

EMPLOYMENT AND THAT THE ACT OR OMISSION OF THE OFFICER OR EMPLOYEE WAS NOT MALICIOUS, OR GROSSLY NEGLIGENT, OR IT IS ESTABLISHED THAT THE DEFENSE OF SOVEREIGN IMMUNITY IS AVAILABLE TO THE OFFICER OR EMPLOYEE, THE STATE IS LIABLE TO THE OFFICER OR EMPLOYEE FOR REASONABLE EXPENSES IN PROSECUTING HIS OWN DEFENSE, INCLUDING COURT COSTS AND ATTORNEYS' FEES. THESE EXPENSES SHALL BE PAID WITH THE APPROVAL OF THE ATTORNEY GENERAL BY THE AGENCY, BOARD, COMMISSION, OR DEPARTMENT BY WHICH THE OFFICER OR EMPLOYEE WAS EMPLOYED AT THE TIME THE ACT OR OMISSION COMPLAINED OF IN THE ACTION OCCURRED. THIS SECTION IS NOT APPLICABLE IF THE EXPENSES ARE REIMBURSED TO THE OFFICER OR EMPLOYEE PURSUANT TO THE PROVISIONS OF §12G OF THIS ARTICLE. THE DECISION OF THE ATTORNEY GENERAL NOT TO DEFEND AN OFFICER OR EMPLOYEE IS NOT ADMISSIBLE AS EVIDENCE IN ANY LEGAL ACTION OR SPECIAL PROCEEDING AND NO REFERENCE THERETO MAY BE MADE IN ANY TRIAL OR HEARING. IN ANY ACTION OR PROCEEDING AGAINST AN OFFICER OR EMPLOYEE THAT RESULTS IN A FINAL JUDGMENT OR OTHER DISPOSITION, THE COURT OR JURY SHALL RETURN A SPECIAL VERDICT IN THE FORM OF WRITTEN FINDINGS WHICH DETERMINE (1) IF THE OFFICER OR EMPLOYEE WAS ACTING [IN GOOD FAITH] WITHIN THE SCOPE OF HIS EMPLOYMENT; (2) IF THE ALLEGED ACT OR OMISSION BY THE OFFICER OR EMPLOYEE WAS MALICIOUS OR GROSSLY NEGLIGENT; (3) IF THE DEFENSE OF SOVEREIGN IMMUNITY IS AVAILABLE TO THE OFFICER OR EMPLOYEE.

12D. INFORMATION OBTAINED BY ATTORNEY GENERAL.

ANY AND ALL INFORMATION OBTAINED BY THE ATTORNEY GENERAL BY VIRTUE OF THE PROVISIONS OF SECTION 12A AND 12C THROUGH 12H, SHALL BE CONSIDERED CONFIDENTIAL AND SHALL NOT BE ADMISSIBLE AS EVIDENCE IN ANY LEGAL ACTION OR SPECIAL PROCEEDING, AND NO REFERENCE THERETO MAY BE MADE IN ANY TRIAL OR HEARING. [ONLY THE INFORMATION OBTAINED BY THE ATTORNEY GENERAL IN HIS INVESTIGATION OF THE FACTS UPON WHICH THE ACTION OR SPECIAL PROCEEDING IS BASED AS REQUIRED BY SECTION 12B IS SUBJECT TO THE DEPOSITION AND DISCOVERY PROVISIONS OF THE MARYLAND RULES OF PRACTICE AND PROCEDURE.]

12E. EMPLOYMENT OF SPECIAL COUNSEL.

THE ATTORNEY GENERAL MAY EMPLOY SPECIAL COUNSEL WHOSE COMPENSATION SHALL BE FIXED BY THE ATTORNEY GENERAL AND APPROVED BY THE BOARD OF PUBLIC WORKS, IF HE DETERMINES THAT IT IS IMPRACTICABLE OR UNECONOMICAL FOR SUCH LEGAL SERVICE TO BE RENDERED BY HIM OR ONE OF HIS ASSISTANTS.

THE COMPENSATION FOR SPECIAL COUNSEL SHALL BE PAID OUT OF THE FUNDS APPROPRIATED FOR THE ADMINISTRATION OF THE AGENCY, BOARD, COMMISSION, OR DEPARTMENT EMPLOYING THE OFFICERS AND EMPLOYEES DEFENDED.