

# HOUSE BILL 1370

E4  
HB 879/03 – JUD

8lr2288

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By: **Delegates King, Kipke, Schuh, and Walker**  
Introduced and read first time: February 8, 2008  
Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Law Enforcement Officers – Application for Lost Pay**  
3 **and Attorneys’ Fees**

4 FOR the purpose eliminating a requirement to have the Attorney General or the  
5 Attorney General’s designee make a determination of the good faith of a certain  
6 applicant for lost pay and attorneys’ fees under certain circumstances;  
7 authorizing the Board of Public Works to approve payment of lost wages and  
8 reasonable attorneys’ fees resulting from a certain suspension without pay to an  
9 applicant from a State law enforcement agency under certain circumstances;  
10 prohibiting the Board of Public Works from approving certain payments under  
11 certain circumstances; providing for the application of this Act; and generally  
12 relating to an application to the Board of Public Works by a law enforcement  
13 officer for lost back pay or reasonable attorneys’ fees under certain  
14 circumstances.

15 BY repealing and reenacting, without amendments,  
16 Article – Public Safety  
17 Section 3–112(c)  
18 Annotated Code of Maryland  
19 (2003 Volume and 2007 Supplement)

20 BY repealing and reenacting, without amendments,  
21 Article – State Government  
22 Section 12–314  
23 Annotated Code of Maryland  
24 (2004 Replacement Volume and 2007 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article – State Government  
27 Section 12–315  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 (2004 Replacement Volume and 2007 Supplement)

2 BY adding to

3 Article – State Government

4 Section 12–315.1

5 Annotated Code of Maryland

6 (2004 Replacement Volume and 2007 Supplement)

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

9 **Article – Public Safety**

10 3–112.

11 (c) (1) If a law enforcement officer is charged with a felony, the chief may  
12 impose an emergency suspension of police powers without pay.

13 (2) A law enforcement officer who is suspended under paragraph (1) of  
14 this subsection is entitled to a prompt hearing.

15 **Article – State Government**

16 12–314.

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

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

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

26 12–315.

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

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

31 (2) the Attorney General certifies that:

32 (i) the applicant retained counsel;

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

3 (iii) **EXCEPT AS PROVIDED IN § 12-315.1 OF THIS SUBTITLE,**  
4 after review of the evidence and other information, the Attorney General or a designee  
5 appointed under this section made the following determinations:

6 1. in connection with the matter under criminal  
7 investigation, the applicant discharged the public responsibilities in good faith, did not  
8 engage in unlawful conduct, and was reasonable in retaining counsel and incurring  
9 the counsel fees for which reimbursement is sought; or

10 2. in connection with the matter that was the subject of  
11 criminal charges, the applicant discharged the public responsibilities in good faith and  
12 incurred reasonable counsel fees.

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

17 (c) If the Attorney General believes that it would be inappropriate for the  
18 Attorney General to make the determinations under subsection (a)(2)(iii) of this  
19 section, the Attorney General or the Board of Public Works may designate other  
20 counsel to carry out that duty.

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

23 **12-315.1.**

24 (A) **SUBJECT TO THE LIMITATIONS OF SUBSECTION (B) OF THIS**  
25 **SECTION, THE BOARD OF PUBLIC WORKS MAY APPROVE PAYMENT OF LOST**  
26 **WAGES AND REASONABLE ATTORNEYS' FEES RESULTING FROM A SUSPENSION**  
27 **WITHOUT PAY TO AN APPLICANT FROM A STATE LAW ENFORCEMENT AGENCY**  
28 **UNDER THIS SUBTITLE, LESS ANY AMOUNT FOR LOST WAGES RESULTING FROM**  
29 **AN UNRELATED ADMINISTRATIVE SUSPENSION OR DISCIPLINARY ACTION, IF:**

30 (1) **THE SUSPENSION WITHOUT PAY OCCURRED AS A RESULT OF**  
31 **ONE OR MORE CRIMINAL CHARGES AGAINST THE APPLICANT; AND**

32 (2) **THE FINAL DISPOSITION OF EACH CRIMINAL CHARGE AGAINST**  
33 **THE APPLICANT RESULTED IN A DISMISSAL, NOLLE PROSEQUI, OR AN**  
34 **ACQUITTAL.**

1           **(B) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE PAYMENT**  
2 **UNDER THIS SECTION IF:**

3                   **(1) THE APPLICANT IS TERMINATED FROM EMPLOYMENT WITH**  
4 **THE STATE LAW ENFORCEMENT AGENCY AS A RESULT OF AN ADMINISTRATIVE**  
5 **PROCEEDING RESULTING FROM THE SAME CRIMINAL CHARGES; OR**

6                   **(2) THE APPLICANT RESIGNS FROM THE APPLICANT'S POSITION**  
7 **WITH THE STATE LAW ENFORCEMENT AGENCY BEFORE RESUMING DUTIES FOR**  
8 **PAY.**

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
10 construed to apply retroactively and shall be applied to and interpreted to affect any  
11 application for payment for lost wages or attorneys' fees described in this Act filed on  
12 or after September 25, 2000.

13           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2008.