

§8111. Personal immunity for employees; procedure

1. Immunity. Notwithstanding any liability that may have existed at common law, employees of governmental entities shall be absolutely immune from personal civil liability for the following:

- A. Undertaking or failing to undertake any legislative or quasi-legislative act, including, but not limited to, the adoption or failure to adopt any statute, charter, ordinance, order, rule, policy, resolution or resolve; [PL 1987, c. 740, §8 (RPR).]
- B. Undertaking or failing to undertake any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial; [PL 1987, c. 740, §8 (RPR).]
- C. Performing or failing to perform any discretionary function or duty, whether or not the discretion is abused; and whether or not any statute, charter, ordinance, order, resolution, rule or resolve under which the discretionary function or duty is performed is valid; [PL 1987, c. 740, §8 (RPR).]
- D. Performing or failing to perform any prosecutorial function involving civil, criminal or administrative enforcement; [PL 2001, c. 662, §7 (AMD).]
- E. Any intentional act or omission within the course and scope of employment; provided that such immunity does not exist in any case in which an employee's actions are found to have been in bad faith; or [PL 2001, c. 662, §8 (AMD).]
- F. Any act by a member of the Maine National Guard within the course and scope of employment; except that immunity does not exist when an employee's actions are in bad faith or in violation of military orders while the employee is performing active state service pursuant to Title 37-B. [PL 2001, c. 662, §9 (NEW).]

The absolute immunity provided by paragraph C shall be applicable whenever a discretionary act is reasonably encompassed by the duties of the governmental employee in question, regardless of whether the exercise of discretion is specifically authorized by statute, charter, ordinance, order, resolution, rule or resolve and shall be available to all governmental employees, including police officers and governmental employees involved in child welfare cases, who are required to exercise judgment or discretion in performing their official duties.

[PL 2001, c. 662, §§7-9 (AMD).]

2. Attachment and trustee process. Attachment, pursuant to Rule 4A, Maine Rules of Civil Procedure, and trustee process, pursuant to Rule 4B, Maine Rules of Civil Procedure, shall not be used in connection with the commencement of a civil action against an employee of a governmental entity based on any act or omission of the employee in the course and scope of employment.

[PL 1987, c. 740, §9 (AMD).]

SECTION HISTORY

PL 1977, c. 2, §§2,5 (NEW). PL 1977, c. 591, §6 (AMD). PL 1979, c. 68, §5 (AMD). PL 1987, c. 427, §§1,2 (AMD). PL 1987, c. 740, §§8,9 (AMD). PL 1989, c. 502, §A40 (AMD). PL 2001, c. 662, §§7-9 (AMD).

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