

SENATE BILL 638

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1999 Regular Session
9r1693
CF 9r2273

By: **Senators Hughes and Mitchell**
Introduced and read first time: February 5, 1999
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Board of Social Work Examiners - Investigation of State Employees and**
3 **Officers - Reimbursement of Counsel Fees**

4 FOR the purpose of authorizing the Board of Public Works to reimburse a State
5 officer or State employee for certain reasonable counsel fees under certain
6 conditions when the State officer or State employee is investigated by the Board
7 of Social Work Examiners for conduct as an officer or employee; and generally
8 relating to reimbursement of counsel fees for State officers and State employees.

9 BY adding to
10 Article - State Government
11 Section 12-311 and 12-312
12 Annotated Code of Maryland
13 (1995 Replacement Volume and 1998 Supplement)

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

16 **Article - State Government**

17 12-311.

18 SUBJECT TO THE LIMITATIONS OF § 12-312 OF THIS SUBTITLE, THE BOARD OF
19 PUBLIC WORKS MAY APPROVE REIMBURSEMENT OF A STATE OFFICER OR STATE
20 EMPLOYEE OR OTHERWISE PAY FOR REASONABLE COUNSEL FEES THAT THE
21 OFFICER OR EMPLOYEE INCURRED:

22 (1) IN CONNECTION WITH AN INVESTIGATION BY THE BOARD OF SOCIAL
23 WORK EXAMINERS INTO CONDUCT AS AN OFFICER OR EMPLOYEE IF THE
24 INVESTIGATION HAS CONCLUDED AND CHARGES HAVE NOT BEEN FILED AGAINST
25 THE OFFICER OR EMPLOYEE; OR

26 (2) IN DEFENDING AGAINST CHARGES THAT RELATED TO CONDUCT AS
27 AN OFFICER OR EMPLOYEE IF FINAL DISPOSITION OF ALL OF THE CHARGES DOES

1 NOT RESULT IN A REPRIMAND, PROBATION, SUSPENSION, OR REVOCATION OF
2 LICENSE.

3 12-312.

4 (A) THE BOARD OF PUBLIC WORKS MAY NOT PROVIDE REIMBURSEMENT OR
5 PAYMENT UNDER § 12-311 OF THIS SUBTITLE UNLESS:

6 (1) THE STATE OFFICER OR STATE EMPLOYEE SUBMITS TO THE BOARD
7 OF PUBLIC WORKS A WRITTEN APPLICATION FOR REIMBURSEMENT; AND

8 (2) THE ATTORNEY GENERAL CERTIFIES THAT:

9 (I) THE APPLICANT RETAINED COUNSEL;

10 (II) THE APPLICANT GAVE THE ATTORNEY GENERAL WRITTEN
11 NOTICE PROMPTLY AFTER COUNSEL WAS RETAINED; AND

12 (III) AFTER REVIEW OF THE EVIDENCE AND OTHER INFORMATION,
13 THE ATTORNEY GENERAL OR A DESIGNEE APPOINTED UNDER THIS SECTION MADE
14 THE FOLLOWING DETERMINATIONS:

15 1. IN CONNECTION WITH THE MATTER UNDER
16 INVESTIGATION BY THE BOARD OF SOCIAL WORK EXAMINERS, THE APPLICANT
17 DISCHARGED THE PUBLIC RESPONSIBILITIES IN GOOD FAITH, DID NOT ENGAGE IN
18 UNLAWFUL CONDUCT, AND WAS REASONABLE IN RETAINING COUNSEL AND
19 INCURRING COUNSEL FEES FOR WHICH REIMBURSEMENT IS SOUGHT; OR

20 2. IN CONNECTION WITH THE MATTER THAT WAS THE
21 SUBJECT OF CHARGES, THE APPLICANT DISCHARGED THE PUBLIC
22 RESPONSIBILITIES IN GOOD FAITH AND INCURRED REASONABLE COUNSEL FEES.

23 (B) NOTWITHSTANDING SUBSECTION (A)(2)(II) OF THIS SECTION, THE BOARD
24 OF PUBLIC WORKS MAY APPROVE REIMBURSEMENT TO AN APPLICANT WHO FAILS TO
25 GIVE THE ATTORNEY GENERAL NOTICE PROMPTLY AFTER COUNSEL IS RETAINED IF
26 THE BOARD DETERMINES THAT THE FAILURE IS FOR GOOD CAUSE.

27 (C) IF THE ATTORNEY GENERAL BELIEVES THAT IT WOULD BE
28 INAPPROPRIATE FOR THE ATTORNEY GENERAL TO MAKE THE DETERMINATIONS
29 UNDER SUBSECTION (A)(2)(III) OF THIS SECTION, THE ATTORNEY GENERAL OR THE
30 BOARD OF PUBLIC WORKS MAY DESIGNATE OTHER COUNSEL TO CARRY OUT THAT
31 DUTY.

32 (D) AS A CONDITION TO PROVIDING REIMBURSEMENT UNDER § 12-311 OF THIS
33 SUBTITLE, THE BOARD OF PUBLIC WORKS OR THE ATTORNEY GENERAL MAY
34 REQUIRE AN APPLICANT:

35 (1) TO ANSWER QUESTIONS UNDER OATH; AND

1 (2) TO PROVIDE ANY INFORMATION ON THE MATTER UNDER
2 INVESTIGATION.

3 (E) THE DETERMINATIONS UNDER THIS SECTION OF THE ATTORNEY
4 GENERAL OR DESIGNEE ARE NOT SUBJECT TO JUDICIAL REVIEW.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 1999.