

SENATE BILL 332

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(PRE-FILED)

By: **Senator McCray**

Requested: August 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Campaign Finance – For-Profit Substance Abuse and Mental Health Treatment**
3 **Providers – Disclosure of Contributions**

4 FOR the purpose of altering the definition of “contract” for purposes of certain provisions
5 of law requiring disclosure of campaign contributions by persons doing public
6 business to include a certain Medicaid reimbursement contract with a for-profit
7 substance abuse and mental health treatment provider; altering the definition of
8 “applicable contribution” for purposes of certain provisions of law requiring
9 disclosure of campaign contributions by persons doing public business to include, if
10 the person is a for-profit substance abuse and mental health treatment provider,
11 contributions to or for the benefit of a candidate for an office of any governmental
12 entity; requiring a for-profit substance abuse and mental health treatment provider
13 that is doing public business on a certain date to file a certain initial statement of
14 contributions on or before a certain date, except under certain circumstances; and
15 generally relating to disclosure of contributions by for-profit substance abuse and
16 mental health treatment providers.

17 BY repealing and reenacting, with amendments,
18 Article – Election Law
19 Section 14–101
20 Annotated Code of Maryland
21 (2017 Replacement Volume and 2020 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – Election Law
24 Section 14–104, 14–105, and 14–107
25 Annotated Code of Maryland
26 (2017 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Election Law

14–101.

(a) In this title the following words have the meanings indicated.

(b) “Applicable contribution” means a contribution or donation by a person or attributed to a person to or for the benefit of a candidate for an office of:

(1) a governmental entity with which the person is doing public business;

OR

(2) **IF THE PERSON IS A FOR–PROFIT SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT PROVIDER, ANY GOVERNMENTAL ENTITY.**

(c) “Business entity” includes a firm, corporation, trust, unincorporated association, or other organization, whether or not conducted for profit.

(d) “Candidate” includes an incumbent office holder.

(e) (1) “Contract” means an agreement in any form entered into by a governmental entity for a procurement as defined in § 11–101(n)(1) of the State Finance and Procurement Article.

(2) **“CONTRACT” INCLUDES A MEDICAID REIMBURSEMENT CONTRACT WITH A FOR–PROFIT SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT PROVIDER FOR WHICH LAW SETS:**

(I) **USER OR RECIPIENT ELIGIBILITY; AND**

(II) **PRICE PAYABLE BY THE STATE.**

[(2)] (3) “Contract” does not include:

(i) a collective bargaining agreement with an employee organization;

(ii) an agreement with a contractual employee, as defined in § 1–101(d) of the State Personnel and Pensions Article;

(iii) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,** a Medicaid, Judicare, or similar reimbursement contract for which law sets:

1. user or recipient eligibility; and

2. price payable by the State; or

(iv) a Medicaid contract with a managed care organization, as defined in § 15–101(e) of the Health – General Article as to which regulations adopted by the Department establish:

1. recipient eligibility;

2. minimum qualifications for managed care organizations;

and

3. criteria for enrolling recipients in managed care organizations.

(f) (1) Subject to paragraph (2) of this subsection, “contribution” has the meaning stated in § 1–101 of this article.

(2) “Contribution” does not include:

(i) a bona fide gift by a spouse or relative within the third degree of consanguinity; or

(ii) an honorary membership in a social, service, or fraternal organization presented as a courtesy by the organization.

(g) “Director” means a member of the board of directors of a business entity.

(h) (1) “Doing public business” means making or having a single contract with a single governmental entity involving cumulative consideration of at least \$200,000.

(2) “Doing public business” does not include receiving a salary from a governmental entity.

(i) “Governmental entity” means:

(1) the State, a county, a municipal corporation, or other political subdivision of the State; and

(2) a unit of the State, a county, a municipal corporation, or other political subdivision of the State.

(j) “Make a contribution” includes to cause a contribution to be made.

(k) “Officer” means an individual who serves as a business entity’s chief executive officer, president, vice president, secretary, treasurer, chief financial officer, managing

partner, managing member, or principal, or in any other formal or informal role in which the individual exercises substantial independent responsibility for managing the affairs of a business entity.

(l) (1) “Subsidiary” means a business entity that is 30% or more owned or controlled by another business entity.

(2) “Subsidiary” does not include a business entity that does not have a contract doing public business and is directly or indirectly owned or controlled by another business entity:

(i) the securities of which are traded on a national exchange;

(ii) for which no individual owns or controls more than 10% of the business entity; and

(iii) that is defined under 12 U.S.C. § 1841(a).

14–104.

(a) A person doing public business shall file a statement with the State Board as provided in this section.

(b) (1) When a contract is awarded that causes a person to be doing public business, an initial statement shall be filed at that time, covering the preceding 24 months.

(2) (i) A person who files an initial statement under paragraph (1) of this subsection, a person who was doing public business on December 31, 2014, or a person who has obtained approval from the State Board under subsection (c)(2) of this section, shall file a semi-annual statement in accordance with this paragraph for each reporting period specified in subparagraph (ii) of this paragraph if performance remains uncompleted on the contract that caused the person to be doing public business.

(ii) 1. The statements required by subparagraph (i) of this paragraph shall cover 6-month reporting periods ending on April 30 or October 31.

2. A statement required by subparagraph (i) of this paragraph shall be filed on or before the last day of the month immediately following the day on which the reporting period ends.

(c) (1) The statement required by this section shall be made under oath and, except as provided in paragraph (2) or (3) of this subsection, shall contain:

(i) the name of each candidate, if any, to whom one or more applicable contributions in a cumulative amount of \$500 or more were made during the reporting period;

(ii) the office sought by each candidate named in item (i) of this paragraph;

(iii) the amount of aggregate contributions made to each candidate named in item (i) of this paragraph;

(iv) the name of each unit of a governmental entity with which the person did public business during the reporting period;

(v) the nature and amount of public business done with each unit of a governmental entity; and

(vi) if the public business was done or the contribution was made by another person but is attributed to the person filing the statement, the name of the person who did the public business or made the contribution and the relationship of that person to the person filing the statement.

(2) (i) The information required by paragraph (1)(iv) and (v) of this subsection may be omitted on the written approval of the State Board if the State Board finds that:

1. requiring the information would be unduly burdensome;

2. the public interest would not be impaired substantially by the omission of this information; and

3. the person filing the statement stipulates that the person has done public business during the reporting period.

(ii) A person who has obtained approval from the State Board under this paragraph:

1. is not required to file an initial statement under subsection (b)(1) of this section;

2. shall file the statements required under subsection (b)(2) of this section if performance remains uncompleted on any contract that causes the person to be doing public business; and

3. shall include in each statement the information required under paragraph (1)(i), (ii), (iii), and (vi) of this subsection for all contributions by the person or attributed to the person in a cumulative amount of \$500 or more to or for the benefit of a candidate for an office of any governmental entity.

(3) If a person doing public business did not make applicable contributions in a cumulative amount of \$500 or more to a candidate during the reporting period, the statement filed by the person under this section is required to contain only the following:

(i) the name of each unit of a governmental entity with which the person did public business during the reporting period, unless the person has obtained approval from the State Board under paragraph (2) of this subsection to omit this information; and

(ii) a stipulation that the person did not make applicable contributions in a cumulative amount of \$500 or more to a candidate during the reporting period.

(d) The State Board shall retain each statement filed under this title as a public record for at least 2 years after its receipt and shall make the statement publicly available on the Internet.

(e) A person shall file a statement required under this section in an electronic format required by the State Board.

14–105.

(a) Except as provided in subsection (f) of this section, an applicable contribution made by an officer, director, or partner of a business entity doing public business shall be attributed to the business entity.

(b) Except as provided in subsection (f) of this section, each officer, director, or partner of a business entity doing public business who makes an applicable contribution shall report the applicable contribution to the chief executive officer of the business entity.

(c) An applicable contribution by an officer, director, partner, employee, agent, or other person made at the suggestion or direction of a business entity doing public business shall be attributed to the business entity.

(d) Each officer, director, partner, employee, agent, or other person who, at the suggestion or direction of a business entity doing public business, makes an applicable contribution shall report the applicable contribution to the chief executive officer of the business entity.

(e) (1) Business done with a governmental entity by a subsidiary of a business entity shall be attributed to the business entity.

(2) Applicable contributions made by or attributed to a subsidiary shall be attributed to the business entity.

(f) (1) In this subsection:

(i) “officer” means an individual who serves as an organization’s president or chairman, vice-president or vice-chairman, secretary, treasurer, or executive

1 director, or any individual exercising duties comparable to those typically exercised by an
2 individual holding one of those titles in a nonprofit organization; and

3 (ii) “officer” does not include an individual holding a title but not
4 exercising substantial independent responsibility on behalf of the organization similar to
5 the responsibility typically exercised by an individual holding one of the titles under item
6 (i) of this paragraph.

7 (2) Subject to paragraph (3) of this subsection, an applicable contribution
8 made by an individual who serves as a trustee or member of the board of directors or as an
9 officer of a nonprofit organization doing public business is not attributable to the
10 organization, and the individual is not required to report the applicable contribution to the
11 chief executive officer of the organization.

12 (3) This subsection does not apply if:

13 (i) the applicable contribution is made on the recommendation of
14 the nonprofit organization; or

15 (ii) the individual described in paragraph (2) of this subsection is
16 paid by the nonprofit organization.

17 (g) (1) A person doing public business shall maintain detailed and accurate
18 records of:

19 (i) contracts made by the person or attributed to the person that
20 cause the person to be doing public business; and

21 (ii) applicable contributions made by the person or attributed to the
22 person.

23 (2) Records required to be kept under this subsection shall be preserved
24 until the earlier of:

25 (i) 10 years after the creation of the record; or

26 (ii) 4 years after performance is completed on the contract that
27 caused the person to be doing public business.

28 14–107.

29 (a) (1) A governmental entity that has awarded a person a contract that causes
30 the person to be doing public business shall:

31 (i) require the person to certify that the person has filed the
32 statement required under § 14–104(b)(1) of this title; and

(ii) provide the State Board with the person's name, address, and any other contact information required by the State Board.

(2) (i) A governmental entity may comply with paragraph (1)(ii) of this subsection by sending to the State Board a quarterly report on a form provided by the State Board.

(ii) A quarterly report sent under subparagraph (i) of this paragraph shall:

1. include the required information for any person that was awarded a contract that caused the person to be doing public business with the governmental entity during the preceding calendar quarter; and

2. be submitted to the State Board no later than 10 business days after the close of each calendar quarter.

(b) (1) If a person files a statement under § 14–104 of this title that does not include all the information required, the State Board shall notify the person in writing of the particular deficiencies.

(2) Within 30 days after service of the notice under paragraph (1) of this subsection, the person shall file an amended statement that includes all the information required.

(c) (1) As provided in this subsection, the State Board may impose fees for late filing of:

(i) a statement required under § 14–104 of this title; or

(ii) an amended statement required under subsection (b) of this section.

(2) The State Board may impose late filing fees in the same amounts and in the same manner as provided under § 13–331(a) and (b) of this article for late filing of campaign finance reports.

(3) Late filing fees imposed under this subsection shall be distributed to the Fair Campaign Financing Fund established under § 15–103 of this article.

(d) A person who knowingly and willfully violates this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(e) An officer or partner of a business entity who knowingly authorizes or participates in a violation of this title by the business entity is subject to the penalty provided in subsection (d) of this section.

1 SECTION 2. AND BE IT FURTHER ENACTED, That a for-profit substance abuse
2 and mental health treatment provider that is doing public business on October 1, 2021,
3 shall file the initial statement required under § 14–104(b)(1) of the Election Law Article on
4 or before November 30, 2021, unless the person has obtained a waiver of the requirement
5 to file the initial statement from the State Board of Elections under § 14–104(c)(2) of the
6 Election Law Article.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2021.