
By: Senator Stone

Introduced and read first time: February 2, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 1996

CHAPTER ____

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:

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1 **Article - State Government**

2 12-314.

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

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

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

12 12-315.

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

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

17 (2) the Attorney General certifies that:

18 (i) the applicant retained counsel;

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

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

23 1. ~~DETERMINED THAT~~, in connection with the matter under
24 criminal investigation, the applicant discharged the public responsibilities in good faith,
25 did not engage in unlawful conduct, and was reasonable in retaining counsel and
26 incurring the counsel fees for which reimbursement is sought; or

27 2. in connection with the matter that was the subject of criminal
28 charges, the applicant ~~discharged the public responsibilities in good faith and~~ incurred
29 reasonable counsel fees.

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

34 (c) If the Attorney General believes that it would be inappropriate for the
35 Attorney General to make the ~~determinations~~ ~~DETERMINATION~~ under subsection
36 (a)(2)(iii) of this section, the Attorney General or the Board of Public Works may
37 designate other counsel to carry out that duty.

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

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