

29A.51 Suit or proceeding defense.

If a suit or proceeding is commenced in any court by any person against a member of the military forces of the state for an act done by the member in the member's official capacity in the discharge of a duty under this chapter or chapter 29B, the attorney general or staff judge advocate, upon the request of the adjutant general, shall defend the member against whom the suit or proceeding has been instituted. The costs of the defense shall be paid out of any funds in the state treasury not otherwise appropriated. Before the suit or proceeding is filed or maintained against the member, the plaintiff must give security, to be approved by the court in a sum not less than one hundred dollars to secure the costs. If the plaintiff fails to recover judgment, the costs shall be taxed and judgment rendered against the plaintiff and the plaintiff's sureties. When members of the military forces of the state are called into state active duty by the governor under martial law or to assist civil authorities, in addition to the judge advocate's other duties, any judge advocate on duty with those troops may be appointed by the attorney general as an assistant attorney general, without pay for the judge advocate's services for acting in that capacity.

[C35, § 467-f38; C39, § **467.40**; C46, 50, § 29.40; C54, 58, 62, § 29.51; C66, 71, 73, 75, 77, 79, 81, § 29A.51]

2002 Acts, ch 1117, §19, 23