

§185. Rights and liabilities of military force members

1. Immunity from civil and criminal liability. A member of the state military forces may not be liable civilly or criminally for any act done or caused, ordered or directed to be done by that member while on active state service in the performance of that member's duty. If an action of any nature has been commenced in any court by any person against an officer or enlisted member of the state military forces for such an act, done or caused, ordered or directed to be done, all expenses of the defense of the action, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, must be paid by the State out of the Military Fund. When the action is civil, it is the duty of the Attorney General to defend that officer or enlisted member. When the action is criminal, the Adjutant General shall designate a judge advocate of the National Guard or other authorized state military or naval force to conduct the defense of the member. If the services of a judge advocate are not available, the Adjutant General shall select some other competent attorney to conduct the defense. In any civil action, the defendant may require the person instituting the action to file security for payment of costs that may be awarded the defendant, which costs, if paid out of the Military Fund, when received, must be paid into the State Treasury and credited to the Military Fund. [PL 1995, c. 196, Pt. B, §2 (AMD).]

1-A. Immunity from civil and criminal liability for collaborating or consulting physician. Subsection 1 applies to a collaborating or consulting physician of a physician assistant under Title 32, section 2594-F or 3270-G:

A. With regard to any act of the physician assistant in providing services to individuals not on active state service; [PL 2009, c. 587, §1 (NEW).]

B. When the physician assistant is on active state service in the performance of the physician assistant's duty; and [PL 2009, c. 587, §1 (NEW).]

C. When the collaborating or consulting physician is not on active state service. [PL 2019, c. 627, Pt. B, §21 (AMD).]

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2. Exemption from arrest. Persons belonging to the state military forces are exempt from arrest as follows.

A. Every person belonging to the state military forces, in all cases except a crime punishable by a maximum term of imprisonment equal to or exceeding one year or breach of the peace, is privileged from arrest while going to, attending or returning from active state service or federal military duty. [PL 2001, c. 662, §22 (AMD).]

B. On the day of any active state service or federal military duty, no officer or enlisted member may be arrested in a civil action or mesne process, or on a warrant for taxes; nor may that person be arrested on the day of annual Thanksgiving; Patriots' Day; Memorial Day; July 4th; Labor Day; Veterans' Day, November 11th; or Christmas. [PL 2001, c. 662, §22 (AMD).]
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3. Exemption from jury duty. Every member of the state military forces, while going to, attending or returning from active state service or federal military duty, is exempt from jury duty. Production of a certificate from the claimant's commanding officer that the person qualifies for the exemption is prima facie proof that the person is entitled to the exemption. [PL 2001, c. 662, §22 (AMD).]

4. Rights of a law enforcement officer. A commissioned officer of the state military forces when called to active state service under section 181-A, subsection 1, in addition to such other rights conferred by this chapter and otherwise by law, has the rights, authority and immunities of a law enforcement officer.

[PL 2001, c. 662, §23 (AMD).]

SECTION HISTORY

PL 1983, c. 460, §3 (NEW). PL 1983, c. 594, §§9,10 (AMD). PL 1995, c. 196, §B2 (AMD). PL 1995, c. 600, §6 (AMD). PL 2001, c. 662, §§22,23 (AMD). PL 2009, c. 587, §1 (AMD). PL 2015, c. 242, §6 (AMD). PL 2019, c. 627, Pt. B, §21 (AMD).

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