

defense of any officer or employee.

12C.

If the Attorney General [elects] DETERMINES, PURSUANT TO §12B, 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 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 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.

12F.

The Attorney General, prior to the defense of an officer or employee, shall require the officer or employee to enter into an agreement which provides, among other things:

(1) The Attorney General, if he determines it appropriate, may require the officer or employee to reimburse the State for all expenses, including court costs and reasonable attorneys' fees, if it is judicially determined that the injuries complained of did not arise out of an act or omission of the officer or employee occurring during the performance of his duties and within the scope of his employment or that the act or omission of the officer or employee was malicious or grossly negligent, and the defense of sovereign immunity as to the officer or employee is not available; but such reimbursement may not be required if the information provided to the Attorney General by the officer or employee was complete and was neither false nor misleading. These costs constitute a debt due the State of Maryland and may be collected by appropriate judicial proceedings.