

HOUSE BILL 494

K3
HB 1203/22 – ECM

3lr1810

By: **Delegates Chisholm, Adams, Fisher, Kipke, Mangione, M. Morgan, and Schmidt**

Introduced and read first time: January 30, 2023

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Private–Sector Employers – Right to Work**

3 FOR the purpose of prohibiting certain private–sector employers from requiring, as a
4 condition of employment or continued employment, an employee or a prospective
5 employee, under certain circumstances, to join or remain a member of a labor
6 organization, pay charges to a labor organization, or pay a certain amount to a third
7 party; and generally relating to the rights of individuals, employee organizations,
8 and private–sector employers.

9 BY repealing and reenacting, with amendments,
10 Article – Labor and Employment
11 Section 4–304
12 Annotated Code of Maryland
13 (2016 Replacement Volume and 2022 Supplement)

14 BY adding to
15 Article – Labor and Employment
16 Section 4–701 through 4–707 to be under the new subtitle “Subtitle 7. Right to Work”
17 Annotated Code of Maryland
18 (2016 Replacement Volume and 2022 Supplement)

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

21 **Article – Labor and Employment**

22 4–304.

23 (a) In this section, “promise” means any undertaking, whether express or implied
24 or oral or written.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) A promise made between an employee or prospective employee and an employer, prospective employer, or any other individual, association, company, corporation, or firm is against the policy of the State if the promise requires either party:

(1) to join or remain a member of an employer or labor organization;

(2) not to join or not to remain a member of an employer or labor organization; or

(3) to withdraw from an employment relation if the party joins or remains a member of an employer or labor organization.

[(c) A court may not grant, on the basis of a promise described in this section, any relief against:

(1) a party to the promise; or

(2) another person who, without the act or threat of fraud or violence, advises, induces, or urges a party to disregard the promise.]

SUBTITLE 7. RIGHT TO WORK.

4-701.

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

(B) (1) “EMPLOYER” MEANS A PERSON ENGAGED IN A BUSINESS, AN INDUSTRY, A PROFESSION, A TRADE, OR ANY OTHER ENTERPRISE IN THE STATE.

(2) “EMPLOYER” INCLUDES A PERSON THAT ACTS DIRECTLY OR INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

(3) “EMPLOYER” DOES NOT INCLUDE:

(I) THE STATE AND UNITS OF THE STATE;

(II) A COUNTY AND UNITS OF A COUNTY; OR

(III) A MUNICIPAL CORPORATION IN THE STATE.

(C) (1) “LABOR ORGANIZATION” MEANS AN ORGANIZATION OF ANY KIND THAT EXISTS FOR THE PURPOSE OF INTERACTING WITH AN EMPLOYER ON BEHALF OF THE EMPLOYEES OF THE EMPLOYER CONCERNING WAGES, RATES OF PAY, HOURS

1 OF WORK, OR ANY OTHER TERM OR CONDITION OF EMPLOYMENT.

2 (2) "LABOR ORGANIZATION" INCLUDES ANY PERSON THAT ACTS
3 DIRECTLY OR INDIRECTLY IN THE INTEREST OF A LABOR ORGANIZATION WITH AN
4 EMPLOYER.

5 4-702.

6 (A) THIS SUBTITLE DOES NOT APPLY TO:

7 (1) EMPLOYERS AND EMPLOYEES COVERED BY THE FEDERAL
8 RAILWAY LABOR ACT;

9 (2) FEDERAL EMPLOYERS AND EMPLOYEES; OR

10 (3) EMPLOYERS AND EMPLOYEES ON EXCLUSIVE FEDERAL
11 ENCLAVES.

12 (B) A PROVISION OF THIS SUBTITLE THAT IS IN CONFLICT WITH OR
13 PREEMPTED BY FEDERAL LAW IS UNENFORCEABLE TO THE EXTENT OF THE
14 CONFLICT OR PREEMPTION.

15 4-703.

16 (A) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW,
17 AN EMPLOYER MAY NOT REQUIRE, AS A CONDITION OF EMPLOYMENT OR CONTINUED
18 EMPLOYMENT, AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE TO:

19 (1) JOIN OR REMAIN A MEMBER OF A LABOR ORGANIZATION;

20 (2) PAY ANY DUES, FEES, ASSESSMENTS, OR OTHER CHARGES TO A
21 LABOR ORGANIZATION; OR

22 (3) PAY TO ANY CHARITY OR ANOTHER THIRD PARTY, IN LIEU OF A
23 PAYMENT TO A LABOR ORGANIZATION, ANY AMOUNT EQUIVALENT TO, OR A PRO
24 RATA PORTION OF, THE CHARGE REQUIRED TO BE PAID TO A LABOR ORGANIZATION
25 BY A MEMBER OF THE LABOR ORGANIZATION.

26 (B) AN EMPLOYER MAY NOT THREATEN AN EMPLOYEE OR A PROSPECTIVE
27 EMPLOYEE WITH AN ACTION THAT WOULD BE A VIOLATION OF SUBSECTION (A) OF
28 THIS SECTION.

29 4-704.

1 AN AGREEMENT, AN UNDERSTANDING, OR A PRACTICE BETWEEN AN
2 EMPLOYER AND A LABOR ORGANIZATION THAT VIOLATES § 4-703 OF THIS SUBTITLE
3 IS NULL AND VOID AND WITHOUT LEGAL EFFECT.

4 **4-705.**

5 (A) AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE MAY FILE AN ACTION
6 AGAINST AN EMPLOYER FOR A VIOLATION OF § 4-703 OF THIS SUBTITLE IN THE
7 CIRCUIT COURT FOR THE JURISDICTION WHERE THE EMPLOYER IS LOCATED.

8 (B) IF AN EMPLOYER IS FOUND LIABLE FOR A VIOLATION OF § 4-703 OF THIS
9 SUBTITLE IN AN ACTION FILED UNDER SUBSECTION (A) OF THIS SECTION, THE
10 EMPLOYEE OR PROSPECTIVE EMPLOYEE WHO FILED THE ACTION IS ENTITLED TO
11 INJUNCTIVE RELIEF, DAMAGES, COURT COSTS, AND REASONABLE ATTORNEY'S
12 FEES.

13 **4-706.**

14 (A) AN INDIVIDUAL WHO VIOLATES § 4-703 OF THIS SUBTITLE IS GUILTY OF
15 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
16 \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

17 (B) A PERSON OTHER THAN AN INDIVIDUAL THAT VIOLATES § 4-703 OF THIS
18 SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
19 NOT EXCEEDING \$1,000.

20 **4-707.**

21 (A) THE ATTORNEY GENERAL SHALL:

22 (1) TAKE ANY STEPS NECESSARY TO ENSURE EFFECTIVE
23 ENFORCEMENT OF THIS SUBTITLE;

24 (2) INVESTIGATE ALL COMPLAINTS REGARDING VIOLATIONS OF §
25 4-703 OF THIS SUBTITLE; AND

26 (3) COMMENCE AND TRY ALL PROSECUTIONS FOR VIOLATIONS OF §
27 4-703 OF THIS SUBTITLE.

28 (B) WITH RESPECT TO THE COMMENCEMENT AND TRIAL OF THE
29 PROSECUTION UNDER SUBSECTION (A) OF THIS SECTION, THE ATTORNEY GENERAL
30 HAS ALL THE POWERS AND DUTIES VESTED BY LAW IN STATE'S ATTORNEYS WITH

1 **RESPECT TO CRIMINAL PROSECUTIONS.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
3 apply only prospectively and may not be applied or interpreted to have any effect on or
4 application to any collective bargaining agreement that is entered into before the effective
5 date of this Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2023.