

IC 34-13-4

Chapter 4. Civil Rights Claims Against Public Employees

IC 34-13-4-1

Personal civil liability under civil rights laws of employee acting within scope of employment

Sec. 1. If a present or former public employee, including a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity, is or could be subject to personal civil liability for a loss occurring because of a noncriminal act or omission within the scope of the public employee's employment which violates the civil rights laws of the United States, the governmental entity (when the governmental entity defends or has the opportunity to defend the public employee) shall, subject to IC 34-13-3-4, IC 34-13-3-14, IC 34-13-3-15, and IC 34-13-3-16, pay:

- (1) any judgment (other than for punitive damages) of the claim or suit; or
- (2) any judgment for punitive damages, compromise, or settlement of the claim or suit if:
 - (A) the governor, in the case of a claim or suit against a state employee; or
 - (B) the governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision;

determines that paying the judgment for punitive damages, compromise, or settlement is in the best interest of the governmental entity. The governmental entity shall also pay all costs and fees incurred by or on behalf of a public employee in defense of the claim or suit.

As added by P.L.1-1998, SEC.8. Amended by P.L.192-2001, SEC.4; P.L.161-2003, SEC.8.

IC 34-13-4-2

Defending state employee for claims or suits arising under civil rights laws

Sec. 2. If requested to do so, the attorney general shall defend a present or former state employee against a claim or suit under section 1 of this chapter. The attorney general may employ other counsel to aid in defending or settling the claim or suit.

As added by P.L.1-1998, SEC.8.

IC 34-13-4-3

Chapter as not waiving eleventh amendment

Sec. 3. This chapter shall not be construed as:

- (1) a waiver of the eleventh amendment to the Constitution of the United States;
- (2) consent by the state of Indiana or its employees to be sued in any federal court; or
- (3) consent to be sued in any state court beyond the boundaries of Indiana.

As added by P.L.1-1998, SEC.8.

IC 34-13-4-4

Attorney's fees; allowance to governmental entity; action for abuse of process

Sec. 4. In any action brought against a governmental entity under civil rights laws of the United States, the court may allow attorney's fees as part of the costs to the governmental entity prevailing as defendant if it finds that plaintiff:

- (1) brought the action on a claim that is frivolous, unreasonable, or groundless;
- (2) continued to litigate the action after plaintiff's claim clearly became frivolous, unreasonable, or groundless; or
- (3) litigated its action in bad faith.

This award of fees does not prevent a governmental entity from bringing an action against the plaintiff for abuse of process arising in whole or in part on the same facts, but the defendant may not recover attorney's fees twice.

As added by P.L.1-1998, SEC.8.