

59 (iii) injury or damage resulted from the employee being physically or mentally
60 impaired so as to be unable to reasonably perform the employee's job function because of:

61 (A) the use of alcohol;

62 (B) the nonprescribed use of a controlled substance as defined in Section 58-37-4; or

63 (C) the combined influence of alcohol and a nonprescribed controlled substance as
64 defined by Section 58-37-4;

65 (iv) in a judicial or administrative proceeding, the employee intentionally or knowingly
66 gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false
67 testimony material to the issue or matter of inquiry under this section; or

68 (v) the employee intentionally or knowingly:

69 (A) fabricated evidence; or

70 (B) except as provided in Subsection (3)(d), with a conscious disregard for the rights of
71 others, failed to disclose evidence that:

72 (I) was known to the employee; and

73 (II) (Aa) was known by the employee to be relevant to a material issue or matter of
74 inquiry in a pending judicial or administrative proceeding, if the employee knew of the pending
75 judicial or administrative proceeding; or

76 (Bb) was known by the employee to be relevant to a material issue or matter of inquiry
77 in a judicial or administrative proceeding, if disclosure of the evidence was requested of the
78 employee by a party to the proceeding or counsel for a party to the proceeding.

79 (d) The exception, described in Subsection (3)(c)(v)(B), allowing a plaintiff to bring or
80 pursue a civil action or proceeding against an employee, does not apply if the employee failed
81 to disclose evidence described in Subsection (3)(c)(v)(B), because the employee is prohibited
82 by law from disclosing the evidence.

83 (4) Except as permitted in Subsection (3)(c), no employee may be joined or held
84 personally liable for acts or omissions occurring:

85 (a) during the performance of the employee's duties;

86 (b) within the scope of employment; or

87 (c) under color of authority.

88 (5) A general duty that a governmental entity ~~§~~→ [or an employee] ←~~§~~ owes to the public

88a does

89 not create a specific duty to an individual member of the public, unless ~~§~~→ [the individual

89a member ←~~§~~

90 ~~§→of the public stands so far apart from the general public that~~ ←§ there is a special relationship
91 between the governmental entity §→ [or employee] ←§ and the individual member of the public.

Legislative Review Note
as of 2-25-14 6:29 AM

Office of Legislative Research and General Counsel