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By: **Senators Jimeno, Baker, Colburn, Ferguson, Forehand, Haines,  
Mooney, and Sfikas**

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Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

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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  
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.

16 BY repealing and reenacting, ~~without~~ with amendments,  
17 Article - State Government  
18 Section 12-101(a)(6)  
19 Annotated Code of Maryland  
20 (1999 Replacement Volume and 2000 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article - State Government  
23 Section 12-405 and 12-501  
24 Annotated Code of Maryland

1 (1999 Replacement Volume and 2000 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - State Finance and Procurement

4 Section 9-108

5 Annotated Code of Maryland

6 (1995 Replacement Volume and 2000 Supplement)

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

9 **Article - State Government**

10 12-101.

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

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

15 12-405.

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

18 (1) COURTHOUSE SECURITY;

19 (2) SERVICE OF PROCESS;

20 (3) THE TRANSPORTATION OF INMATES TO OR FROM COURT  
21 PROCEEDINGS;

22 (4) PERSONNEL AND OTHER ADMINISTRATIVE ACTIVITIES;

23 (5) ACTIVITIES, INCLUDING ACTIVITIES RELATING TO LAW  
24 ENFORCEMENT FUNCTIONS, ARISING UNDER A MULTIJURISDICTIONAL AGREEMENT  
25 UNDER THE SUPERVISION AND DIRECTION OF THE MARYLAND STATE POLICE OR  
26 OTHER STATE AGENCY; OR

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

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

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

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

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

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

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

12 (i) with respect to any settlement, the county solicitor or county  
13 attorney files a written report and recommendation and the Attorney General files a  
14 written report and recommendation; or

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

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

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

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

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

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

26 12-501.

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

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

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

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

34 [(iv)] (2) THE BOARD OF PUBLIC WORKS MAY APPROVE PAYMENT  
35 OF A SETTLEMENT, A JUDGMENT, OR COUNSEL FEES UNDER SUBTITLES 3 AND 4 OF

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

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

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

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

25 [(2)] (3) The Board may direct that payment be made in lump sum or in  
 26 installments.

27 [(3)] (4) If the Board disapproves payment in whole or in part, the Board  
 28 shall state in writing its reasons for disapproval.

29 [(4)] (5) Decisions under this title are not subject to judicial review.

30 [(5)] (6) Nothing in this section shall be construed as a waiver of  
 31 sovereign immunity of the State, any of its units, or State personnel.

32 [(6)] (7) If the Board directs payment under paragraph (1)(iv) of this  
 33 subsection, such payment shall be collected in the manner provided by § 7-222 of the  
 34 State Finance and Procurement Article.

35 (b) The Board of Public Works may delegate to affected units, in consultation  
 36 with the Attorney General, authority to pay, from the funds of that unit available for

1 the purpose, settlements, judgments, and counsel fees that do not exceed \$2,000 in a  
2 particular case.

3

**Article - State Finance and Procurement**

4 9-108.

5 (a) This section applies to any sheriff ~~or~~ deputy sheriff, OR EMPLOYEE OF A  
6 SHERIFF'S OFFICE engaged in any activity other than those activities [directly]  
7 relating to:

8 (1) courthouse security[,];

9 (2) service of process[, or];

10 (3) the transportation of inmates to and from court proceedings;

11 (4) PERSONNEL AND OTHER ADMINISTRATIVE ACTIVITIES;

12 (5) ACTIVITIES, INCLUDING ACTIVITIES RELATING TO PERFORMING  
13 LAW ENFORCEMENT FUNCTIONS, ARISING UNDER A MULTIJURISDICTIONAL  
14 AGREEMENT UNDER THE SUPERVISION AND DIRECTION OF THE MARYLAND STATE  
15 POLICE OR OTHER STATE AGENCY; OR

16 (6) ANY OTHER ACTIVITIES, EXCEPT ACTIVITIES RELATING TO  
17 PERFORMING LAW ENFORCEMENT FUNCTIONS OR DETENTION CENTER FUNCTIONS.

18 (b) A county or Baltimore City may obtain insurance to provide the coverage  
19 and defense necessary under the Maryland Tort Claims Act for personnel covered by  
20 this section.

21 (c) (1) If a county or Baltimore City does not obtain adequate insurance  
22 coverage to satisfy the coverage and defense necessary under the Maryland Tort  
23 Claims Act, an assessment for coverage and for payment of any litigation expenses,  
24 other than for compensation for the time spent by any State employee working for the  
25 Attorney General, shall be set off from:

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

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

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

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

