

#### **IC 10-11-4**

Chapter 4. Defense of Employees in Civil Actions; Duties of Attorney General

#### **IC 10-11-4-1**

##### **"Member"**

Sec. 1. As used in this chapter, "member" means the following:

- (1) An employee or appointee of the department.
- (2) An employee or appointee of the board.
- (3) The superintendent.
- (4) A member of the board.

*As added by P.L.2-2003, SEC.2.*

#### **IC 10-11-4-2**

##### **Civil action against a member**

Sec. 2. If a member is sued for civil damages and the board administratively determines that:

- (1) the civil action arose out of an act performed within the scope of the duties of the member; and
- (2) a lack of defense of the civil action by the state would prejudice the enforcement of the laws of the state;

the board shall present its written findings to the attorney general.

*As added by P.L.2-2003, SEC.2.*

#### **IC 10-11-4-3**

##### **Representation by attorney general or private counsel**

Sec. 3. (a) Except as provided in subsection (b), if the attorney general finds the board's determination to be supported by substantial evidence, the attorney general shall defend the member in the civil action.

(b) The attorney general may authorize the department to hire private counsel to defend the member in the civil action.

*As added by P.L.2-2003, SEC.2.*

#### **IC 10-11-4-4**

##### **Administrative determination not evidence in civil action**

Sec. 4. The administrative determination by the board or the determination by the attorney general under this chapter may not be admitted as evidence in the trial of the civil action for damages.

*As added by P.L.2-2003, SEC.2.*

#### **IC 10-11-4-5**

##### **Choice of defense counsel**

Sec. 5. (a) This chapter may not be construed to deprive a member of the right to select defense counsel of the member's choice at the member's expense.

(b) This chapter may not be construed to relieve any person from any responsibility for civil damages.

*As added by P.L.2-2003, SEC.2.*