
By: Senator Stone

Introduced and read first time: February 2, 1996

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **State Officers and Employees - Criminal Actions - Reimbursement of Counsel Fees**

3 FOR the purpose of altering the authority of the Board of Public Works to reimburse or
4 pay reasonable counsel fees incurred by a State officer or State employee in
5 defending against certain criminal charges by repealing the requirement that the
6 Attorney General first determine that the officer or employee did not discharge the
7 public responsibilities in good faith or incur reasonable counsel fees; and generally
8 relating to the reimbursement or payment of counsel fees incurred by State officers
9 and employees in connection with criminal actions.

10 BY repealing and reenacting, without amendments,

11 Article - State Government
12 Section 12-314
13 Annotated Code of Maryland
14 (1995 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article - State Government
17 Section 12-315
18 Annotated Code of Maryland
19 (1995 Replacement Volume)

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

22 **Article - State Government**

23 12-314.

24 Subject to the limitations in this Part III of this subtitle, the Board of Public Works
25 may approve reimbursement of a State officer or State employee or otherwise pay for
26 reasonable counsel fees that the officer or employee incurred:

27 (1) in connection with a criminal investigation into conduct as an officer or
28 employee if the investigation has concluded and criminal charges have not been filed
29 against the officer or employee; or

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1 (2) in defending against criminal charges that related to conduct as an
2 officer or employee if final disposition of all of the charges does not result in a plea of
3 nolo contendere, a guilty plea, or a finding of guilt.

4 12-315.

5 (a) The Board of Public Works may not provide reimbursement or payment under
6 this Part III of this subtitle unless:

7 (1) the State officer or State employee submits to the Board a written
8 application for reimbursement; and

9 (2) the Attorney General certifies that:

10 (i) the applicant retained counsel;

11 (ii) the applicant gave the Attorney General written notice promptly
12 after counsel was retained; and

13 (iii) after review of the evidence and other information, the Attorney
14 General or a designee appointed under this section [made the following determinations:

15 1.] DETERMINED THAT, in connection with the matter under
16 criminal investigation, the applicant discharged the public responsibilities in good faith,
17 did not engage in unlawful conduct, and was reasonable in retaining counsel and
18 incurring the counsel fees for which reimbursement is sought; or

19 2. in connection with the matter that was the subject of criminal
20 charges, the applicant discharged the public responsibilities in good faith and incurred
21 reasonable counsel fees].

22 (b) Notwithstanding subsection (a)(2)(ii) of this section, the Board of Public
23 Works may approve reimbursement to an applicant who fails to give the Attorney
24 General notice promptly after counsel is retained if the Board determines that the failure
25 is for good cause.

26 (c) If the Attorney General believes that it would be inappropriate for the
27 Attorney General to make the [determinations] DETERMINATION under subsection
28 (a)(2)(iii) of this section, the Attorney General or the Board of Public Works may
29 designate other counsel to carry out that duty.

30 (d) The determinations of the Attorney General or designee under this section
31 are not subject to judicial review.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1996.