

INDIVIDUAL DEFENDANT UNDER THIS SECTION, THE GOVERNING BODY FOR WHICH THE OFFICER OR DIRECTOR WAS ACTING SHALL BE SUBSTITUTED AS THE PARTY DEFENDANT WHEN ITS IDENTITY REASONABLY CAN BE DETERMINED.

~~5-399.3.~~ 5-399.2.

(A) IMMUNITY OF THE STATE IS NOT WAIVED UNDER § 12-104 OF THE STATE GOVERNMENT ARTICLE FOR:

- (1) PUNITIVE DAMAGES;
- (2) INTEREST BEFORE JUDGMENT;
- (3) A CLAIM THAT ARISES FROM THE COMBATANT ACTIVITIES OF THE STATE MILITIA DURING A STATE OF EMERGENCY;
- (4) ANY TORTIOUS ACT OR OMISSION OF STATE PERSONNEL THAT:

(I) IS NOT WITHIN THE SCOPE OF THE PUBLIC DUTIES OF THE STATE PERSONNEL; OR

(II) IS MADE WITH MALICE OR GROSS NEGLIGENCE; OR

- (5) A CAUSE OF ACTION THAT LAW SPECIFICALLY PROHIBITS.

(B) STATE PERSONNEL ARE IMMUNE FROM SUIT IN COURTS OF THE STATE AND FROM LIABILITY IN TORT FOR A TORTIOUS ACT OR OMISSION THAT IS WITHIN THE SCOPE OF THE PUBLIC DUTIES OF THE STATE PERSONNEL AND IS MADE WITHOUT MALICE OR GROSS NEGLIGENCE, AND FOR WHICH THE STATE OR ITS UNITS HAVE WAIVED IMMUNITY UNDER TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, EVEN IF THE DAMAGES EXCEED THE LIMITS OF THAT WAIVER.

(C) THE SCOPE OF PUBLIC DUTIES OF STATE PERSONNEL SHALL INCLUDE, BUT NOT BE LIMITED TO:

(1) ANY AUTHORIZED USE OF A STATE-OWNED VEHICLE BY STATE PERSONNEL, INCLUDING, BUT NOT LIMITED TO, COMMUTING TO AND FROM THE PLACE OF EMPLOYMENT; AND

(2) SERVICES TO THIRD PARTIES PERFORMED BY STATE PERSONNEL, AS DEFINED BY § 12-101 OF THE STATE GOVERNMENT ARTICLE, IN THE COURSE OF PARTICIPATION IN AN APPROVED CLINICAL TRAINING OR ACADEMIC PROGRAM.

(D) IN A CONTRACT ACTION UNDER TITLE 12, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE STATE AND ITS OFFICERS AND UNITS ARE NOT LIABLE FOR PUNITIVE DAMAGES.