

12-307. INFORMATION.

INFORMATION THAT THE ATTORNEY GENERAL OBTAINS UNDER § 12-304(A)(1)(I), (II), (IV), OR (V), (B)(2)(I), (C)(2), OR (D), § 12-305, § 12-306, § 12-308, § 12-309, OR § 12-310 OF THIS SUBTITLE IS CONFIDENTIAL AND INADMISSIBLE AS EVIDENCE IN ANY LEGAL ACTION OR SPECIAL PROCEEDING. REFERENCE TO THE INFORMATION MAY NOT BE MADE IN ANY HEARING OR TRIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 32A, § 12D.

The cross-reference in this section to "§ 12-304(a)(1)(i) ... or § 12-310" is substituted for the cross-reference, in former Art. 32A, § 12D, to "information obtained ... by virtue of the provisions of §§ 12A and 12C through 12H". The substituted cross-reference preserves the exclusion of former Art. 32A, § 12B -- from which § 12-304(a)(1)(iii), (b)(1) and (2)(ii), and (c)(1) of this subtitle is derived. However, the Commission to Revise the Annotated Code notes that, notwithstanding the exclusion, information obtained in the investigation also may be inadmissible.

The substituted language no longer applies to the provisions of this section or to the provisions of § 6-105(c) of this article -- which is derived from former Art. 32A, § 12E and authorizes employment of counsel. These provisions, however, do not involve obtaining information.

12-308. REQUIRED FINDINGS.

(A) IN GENERAL.

IF AN ACTION OR SPECIAL PROCEEDING AGAINST A STATE OFFICER OR STATE EMPLOYEE IN WHICH THE ATTORNEY GENERAL HAS DECLINED REPRESENTATION UNDER § 12-304(B)(1) OF THIS SUBTITLE RESULTS IN FINAL JUDGMENT, THE COURT OR JURY SHALL FIND WHETHER:

(1) THE DEFENSE OF SOVEREIGN IMMUNITY IS AVAILABLE TO THE OFFICER OR EMPLOYEE;

(2) THE OFFICER OR EMPLOYEE WAS ACTING WITHIN THE SCOPE OF THE EMPLOYMENT OF THE OFFICER OR EMPLOYEE;

(3) THE ALLEGED ACT OR OMISSION WAS MALICIOUS; AND

(4) THE ALLEGED ACT OR OMISSION WAS GROSSLY NEGLIGENT.

(B) SPECIAL VERDICT.