

A JURY SHALL MAKE THE FINDINGS BY WRITTEN, SPECIAL VERDICT.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth sentence of former Art. 32A, § 12C.

In the introductory language of subsection (a) of this section, the clause "in which the Attorney General has declined representation under § 12-304(b)(1) of this subtitle" is added to reflect that this section only applies when the State may be liable for reimbursement under § 12-310 of this subtitle. This addition is necessary in light of this revision of this section separately from the rest of former Art. 32A, § 12C.

Also in the introductory language of subsection (a) of this section, the former reference "that results in a ... other disposition" is deleted as unnecessary.

Subsection (b) of this section is revised to limit the requirements of a "special verdict" to the findings of a jury.

12-309. REIMBURSEMENT BY PARTY.

(A) REQUIRED.

A COURT SHALL REQUIRE REIMBURSEMENT FROM THE PERSON WHO BRINGS AN ACTION OR PROCEEDING AGAINST A STATE OFFICER OR STATE EMPLOYEE IF:

- (1) JUDGMENT IS RENDERED FOR THE OFFICER OR EMPLOYEE;  
AND  
(2) THE COURT FINDS THAT THE ACTION OR PROCEEDING WAS INSTITUTED:
- (I) IN BAD FAITH; OR
  - (II) WITHOUT SUBSTANTIAL JUSTIFICATION.

(B) AMOUNT.

REIMBURSEMENT SHALL CONSIST OF REASONABLE COUNSEL FEES AND OTHER COSTS AND REASONABLE EXPENSES INCURRED BY THE OFFICER OR EMPLOYEE IN DEFENDING AGAINST THE ACTION OR PROCEEDING.

(C) RECIPIENT.

REIMBURSEMENT SHALL BE PAID:

- (1) TO THE OFFICER OR EMPLOYEE; OR
- (2) IF THE STATE OR ANY OF ITS UNITS ALREADY HAS REIMBURSED THE OFFICER OR EMPLOYEE, TO THE STATE OR THE UNIT.