

HOUSE BILL 1117

Unofficial Copy
P4

2001 Regular Session
(11r2198)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Gladden, Vallario, Cole, Amedori, Getty, Hutchins,
Dembrow, Grosfeld, Petzold, Boschert, Barkley, Giannetti, Burns, K.
Kelly, Valderrama, Griffith, Menes, and Taylor**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Sheriffs' Office Liability - Apportionment of State and County**
3 **Responsibility**

4 FOR the purpose of clarifying certain State and county financial responsibilities for
5 defense and indemnification of judgments against sheriffs ~~and~~ deputy sheriffs ~~and~~
6 and employees of the sheriff's office performing certain functions; limiting the
7 authority of the Board of Public Works to collect certain payments for certain
8 judgments against sheriffs ~~and~~ deputies, and employees of the sheriff's office
9 from certain taxes; establishing State responsibility for defense and payments of
10 judgments arising from certain sheriff ~~and~~ deputy, and employee activities;
11 including employees of sheriffs' offices in the definition of State personnel as it
12 applies to the Maryland Tort Claims Act; and generally relating to clarifying the
13 apportionment of State and county responsibility for defense and
14 indemnification of judgments against sheriffs ~~and~~ deputies, and employees of
15 the sheriff's office.

1 BY repealing and reenacting, ~~without~~ with amendments,
 2 Article - State Government
 3 Section 12-101(a)(6)
 4 Annotated Code of Maryland
 5 (1999 Replacement Volume and 2000 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article - State Government
 8 Section 12-405 and 12-501
 9 Annotated Code of Maryland
 10 (1999 Replacement Volume and 2000 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article - State Finance and Procurement
 13 Section 9-108
 14 Annotated Code of Maryland
 15 (1995 Replacement Volume and 2000 Supplement)

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

18 **Article - State Government**

19 12-101.

20 (a) In this subtitle, unless the context clearly requires otherwise, "State
 21 personnel" means:

22 (6) a sheriff ~~or~~ deputy sheriff, OR EMPLOYEE OF A SHERIFF'S OFFICE of
 23 a county or Baltimore City;

24 12-405.

25 (A) THE APPLICATION REQUIREMENTS ENUMERATED IN SUBSECTION (B)(5)
 26 OF THIS SECTION DO NOT APPLY TO CLAIMS RELATING TO:

27 (1) COURTHOUSE SECURITY;

28 (2) SERVICE OF PROCESS;

29 (3) THE TRANSPORTATION OF INMATES TO OR FROM COURT
 30 PROCEEDINGS;

31 (4) PERSONNEL AND OTHER ADMINISTRATIVE ACTIVITIES;

32 (5) ACTIVITIES, INCLUDING ACTIVITIES RELATING TO LAW
 33 ENFORCEMENT FUNCTIONS, ARISING UNDER A MULTI-JURISDICTIONAL

1 AGREEMENT UNDER THE SUPERVISION AND DIRECTION OF THE MARYLAND STATE
2 POLICE OR OTHER STATE AGENCY; OR

3 (6) ANY OTHER ACTIVITIES, EXCEPT FOR ACTIVITIES RELATING TO
4 PERFORMING LAW ENFORCEMENT FUNCTIONS OR DETENTION CENTER FUNCTIONS.

5 (B) The Board of Public Works may not pay a settlement or judgment against
6 State personnel unless:

7 (1) the State personnel submits to the Board a written application that
8 sets forth each reason of the State personnel for believing the settlement or judgment
9 is a responsibility of the State;

10 (2) the Board or a hearing officer that the Board appoints holds a
11 hearing on the application;

12 (3) as to a judgment, it was rendered by a court of competent
13 jurisdiction;

14 (4) as to an applicant for whom the Attorney General appeared under
15 Subtitle 3 of this title, the Attorney General files a written report and
16 recommendation;

17 (5) as to an application on behalf of a sheriff ~~or~~ deputy sheriff, OR
18 EMPLOYEE OF A SHERIFF'S OFFICE of a county or Baltimore City for any claim
19 [except those claims directly relating to courthouse security, service of process, or the
20 transportation of inmates to or from court proceedings];

21 (i) with respect to any settlement, the county solicitor or county
22 attorney files a written report and recommendation and the Attorney General files a
23 written report and recommendation; or

24 (ii) with respect to any judgment, the Attorney General files a
25 written report and recommendation;

26 (6) on the bases of the hearing and any report and recommendation, the
27 Board finds that:

28 (i) when the act or omission was made, the applicant was
29 performing a duty within the scope of the employment of the applicant;

30 (ii) the act or omission was not malicious; and

31 (iii) the act or omission was not grossly negligent; and

32 (7) if there is any question whether the applicant is State personnel for
33 purposes of this subtitle, the Board finds that, regardless of the method, source, or
34 amount of compensation, the applicant is State personnel.

1 12-501.

2 (a) (1) The Board of Public Works may approve payment of a settlement, a
3 judgment, or counsel fees under Subtitles 3 and 4 of this title with or without a
4 hearing, and direct payment from:

5 (i) money appropriated for that purpose in the State budget;

6 (ii) money appropriated to the State Insurance Trust Fund for that
7 purpose; OR

8 (iii) the General Emergency Fund[; or].

9 [(iv)] (2) THE BOARD OF PUBLIC WORKS MAY APPROVE PAYMENT
10 OF A SETTLEMENT, A JUDGMENT, OR COUNSEL FEES UNDER SUBTITLES 3 AND 4 OF
11 THIS TITLE WITH OR WITHOUT A HEARING, AND DIRECT PAYMENT FROM ANY TAX
12 WHICH HAS BEEN APPROPRIATED IN THE STATE BUDGET TO THE SUBDIVISION
13 REPRESENTED BY THE SHERIFF ~~OR, DEPUTY SHERIFF, OR EMPLOYEE OF A SHERIFF'S~~
14 OFFICE ON WHOSE BEHALF THE PAYMENT IS TO BE MADE, OR DIRECT PAYMENT
15 FROM THE SUBDIVISION'S SHARE OF ANY INCOME TAX COLLECTED BY THE STATE
16 COMPTROLLER, in connection with any settlement or judgment paid on behalf of any
17 sheriff ~~or, deputy sheriff, or employee of a sheriff's office,~~ OR EMPLOYEE OF A
18 SHERIFF'S OFFICE for any claim except those claims [directly] relating to
19 [courthouse security, service of process, or the transportation of inmates to or from
20 court proceedings]:

21 (I) COURTHOUSE SECURITY;

22 (II) TRANSPORTATION OF PRISONERS;

23 (III) SERVICE OF PROCESS;

24 (IV) PERSONNEL AND OTHER ADMINISTRATIVE ACTIVITIES;

25 (V) ACTIVITIES, INCLUDING ACTIVITIES RELATING TO
26 PERFORMING LAW ENFORCEMENT FUNCTIONS, ARISING UNDER
27 MULTI-JURISDICTIONAL AGREEMENTS UNDER THE SUPERVISION AND DIRECTION
28 OF THE MARYLAND STATE POLICE OR OTHER STATE AGENCY; OR

29 (VI) ANY OTHER ACTIVITIES, EXCEPT ACTIVITIES RELATING TO
30 PERFORMING LAW ENFORCEMENT FUNCTIONS OR DETENTION CENTER FUNCTIONS

31 [1. any tax which has been appropriated in the State budget
32 to the subdivision represented by the sheriff or deputy sheriff on whose behalf the
33 payment is to be made; or

34 2. the subdivision's share of any income tax collected by the
35 State Comptroller].

1 Claims Act, an assessment for coverage and for payment of any litigation expenses,
2 other than for compensation for the time spent by any State employee working for the
3 Attorney General, shall be set off from:

4 (i) any tax which has been appropriated in the State budget to the
5 county or Baltimore City; or

6 (ii) the subdivision's share of any income tax collected by the State
7 Comptroller.

8 (2) Any amount due under this subsection shall be collected in the
9 manner provided by § 7-222 of this article.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2001.