

12A. DEFENSE OF ACTIONS AGAINST PUBLIC OFFICERS AND EMPLOYEES.

THE ATTORNEY GENERAL, WHEN REQUESTED IN WRITING BY ANY OFFICER OR EMPLOYEE OF THE STATE, MAY APPEAR AND DEFEND ANY ACTION, CIVIL OR CRIMINAL, OR SPECIAL PROCEEDING, IN THE COURTS OF THIS STATE OR OF THE UNITED STATES INSTITUTED AGAINST THE OFFICER OR EMPLOYEE BY REASON OF ANY ACT DONE OR OMITTED TO BE DONE WITHOUT MALICE AND IN THE ABSENCE OF GROSS NEGLIGENCE AND IN THE SCOPE OF HIS EMPLOYMENT. THE DEFENSE MAY BE RENDERED BY THE ATTORNEY GENERAL, AN ASSISTANT, OR BY ANY SPECIAL COUNSEL WHEN DIRECTED TO DO SO BY THE ATTORNEY GENERAL II.II; IN A CRIMINAL CASE, SPECIAL COUNSEL MUST BE APPOINTED BY THE ATTORNEY GENERAL IF HE DETERMINES THAT ANY REPRESENTATION IS IN FACT APPROPRIATE. THE DEFENSE OF A CIVIL CASE SHALL INCLUDE THE RIGHT TO ASSERT COUNTERCLAIMS AND TO ENGAGE IN THIRD PARTY PRACTICE ON BEHALF OF THE OFFICER OR EMPLOYEE. NOTHING HEREIN MAY BE CONSTRUED TO DEPRIVE ANY OFFICER OR EMPLOYEE OF THE RIGHT TO SELECT COUNSEL OF HIS OWN CHOICE AT HIS OWN EXPENSE, NOR MAY IT PREVENT THE ATTORNEY GENERAL FROM ENTERING HIS APPEARANCE IN A CASE TO PROTECT THE INTERESTS OF THE STATE OF MARYLAND EVEN THOUGH NO REQUEST FOR SUCH APPEARANCE HAS BEEN FORTHCOMING FROM THE OFFICER OR EMPLOYEE NAMED AS A DEFENDANT.

12B. INVESTIGATION PRIOR TO DEFENSE; EFFECT OF INSURANCE.

THE ATTORNEY GENERAL, PRIOR TO UNDERTAKING ANY DEFENSE, SHALL CONDUCT AN INVESTIGATION OF THE FACTS ON WHICH THE ACTION OR SPECIAL PROCEEDING IS BASED. IF THE ATTORNEY GENERAL DETERMINES THAT THE OFFICER OR EMPLOYEE WAS NOT ACTING [IN GOOD FAITH AND] WITHIN THE SCOPE OF HIS EMPLOYMENT AND THE ACT OR OMISSION WAS MALICIOUS, OR GROSSLY NEGLIGENT, THE INVESTIGATION SHALL PROCEED NO FURTHER NOR MAY ANY DEFENSE BE PROVIDED FOR THE OFFICER OR EMPLOYEE PURSUANT TO THIS SECTION AND SECTION 12A. THE INVESTIGATION HEREIN REQUIRED MAY BE ACCOMPLISHED BY THE ATTORNEY GENERAL, ANY ASSISTANT, OR BY ANY OTHER ATTORNEY OR PERSON WHEN DIRECTED TO DO SO BY THE ATTORNEY GENERAL. IF IT APPEARS THAT THE OFFICER OR EMPLOYEE IS COVERED BY A POLICY OF INSURANCE UNDER THE TERMS OF WHICH THE CARRIER IS REQUIRED TO PROVIDE COUNSEL IN THESE ACTIONS OR SPECIAL PROCEEDINGS, THE ATTORNEY GENERAL MAY TERMINATE FURTHER INVESTIGATION AND PROVIDE NO REPRESENTATION FOR THE OFFICER OR EMPLOYEE. THE ATTORNEY GENERAL HAS SOLE DISCRETION TO ASSUME THE DEFENSE OF ANY OFFICER OR EMPLOYEE.

12C. ELECTION NOT TO DEFEND; SPECIAL VERDICT.

IF THE ATTORNEY GENERAL ELECTS NOT TO ASSUME THE DEFENSE OF A STATE OFFICER OR EMPLOYEE, AND IT IS JUDICIALLY DETERMINED THAT THE INJURIES AROSE OUT OF AN ACT OR OMISSION OF THE OFFICER OR EMPLOYEE DURING THE PERFORMANCE OF HIS DUTIES AND WITHIN THE SCOPE OF HIS