

## **Chapter 6**

### **Reimbursement of Legal Fees and Costs to Officers and Employees Act**

#### **Part 1**

#### **General Provisions**

##### **52-6-101 Title.**

This chapter is known as the "Reimbursement of Legal Fees and Costs to Officers and Employees Act."

Enacted by Chapter 382, 2008 General Session

##### **52-6-102 Definitions.**

As used in this act:

- (1) "Officer or employee" means any individual who at the time of an event giving rise to a claim under this act is or was elected or appointed to or employed by a public entity, whether or not compensated, but does not include an independent contractor.
- (2) "Public entity" means the state or any political subdivision of it or any office, department, division, board, agency, commission, council, authority, institution, hospital, school, college, university, or other instrumentality of the state or any such political subdivision.

Renumbered and Amended by Chapter 382, 2008 General Session

#### **Part 2**

#### **Attorney Fees and Court Costs**

##### **52-6-201 Indictment or information against officer or employee -- Reimbursement of attorney fees and court costs incurred in defense.**

- (1) If a state grand jury indicts, or if an information is filed against, an officer or employee, in connection with or arising out of any act or omission of that officer or employee during the performance of the officer or employee's duties, within the scope of the officer or employee's employment, or under color of the officer or employee's authority, and that indictment or information is quashed or dismissed or results in a judgment of acquittal, unless the indictment or information is quashed or dismissed upon application or motion of the prosecuting attorney, that officer or employee shall be entitled to recover reasonable attorney fees and court costs necessarily incurred in the defense of that indictment or information from the public entity, unless the officer or employee is found guilty of substantially the same misconduct that formed the basis for the indictment or information.
- (2) If the officer or employee is acquitted of some of the charges or counts, or portions of the indictment or information are quashed or dismissed, that officer or employee shall be entitled to recover from the public entity reasonable attorney fees and court costs necessarily incurred in the defense of those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal, unless the misconduct covered by those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal is substantially the same misconduct that

formed the basis for charges, counts, or portions of the indictment or information of which the officer or employee was found guilty.

- (3) An officer or employee who recovers under this section shall also be entitled to recover reasonable attorney fees and costs necessarily incurred by the officer or employee in recovering the attorney fees and costs allowed under this section, including attorney fees and costs incurred on appeal.
- (4) Notwithstanding any other provision of this section, an officer or employee may not recover for the costs incurred in defense of any charge, count, or portion of the indictment or information that is quashed or dismissed upon application or motion of the prosecuting attorney.

Renumbered and Amended by Chapter 382, 2008 General Session

**52-6-202 Payment of reimbursement of attorney fees and court costs.**

- (1) A request for reimbursement of attorney fees and court costs shall be filed in the manner provided in Sections 63G-7-902 and 63G-7-903.
- (2)
  - (a) Any reimbursement of attorney fees and court costs filed on behalf of an officer or employee of the state shall be paid from funds appropriated to the department or division that employed the officer or employee at the time of the act or omission that gave rise to the indictment or information.
  - (b) If those funds are unavailable, the reimbursement shall be paid from the General Fund upon approval by the Board of Examiners and legislative appropriation.

Renumbered and Amended by Chapter 382, 2008 General Session