

SENATE BILL 489

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P4

2001 Regular Session  
(11r2201)

**ENROLLED BILL**  
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Jimeno, Baker, Colburn, Ferguson, Forehand,  
Haines, Mooney, and Sfikas**

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.

\_\_\_\_\_  
President.

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

16 BY repealing and reenacting, ~~without~~ with ~~without~~ amendments,

1 Article - State Government  
 2 Section 12-101(a)(6)  
 3 Annotated Code of Maryland  
 4 (1999 Replacement Volume and 2000 Supplement)

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

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

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

17 **Article - State Government**

18 12-101.

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

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

23 12-405.

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

26 (1) COURTHOUSE SECURITY;

27 (2) SERVICE OF PROCESS;

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

30 (4) PERSONNEL AND OTHER ADMINISTRATIVE ACTIVITIES;

31 (5) ACTIVITIES, INCLUDING ACTIVITIES RELATING TO LAW  
 32 ENFORCEMENT FUNCTIONS, ARISING UNDER A MULTIJURISDICTIONAL AGREEMENT  
 33 UNDER THE SUPERVISION AND DIRECTION OF THE MARYLAND STATE POLICE OR  
 34 OTHER STATE AGENCY; OR

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

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

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

8 (2) the Board or a hearing officer that the Board appoints holds a  
9 hearing on the application;

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

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

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

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

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

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

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

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

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

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

33 12-501.

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

- 1 (i) money appropriated for that purpose in the State budget;
- 2 (ii) money appropriated to the State Insurance Trust Fund for that  
3 purpose; OR
- 4 (iii) the General Emergency Fund[;or].

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

- 16 (I) COURTHOUSE SECURITY;
- 17 (II) TRANSPORTATION OF PRISONERS;
- 18 (III) SERVICE OF PROCESS;
- 19 (IV) PERSONNEL AND OTHER ADMINISTRATIVE ACTIVITIES;
- 20 (V) ACTIVITIES, INCLUDING ACTIVITIES RELATING TO  
21 PERFORMING LAW ENFORCEMENT FUNCTIONS, ARISING UNDER  
22 MULTIJURISDICTIONAL AGREEMENTS UNDER THE SUPERVISION AND DIRECTION OF  
23 THE MARYLAND STATE POLICE OR OTHER STATE AGENCY; OR
- 24 (VI) ANY OTHER ACTIVITIES, EXCEPT ACTIVITIES RELATING TO  
25 PERFORMING LAW ENFORCEMENT FUNCTIONS OR DETENTION CENTER FUNCTIONS

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

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

31 [(2)] (3) The Board may direct that payment be made in lump sum or in  
32 installments.

33 [(3)] (4) If the Board disapproves payment in whole or in part, the Board  
34 shall state in writing its reasons for disapproval.

35 [(4)] (5) Decisions under this title are not subject to judicial review.



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

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

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