MEMBERS PROVIDE ACCURATE INFORMATION ABOUT THE APPEAL PROCESS TO PERSONS ALLEGED TO HAVE COMMITTED VIOLATIONS;

(II) EDUCATIONAL MATERIALS ON THE APPEAL PROCESS; AND

(III) OUTREACH TO AUTHORIZED CANDIDATE CAMPAIGN COMMITTEES AND OTHER PERSONS CONCERNING:

1. COMPLIANCE WITH CAMPAIGN FINANCE LAWS;

2. BEST PRACTICES TO AVOID CAMPAIGN FINANCE VIOLATIONS AND PENALTIES; AND

3. THE APPEAL PROCESS.

(f) (1) Subject to paragraphs (2) and (3) of this subsection, a civil penalty imposed under this section shall be paid by the campaign finance entity.

(2) If the campaign finance entity has insufficient funds with which to pay the full amount of the civil penalty in a timely manner, after the campaign account of the finance entity is exhausted the balance of the civil penalty is the joint and several liability of the responsible officers.

(3) If a violation is committed by a person not acting on behalf of, or at the request or suggestion of, a candidate or a campaign finance entity, the civil penalty shall be paid by the person who committed the violation.

(g) The State Board may issue a citation to [any] A person the State Board believes is committing or has committed a violation specified in subsection (b) of this section
IF:

(1) THE PERSON ALLEGED TO HAVE COMMITTED THE VIOLATION HAS EXHAUSTED THE APPEAL PROCESS ESTABLISHED IN REGULATION UNDER SUBSECTION (E)(2) OF THIS SECTION; AND

(2) THE STATE BOARD HAS CONDUCTED A HEARING ON THE PERSON'S APPEAL AND MADE A FINAL DECISION THAT THE PERSON COMMITTED THE VIOLATION.

(h) **(1)** The citation shall be served on the defendant in accordance with the Maryland Rules.

(2) THE CIVIL PENALTY IS PAYABLE TO THE STATE BOARD BY THE PERSON CHARGED IN A CITATION WITHIN 20 CALENDAR DAYS AFTER SERVICE OF THE CITATION.

(i) The citation shall contain:

(1) the certification by the State Board attesting to the truth of the matter set forth in the citation;

(2) the name and address of the person charged;

(3) the nature, time, and place of the violation;

(4) the manner in which the violation occurred;

(5) the amount of the penalty assessed;

(6) the manner, time, and location to pay the penalty;

(7) a statement that the person receiving the citation has a right to trial in the District Court; and

(8) the effect of failing to pay the assessed fine or of failing to demand a trial within the prescribed time.

(j) (1) A person charged in a citation may elect to stand trial for the violation by notifying the State Board in writing of the person's intent to stand trial.

(2) The written notice shall be given at least 5 days before the date of payment as set forth in the citation.

(k) (1) On receipt of the written notice of intent to stand trial, the State Board shall forward to the State Prosecutor a copy of the citation and the written notice.

(2) The State Prosecutor shall forward to the District Court having venue a copy of the citation and the written notice.

(3) On receipt of the citation and the written notice:

(i) the State Prosecutor shall assume responsibility for prosecuting the violation; and

(ii) the District Court shall schedule the case for trial, notify the defendant of the trial date, and summon the defendant to appear.

(l) (1) If a person charged in a citation fails to pay the penalty by the date of payment set forth in the citation and fails to deliver to the State Board the written notice of intent to stand trial, the person is liable for the assessed penalty.

(2) The State Prosecutor, on behalf of the State Board, may double the penalty to an amount not to exceed \$2,000 and request adjudication of the case through the District Court by filing a demand for judgment on affidavit.

(m) The defendant's failure to respond to the summons of the District Court shall result in the entry of judgment against the defendant in favor of the State Board in the amount set forth in the citation if a proper demand for judgment on affidavit has been made.

(n) If a person is found by the District Court to have committed a violation:

(1) (i) the District Court shall order the person to pay the penalty set forth in the citation and may double the amount of the penalty to an amount not to exceed \$2,000;

(ii) the penalty imposed shall constitute a judgment in favor of the State Board; and

(iii) if the penalty remains unpaid for 30 days following the date of its entry, the judgment shall be enforceable in the same manner and to the same extent as

1 other civil judgments for money unless the court has suspended or deferred payment of the
2 penalty as provided in item (2) of this subsection;

3 (2) the District Court may suspend or defer the payment of any penalty
4 under conditions that the court sets;

5 (3) the defendant shall be liable for the costs of the proceedings in the
6 District Court; and

7 (4) the District Court may order the person to abate the violation.

8 (o) If a defendant fails to pay any penalty or cost imposed by the District Court
9 without good cause, the District Court may punish the failure as contempt of court.

10 (p) Adjudication of a violation under this section:

11 (1) is not a criminal conviction; and

12 (2) does not impose any of the civil disabilities that arise from a criminal
13 conviction.

14 (q) In a District Court proceeding relating to a violation under this section:

15 (1) the State Prosecutor has the burden to prove that the defendant has
16 committed the violation by clear and convincing evidence;

17 (2) the District Court shall apply the evidentiary standards as provided by
18 law or rule for the trial of civil causes;

19 (3) the District Court shall ensure that the defendant has received a copy
20 of the charges against the defendant and that the defendant understands those charges;

21 (4) the defendant may cross-examine all witnesses who appear against the
22 defendant, produce evidence or witnesses in the defendant's own behalf, or testify in the
23 defendant's own behalf;

24 (5) the defendant shall be entitled to be represented by counsel of the
25 defendant's own selection and at the defendant's own expense;

26 (6) the defendant may enter a plea of guilty or not guilty of the violation as
27 charged; and

28 (7) the verdict of the District Court shall be guilty of a violation or not
29 guilty of a violation, or the District Court may, before rendering judgment, place the
30 defendant on probation.

1 (r) The State Board shall consider the following in determining the amount of a
2 penalty under this section:

3 (1) the severity of the violation for which the penalty is to be assessed;

4 (2) the good faith of the violator; and

5 (3) any history of prior violations.

6 (s) Penalties collected under this section shall be distributed to the Fair
7 Campaign Financing Fund established under § 15–103 of this article.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 January 1, 2026.