



Ohio Revised Code

Section 9.871 Indemnification of correctional employee.

Effective: April 7, 2009

Legislation: House Bill 130 - 127th General Assembly

(A) If an employee of the department of rehabilitation and correction is subject to criminal charges for actions occurring within the scope and in the course of the employee's assigned duties, and if the charges are dismissed or the employee is acquitted of any wrongdoing as a result, the employee may be indemnified for the reasonable cost of legal representation. An employee shall request indemnification by submitting a written request to the director of rehabilitation and correction. The director shall determine whether to recommend indemnification and shall transmit the recommendation to the attorney general. The attorney general shall review the request, the recommendation of the director, and any other information that the attorney general may require and shall decide whether or not the employee is to be indemnified.

(B) A decision of the attorney general made under division (A) of this section is not subject to appeal or review in any court or other forum. No person has a right of action against the department of rehabilitation and correction in the court of claims or any other court based on a decision of the attorney general made under division (A) of this section.

(C) The indemnification of an employee of the department of rehabilitation and correction pursuant to this section shall be accomplished only through the following procedure:

(1) If the director of rehabilitation and correction determines that the actions or omissions of the employee that gave rise to the claim were within the scope of the employee's employment and that the costs of legal representation should be indemnified, the attorney general shall prepare an indemnity agreement. The indemnity agreement shall specify that the department of rehabilitation and correction will indemnify the employee for the expenses of legal representation. The agreement shall not be effective until it is approved by the employee, the director, and the attorney general.

(2) The attorney general shall forward a copy of the indemnity agreement to the director of budget and management.



(3) The director of budget and management shall charge any indemnification paid pursuant to this section against available unencumbered moneys in the appropriations of the department of rehabilitation and correction. The director of budget and management shall have sole discretion to determine whether or not unencumbered moneys in a particular appropriation are available for payment of the indemnification.

(4) The director of budget and management shall, upon receipt of the agreement from the attorney general pursuant to division (C)(1) of this section, provide for payment to the employee in the amount specified in the agreement.

(5) If the director of budget and management determines that sufficient unencumbered moneys do not exist in the particular appropriations to pay the indemnification, the director of budget and management shall make application for payment of the indemnification out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests, or requests for releases from the other appropriation.

(6) If sufficient moneys do not exist in the emergency purposes account or any other appropriation for emergencies or contingencies to pay the indemnification, the director of rehabilitation and correction shall request the general assembly to make an appropriation sufficient to pay the indemnification, and no payment shall be made until the appropriation has been made. The department shall make the appropriation request during the current biennium and during each succeeding biennium until a sufficient appropriation is made.