

OKLAHOMA STATUTES  
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§44-1. Short title.

This act shall be known, and may be cited as, "The Oklahoma Military Code."

Laws 1951, p. 114, art. 1, § 1, eff. May 16, 1951.

§44-2. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-3. Reference to repealed clauses.

When an act or law of the State of Oklahoma, not repealed herein, shall refer to any act or any section of any law which is repealed herein, such reference shall be deemed to refer to the section or sections of this act covering the same subject matter.

Laws 1951, p. 114, art. 1, § 4, eff. May 16, 1951.

§44-4. Partial invalidity.

If any clause, sentence, paragraph, provision, or part of this act be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such shall not affect, impair or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, provision, or section thereof directly involved in the controversy in which such judgment is rendered. The

Legislature hereby declares that it intended separately to enact every sentence, part, clause, provision, and section of this act. Laws 1951, p. 114, art. 1, § 5, eff. May 16, 1951.

§44-5. Repealed by Laws 1961, p. 288, § 1, eff. July 21, 1961.

§44-6. Honorary staff of the Governor.

The Governor may appoint an honorary staff to consist of such number of honorary aides with the brevet title of Colonel, Lieutenant Colonel or Major, as he may desire. All of these staff officers shall be appointed by the Governor and hold office at his will and their commissions shall expire with the term of office of the Governor making such appointment. Staff officers shall not be subject to jury duty during the period of their service. The Adjutant General shall be ex officio Chief of Staff. Laws 1951, p. 114, art. 1, § 7, eff. May 16, 1951.

§44-21. Military Department.

The Military Department of the State of Oklahoma is hereby established and shall be under the command and control of the Governor as Commander in Chief, with the Adjutant General as the executive and administrative head thereof. The Military Department shall be constituted of the state military forces, as defined by Section 801 of this title, and is hereby organized into a joint headquarters which shall be identified as the joint forces headquarters. The joint forces headquarters shall be jointly staffed by Army National Guard and Air National Guard personnel who, under the authority and direction of the Adjutant General, shall support and assist the Adjutant General in the exercise of command and control over state military forces when not activated for federal duty under Title 10 of the United States Code. There shall be assigned to the joint force headquarters, officers, enlisted personnel and civilian employees as may be considered necessary by the Governor as Commander in Chief and as may be authorized by law and Army National Guard regulations and Air National Guard regulations.

Added by Laws 1951, p. 114, art. 2, § 1, emerg. eff. May 16, 1951. Amended by Laws 1959, p. 195, § 1, emerg. eff. July 16, 1959; Laws 2010, c. 212, § 2, emerg. eff. May 6, 2010; Laws 2019, c. 408, § 2, eff. Oct. 1, 2019.

§44-21.1. Personnel - Unclassified service.

A. Personnel appointed as state employees in the Military Department shall be in the unclassified service of the state. The Adjutant General may grant leave to state civilian employees consistent with the rules governing the federal workforce in support of the National Guard.

B. Any employee of the Military Department of the State of Oklahoma may be granted administrative leave with pay for volunteer service activities, under such terms and limitations as the Adjutant General may establish, in service that meets one or more of the following criteria:

1. The activity is directly related to the Department's mission;

2. The activity is sponsored or sanctioned by or in partnership with the Department; or

3. The activity will enhance the development or skills of the employee in his or her current position.

C. Leave granted pursuant to subsection B of this section shall be as brief as permitted under the circumstances and shall not support an activity otherwise prohibited by law while in a duty status.

D. The Adjutant General shall establish guidelines for approval of administrative leave for volunteer service authorized pursuant to subsection B of this section which balances the Department's goals and operations and ensures that each is conducted efficiently and effectively.

Added by Laws 1990, c. 258, § 32, operative July 1, 1990. Amended by Laws 2011, c. 124, § 1, eff. Nov. 1, 2011; Laws 2018, c. 166, § 2, eff. Nov. 1, 2018.

§44-22. Administration of military matters.

All matters concerning or relating to the Militia, the National Guard, or other military organizations, and such other duties as may be assigned by the Governor, shall be administered by and through the Military Department.

Laws 1951, p. 114, art. 2, § 2, eff. May 16, 1951.

§44-23. Governor as Commander in Chief - Powers - Armed military forces from other state or territory - Independent military organizations.

The Governor of the state shall be the Commander in Chief of the Militia, and as such shall have supreme command of the military forces of the state while in the service of the state or until they are ordered and accepted into the service of the United States.

While in the service of the state, he shall have power to muster out any organization of the state, discharge enlisted men, as provided herein, and perform such other acts in keeping with the laws of the Commander in Chief, subject to the laws of the United States and regulations prescribed by the President of the United States. No armed military force from another state or territory shall be permitted to enter the state without his permission, unless such military force be a part of the United States, or is acting under the authority of the United States. No independent military



organization, except as a corps of cadets at the educational institutions, shall be permitted to bear arms without first securing permission of the Commander in Chief.

Laws 1951, p. 114, art. 2, § 3, eff. May 16, 1951.

§44-24. Adjutant General - Eligibility - Appointment.

A. The Adjutant General shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. B. To be eligible to hold the office of Adjutant General of this state, at the time of appointment the appointee:

1. Shall be a federally recognized officer of the Oklahoma National Guard and of the National Guard of the United States for no less than three (3) years;

2. Shall possess at least the rank of Colonel; and

3. If not already a general officer, shall be eligible for a Certificate of Eligibility pursuant to federal law and applicable regulations issued by the Chief of the National Guard Bureau.

C. If the Oklahoma National Guard is in active federal service and no persons having the qualifications required in subsection B of this section are available within the state, then the Governor may appoint, subject to the advice and consent of the Senate, any suitably qualified person who at any time in the preceding ten (10) years would have been qualified, as above, and who has served at least two (2) years in active federal service in the grade of Colonel or higher.

Added by Laws 1951, p. 115, art. 2, § 4, emerg. eff. May 16, 1951.

Amended by Laws 1971, c. 290, § 1; Laws 2006, c. 254, § 1, eff. July 1, 2006; Laws 2021, c. 12, § 1, emerg. eff. April 13, 2021.

§44-25. Rank of Adjutant General - Assistants.

A. The Adjutant General shall have the rank of Major General and devote full time to the duties of the office.

B. The Governor may appoint Assistant Adjutants General for Army and Assistant Adjutants General for Air to assist the Adjutant General in the discharge and performance of his or her duties. When appointing Assistant Adjutants General, the Governor shall take into consideration the number of such positions contemplated or recommended by the National Guard Bureau for manning the joint forces headquarters of a state. Such Assistant Adjutants General shall have the qualifications prescribed by law for the Adjutant General and shall have the rank of Brigadier General. The Assistant Adjutants General appointed by the Governor shall be considered staff officers and not commanders except that, in the discretion of the Adjutant General, specific command or supervisory authority may be delegated by the Adjutant General to an Assistant Adjutant General but such delegation shall be accomplished in writing and

shall be considered a military publication, as defined in Section 801 of this title (Article 1).

C. Other general officers assigned to billets within the state military forces, including certain billets within the joint forces headquarters, shall be considered staff officers and not commanders except that, in the discretion of the Adjutant General, specific command or supervisory authority may be delegated by the Adjutant General to such general officers but such delegation shall be accomplished in writing and shall be considered a military publication, as defined in Section 801 of this title (Article 1).

D. The Adjutant General may employ a state employee in the position of Executive Assistant and Programs Manager for the Military Department of the state. Said position shall be unclassified and exempt from the Oklahoma Personnel Act and the Merit Rules for Employment, except leave regulations. Added by Laws 1951, p. 115, art. 2, § 5, emerg. eff. May 16, 1951. Amended by Laws 1959, p. 195, § 2, emerg. eff. July 16, 1959; Laws 1990, c. 258, § 33, operative July 1, 1990; Laws 2012, c. 304, § 153; Laws 2021, c. 12, § 2, emerg. eff. April 13, 2021.

#### §44-26. Duties of the Adjutant General.

A. The Adjutant General shall be in control of the Military Department of the State of Oklahoma, subordinate only to the Governor. Within the limitations and under the provisions of law, he or she shall supervise and direct the National Guard within the service of the state and when under state control in all of its organization, training and other activities; shall receive and give effect to the orders of the Governor; and shall perform such other military and defense duties, not otherwise assigned by law, as the Governor may prescribe.

B. The Adjutant General, when absent from the state, may temporarily delegate any authority vested under this title and any such duties as an agency appointing authority to an Assistant Adjutant General, other state officer or employee within the Military Department of the State of Oklahoma. Such temporary delegations of authority pursuant to this subsection shall be accomplished in writing. The Adjutant General may also promulgate regulations providing for the delegation of any such authority.

C. The Adjutant General shall develop, publish and maintain an organizational chart depicting the chain of command between the Adjutant General and the major commands of the Oklahoma National Guard. Besides the major commands defined in Section 801 of this title (Article 1), the Adjutant General, in his or her discretion, may designate other military units within the Oklahoma National Guard as major commands.

D. The organizational chart required in subsection C of this section shall be updated no less than annually and shall include all

enlisted and officer billets assigned to joint forces headquarters and shall depict all existing command relationships established by the Adjutant General within joint forces headquarters. The organizational chart required herein shall not be considered a military publication within the meaning of Section 801 of this title (Article 1).

E. In accordance with all relevant requirements of the United States Army, the United States Air Force or the National Guard Bureau, the Adjutant General shall develop, publish and maintain an enlisted and officer rating scheme for all enlisted and officer billets assigned to joint forces headquarters. The rating scheme required herein shall not be considered a military publication within the meaning of Section 801 of this title (Article 1).

F. Pursuant to the rules established by the Adjutant General, the Military Department of the State of Oklahoma is authorized to expend appropriated and nonappropriated funds to enhance recruiting and retention efforts for the Oklahoma National Guard.

Added by Laws 1951, p. 115, art. 2, § 6, emerg. eff. May 16, 1951. Amended by Laws 1959, p. 195, § 3, emerg. eff. July 16, 1959; Laws 2011, c. 124, § 2, eff. Nov. 1, 2011; Laws 2016, c. 268, § 2, eff. Nov. 1, 2016; Laws 2020, c. 142, § 1, emerg. eff. May 21, 2020; Laws 2021, c. 12, § 3, emerg. eff. April 13, 2021.

NOTE: Laws 2016, c. 119, § 1 repealed by Laws 2017, c. 42, § 13.

#### §44-26.1. Financial donations to the Adjutant General.

The Adjutant General may receive financial donations and expend such donated funds or utilize state appropriated funds for mementos, presentations or participation in events designed to promote the interests and relationships of the Military Department or Oklahoma National Guard, specifically, but not limited to, the State Partnership Program. A full and complete record of such donated funds received and disbursed by the Military Department shall be kept and shall be subject to audit, and reports submitted to the Adjutant General upon request. Such expenditures shall be limited to Three Hundred Dollars (\$300.00) per occasion and shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) per year.

Added by Laws 2010, c. 212, § 1, emerg. eff. May 6, 2010.

#### §44-26.2. Requests from Adjutant General for confidential criminal justice information in administrative or court-martial actions.

The Adjutant General or the Adjutant General's designee may request from a district attorney or law enforcement agency confidential criminal justice information relating to the member of the National Guard for use in an administrative or court-martial action. Unless the district attorney or law enforcement agency determines that dissemination of the requested confidential criminal justice information would jeopardize a pending investigation or

other pending criminal proceeding, the district attorney or the investigating law enforcement agency shall disseminate the requested information to the Adjutant General or the Adjutant General's designee.

Added by Laws 2019, c. 408, § 1, eff. Oct. 1, 2019.

§44-27. Compensation of personnel.

The Adjutant General and Assistant Adjutants General shall be paid a sum equivalent to the pay of his/her federally recognized rank, exclusive of allowances. Other officers and enlisted men and employees of the Department shall be paid in amounts fixed by the Adjutant General and within amounts appropriated for that purpose. Laws 1951, p. 115, art. 2, § 7, eff. May 16, 1951; Laws 1990, c. 258, § 34, operative July 1, 1990.

§44-28. Petty cash fund.

There is hereby created a petty cash fund for programs of the Oklahoma Military Department, including but not limited to billeting funds, youth programs and military awards and decoration programs, the sum of which shall be determined as agreeable to the Oklahoma Military Department and the Director of the Office of Management and Enterprise Services. The Director shall establish procedures for the administration of this petty cash fund.

Added by Laws 2017, c.101, § 1, eff. Nov. 1, 2017.

§44-30. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-31. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-32. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-41. Composition of Militia - Classes.

The Militia of the State of Oklahoma shall consist of all able-bodied citizens of the United States and all other able-bodied persons who shall be or shall have declared their intentions to become citizens of the United States, who shall be more than seventeen (17) years of age and not more than seventy (70) years of age, and said militia shall be divided into three (3) classes: The National Guard, the Oklahoma State Guard, and the Unorganized Militia.

Laws 1951, p. 115, art. 3, § 1, eff. May 16, 1951; Laws 1957, p. 422, § 1, eff. May 24, 1957; Laws 1968, c. 299, § 1, emerg. eff. May 3, 1968; Laws 1981, c. 136, § 1; Laws 1985, c. 96, § 1, eff. Nov. 1, 1985.

§44-42. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-43. Eligibility as commissioned officers - Qualifications.

No person shall be commissioned as an officer of the National Guard who is under the age of eighteen (18) years and is not temperate and of good morals, and unless he or she shall have successfully passed such tests as to his or her physical, mental, and professional fitness as may be prescribed by the laws and regulations applicable to the federally recognized National Guard. Added by Laws 1951, p. 115, art. 3, § 3, emerg. eff. May 16, 1951. Amended by Laws 1963, c. 35, § 1, emerg. eff. April 4, 1963; Laws 2011, c. 124, § 3, eff. Nov. 1, 2011.

§44-44. Repealed by Laws 2010, c. 212, § 10, emerg. eff. May 6, 2010.

§44-45. Oath of commissioned officers.

Oath for National Guard Officers. Each commissioned officer, before entering upon the duties of his office, shall take and subscribe to the following oath, or such other oath as may be required by National Guard Regulations:

"I ....., do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Oklahoma against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and the Governor of the State of Oklahoma; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of ....., in the National Guard of the United States and the State of Oklahoma upon which I am about to enter, so help me God."

Laws 1951, p. 116, art. 3, § 5, eff. May 16, 1951.

§44-46. Repealed by Laws 1999, c. 49, § 2, eff. July 1, 1999.

§44-47. Period of enlistment - Qualifications - Reenlistment - Oath - Relinquishment of custody of minor child.

A. Enlistments in the National Guard. Hereafter, the period of enlistment in the National Guard of this state shall be for three (3) years or such other time as prescribed by National Guard regulations, and the qualifications for enlistment shall be the same as those prescribed for admission to the Regular Army or Regular Air Force or National Guard regulations; provided that the privilege of continuing in active service during the whole of an enlistment period and of reenlisting in the said service shall not be denied except as herein otherwise provided. Unless otherwise prohibited by federal law or by Department of Army, Department of Air Force or National Guard Bureau regulations, enlisted members and prospective members of the Oklahoma Army and Air National Guard who have

successfully completed the requirements for and have obtained a General Education Diploma (G.E.D.) shall be awarded a high school diploma by the State of Oklahoma. The State Department of Education shall issue this high school diploma. Such diploma shall be limited to the purposes of enlistment and admission in the National Guard pursuant to the provisions of this section. Such purpose shall be specified on the high school diploma. All enlisted men of the National Guard of this state shall sign an enlistment contract and take and subscribe to the oath required by National Guard regulations. Any officer or warrant officer of the Armed Forces of the United States may administer the enlistment oath.

B. 1. By complying with this subsection, a single custodial parent who is an applicant for enlistment in the Oklahoma National Guard satisfies the requirements of National Guard Regulation 600-200 or Air National Guard Regulation 39-09 regarding the placement of the physical custody of a minor child with an adult blood relative of the child within the third degree of consanguinity for all periods of active duty during the term of enlistment. A document placing the physical custody of a child pursuant to this subsection shall:

- a. be in writing,
- b. clearly identify the child, the person with whom physical custody is being placed, that person's relationship to the child, and the period of enlistment for which physical custody is to be placed,
- c. be executed by the parent/applicant before a notary public, and
- d. clearly state that it is for all purposes, including health care, during the periods of time in question.

2. A certified copy or executed copy of the document required by this subsection shall become a part of the applicant's permanent Oklahoma National Guard file.

3. Nothing in this section shall terminate, interfere, delay or negate any right of visitation by the noncustodial parent, or any person granted visitation by court order.

4. It is the intent of the Legislature that the placement of physical custody of a child pursuant to the provisions of this section shall not be a substantial change to any existing custody decree nor shall it be deemed a voluntary permanent relinquishment of custody.

Added by Laws 1951, p. 116, art. 3, § 7, eff. May 16, 1951. Amended by Laws 1981, c. 137, § 1, eff. Oct. 1, 1981; Laws 1988, c. 318, § 3, emerg. eff. July 6, 1988; Laws 1993, c. 121, § 1, emerg. eff. April 29, 1993; Laws 1998, c. 415, § 48, emerg. eff. June 11, 1998.

§44-48. Discharge of enlisted men.

Enlisted men discharged from service in the National Guard of this state shall receive a discharge in writing in such form and with such classification as is or shall be prescribed by National Guard regulations, and in time of peace discharges may be given prior to the expiration of terms of enlistment in the following cases:

By sentence of a general court-martial; by direction of the Governor on account of disability; on account of sentence of imprisonment by a civil court whether suspended or not; on account of a bona fide permanent change of residence to another state; and for the purpose of enlisting in regular Army, Air Force, Navy, or Marine Corps, and for such other causes as may be prescribed by National Guard regulations or the Commander in Chief; provided, that an enlisted man who has not returned or accounted for all of the public property for which he is responsible, shall under no circumstances receive an honorable discharge.

Laws 1951, p. 116, art. 3, § 8, eff. May 16, 1951.

§44-49. Application of Army customs - Regulations and usage.

All matters relating to organization, commissioning and discharging of officers, enlisting and discharge of enlisted men, discipline, and government of the National Guard, not otherwise provided in this code, shall be decided by the customs, regulations, and usage of the United States Army or the United States Air Force or National Guard regulations.

Laws 1951, p. 117, art. 3, § 9, eff. May 16, 1951.

§44-50. Repealed by Laws 2010, c. 212, § 11, emerg. eff. May 6, 2010.

§44-71. Duty to attend assembly - Refusal of employer to permit attendance - Drills, exercises, etc.

It shall be the duty of each commissioned officer and enlisted person of the Oklahoma National Guard to be present and perform all the duties required of him or her at each assembly for drill and instruction, encampment, maneuvers or other exercises, unless regularly excused by competent authority. Any employer who refuses to permit an employee who may be a member of the National Guard of this state to attend any drill, ceremony, exercise, or any duty which he or she may be legally called upon to perform shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), or by imprisonment for not less than ten (10) days, nor more than sixty (60) days in the county jail, or by both such fine and imprisonment.

Added by Laws 1951, p. 117, art. 4, § 1, emerg. eff. May 16, 1951.

Amended by Laws 2010, c. 212, § 3, emerg. eff. May 6, 2010.

§44-72. Ordering into active service.

It shall be the duty of the Governor, and he or she is authorized and required, in case of war, invasion, insurrection, or breach of the peace or imminent danger thereof or any forcible obstructing of the execution of the laws or reasonable apprehension thereof, or an imminent or existing epidemic or pandemic, and at all other times he or she may deem necessary, to order on state active duty the National Guard or any part thereof. No member thereof who shall be ordered out for such state active duty shall be liable for civil prosecution for any act done by him or her in the discharge of his or her military duty on such occasions.

Laws 1951, p. 117, art. 4, § 2, eff. May 16, 1951. Amended by Laws 2021, c. 12, § 4, emerg. eff. April 13, 2021.

§44-73. Local commanding officer - Order into service in emergency.

In the event of insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, occurring in the vicinity of the station of any organization or organizations of the National Guard of Oklahoma whenever the exigencies of the situation are such as to render it impossible first to communicate with the Governor or the Adjutant General, the senior commanding officer of that station, upon request in writing signed by the sheriff of the county involved or officer acting in his stead, stating the facts and the nature of the service desired, may order out the organization or organizations at that station, or such portion thereof as he shall deem necessary, and cause them to perform such duty as the circumstances shall require, and such commanding officers shall immediately report what he has done and all of the circumstances of the case to the Governor, and it shall be deemed that the action was taken by order of the Governor.

Laws 1951, p. 117, art. 4, § 3, eff. May 16, 1951.

§44-74. Compensation and benefits.

The Adjutant General is authorized to make and publish policy to determine the amount of compensation and benefits for members of the Oklahoma National Guard serving in active service of the state and prescribe the applicable rules and procedures.

Added by Laws 1951, p. 118, art. 4, § 4, emerg. eff. May 16, 1951. Amended by Laws 1999, c. 49, § 1, eff. July 1, 1999; Laws 2010, c. 212, § 4, emerg. eff. May 6, 2010.

§44-75. Hospital and medical treatment.

Officers and/or enlisted men who suffer injuries or contract disease, in line of duty, while on duty or in active service, shall receive hospitalization and medical treatment, and the pay and allowances of their grade during the period that they are unable to



resume their civilian occupation; but no commissioned officer shall be paid after the termination of said service or duty more than the pay and allowances of a Second Lieutenant.

All payments herein provided for shall be paid on the approval of the Adjutant General by warrant drawn against the funds appropriated for that purpose in the Military Department or other funds made available.

In the event of compensation for said service, death or injuries, being paid in part by the federal government, the state shall pay only the balance necessary to make the above designated amounts.

Laws 1951, p. 118, art. 4, § 5, eff. May 16, 1951.

§44-77. State funding for insurance premiums.

The Adjutant General is hereby authorized to administer, determine eligibility and expend state funds appropriated by the Legislature for payment/reimbursement of insurance premiums to provide coverage up to the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) under Serviceman's Group Life Insurance (SGLI) or State Sponsored Life Insurance (SSLI) for the military members of the Oklahoma Army and Air National Guard.

Added by Laws 2005, c. 240, § 1, emerg. eff. June 2, 2005. Amended by Laws 2010, c. 212, § 5, emerg. eff. May 6, 2010.

§44-91. Repealed by Laws 1963, c. 148, § 1114, eff. June 6, 1963.

§44-92. Repealed by Laws 1963, c. 148, § 1114, eff. June 6, 1963.

§44-93. Repealed by Laws 1963, c. 148, § 1114, eff. June 6, 1963.

§44-94. Repealed by Laws 1963, c. 148, § 1114, eff. June 6, 1963.

§44-95. Repealed by Laws 1963, c. 148, § 1114, eff. June 6, 1963.

§44-96. Repealed by Laws 1963, c. 148, § 1114, eff. June 6, 1963.

§44-97. Repealed by Laws 1963, c. 148, § 1114, eff. June 6, 1963.

§44-111. Public property - Liability of commanding officer - Liability of person responsible for loss, damage or destruction - Apprehension and prosecution of persons absconding.

(a) The officer in permanent or temporary command of a station is responsible for the security of all public property of the command, whether in use or in store, and although for purposes of periodical accountability to general headquarters, it may all have been officially accepted and receipted for by subordinate officers, the commanding officer is nevertheless responsible and pecuniarily

liable with them for the strict observance of the regulations in regard to its preservation, use and issue. He will take care that all storehouses are properly guarded, that only reliable agents are employed, and only trustworthy enlisted men are detailed for duty in them or in connection with the property.

(b) A company or detachment commander is responsible for all public property pertaining to his company or detachment and will not transfer his accountability therefor to a successor during periods of absence of less than thirty (30) days, unless ordered by competent authority, when such absence exceeds thirty (30) days, the question of responsibility is settled by the proper authority.

(c) The officer in temporary or permanent command of a company or detachment is responsible for all public property used by, or in possession of the command, whether he receipts for it or not.

(d) The property responsibility of a company commander cannot be transferred to enlisted men. It is his duty to attend personally to its security, and to superintend issue himself, or cause to be superintended by a commissioned officer.

(e) A transfer of public property involves a change of possession and accountability. The transferring officer will furnish the receiving officer with invoices, in duplicate, accurately enumerating the property and the latter will return duplicate receipts. The transaction will appear on the property returns rendered by such.

(f) The giving or taking of receipts in blank for public property is prohibited. Officers are cautioned against the signing of receipts for property without an actual physical count of such property. A relief at some future time for a shortage caused by failure to exercise such precaution will not be favorably considered.

(g) An officer in charge of public property in use or in store will endeavor by timely repairs to keep it in serviceable condition.

(h) Officers responsible for property will be charged for any damage to or loss or destruction of the same, unless they show to the satisfaction of the Adjutant General, by proper evidence, that the damage, loss, or destruction was occasioned by unavoidable causes, and without fault or neglect on their part.

(i) If an article of public property be lost or damaged by the neglect or fault of any officer or soldier, he shall be subject to pay for the value thereof or the cost of repairs, in a sum to be determined by the proper authority, upon the demand of the Adjutant General.

(j) The amount charged against an enlisted man on the muster and payrolls on account of loss or damage to, or repairs to military property shall not exceed the value of the article or cost of repairs; and such charge will only be made on conclusive proof, and never without an inquiry if the soldier demands it.

(k) The Adjutant General is authorized to pay from the funds appropriated to the Military Department for operating expenses the expenses necessary for the apprehension and prosecution of any person absconding with property belonging either to the state or United States; provided, such person is without the confines of this state.

Laws 1951, p. 121, art. 6, § 1, eff. May 16, 1951.

§44-112. Suits for recovery of property.

Suits for the recovery of any property mentioned in this code or for the value thereof of damages thereto, may be brought in any court of competent jurisdiction in this state in the name of the State of Oklahoma, and the Attorney General of the state is directed to file such suits, upon the request of the Adjutant General, for the recovery of such property as he (the Attorney General) may deem advisable.

Laws 1951, p. 122, art. 6, § 2, eff. May 16, 1951.

§44-113. Seizure and report of property illegally possessed, etc.

Officers must report illegal disposition of property. All civil peace officers, all commissioned and noncommissioned officers of the National Guard are enjoined to seize immediately all military property found in the possession of any person who is not the legal custodian or owner of said property, or from any person who shall secrete, sell, dispose of, offer for sale, purchase, or retain said military property after demand has been made upon said person or persons for the return of said military property, and said civil peace officers, commissioned and noncommissioned officers of the National Guard shall make due report of his action to the Adjutant General of the state.

Laws 1951, p. 122, art. 6, § 3, eff. May 16, 1951.

§44-114. Accounts - Settlement.

Settlement of Accounts. No bills or accounts shall be made by any officer or enlisted man with a view of their being paid by the State of Oklahoma unless such expenditure is expressly authorized by the laws of this state or is authorized by the Adjutant General. No accounts will be paid unless they are accompanied by vouchers or receipts showing by whomever paid, or are to be paid, to whom paid, date of service, authority for, and amount of such expenditure, and for what purpose the expenditure was made.

Laws 1951, p. 122, art. 6, § 4, eff. May 16, 1951.

§44-115. Bond of officers accountable for or receiving military property.

Each officer to whom there shall be issued, or who shall be accountable for arms, equipment, uniform, and any other state or

United States property for military uses, or who shall have the control, custody, or disbursement of funds as provided for in this code shall, before the delivery to him of such arms, equipment, uniform, and other state or United States property, and the receipt of such funds, execute and deliver to the Adjutant General a surety bond therefor, with sureties to be approved by the Governor, and payable to the state, in such amount as may be fixed by the Governor, conditioned for the proper care, use and return in good order, wear, use and unavoidable loss and damage excepted, of all such state and United States property, and the proper care and faithful disbursement and accounting of all funds coming into the hands of such officer. Upon the violation of any of the conditions of such bond, action thereon shall be brought by the Attorney General on behalf of the state, and any recovery thereon shall be credited to the Guard Funds of the state. It shall be the duty of the Attorney General of the state to prosecute all actions upon such bonds.

Laws 1951, p. 122, art. 6, § 5, eff. May 16, 1951.

§44-116. Accounting by officer before receiving payments.

No further payment shall be made under any provision of this code to the accountable officer of any organization or unit who does not fully and satisfactorily account to the Adjutant General for all monies, theretofore paid, or property issued, to him under any provision of this code.

Laws 1951, p. 123, art. 6, § 6, eff. May 16, 1951.

§44-117. Issue and use of property.

Federal property loaned to the state for use of the National Guard or other purposes will be issued and accounted for in the manner prescribed by National Guard regulations or other pertinent federal directives. State property will be issued and accounted for in the manner prescribed by the Governor and/or state laws. All public property shall be used in the manner and for the purposes intended in the public service and shall not be used by any individual for his personal benefit, pleasure, or gain.

Laws 1951, p. 123, art. 6, § 7, eff. May 16, 1951.

§44-118. Repealed by Laws 2022, c. 76, § 2, emerg. eff. April 25, 2022.

§44-141. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-142. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

- §44-143. Repealed by Laws 1937, p. 109, § 2, eff. March 31, 1937.
- §44-144. Repealed by Laws 1937, p. 109, § 2, eff. March 31, 1937.
- §44-145. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-146. Repealed by Laws 1937, p. 109, § 2, eff. March 31, 1937.
- §44-147. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-148. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-149. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-150. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-151. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-152. Repealed by Laws 1941, p. 464, § 6, eff. June 7, 1941.
- §44-153. Repealed by Laws 1937, p. 109, § 2, eff. March 31, 1937.
- §44-154. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-155. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-156. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-157. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-158. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.
- §44-159. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-160. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-161. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-162. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-163. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-191. Repealed by Laws 1970, c. 99, § 3, eff. March 30, 1970.

§44-192. Rules and procedures for establishing and awarding medals, ribbons, and certificates.

The Adjutant General is authorized to establish, design and award, without regard to military status, state military medals, ribbons, certificates, or any other awards or decorations and prescribe by policy the applicable rules and procedures.

Added by Laws 1933, c. 194, p. 426, § 2, emerg. eff. July 21, 1933.  
Amended by Laws 2010, c. 212, § 6, emerg. eff. May 6, 2010.

§44-193. Repealed by Laws 2010, c. 212, § 12, emerg. eff. May 6, 2010.

§44-195.1. Repealed by Laws 2010, c. 212, § 13, emerg. eff. May 6, 2010.

§44-195.2. Repealed by Laws 2010, c. 212, § 14, emerg. eff. May 6, 2010.

§44-195.3. Repealed by Laws 2010, c. 212, § 15, emerg. eff. May 6, 2010.

§44-195.4. Repealed by Laws 2010, c. 212, § 16, emerg. eff. May 6, 2010.

§44-195.5. Repealed by Laws 2010, c. 212, § 17, emerg. eff. May 6, 2010.

§44-195.6. Repealed by Laws 2010, c. 212, § 18, emerg. eff. May 6, 2010.

§44-195.7. Repealed by Laws 2010, c. 212, § 19, emerg. eff. May 6, 2010.

§44-195.8. Repealed by Laws 2010, c. 212, § 20, emerg. eff. May 6, 2010.

§44-201. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-202. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-203. Repealed by Laws 1937, p. 109, § 2, eff. March 31, 1937.

§44-204. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-205. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-206. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-207. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-208. Discrimination against officers or enlisted members - Places of entertainment or amusement - Discharge or hindrance of duties by employers.

No person shall discriminate against any officer or enlisted member of the National Guard or Civil Air Patrol or a judge carrying out his or her duties as a member of the Military Court of Appeals because of his or her membership therein. No person shall prohibit or refuse entrance to any officer or enlisted member of the Uniformed Services of the United States, or of the state military forces, into any public entertainment or place of amusement because such officer or enlisted member is wearing a uniform of the organization to which he or she belongs. No employer, officer or agent of any corporation, company, firm or other person, shall discharge any person from employment because of being an officer, warrant officer or enlisted member of the military forces of the state, or hinder or prevent him or her from performing any military service he or she may be called upon to perform by proper authority, in respect to his or her employment, trade or business. Any person violating any of the provisions of this section shall be punished by a fine of not to exceed One Hundred Dollars (\$100.00), or by imprisonment in the county jail for a period of not to exceed thirty (30) days, or by both such fine and imprisonment.

Added by Laws 1935, p. 91, § 4, emerg. eff. April 19, 1935. Amended by Laws 2011, c. 124, § 4, eff. Nov. 1, 2011; Laws 2019, c. 408, §

204, eff. Oct. 1, 2019; Laws 2021, c. 122, § 1, emerg. eff. April 21, 2021.

§44-208.1. Civil law protections - Servicemembers Civil Relief Act.

Except where state law may provide additional or superior protections, the civil law protections established in the federal Servicemembers Civil Relief Act, 50 U.S.C., Section 3901 et seq., shall be adopted as state law and applied to members of the state military forces when such members are ordered to state active duty or Title 32 active duty pursuant to Sections 501 through 507 of Title 32 of the United States Code.

Added by Laws 1997, c. 27, § 1, emerg. eff. April 2, 1997. Amended by Laws 2000, c. 240, § 1, eff. Nov. 1, 2000; Laws 2005, c. 130, § 1, eff. Nov. 1, 2005; Laws 2017, c. 70, § 1, emerg. eff. April 24, 2017; Laws 2021, c. 12, § 5, emerg. eff. April 13, 2021.

§44-209. Leave of absence to public officers and employees.

All officers and employees of the state or a political subdivision thereof who are not members of the state military forces shall be entitled to a leave of absence from their regular employment with the State of Oklahoma or a political subdivision thereof, without loss of status or efficiency rating, when detailed as a military trial judge pursuant to Section 826 of this title (Article 26) or when serving as an appellate military judge pursuant to Section 866 of this title (Article 66) when the Military Court of Appeals is convened. The rules of procedure prescribed by the State Judge Advocate pursuant to subsection L of Section 866 of this title (Article 66, subsection L) shall define what constitutes the Military Court of Appeals being "convened" for purposes of this section. During the first thirty (30) regularly scheduled work days, not to exceed two hundred forty (240) hours, of the leave of absence in any federal fiscal year, officers and employees of the State of Oklahoma or a political subdivision thereof detailed or serving as military trial judges or military appellate judges shall receive their full regular pay from the employing state agency or political subdivision. During the remainder of the leave of absence in any federal fiscal year, the employing state agency or political subdivision shall pay such officers and employees an amount equal to the difference between the full regular pay of the officers or employees from the employing state agency or political subdivision and the amount of compensation established for military trial judges in subsection H of Section 826 of this title (Article 26, subsection H) in the case of a military trial judge or the amount of compensation established for appellate military judges in subsection E of Section 866 of this title (Article 66, subsection E) in the case of a military appellate judge. Leave taken pursuant to this section shall be characterized as military judicial leave. The



Office of Management and Enterprise Services shall promulgate rules as necessary to implement the provisions of this section that relate to state employees.

Added by Laws 1935, p. 92, § 5, emerg. eff. April 19, 1935. Amended by Laws 1973, c. 275, § 1, emerg. eff. May 30, 1973; Laws 1988, c. 31, § 1, eff. Oct. 1, 1988; Laws 1991, c. 232, § 3, emerg. eff. May 24, 1991; Laws 1994, c. 94, § 2, eff. July 1, 1994; Laws 2000, c. 240, § 3, eff. Nov. 1, 2000; Laws 2002, c. 396, § 1, emerg. eff. June 5, 2002; Laws 2003, c. 212, § 1, eff. July 1, 2003; Laws 2005, c. 437, § 2, eff. July 1, 2005; Laws 2006, c. 156, § 1, eff. Oct. 1, 2006; Laws 2012, c. 304, § 154; Laws 2017, c. 80, § 1, eff. Nov. 1, 2017; Laws 2021, c. 12, § 6, emerg. eff. April 13, 2021.

§44-210. Assault on member or body of National Guard or person assisting them.

Whenever the National Guard is called into service under proclamation of the Governor for the performance of any duties contemplated in this act, any person who willfully assaults, or fires at, or throws any dangerous missile at, against, or upon any member or body of the National Guard so engaged, or civil officer or other persons lawfully aiding or assisting them in the discharge of their duties, shall be deemed guilty of a felony and upon conviction shall be imprisoned in the State Penitentiary not more than two (2) years.

Added by Laws 1935, p. 92, § 6, eff. April 19, 1935. Amended by Laws 1997, c. 133, § 465, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 337, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 465 from July 1, 1998, to July 1, 1999.

§44-211. Martial law - Arrests and subpoenas.

Troops occupying a military district established under martial law, may, if necessary, pursue, arrest and subpoena persons wanted in said military district, anywhere within the State of Oklahoma. Laws 1935, p. 92, § 7, eff. April 19, 1935.

§44-212. Deadly force - Immunity from personal liability.

Any officer or enlisted person of the state military forces acting in the line of duty shall be immune from personal liability for any acts that include the use of deadly force in self-defense or in defense of another person from what the member reasonably believes is the imminent use of unlawful deadly force.

Added by Laws 1935, p. 92, § 8, emerg. eff. April 19, 1935. Amended by Laws 1985, c. 96, § 2, eff. Nov. 1, 1985; Laws 2019, c. 408, § 3, eff. Oct. 1, 2019; Laws 2021, c. 12, § 7, emerg. eff. April 13, 2021.

§44-213. Exemption from taxation of military property - Free use of municipally owned public utilities.

All personal and real property held and used for armory or military purposes shall be exempt from taxation; and it shall be lawful for any county or city or town which owns public utilities to grant to any organization or unit of the National Guard, which is stationed in such place, the free use of such public utilities. Laws 1935, p. 92, § 9, eff. April 19, 1935.

§44-214. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-215. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-216. Repealed by Laws 1963, c. 148, § 1114, eff. June 6, 1963.

§44-217. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-218. Acceptance or purchase of title to real estate.

The Adjutant General, with the approval of the Governor, is authorized to accept or purchase, for and in the name of the State of Oklahoma, acting as trustee for the Oklahoma National Guard, title to parcels of real estate.

Added by Laws 1931, p. 77, § 1, eff. April 24, 1931. Amended by Laws 2007, c. 86, § 160, emerg. eff. May 1, 2007; Laws 2008, c. 172, § 2, eff. Nov. 1, 2008.

§44-219. State not to be financially responsible.

The State of Oklahoma, in so accepting and holding the said parcel or parcels of real estate, shall incur no financial responsibility or liability.

Laws 1931, p. 77, § 2, eff. April 24, 1931.

§44-220. Building and loan association loans authorized.

Building and loan associations doing business in the State of Oklahoma may negotiate loans on such real estate, secured by mortgages thereon, under the same conditions and terms and with the same right and power of foreclosure as upon other real estate, but no judgment therein shall run against the State of Oklahoma.

Laws 1931, p. 77, § 3, eff. April 24, 1931.

§44-221. Provisions for National Guard when in service.

The Adjutant General shall provide such subsistence and expenses for the National Guard when in active service, as may be ordered by the Commander in Chief.

R.L. 1910, § 3905.

§44-222. Repealed by Laws 1951, p. 114, art. 1, § 3, eff. May 16, 1951.

§44-223. Privilege from arrest.

Active members of the National Guard shall be privileged from arrest during their attendance at drills, parades, inspections, encampments, and while on active duty, and in going to and returning from the same, except in cases of treason, felony and breaches of the peace.

R.L. 1910, § 3926.

§44-224. Misdemeanor to interfere with Militia.

Any person who shall willfully and unnecessarily interfere with the Militia or any part thereof while on drill, parade, or in the performance of any military duty, shall be guilty of a misdemeanor: Provided, the funeral processions, carriage of the United States mail, legitimate functions of the police, progress and operation of the hospital ambulances, fire engines, fire departments, and apparatus of the insurance patrol shall not be interfered with thereby.

R.L. 1910, § 3930.

§44-225. Repealed by Laws 1983, c. 304, § 182, eff. July 1, 1983.

§44-226. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-227. Architect - Selection - Contract by Adjutant General.

The architect for the construction of the facilities of the National Guard of the State of Oklahoma shall be selected by a board appointed by the Adjutant General of the State of Oklahoma to be named the Architect Selection Board. The Architect Selection Board shall be comprised of three (3) members from the Oklahoma National Guard Directorate of Engineering Office. The Adjutant General shall enter into contracts in the name of the State of Oklahoma for the construction of such buildings. The Oklahoma Military Department may use federal contracting procedures for construction of such facilities.

Added by Laws 1936, Ex.Sess., p. 24, § 10, eff. Jan. 6, 1937.

Amended by Laws 1983, c. 304, § 17, eff. July 1, 1983; Laws 1999, c. 406, § 2, eff. July 1, 1999; Laws 2011, c. 124, § 5, eff. Nov. 1, 2011.

§44-228. Deed or lease by county commissioners to Adjutant General.

The board of county commissioners of any county in the state is hereby authorized to convey title by deed, or lease for a term of years, any lands and buildings belonging to or under the control of

the county which are not needed for county purposes, to the Adjutant General acting as trustee for the Oklahoma National Guard. The Adjutant General shall not accept any such deed or lease unless the approval of the Governor of the acceptance be endorsed thereon attested by the Secretary of State. It shall not be necessary that the Adjutant General pay any consideration for such deed of conveyance or lease. After such deed or lease has been delivered and accepted the Adjutant General shall be authorized to expend funds appropriated to the Military Department of the state for the maintenance, repair, and improvement of the lands and buildings, conveyed or leased. Every such deed or lease shall contain a reversionary clause to the effect that if the State of Oklahoma or the Military Department thereof abandons such lands or buildings they shall revert to the county. All such lands so conveyed or leased to the Adjutant General shall be under his supervision as to control and management. Provided, however, that the provisions of this act shall not in any wise apply to any real estate or property acquired by the county commissioners at resale.  
Laws 1945, p. 139, § 1, eff. April 25, 1945.

§44-229. Authorizing to order National Guard beyond borders of state - Law governing - Jurisdiction.

The Governor is authorized to order the National Guard, or any part thereof, beyond the borders of the state, for the purpose of participating in any encampment, maneuvers or field instruction and for such other training or service as may be required or authorized under state or federal law. Whenever the National Guard, or any part thereof, is so ordered beyond the borders of the state, the members thereof shall remain subject to the military laws and regulations of the state, and the military courts of this state shall have jurisdiction over any offense which is committed against the military laws or regulations of the state by any member of the National Guard while in service beyond the borders of the state, and the military courts of the state are authorized to function beyond the borders of this state, whenever the National Guard is ordered beyond the borders of the state. Provided, that any imprisonment imposed while a unit is out of the State of Oklahoma shall be served under the supervision of said unit. And, provided further, that if said period of imprisonment extends beyond the date of the return of said unit to the State of Oklahoma that the balance of such imprisonment shall be served in accordance with Section 858 of this title (Article 58).  
Added by Laws 1961, p. 289, § 1, eff. May 24, 1961. Amended by Laws 2021, c. 12, § 8, emerg. eff. April 13, 2021.

§44-230. Police officers (OMD) - Powers and duties.

A. The Adjutant General of the State of Oklahoma is hereby authorized to appoint such officers as are necessary to be designated as police officers (OMD), for the purpose of protecting all properties of, owned by or under the control of the Oklahoma National Guard wherever located in the State of Oklahoma. The Adjutant General shall promulgate rules which prescribe the duties for the officers thus appointed, designate their uniforms, fix their compensation upon appointment and provide for removal from their appointment. Each such police officer (OMD) shall be given a written commission evidencing his or her appointment and authority, together with a detailed description of his or her person in order to properly identify his or her official capacity; the form of such commission shall be prescribed by the Adjutant General.

B. Any police officer (OMD) appointed pursuant to the provisions of this section shall have, with the sole exception of the serving or execution of civil process, all the powers vested by law in peace officers in the protection and guarding of the grounds, buildings and equipment of, owned by or under the control of the Oklahoma National Guard. The police officer (OMD) shall:

1. Direct his or her attention to the prevention of improper conduct, interference with, or trespassing upon the property of, owned by or under the control of the Oklahoma National Guard; and

2. If required, make arrests and take into custody persons guilty of improper conduct or trespassing.

C. It shall be the duty of the district attorney of the district wherein the improper conduct, interference or trespassing is alleged to have taken place to prosecute such offense upon a complaint filed by such police officer (OMD).

Added by Laws 1971, c. 135, § 1. Amended by Laws 1996, c. 14, § 1, eff. Nov. 1, 1996; Laws 1999, c. 406, § 3, eff. July 1, 1999.

§44-231. Assisting in drug interdiction and counter drug activities - National Guard volunteers to be requested by Governor.

A. The Governor may request volunteers of the National Guard to provide assistance to federal, state and local law enforcement officers, within or outside the boundaries of this state, in drug interdiction and counter drug activities pursuant to 32 U.S.C., Section 112. These activities may include, but not be limited to, the operation and maintenance of equipment and facilities. The Governor may order, with their consent, any National Guard members, who volunteer pursuant to this section, to duty in federally funded status. The Governor may delegate the Governor's authority under this section to the Adjutant General. The Adjutant General shall follow all laws and regulations of the United States Department of Defense when ordering National Guard members to perform drug interdiction and counter drug activities pursuant to this section.

B. The Adjutant General, with the consent of the Governor, may enter into mutual assistance and support agreements with one or more other states, whether those activities are within or outside this state, in order to facilitate and coordinate efficient and cooperative enforcement efforts directed toward drug interdiction, counter drug activities, and demand reduction.

C. A National Guard member assisting in drug interdiction and counter drug activities pursuant to this section shall obey and execute the instruction of the law enforcement officer in charge of these activities given to the National Guard member through the military chain of command.

Added by Laws 1998, c. 88, § 1, eff. July 1, 1998. Amended by Laws 2003, c. 212, § 2, eff. July 1, 2003.

§44-231.1. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.2. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.3. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.4. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.5. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.6. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.7. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.8. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.9. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.10. Repealed by Laws 1951, p. 125, § 8, eff. May 16, 1951.

§44-231.11. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-231a. Fire protection agreements.

A. The Adjutant General, pursuant to authority granted under 42 U.S.C. Section 1856a and applicable Army, Air Force or National Guard regulations, may enter into a reciprocal agreement with any city, county, town or municipal corporation or agency of the State of Oklahoma maintaining fire protection facilities in the vicinity of such property, for mutual aid in furnishing fire protection for such property and for other property for which such entity normally provides fire protection.

B. Fire protection units will continue under the command and control of their regular chain of command, but the organizational

unit will come under operational control of the fire protection service authorities of the jurisdiction receiving assistance.

C. Each agreement shall include a waiver by each party of all claims against the other party for compensation for any loss, damage, personal injury or death occurring in consequence of the performance of such agreement. Any such agreement may provide for the reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party.

D. The Adjutant General shall promulgate rules to implement the provisions of this section.

Added by Laws 2017, c. 72, § 1, emerg. eff. April 24, 2017.

§44-231b. Protection of assets vital to national security.

A. Subject to the conditions and limitations established in regulations promulgated by the Governor, the state military forces may use all appropriate means necessary to protect assets vital to national security classified as such pursuant to the rules, regulations or instructions promulgated by the United States Department of Defense or the military departments of the United States Department of Defense or as otherwise ordered by the Governor.

B. Any regulations promulgated by the Governor pursuant to this section shall be considered a military publication as defined in Section 801 of this title and shall be published and archived by the Secretary of State.

Added by Laws 2019, c. 408, § 205, eff. Oct. 1, 2019.

§44-232. Youth programs.

A. Pursuant to rules promulgated by the Adjutant General of the State of Oklahoma, the Oklahoma Military Department is authorized to establish and operate youth programs utilizing National Guard or state-owned facilities, state-owned vehicles and civilian or National Guard personnel to provide military-styled training and other benefits to civilian youth pursuant to agreement with federal, state and local governmental agencies.

B. The Adjutant General is authorized further to enter into agreements and to do all things deemed necessary or incidental to the performance of any duty authorized by subsection A of this section, including, but not limited to:

1. The execution of memoranda of agreement for assistance to federal, state and local governmental agencies;

2. The execution of grant agreements;

3. The execution of grant agreements with the federal government;

4. The execution of agreements with the federal government for reimbursement to the Oklahoma Military Department for the use and

operation of Oklahoma Military Department state-owned vehicles and equipment in support of youth programs;

5. The execution of other contracts and agreements; and

6. The expenditure of Oklahoma Military Department funds for the purpose of advertising.

C. The Adjutant General is hereby authorized to accept gifts or donations for and on behalf of the state to be used for the use and benefit of the youth programs authorized by this section and their participants. The Oklahoma Military Department is directed to maintain and preserve appropriate records for all gifts made to the state pursuant to this section.

Added by Laws 2003, c. 212, § 3, eff. July 1, 2003. Amended by Laws 2008, c. 172, § 3, eff. Nov. 1, 2008; Laws 2016, c. 212, § 1, eff. July 1, 2016 and Laws 2016, c. 268, § 3, eff. Nov. 1, 2016.

NOTE: Laws 2016, c. 212, § 1 and Laws 2016, c. 268, § 3 made identical changes to this section of statute.

§44-232.1. Contracts to lease or rent facilities.

A. The Adjutant General is authorized to enter into contracts to lease or rent facilities. The Adjutant General is authorized to waive all charges or fees, or any portion thereof, for use of facilities by a charitable organization when such use is in support of civil authorities for joint training, natural disasters or other declared emergencies in accordance with rules promulgated by the Adjutant General. The Adjutant General is further authorized to waive charges or fees for use of facilities, or any portion thereof, by a charitable organization when the charges and fees do not exceed One Hundred Dollars (\$100.00).

B. As used in this title:

1. "Civil authorities" means those elected and appointed officers and employees who constitute the government of the United States, the government and agencies of the State of Oklahoma, county and municipal governments within the State of Oklahoma, and political subdivisions thereof;

2. "Charitable organization" means an entity described in Section 501(c)(3) of Title 26 of the United States Code; and

3. "Military reservations", without limitation, include military installations, armories, air bases, and facilities owned or controlled by the state for military purposes.

C. The Adjutant General shall have charge of military reservations of the state and shall be responsible for the protection and safety of those military reservations, and promulgate rules for the maintenance of order thereon, for the enforcement of traffic rules and for all other lawful rules as may be ordered for the operation, care, and preservation of existing facilities and installations on all state military reservations.



Added by Laws 1951, p. 123, § 1, emerg. eff. May 16, 1951. Amended by Laws 2005, c. 130, § 2, eff. Nov. 1, 2005; Laws 2011, c. 124, § 6, eff. Nov. 1, 2011; Laws 2016, c. 255, § 1, July 1, 2016.

§44-232.2. Use and operation.

The Adjutant General shall promulgate rules and regulations for the use and operation of armories, buildings, and other facilities under control of the Military Department. The Adjutant General is authorized to expend monies for the sustainment, restoration, and modernization of facilities.

1. "Sustainment" means work required to maintain and preserve a real property facility, that it may be effectively used for its designated functional purpose. Sustainment includes maintenance and repair work.

2. "Restoration" means work that brings a facility to such a condition that it may effectively be used for its designed purposes. Restoration may also be work that restores or replaces facilities damaged by lack of sustainment, excessive age, natural disaster, fire, accident or other causes. Restoration includes repair and construction work.

3. "Modernization" means any modification to an existing facility or new construction necessitated not by maintenance but solely to implement new or higher standards, to accommodate new functions or missions or to replace building components lasting more than fifty (50) years. Modernization includes construction and repair work.

Added by Laws 1951, p. 123, § 2, emerg. eff. May 16, 1951. Amended by Laws 2011, c. 124, § 7, eff. Nov. 1, 2011; Laws 2015, c. 143, § 1, eff. Nov. 1, 2015.

§44-232.3. Armory boards.

Each National Guard armory shall be supervised by an armory board consisting of three or more persons appointed by the Adjutant General.

Added by Laws 1951, p. 123, § 3, emerg. eff. May 16, 1951. Amended by Laws 1971, c. 134, § 1; Laws 1973, c. 32, § 1, emerg. eff. April 20, 1973; Laws 1978, c. 141, § 1, emerg. eff. April 5, 1978; Laws 2006, c. 254, § 2, eff. July 1, 2006.

§44-232.4. Rules and regulations for use and oversight of facilities.

The Adjutant General or a representative may establish and proscribe by policy the applicable rules and regulations for the use and operation, management, rental, and fiscal oversight for facilities owned or controlled by the Military Department.

Added by Laws 1951, p. 124, § 4, emerg. eff. May 16, 1951. Amended by Laws 2006, c. 254, § 3, eff. July 1, 2006; Laws 2011, c. 124, § 8, eff. Nov. 1, 2011.

§44-232.5. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-232.6. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-232.7. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-233.1. Repealed by Laws 1985, c. 147, § 5, eff. July 1, 1985.

§44-233.2. Agreement with United States.

A. The Adjutant General is hereby authorized and directed to enter into, in the name of the state, and to take all actions necessary to execute the terms of a National Guard armory building construction or expansion, rehabilitation or conversion of existing building agreements with the United States of America.

B. The Adjutant General is hereby authorized to execute agreements with the federal government for reimbursement to the Oklahoma Military Department for the use and operation of Oklahoma Military Department state-owned vehicles and equipment in support of the federally reimbursable programs through cooperative agreements with the National Guard Bureau.

Added by Laws 1953, p. 177, § 2, emerg. eff. June 3, 1953. Amended by Laws 1955, p. 254, § 1, emerg. eff. March 18, 1955; Laws 1971, c. 216, § 1; Laws 1985, c. 147, § 1, eff. July 1, 1985; Laws 2011, c. 124, § 9, eff. Nov. 1, 2011; Laws 2016, c. 213, § 1, eff. July 1, 2016 and Laws 2016, c. 268, § 4, eff. Nov. 1, 2016.

NOTE: Laws 2016, c. 213, § 1 and Laws 2016, c. 268, § 4 made identical changes to this section of statute.

§44-233.3. Construction contracts - Sale, disposition, demolition or transfer of property - Proceeds.

A. The Adjutant General or a representative of the State of Oklahoma is hereby authorized and directed to enter into contracts in the name of the state for the purpose of this title and shall:

1. Result in contracts awarded to the lowest and best bidder, approved by the Department of the Army or other representative federal agency, and that any contractor, to whom a contract may be awarded hereunder, shall execute with a qualified surety company, doing business in this state, as surety, bonds in such amounts and with such conditions as prescribed by law and by the Department of the Army or other representative federal agency. Such bonds shall be upon a form with such conditions and in such amounts as may meet the requirements of the representative federal agency and in such

further amounts as willfully protect and cover the construction contributions of the state;

2. Assure that any contracts requiring federal funds are awarded in the same federal fiscal year of appropriation by Congress;

3. Result in full compliance with federal military construction standards; and

4. Result in full compliance with all state building codes.

B. The Adjutant General is authorized to sell or dispose of property and improvements thereon. The Adjutant General is authorized to demolish structures owned or controlled by the Military Department. The Adjutant General may transfer title to any property and improvements thereon to a municipality, county, state agency, or other public or non-profit entity. The Oklahoma Military Department shall be exempt from the Oklahoma Surplus Property Act for purposes of selling surplus property. Necessary deeds and other conveyances shall be executed by the Adjutant General in the name of the State of Oklahoma.

Proceeds of the sale or other disposition of such property shall be deposited in a revolving fund in the State Treasury designated as the Surplus Property Revolving Fund of the Oklahoma Military Department. Monies deposited in such revolving fund may be expended by the Adjutant General, for construction, repairs, and maintenance, or equipment for facilities of the Oklahoma National Guard.

Added by Laws 1953, p. 177, § 3, emerg. eff. June 3, 1953. Amended by Laws 1985, c. 147, § 2, eff. July 1, 1985; Laws 2004, c. 138, § 1, eff. Nov. 1, 2004; Laws 2005, c. 130, § 4, eff. Nov. 1, 2005; Laws 2008, c. 172, § 4, eff. Nov. 1, 2008; Laws 2011, c. 124, § 10, eff. Nov. 1, 2011.

§44-233.4. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-233.5. Conveyance of sites by political subdivisions.

The governing body of any school district, town, city, county or any other political subdivision of state government is hereby authorized to convey to this state, title or other adequate property interest to acceptable and suitable real estate under its control and proper jurisdiction as sites for the construction, erection and completion of facilities under Section 233.2 et seq. of this title, and any individual and any corporation is authorized to convey by deed to this state, any of his, her or its lands, situated in the state for such purpose and use.

Added by Laws 1953, p. 178, § 5, emerg. eff. June 3, 1953. Amended by Laws 2007, c. 86, § 161, emerg. eff. May 1, 2007; Laws 2011, c. 124, § 11, eff. Nov. 1, 2011.

§44-233.6. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-233.7. Oklahoma Military Department Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Military Department to be designated the "Oklahoma Military Department Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received by the Oklahoma Military Department from the sale of surplus property, fees and receipts collected pursuant to the Oklahoma Open Records Act, interagency reimbursements, federal funds unless otherwise provided by federal law or regulation, gifts, bequests, contributions, devises, any other source, and the proceeds of property sold or otherwise disposed of pursuant to the provisions of subsection B of Section 233.3 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Military Department for construction, repairs, and maintenance, equipment for facilities of the Oklahoma National Guard, or for operating expenses of the Oklahoma Military Department. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. All monies in the fund may, at the direction of the Adjutant General, be invested by the State Treasurer in accordance with state investment practices. All earnings attributable to such investments shall likewise accrue to the credit of the fund.

Added by Laws 1985, c. 147, § 4, eff. July 1, 1985. Amended by Laws 1986, c. 210, § 9, operative July 1, 1986; Laws 2008, c. 172, § 5, eff. Nov. 1, 2008; Laws 2012, c. 304, § 155.

§44-233.8. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-233.10. Purchase of replacement commercial funds.

The Oklahoma Military Department is hereby authorized to purchase commercial vehicles to replace commercial vehicles deemed unserviceable by the Adjutant General from funds appropriated for maintenance operations or specially authorized and appropriated for this purpose.

Laws 1990, c. 258, § 37, operative July 1, 1990.

§44-233.10a. Purchase of computer hardware or software.

The Military Department of the State of Oklahoma may purchase computer hardware or software or any services related to software development, software modifications, or any other services related to the operation and maintenance of computer hardware or software or both independently and without prior approval from the Office of Management and Enterprise Services Information Services Division.

Added by Laws 2022, c. 74, § 1, eff. Nov. 1, 2022.

§44-233.11. Contracts for professional services.

The Oklahoma Military Department is hereby authorized to enter into agreements and contracts with licensed individuals, partnerships, corporations or firms for professional services for the development of designs, plans, and specifications, and further, the construction, renovation, and remodeling of buildings, structures, or equipment deemed necessary and appropriate by the Adjutant General.

Added by Laws 1990, c. 258, § 38, operative July 1, 1990. Amended by Laws 2011, c. 124, § 12, eff. Nov. 1, 2011.

§44-233.12. Qualifying federal programs to be regarded as individual purchasing entities.

For the determination of compliance with limits set forth in the Oklahoma Central Purchasing Act, each federal program administered by the Military Department of the State of Oklahoma shall, if the agency has a Certified Procurement Officer assigned to each program and makes purchases in compliance with internal purchasing procedures of the Military Department, be regarded as an individual purchasing entity.

Added by Laws 2021, c. 439, § 1, emerg. eff. May 7, 2021.

§44-233.13. Authority to purchase products through a General Services Administration contract.

Notwithstanding any other provision of law, the Military Department of the State of Oklahoma shall be authorized to purchase products which are available through a General Services Administration contract. Such products shall not be required to be on a current state contract before a purchase can be made.

Added by Laws 2021, c. 306, § 1, eff. Nov. 1, 2021.

§44-233.14. Military Justice Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Military Department to be designated the "Military Justice Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies directed for deposit to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Military Department for the purpose of prosecuting military misconduct as needed. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2022, c. 361, § 1, eff. July 1, 2022.

§44-234.1. Repealed by Laws 1983, c. 333, § 34, emerg. eff. June 29, 1983.

§44-234.2. Repealed by Laws 1983, c. 333, § 34, emerg. eff. June 29, 1983.

§44-235. Creation of Oklahoma National Guard Museum.

There is hereby created the Oklahoma National Guard Museum, to be under the supervision of the Adjutant General. The Adjutant General may appoint an Executive Director to oversee the daily operations and maintenance of the museum and perform other duties as requested by the Adjutant General. Appropriate state agencies are directed to make available, for display of items of historical significance and necessary space for administration, the buildings presently occupied by the Oklahoma Military Department, located in the vicinity of 36th Street and North Eastern in Oklahoma City, Oklahoma. The building herein referred to shall be made available by the Adjutant General as soon as same is no longer needed by and is vacated by the Oklahoma Military Department. The Executive Director, subject to the approval of the Adjutant General, may lease to the 45th Infantry Division Association, for periods not exceeding one (1) year and with provisions for renewal from year to year, an area to be used as a gift shop, if the lease does not interfere with its use by the Oklahoma National Guard Museum. The proceeds of the sales from the gift shop shall remain with the 45th Infantry Division Association for operating purposes.

Added by Laws 1965, H.J.R. No. 546, p. 1233, § 235, emerg. eff. July 24, 1965. Amended by Laws 1975, c. 70, § 1, emerg. eff. April 18, 1975; Laws 2004, c. 138, § 2, eff. Nov. 1, 2004; Laws 2021, c. 143, § 1, eff. Nov. 1, 2021.

§44-235.1. Oklahoma National Guard Museum Fund.

There is hereby created in the State Treasury a special fund to be known as the "Oklahoma National Guard Museum Fund", which fund shall consist of donations received for operation and maintenance of the museum and monies received from the sale of Armed Forces Veterans Motorcycle License Plates pursuant to Section 1135.5 of Title 47 of the Oklahoma Statutes. The fund shall be a continuing fund not subject to fiscal year limitations and shall be under the administrative direction of the Oklahoma Military Department. Expenditures from the fund created by this section shall be used exclusively for expenses of operation and maintenance of the Oklahoma National Guard Museum and shall be made pursuant to the laws of this state and without legislative appropriation. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee of the

department and approved for payment by the Director of the Office of Management and Enterprise Services.

Added by Laws 1974, c. 224, § 5, emerg. eff. May 15, 1974. Amended by Laws 1979, c. 47, § 14, emerg. eff. April 9, 1979; Laws 2005, c. 416, § 8, eff. Nov. 1, 2005; Laws 2012, c. 304, § 156; Laws 2021, c. 143, § 2, eff. Nov. 1, 2021.

§44-235.2. Acceptance of gifts for the Oklahoma National Guard Museum.

The Adjutant General of Oklahoma is hereby authorized to accept gifts for and on behalf of the state of military artifacts, military books and maps and materials, supplies and equipment which support the construction and operation of the museum which have been or may be specifically donated to the Oklahoma National Guard Museum.

The Executive Director of the Oklahoma National Guard Museum is directed to maintain and preserve appropriate records for all such gifts made to the museum.

Upon declaring that certain military artifacts or military books and maps belonging to the Oklahoma National Guard Museum are surplus to the needs of the museum, the Executive Director of the Oklahoma National Guard Museum is authorized to effect an exchange of the same on an equitable basis for military artifacts or military books and maps needed by the museum and to sell such military artifacts, books and maps and use the proceeds to fund artifact purchases and museum upgrades.

Added by Laws 1981, c. 138, § 1, emerg. eff. May 5, 1981. Amended by Laws 1983, c. 304, § 19, eff. July 1, 1983; Laws 2004, c. 138, § 3, eff. Nov. 1, 2004; Laws 2012, c. 304, § 157; Laws 2021, c. 143, § 3, eff. Nov. 1, 2021.

§44-236. Repealed by Laws 2011, c. 124, § 13, eff. Nov. 1, 2011.

§44-237. Oklahoma National Guard Relief Program.

A. The Military Department of the State of Oklahoma shall create the Oklahoma National Guard Relief Program. The program is created for the purpose of providing financial support to members of the Oklahoma National Guard.

B. A review board shall be created for purposes of accepting applications and donations for financial support and to direct the distribution of program monies. The Adjutant General shall appoint current and former members or their spouses of the Oklahoma National Guard to serve as board members without compensation or reimbursement of travel or personal expenses.

C. The Adjutant General is authorized to establish procedures for meetings, qualifying expenses, approvals, and criteria for funding financial hardships in support of the members of the Oklahoma National Guard.

Added by Laws 2005, c. 238, § 1, eff. Nov. 1, 2005. Amended by Laws 2010, c. 212, § 8, emerg. eff. May 6, 2010; Laws 2015, c. 19, § 1, eff. Nov. 1, 2015.

§44-238. Oklahoma Tricare Reserve Select Reimbursement Program.

A. The Military Department of the State of Oklahoma shall create the Oklahoma Tricare Reserve Select Reimbursement Program.

B. In this section, "eligible recipient" means an individual who is:

1. Eligible for, and currently enrolled in, Tricare Reserve Select;

2. A member of the state military forces as defined in paragraph 56 of subsection A of Section 801 of Title 44 of the Oklahoma Statutes;

3. Serving state active duty as defined in paragraph 54 of subsection A of Section 801 of Title 44 of the Oklahoma Statutes; and

4. On state active duty orders for thirty (30) days or more.

C. The Department may award grants to an eligible recipient who meets the reimbursement application requirements for any of the following:

1. A premium paid for individual coverage through the Tricare Reserve Select program; or

2. A premium paid for any member of the immediate family of an eligible recipient covered under the Tricare Reserve Select program.

D. The Department shall promulgate rules to implement and administer the Tricare Premium Reimbursement Program established under this act.

Added by Laws 2024, c. 215, § 1, eff. Nov. 1, 2024.

§44-241. Governor authorized to organize, maintain, etc. - Uniform.

The Governor, pursuant to the authority granted the states by Section 109 of Title 32 of the United States Code or a successor provision, and under such regulations as the Secretary of Defense may prescribe for discipline in training, is hereby authorized to enlist, organize, maintain, equip and discipline such military forces other than the National Guard as he or she may deem necessary to defend the state. Such forces shall be uniformed and subject to Sections 1 through 117, Sections 208 through 237, and Sections 800 through 946 of this title, insofar as such sections do not conflict with Sections 241 through 250 of this title.

Added by Laws 1941, p. 170, § 1, emerg. eff. June 4, 1941. Amended by Laws 1985, c. 96, § 3, eff. Nov. 1, 1985; Laws 2019, c. 408, § 206, eff. Oct. 1, 2019.

§44-242. Designation - Composition - Distinct from National Guard - Place of service.



Such military forces shall be designated as the "Oklahoma State Guard" and shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the state as shall volunteer for service therein. They shall be additional to and distinct from the National Guard of the State of Oklahoma, as defined in Title 32 of the United States Code. They shall not be required to serve outside the boundaries of the State of Oklahoma. Added by Laws 1941, p. 170, § 2, emerg. eff. June 4, 1941. Amended by Laws 2019, c. 408, § 207, eff. Oct. 1, 2019.

§44-243. Rules and regulations - Arms and equipment - Drill and instruction - Similarity to National Guard - Compensation and allowances.

A. The Governor is hereby authorized to prescribe rules and regulations governing the enlistment, organization, administration, equipment, discipline and discharge of the personnel of such military forces; to requisition from the Secretary of Defense such arms and equipment as may be in the possession of and can be spared by the Department of Defense and to extend thereto the facilities of state armories, Armed Forces Reserve Centers, readiness centers, logistics, aviation, and training facilities, warehouses and their equipment and such other state premises and property as may be available for the purpose of drill and instruction. Insofar as applicable the procedure for the enlistment, organization, pay, maintenance, equipment and disciplining of such forces shall be in conformity with the law and the rules and regulations governing and pertaining to the National Guard; provided, that the officers and enlisted personnel in the Oklahoma State Guard shall not receive any compensation or monetary allowances from the state except when activated for state active duty, as defined in Section 801 of this title, by order of the Governor.

B. Members of the Oklahoma State Guard shall be considered part of state military forces as defined in Section 801 of this title and shall be subject to the Oklahoma Uniform Code of Military Justice.

C. When prescribing the rules and regulations governing enlistment, organization, administration, equipment, discipline and discharge of the personnel of the Oklahoma State Guard, the Governor shall issue such rules and regulations in the form of an executive order or in a series of such orders. An executive order or a series of such orders prescribing the rules and regulations governing enlistment, organization, administration, equipment, discipline and discharge of the personnel of the Oklahoma State Guard shall also be published by the Adjutant General as a military publication. Added by Laws 1941, p. 170, § 3, emerg. eff. June 4, 1941. Amended by Laws 1985, c. 96, § 4, eff. Nov. 1, 1985; Laws 2019, c. 408, § 208, eff. Oct. 1, 2019.

§44-244. Calling into military service of United States not authorized - No exemption from military service.

Nothing in the Oklahoma State Guard Act shall be construed as authorizing such forces, or any part thereof to be called, ordered or in any manner drafted, as such into the military service of the United States, but no person shall by reason of his or her enlistment or commission in any such forces be exempted from military service under any law of the United States.

Added by Laws 1941, p. 170, § 4, emerg. eff. June 4, 1941. Amended by Laws 2019, c. 408, § 209, eff. Oct. 1, 2019.

§44-245. Persons not to be commissioned or enlisted.

No person shall be commissioned or enlisted in such forces who has been expelled or dishonorably discharged from any military organization of this state, or of another state, or of the United States.

Added by Laws 1941, p. 170, § 5, emerg. eff. June 4, 1941. Amended by Laws 2010, c. 212, § 9, emerg. eff. May 6, 2010.

§44-246. Oath of officers.

The oath to be taken by officers commissioned in such forces shall be substantially in the form prescribed for officers of the National Guard, substituting the words "Oklahoma State Guard" where necessary.

Laws 1941, p. 171, § 6, emerg. eff. June 4, 1941.

§44-247. Term of enlistment - Oath upon enlistment.

No person shall be enlisted for more than one (1) year, but such enlistment may be renewed. The oath to be taken upon enlistment in such forces shall be substantially in the form prescribed for enlisted members of the National Guard, substituting the words "Oklahoma State Guard" where necessary.

Added by Laws 1941, p. 171, § 7, emerg. eff. June 4, 1941. Amended by Laws 2019, c. 408, § 210, eff. Oct. 1, 2019.

§44-248. Exemption from arrest, jury duty and service on posse comitatus.

No officer or enlisted person of the Oklahoma State Guard shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where he or she is ordered to attend for military duty. Every officer and enlisted member of such forces shall, during his or her service therein, be exempt from service upon any posse comitatus and from jury duty.

Added by Laws 1941, p. 171, § 8, emerg. eff. June 4, 1941. Amended by Laws 2019, c. 408, § 211, eff. Oct. 1, 2019.

§44-249. Repealed by Laws 1989, c. 154, § 2, operative July 1, 1989.

§44-250. Short title - Oklahoma State Guard Act.

This act shall be known and may be cited as the "Oklahoma State Guard Act".

Added by Laws 1941, p. 171, § 10, emerg. eff. June 4, 1941. Amended by Laws 2019, c. 408, § 212, eff. Oct. 1, 2019.

§44-261. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-262. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-263. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-264. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-265. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-266. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-267. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-268. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-269. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-270. Repealed by Laws 1973, c. 133, § 1, emerg. eff. May 10, 1973.

§44-800. Short title - Oklahoma Uniform Code of Military Justice.

Sections 800 through 946 of this title shall be known and may be cited as the "Oklahoma Uniform Code of Military Justice". With the Oklahoma Uniform Code of Military Justice, good order and discipline shall be established and safeguarded within state military forces pursuant to Section 40 of Article V of the Oklahoma Constitution. Added by Laws 2019, c. 408, § 4, eff. Oct. 1, 2019.

§44-801. Definitions.

ARTICLE 1. Definitions.

A. As used in the Oklahoma Uniform Code of Military Justice, unless the context otherwise requires:

1. "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused;

2. "Adjutant General" means the commander and most senior military officer of the Oklahoma National Guard appointed by the Governor with the advice and consent of the Senate. The Adjutant General exercises command and control over the Oklahoma National Guard when it is not activated for federal duty under Title 10 of the United States Code. The Adjutant General serves as the executive and administrative head of the Military Department of the State of Oklahoma as provided for in Section 21 of this title;

3. "Administrative control (ADCON)" means the control or exercise of authority over subordinate units and other organizations or units with respect to administration and support, including control of resources and equipment, personnel management, unit logistics, individual and unit training, readiness, mobilization, demobilization and other matters not included in the operational missions of the subordinate units or other organizations or units. Lawfully issued orders implementing administrative control may incorporate references to the Oklahoma Uniform Code of Military Justice (OUCMJ) for disciplinary purposes;

4. "Allowance" means an amount of money provided to members of the state military forces when adequate services or facilities are not provided by the military. Allowances are usually provided tax-free for basic housing, basic subsistence, cost of living, clothing expenses and separation from family members;

5. "Arrest in quarters" means moral restraint, as opposed to physical restraint, limiting the liberty of an officer. The limits of arrest in quarters are set by the authority imposing nonjudicial punishment and may extend beyond the physical quarters of an officer;

6. "Assistant Adjutant General" means a brigadier general appointed by the Governor to assist the Adjutant General in the discharge and performance of his or her duties. An Assistant Adjutant General is a staff officer who shall meet the qualifications prescribed by law for the Adjutant General. Multiple Assistant Adjutants General may be appointed pursuant to law, custom or National Guard regulations;

7. "Cadet" or "officer candidate" means a person who is enrolled in or attending a state military academy, a regional training institute, or any other formal education program for the

purpose of becoming a commissioned officer in the state military forces;

8. "Classified information" means:

- a. any information or material that has been determined pursuant to federal law, by an Executive Order issued by the President in execution of federal law, or a lawfully promulgated federal regulation, to require protection against unauthorized disclosure for reasons of national security and that is so designated, and
- b. any restricted data, as defined in Section 11(y) of the Atomic Energy Act of 1954 (42 U.S.C., Section 2014(y));

9. "Code" means the Oklahoma Uniform Code of Military Justice (OUCMJ);

10. "Command authority" means the authority that a commander lawfully exercises over subordinates by virtue of rank or assignment. Disciplinary authority under the OUCMJ is inherent to command authority;

11. "Commander" means a designated commissioned officer vested with command authority pursuant to law, regulation, assignment, lawful order or custom;

12. "Commanding officer" includes only commissioned officers of the state military forces and shall include officers in charge only when administering nonjudicial punishment under Section 815 of this title (Article 15). "Commander" has the same meaning as "commanding officer" unless the context otherwise requires;

13. "Component" means one of two constituent parts that make up the state military forces, namely the army force responsible for land-based operations and the air force responsible for aerial operations and related support activities;

14. "Confidential information" means any information or material that shall be designated as confidential pursuant to Section 24A.27 of Title 51 of the Oklahoma Statutes and any information or material that may be kept confidential pursuant to Section 24A.28 of Title 51 of the Oklahoma Statutes that has not previously been released by an appropriate authority;

15. "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command to the convening authority;

16. "Day" means calendar day and is not synonymous with the term "unit training assembly". Any punishment authorized by this act which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean succeeding duty days;

17. "Court of Criminal Appeals" means the Oklahoma Court of Criminal Appeals, the highest court in the State of Oklahoma with

appellate jurisdiction in criminal cases. It is the court of last resort for courts-martial conducted under the Code;

18. "Duty status" means duty in the state military forces under an order issued by authority of law, and includes travel to and from such duty;

19. "Enlisted member" means a person in an enlisted grade;

20. "Fatigue duty" means general labor performed by members of the state military forces when unarmed, including but not limited to cleaning, digging, loading, organizing, etc.;

21. "Fine" means a type of punishment that makes a member pecuniarily liable to the State of Oklahoma for the amounts specified by nonjudicial punishment or adjudged by a court-martial. A fine may be paid in cash by a member, collected by deduction from the current pay of a member or collected by deduction on settlement of the pay account of a member upon discharge;

22. "Forfeiture" means a loss of monetary compensation provided to members of the Oklahoma National Guard or Oklahoma State Guard for performance of military duties as a result of nonjudicial punishment or as adjudged by a court-martial. A forfeiture is applicable to basic pay and allowances if total forfeitures of pay and allowances are specifically adjudged by a general court-martial; provided, that forfeitures other than total forfeitures shall not apply to special pay, other than hardship duty pay, or proficiency or incentive pay;

23. "Grade" means a step or degree in a graduated scale of office or military rank which is established and designated as a grade by law or regulation;

24. "Installation commander" means a commissioned officer responsible for the protection of assigned forces and assets, lodging, dining and administrative reporting, regardless of the command relations of the various types of forces present on the installation. For purposes of this definition, an installation is an Armed Forces Reserve Center, air base, armory, camp, post, readiness center, office building, the joint forces headquarters or other facility, location, structure or property so designated as an "installation" by the Adjutant General;

25. "Joint forces headquarters" means the joint headquarters provided for and established in Section 21 of this title;

26. "Judge advocate" means a commissioned officer of the organized state military forces who is a member in good standing of the bar of the highest court of a state, and is certified or designated as a judge advocate in the Judge Advocate General's Corps of the Army or the Air Force, or a reserve component of the same;

27. "Major command" means the 45th Infantry Brigade Combat Team, the 45th Field Artillery Brigade, the 90th Troop Command, the 137th Special Operations Wing, the 138th Fighter Wing, the joint forces headquarters and any successor organizations to the major

commands named herein. The Adjutant General, in his or her discretion, may designate other military units within the Oklahoma National Guard as major commands;

28. "May" is used in a permissive sense. The phrase "no person may" means that no person is required, authorized, or permitted to do the act prescribed;

29. "Military appellate judge" means a judicial officer who is a member of the Military Court of Appeals and is nominated and appointed in accordance with Section 866 of this title (Article 66);

30. "Military court" means a court-martial or a court of inquiry;

31. "Military Court of Appeals" means the intermediate appellate court of record established in Section 866 of this title (Article 66) and charged with conducting an appellate review of questions of law arising from general and special courts-martial proceedings conducted by the state military forces and, when necessary in furtherance of its jurisdiction, reviewing all petitions for extraordinary relief properly brought before it;

32. "Military department" means the administrative agency established in Section 21 of this title charged with coordinating and supervising state military forces. The military department consists of a joint forces headquarters, an army component and an air force component under the command and control of the Adjutant General when not activated for federal duty under Title 10 of the United States Code;

33. "Military trial judge" means a judicial officer who presides over a general or special court-martial and is detailed or retained in accordance with Section 826 of this title (Article 26);

34. "Military magistrate" means a licensed attorney, detailed or retained, who conducts reviews or otherwise acts on prereferral matters relating to the rights of victims under subsection D of Section 806B of this title (Article 6B, subsection D), investigative subpoenas under subparagraph a of paragraph 1 of subsection A of Section 17 of this act (Article 30A, subsection A, paragraph 1, subparagraph a) or who conducts appellate proceedings on behalf of the Military Court of Appeals under paragraph 3 of subsection J of Section 866 of this title (Article 66, subsection J, paragraph 3);

35. "Military offenses" means those offenses designated as punitive articles under Sections 877 (Article 77, Principals), 878 (Article 78, Accessory after the fact), 879 (Article 79, Conviction of offense charged, lesser included offenses, and attempts), 880 (Article 80, Attempts), 881 (Article 81, Conspiracy), 882 (Article 82, Soliciting commission of offenses), 883 (Article 83, Malingering), 884 (Article 84, Breach of medical quarantine), 885 (Article 85, Desertion), 886 (Article 86, Absence without leave), 887 (Article 87, Missing movement; jumping from vessel), 887A (Article 87A, Resistance, flight, breach of arrest, and escape), 888

(Article 88, Contempt toward officials), 889 (Article 89, Disrespect toward superior commissioned officer; assault of superior commissioned officer), 890 (Article 90, Willfully disobeying superior commissioned officer), 891 (Article 91, Insubordinate conduct toward warrant officer, or noncommissioned officer), 892 (Article 92, Failure to obey order or regulation), 893 (Article 93, Cruelty and maltreatment), 893A (Article 93A, Prohibited activities with military recruit or trainee by person in position of special trust), 894 (Article 94, Mutiny or sedition), 895 (Article 95, Offenses by sentinel or lookout), 895A (Article 95A, Disrespect toward sentinel or lookout), 896 (Article 96, Release of prisoner without authority; drinking with prisoner), 897 (Article 97, Unlawful detention), 898 (Article 98, Misconduct as prisoner), 899 (Article 99, Misbehavior before the enemy), 900 (Article 100, Subordinate compelling surrender), 901 (Article 101, Improper use of countersign), 902 (Article 102, Forcing a safeguard), 903B (Article 103B, Aiding the enemy), 903C (Article 103C, Unlawful disclosure of confidential information), 904 (Article 104, Public records offenses), 904A (Article 104A, Fraudulent enlistment, appointment, or separation), 904B (Article 104B, Unlawful enlistment, appointment, or separation), 905A (Article 105A, False or unauthorized pass offenses), 906A (Article 106A, Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button), 907 (Article 107, False official statements; false swearing), 908 (Article 108, Military property-loss, damage, destruction, or wrongful disposition), 908A (Article 108A, Captured or abandoned property), 909 (Article 109, Property other than military property-waste, spoilage, or destruction), 910 (Article 110, Improper hazarding of vessel or aircraft), 912 (Article 112, Drunkenness and other incapacitation offenses), 912A (Article 112A, Wrongful use, possession, etc., of controlled substances), 914 (Article 114, Endangerment offenses), 916 (Article 116, Riot or breach of peace), 917 (Article 117, Provoking speeches or gestures), 917A (Article 117A, Wrongful broadcast or distribution of intimate visual images), 920 (Article 120, Sexual assault generally), 920C (Article 120C, Other sexual misconduct), 920D (Article 120D, Fraternalization), 921 (Article 121, Larceny and wrongful appropriation), 924 (Article 124, Frauds against the government), 928 (Article 128, Assault), 930 (Article 130, Stalking), 931 (Article 131, Perjury), 931A (Article 131A, Subornation of perjury), 931B (Article 131B, Obstructing justice), 931C (Article 131C, Misprision of serious offense), 931D (Article 131D, Wrongful refusal to testify), 931F (Article 131F, Noncompliance with procedural rules), 931G (Article 131G, Wrongful interference with adverse administrative proceeding), 932 (Article 132, Retaliation), 933 (Article 133, Conduct unbecoming an officer and a gentleman) and 934 (Article 134, General article) of this title;



36. "Military publication" means a written publication of an administrative nature such as a regulation, instruction, pamphlet, circular, permanent or general order, delegation of authority letter, numbered Adjutant General policy memorandum or blank form promulgated or published by or under the authority of the Adjutant General. An order or directive issued by the Adjutant General that is operational in nature or issued in execution of a military mission shall not be included within the meaning of military publication. Rules of procedure published by the State Judge Advocate for the Military Court of Appeals are included in the meaning of military publication. The organizational chart and rating scheme required in Section 26 of this title shall not be included in the meaning of military publication;

37. "Month's pay" means the amount of basic pay that would be paid to a member if that member were serving on active duty;

38. "National security" means the national defense and foreign relations of the United States;

39. "Nexus" means the appearance of a connection between a military or nonmilitary offense and the state military forces which brings discredit or dishonor to the state military forces due to representations of membership in the state military forces by a member. Such representations may be made directly or indirectly, including but not limited to publication on social media or other electronic communication platforms;

40. "Noncommissioned officer" means an enlisted member above the pay grade of E-4 or an enlisted member in the army component of state military forces holding the rank of corporal;

41. "Nonjudicial punishment" means punishment imposed administratively by a commander or officer in charge for minor offenses in lieu of a court-martial;

42. "Nonmilitary offense" means any criminal offense established in law that is not defined as a military offense in this section;

43. "Officer" means a commissioned or warrant officer;

44. "Officer in charge" means a commissioned or warrant officer designated as such by appropriate authority;

45. "Pay" means monetary compensation provided to members of the state military forces in exchange for performance of military duties carried out pursuant to a lawful order or otherwise under the authority of law, including basic pay, special pay, proficiency pay and incentive pay. "Pay" shall not mean allowances as defined in this section;

46. "Rank" means the order of precedence among members of the state military forces;

47. "Record", when used in connection with the proceedings of a court-martial, means:

- a. an official written transcript, written summary, or other writing relating to the proceedings, or
- b. an official audiotape, videotape, digital image or file, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced;

48. "Regulation" means a written, administrative expression of executive authority issued by an executive branch officer which carries with it the force and effect of law due to inherent command authority or express delegation of authority by the legislative branch; regulations provided for in the Code are published and archived by the Secretary of State;

49. "Rehearing" means a new trial on the findings, on the sentence, or on both;

50. "Restriction" means moral restraint, as opposed to physical restraint, limiting access to physical places or participation in certain activities. In comparison to arrest in quarters, "restriction" is a lesser punishment;

51. "Senior force component judge advocate" means the judge advocate assigned as the chief legal advisor within the same component of the state military forces as the accused. Unless there is a conflict of interest, a senior force component judge advocate may also serve as legal counsel to the Adjutant General and may be designated as the State Judge Advocate. The customary duty station of a senior force component judge advocate is joint forces headquarters;

52. "Shall" is used in an imperative sense;

53. "State" means one of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam and the U.S. Virgin Islands;

54. "State active duty" means full-time duty in the state military forces under an order of the Governor or otherwise issued by authority of law, and paid by state funds, and includes travel to and from such duty. State active duty shall not mean military duty performed by the state military forces pursuant to Title 32 of the United States Code;

55. "State Judge Advocate" means a member of the Oklahoma National Guard qualified as a judge advocate, as defined in this section, and who is designated in writing by the Adjutant General as the State Judge Advocate;

56. "State military forces" means the National Guard of the State of Oklahoma, which includes an army component and an air force component, as defined in Title 32, United States Code, and Section 41 of this title; the Oklahoma State Guard, organized pursuant to Section 109 of Title 32, United States Code, and established pursuant to the Oklahoma State Guard Act; and any other military force organized under the Constitution and laws of the State of

Oklahoma when not in a status placing them under exclusive federal jurisdiction pursuant to Chapter 47 of Title 10, United States Code. Unless otherwise established by Oklahoma law, the unorganized militia, as provided for in Section 41 of this title, or any other state military force that does not meet this definition shall not be considered part of the "state military forces" under the Code;

57. "Superior commissioned officer" means a commissioned officer superior in rank or command;

58. "Supplies" means materiel, equipment and stores of all types possessed or lawfully controlled by state military forces; and

59. "Title 32 active duty" means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the Oklahoma National Guard pursuant to Section 316, 502, 503, 504 or 505 of Title 32 of the United States Code for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

B. Other terms not specifically defined herein shall be defined by military rules or regulations and customs and usage of the National Guard and the Armed Forces of the United States.

C. If a term is not defined in either subsection A of this section nor defined as provided in subsection B of this section, it shall receive the construction and usage customarily accorded by reference to dictionaries of the English language in existence at the time of adoption of this act.

Added by Laws 2019, c. 408, § 5, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 9, emerg. eff. April 13, 2021.

§44-802. Persons subject to the Oklahoma Uniform Code of Military Justice.

ARTICLE 2. Persons subject to the Oklahoma Uniform Code of Military Justice.

A. The Oklahoma Uniform Code of Military Justice applies to all members of the state military forces at all times who are not in active federal service, as defined by Title 10 of the United States Code.

B. Subject matter jurisdiction is established for military offenses if a member of the state military forces is in a duty status under Title 32 of the United States Code or on state active duty orders. Subject matter jurisdiction is also established for military and nonmilitary offenses if more likely than not, a nexus exists between an offense and the state military forces, regardless of a member's duty status. Courts-martial shall have primary jurisdiction over military offenses as defined in the Code.

C. The civilian courts shall have primary jurisdiction over nonmilitary offenses when an act or omission violates both the Code

and local criminal law. In such a case, a court-martial may be initiated only after the civilian authority has declined to prosecute or has dismissed the charge, provided jeopardy has not attached. When a member is not in a duty status under Title 32 of the United States Code or on state active duty orders, there shall be a rebuttable presumption that subject matter jurisdiction does not exist under the Code. The Governor or Adjutant General may promulgate additional regulations prescribing how a convening authority shall determine the existence of a nexus between a nonmilitary offense and state military forces.

D. Jurisdiction over attempted crimes, conspiracy crimes, solicitation and accessory crimes shall be determined by the underlying offense.

E. If a commander or officer in charge determines that a nexus exists between a nonmilitary offense and the state military forces, for purposes of administrative action, the commander or officer in charge may impose nonjudicial punishment regardless of whether courts-martial jurisdiction is then possessed or later acquired by the state military forces.

Added by Laws 2019, c. 408, § 6, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 10, emerg. eff. April 13, 2021.

§44-803. Jurisdiction to try certain personnel.

ARTICLE 3. Jurisdiction to try certain personnel.

A. Each person discharged from the state military forces who is later charged with having fraudulently obtained a discharge is, subject to Section 904A of this title, subject to trial by court-martial on that charge and is, after apprehension, subject to the Oklahoma Uniform Code of Military Justice while in custody under the direction of the state military forces for that trial. Upon conviction of the charge, the person shall be subject to trial by court-martial for all offenses under the Oklahoma Uniform Code of Military Justice committed before the fraudulent discharge.

B. No person who has deserted from the state military forces shall be relieved from amenability to the jurisdiction of the Oklahoma Uniform Code of Military Justice by virtue of a separation from any later period of service.

Added by Laws 2019, c. 408, § 7, eff. Oct. 1, 2019.

§44-804. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 8, eff. Oct. 1, 2019.

§44-805. Territorial applicability of Oklahoma Uniform Code of Military Justice.

ARTICLE 5. Territorial applicability of Oklahoma Uniform Code of Military Justice.

The Oklahoma Uniform Code of Military Justice applies at all times and in all places. Courts-martial and courts of inquiry may be convened while state military forces are deployed outside the state with the same jurisdiction and powers as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside of the state. Added by Laws 2019, c. 408, § 9, eff. Oct. 1, 2019.

§44-806. Judge advocates.

ARTICLE 6. Judge advocates.

A. Designation of State Judge Advocate and senior force component judge advocate. The Adjutant General shall designate in writing a State Judge Advocate from among the judge advocates duly commissioned in the state military forces. Regardless of rank, the State Judge Advocate shall be considered the senior force component judge advocate in the force component of which he or she is a member. Unless such authority is delegated in accordance with subsection B or C of Section 25 of this title, the Adjutant General shall also designate in writing a senior force component judge advocate in the military force component of which the judge advocate designated as the State Judge Advocate is not a member.

B. Inspections. The senior force component judge advocates in each of the state's military force components or those judge advocates' delegates shall make frequent inspections in the field in supervision of the administration of military justice in that force component.

C. Communication. Convening authorities shall at all times communicate directly with their judge advocates in matters relating to the administration of military justice. The judge advocate of any command is entitled to communicate directly with the judge advocate of a superior or subordinate command, or with the State Judge Advocate.

D. Limitations due to prior capacity. No person who, with respect to a case, serves in a capacity specified in subsection E of this section may later serve as a judge advocate to any reviewing or convening authority upon the same case.

E. Conflicts of interest. The capacities referred to in subsection D of this section are, with respect to the case involved, any of the following:

1. Preliminary hearing officer, court member, military trial judge, military magistrate, or appellate military judge; or
2. Counsel who have acted in the same case or appeared in any proceeding before a military trial judge, preliminary hearing officer, or appellate court.

F. Duties. The senior force component judge advocate of each force component within the state military forces shall oversee the

following functions among the judge advocates and paralegals in their respective force components:

1. Recruitment and accession of new recruits;
2. Retention;
3. Education and training;
4. Career development and progression; and
5. Decoration.

G. Assignment of legal personnel. The senior force component judge advocate of each force component within the state military forces shall determine the place of duty and frequency of reassignment among the major commands in their respective force components for each judge advocate and paralegal.

H. Legal counsel. The State Judge Advocate shall provide legal counsel to the Adjutant General and, as requested, to the other senior leaders of the state military forces. The State Judge Advocate shall ensure that the Adjutant General receives legal counsel from the senior force component judge advocate of the force component of which the Adjutant General is not a member on matters relevant to that force component.

Added by Laws 2019, c. 408, § 10, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 11, emerg. eff. April 13, 2021.

§44-806A. Investigation and disposition of matters pertaining to the fitness of military judges.

ARTICLE 6A. Investigation and disposition of matters pertaining to the fitness of military judges.

The Adjutant General shall promulgate regulations prescribing procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military judge to perform the duties of the judge's position. To the extent practicable, the procedures shall be uniform for both force components.

Added by Laws 2019, c. 408, § 11, eff. Oct. 1, 2019.

§44-806B. Rights of the victim of an offense under the Oklahoma Uniform Code of Military Justice.

ARTICLE 6B. Rights of the victim of an offense under the Oklahoma Uniform Code of Military Justice.

A. A victim of an offense under the Oklahoma Uniform Code of Military Justice has the following rights:

1. The right to be reasonably protected from the accused;
2. The right to reasonable, accurate and timely notice of any of the following:

- a. a public hearing concerning the continuation of confinement prior to trial of the accused,
- b. a preliminary hearing under Section 832 of this title (Article 32) relating to the offense,

- c. a court-martial relating to the offense,
- d. a public proceeding of the parole board relating to the offense, and
- e. the release or escape of the accused;

3. The right not to be excluded from any public hearing or proceeding described in paragraph 2 of this subsection unless the military judge or preliminary hearing officer, as applicable, after receiving clear and convincing evidence, determines that testimony by the victim of an offense under the Code would be materially altered if the victim heard other testimony at that hearing or proceeding;

4. The right to be reasonably heard at any of the following:
- a. a public hearing concerning the continuation of confinement prior to trial of the accused,
  - b. a sentencing hearing relating to the offense, and
  - c. a public proceeding of the parole board relating to the offense;

5. The reasonable right to confer with the counsel representing the government at any proceeding described in paragraph 2 of this subsection;

6. The right to receive restitution as provided in law;

7. The right to proceedings free from unreasonable delay; and

8. The right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under the Code.

B. In this section, the term "victim of an offense under the Code" means an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense under the Oklahoma Uniform Code of Military Justice.

C. Nothing in this section shall be construed:

1. To authorize a cause of action for damages; or

2. To create, to enlarge, or to imply any duty or obligation to any victim of an offense under the Code or other person for the breach of which the State of Oklahoma or any of its officers or employees could be held liable in damages.

D. Enforcement by Military Court of Appeals.

1. If the victim of an offense under the Code believes that a preliminary hearing ruling under Section 832 of this title (Article 32) or a court-martial ruling violates the rights of the victim afforded by paragraph 4 of subsection A of this section, the victim may petition the Military Court of Appeals for a writ of mandamus to require the preliminary hearing officer or the court-martial to comply with the provisions of paragraph 4 of subsection A of this section.

2. If the victim of an offense under the Code is subject to an order to submit to a deposition, notwithstanding the availability of the victim to testify at the court-martial trying the accused for

the offense, the victim may petition the Military Court of Appeals for a writ of mandamus to quash such order.

3. A petition for a writ of mandamus described in this subsection shall be forwarded directly to the Military Court of Appeals, by such means as may be prescribed by regulations promulgated by the Adjutant General, and, to the extent practicable, shall have priority over all other proceedings before the court.

4. Paragraph 1 of this subsection applies with respect to the protections afforded by the following:

- a. this section,
- b. Section 832 (Article 32) of the Code,
- c. Military Rule of Evidence 412, relating to the admission of evidence regarding a victim's sexual background,
- d. Military Rule of Evidence 513, relating to the psychotherapist-patient privilege,
- e. Military Rule of Evidence 514, relating to the victim advocate-victim privilege, and
- f. Military Rule of Evidence 615, relating to the exclusion of witnesses.

Added by Laws 2019, c. 408, § 12, eff. Oct. 1, 2019.

§44-807. Apprehension.

ARTICLE 7. Apprehension.

A. Apprehension is the taking of a person into custody.

B. Any person authorized by the Oklahoma Uniform Code of Military Justice or by Chapter 47 of Title 10 of the United States Code, or by regulations issued under either, to apprehend persons subject to the Oklahoma Uniform Code of Military Justice, any marshal of a court-martial appointed pursuant to the provisions of the Code, and any civil officer or peace officer having authority to apprehend offenders under the laws of the United States or of a state, may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

C. Commissioned officers, warrant officers and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to the Code and to apprehend persons subject to the Code who take part therein.

Added by Laws 2019, c. 408, § 13, eff. Oct. 1, 2019.

§44-808. Warrant of arrest, issuance, contents, service.

ARTICLE 8. Warrant of arrest, issuance, contents, service.

A. A warrant of arrest for the purposes of securing the presence of an accused at any court-martial proceedings or in execution of a sentence of confinement may be issued by a general or special court-martial convening authority.

B. The warrant issued under this section shall:



1. Be in writing and in the name of the State of Oklahoma;
2. State the date when issued and the municipality or county where issued;
3. State the name and rank of the person to be arrested;
4. State the offense charged against the person to be arrested;
5. Command that the person against whom the complaint was made be arrested, conducted to a designated civil or military facility under the control of the state or federal government, placed in custody as directed, and booked;
6. Be signed by an authorized officer of the armed forces of this state; and
7. Specify the amount of bail.

C. The warrant shall be directed to all peace officers in the state or federal government and the provost marshal of the Oklahoma National Guard. Such officers shall have the power and authority to conduct the arrested person to the designated facility without regard to territorial jurisdiction.

Added by Laws 2019, c. 408, § 14, eff. Oct. 1, 2019.

§44-809. Imposition of restraint.

ARTICLE 9. Imposition of restraint.

A. Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing that person to remain within certain specified limits. Confinement is the physical restraint of a person.

B. An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to the Oklahoma Uniform Code of Military Justice. A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted members of his or her command or subject to his or her authority into arrest or confinement.

C. A commissioned officer or a warrant officer may be ordered into arrest or confinement only by a commanding officer to whose authority he or she is subject, by an order, oral or written, delivered in person, or by another commissioned officer. The authority to order such persons into arrest or confinement shall not be delegated.

D. No person may be ordered into arrest or confinement except for probable cause.

E. Nothing in this section limits the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

Added by Laws 2019, c. 408, § 15, eff. Oct. 1, 2019.

§44-810. Restraint of persons charged.

ARTICLE 10. Restraint of persons charged.

A. 1. Unless otherwise provided in paragraph 2 of this subsection, any person subject to the Oklahoma Uniform Code of Military Justice who is charged with an offense under the Code may be ordered into arrest or confinement, as the circumstances require.

2. When a person subject to the Code is charged only with an offense that is normally tried by summary court-martial, the person ordinarily shall not be ordered into confinement.

B. 1. When a person subject to the Code is ordered into arrest or confinement before trial, immediate steps shall be taken:

a. to inform the person of the specific offense of which the person is accused, and

b. to try the person or to dismiss the charges and release the person.

2. To facilitate compliance with paragraph 1 of this subsection, the Adjutant General shall promulgate regulations setting forth procedures relating to referral for trial, including procedures for prompt forwarding of the charges and specifications and, if applicable, the preliminary hearing report submitted under Section 832 of this title (Article 32).

Added by Laws 2019, c. 408, § 16, eff. Oct. 1, 2019.

§44-811. Place of confinement, reports and receiving of prisoners.

ARTICLE 11. Place of confinement, reports and receiving of prisoners.

A. Persons confined before or during trial by court-martial shall be confined in any place of confinement under the control of any of the armed forces, in any county jail or in any penal or correctional facility under the control of the Oklahoma Department of Corrections.

B. No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a place of confinement designated in subsection A of this section shall refuse to receive or keep any prisoner committed to his or her charge, when the committing person furnishes a statement, signed by him or her, of the offense charged against the prisoner.

C. Every commander of a guard, master at arms, warden, keeper, or officer of a place of confinement designated in subsection A of this section, to whose charge a prisoner is committed shall, within twenty-four (24) hours after that commitment or as soon as he or she is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against him or her, and the name of the person who ordered or authorized the commitment.

Added by Laws 2019, c. 408, § 17, eff. Oct. 1, 2019.

§44-812. Prohibition of confinement of members of the state military forces with enemy prisoners and certain others.

ARTICLE 12. Prohibition of confinement of members of the state military forces with enemy prisoners and certain others.

No member of the state military forces shall be placed in confinement in immediate association with:

1. Enemy prisoners; or
2. Other individuals:
  - a. who are detained under the law of war and are foreign nationals, and
  - b. who are not members of the armed forces.

Added by Laws 2019, c. 408, § 18, eff. Oct. 1, 2019.

§44-813. Punishment prohibited before trial.

ARTICLE 13. Punishment prohibited before trial.

No person, while being held for trial, shall be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him or her, nor shall the arrest or confinement imposed upon him or her be any more rigorous than the circumstances required to insure his or her presence, but he or she may be subjected to minor punishment during that period for infractions of discipline.

Added by Laws 2019, c. 408, § 19, eff. Oct. 1, 2019.

§44-814. Delivery of offenders to civil authorities.

ARTICLE 14. Delivery of offenders to civil authorities.

A. Under such regulations as the Adjutant General may prescribe, a person subject to the Oklahoma Uniform Code of Military Justice who is in a duty status and who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

B. When delivery under this section is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender, after having answered to the civil authorities of his or her offense shall, upon the request of competent military authority, be returned to the place of original custody for the completion of his or her sentence.

Added by Laws 2019, c. 408, § 20, eff. Oct. 1, 2019.

§44-815. Commanding officer's nonjudicial punishment.

ARTICLE 15. Commanding officer's nonjudicial punishment.

A. Except as provided in subsection B of this section, any commanding officer and, for purposes of this section, any officer in charge, may impose disciplinary punishments for minor offenses arising under the punitive articles of the Oklahoma Uniform Code of Military Justice without the intervention of a court-martial.

B. Any superior commander may limit or withhold the exercise of nonjudicial punishment authority by subordinate commanders, including limiting authority over certain categories of military personnel or offenses. Likewise, individual cases may be reserved by a superior commander. A superior authority may limit or withhold any power that a subordinate might otherwise exercise under this section.

C. Except as provided in subsection L of this section, the Governor or Adjutant General may delegate the powers established under this section to a senior officer who is a member of the state military forces and is also a member of the same force component as the accused.

D. Any commanding officer may impose upon enlisted members of the officer's command:

1. An admonition;
2. A reprimand;
3. The withholding of privileges for not more than six (6) months which need not be consecutive;
4. The forfeiture of pay of not more than seven (7) days' pay;
5. A fine of not more than seven (7) days' pay;
6. A reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;
7. Extra duties, including fatigue or other duties, for not more than fourteen (14) days, which need not be consecutive; and
8. Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen (14) days, which need not be consecutive.

E. Any commanding officer of the grade of major or above may impose upon enlisted members of the officer's command:

1. An admonition;
2. A reprimand;
3. The withholding of privileges for not more than six (6) months which need not be consecutive;
4. The forfeiture of not more than one-half (1/2) of one (1) month's pay per month for two (2) months;
5. A fine of not more than one (1) month's pay;
6. A reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 shall not be reduced more than two pay grades;
7. Extra duties, including fatigue or other duties, for not more than forty-five (45) days which need not be consecutive; and

8. Restriction to certain specified limits, with or without suspension from duty, for not more than sixty (60) days which need not be consecutive.

F. The Governor, the Adjutant General, or an officer exercising general or special court-martial convening authority may impose:

1. Upon officers of the officer's command:

a. any punishment authorized in subsection E of this section, except for the punishments provided in paragraphs 6 and 7 of subsection E of this section, and

b. arrest in quarters for not more than thirty (30) days which need not be consecutive; and

2. Upon enlisted members of the officer's command, any punishment authorized in subsection E of this section.

Admonitions or reprimands given as nonjudicial punishment to commissioned officers and warrant officers shall be administered in writing. In all other cases, unless otherwise prescribed by regulations promulgated by the Adjutant General, such punishments may be administered either orally or in writing.

G. Whenever any punishments are combined to run consecutively, the total length of the combined punishment shall not exceed the authorized duration of the longest punishment included in the combination, and there shall be an apportionment of punishments so that no single punishment in the combination exceeds its authorized length under this section.

H. Once the commander has determined that nonjudicial punishment is appropriate, the commander shall provide reasonable notice to the member of his or her intent to impose nonjudicial punishment. At the time the commander provides notification as required in this subsection, the member shall be entitled to examine all statements and other evidence that the commander has examined and intends to rely upon as the basis for punishment. The member shall be provided a copy of the documentary evidence unless it is privileged, classified, or otherwise restricted by law, regulation, or instruction. At the time the commander provides notification as required in this subsection, the commander shall also inform the member as to the quantum of punishment potentially to be imposed. While a member undergoing nonjudicial punishment is not entitled to representation by a duly appointed defense counsel, the member may seek legal advice from any judge advocate available for this purpose.

I. The right to demand trial by court-martial in lieu of nonjudicial punishment shall arise only when arrest in quarters or restriction will be considered as punishments. If the commanding officer determines that arrest in quarters or restriction will be considered as punishments, prior to the offer of nonjudicial punishment the accused shall be notified in writing of the right to

demand trial by court-martial. Should the commanding officer determine that the punishment options will not include arrest in quarters or restriction, the accused shall be notified that there is no right to trial by court-martial in lieu of nonjudicial punishment. Upon notification by the commander or officer in charge of his or her intent to impose nonjudicial punishment that includes arrest in quarters or restriction, the accused shall be afforded a reasonable amount of time to confer with legal counsel and to prepare a response.

J. The officer who imposes the punishment, or his or her successor in command, may at any time suspend, set aside, mitigate or remit any part or amount of the punishment and restore all rights, privileges and property affected. The officer may also mitigate:

1. Reduction in grade to forfeiture of pay;
2. Arrest in quarters to restriction; or
3. Extra duties to restriction.

The mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this article by the officer who imposed the punishment mitigated.

K. A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through his or her chain of command, appeal to a senior officer designated by the Adjutant General to adjudicate appeals arising from nonjudicial punishment. A senior officer so designated by the Adjutant General shall be a member of the same component of the state military forces as the accused. An appeal made pursuant to this subsection shall be lodged within fifteen (15) days after the punishment is announced to the accused. The officer exercising appellate authority may, at his or her discretion, extend the deadline for an appeal. The appeal shall be promptly forwarded and decided, and the member shall not be punished until the appeal is decided. The senior officer designated by the Adjutant General as exercising appellate authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection I of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment, the senior officer exercising appellate authority shall refer the case to a judge advocate for consideration and advice. When a senior officer is designated by the Adjutant General to adjudicate appeals arising from nonjudicial punishment, such designation shall be accomplished in writing and shall be considered a military publication, as defined in Section 801 of this title (Article 1).

L. Except for nonjudicial punishment imposed by the Governor or the Adjutant General, the final appellate authority for nonjudicial

punishment imposed within state military forces is the Adjutant General. A person punished under this section whose appeal was previously denied by a senior officer designated to adjudicate appeals may, through his or her chain of command, lodge an additional appeal with the Adjutant General within five (5) days after the appeal is denied. In the event the officer imposing nonjudicial punishment is a senior officer who is also designated to adjudicate appeals arising from nonjudicial punishment, an appeal thereof shall be addressed directly to the Adjutant General. In the event the officer imposing nonjudicial punishment is the Adjutant General, an appeal thereof shall be addressed directly to the Governor. An appeal offered pursuant to this subsection shall be made only in writing. Neither the Governor nor the Adjutant General shall delegate his or her duties as an appellate authority under this subsection.

M. Whenever nonjudicial punishment is imposed under this section:

1. After adjudication and while the punishment is being carried out or while the adjudged punishment is pending before the appellate authority, the commander or officer in charge who imposed the nonjudicial punishment, upon the request of the accused, may:

- a. excuse the accused from attendance at scheduled unit training assemblies, or
- b. arrange for the accused to drill on alternate dates and in alternate locations; or

2. If necessary to maintain good order and discipline within the unit, the commander or officer in charge who imposed the nonjudicial punishment may order the accused to drill on alternate dates and in alternate locations. The order shall be reduced to writing and shall become part of the record of nonjudicial punishment.

N. The imposition and enforcement of disciplinary punishment under this section for any act or omission shall not be a bar to trial by court-martial or a civilian court of competent jurisdiction for a crime or offense arising out of the same act or omission; but the fact that a disciplinary punishment has been enforced may be demonstrated by the accused upon trial and, when so demonstrated, it shall be considered in determining the measure of punishment to be adjudged in the event of a finding or verdict of guilty. Nonjudicial punishment shall not be imposed for an offense previously tried by a civilian court unless so authorized by regulations promulgated by the Adjutant General.

O. When nonjudicial punishment has been imposed for an offense, punishment shall not again be imposed for the same offense under this section. Once nonjudicial punishment has been imposed, it may not be increased, upon appeal or otherwise. When a commander or officer in charge determines that nonjudicial punishment is

appropriate for a particular member, all known offenses determined to be appropriate for disposition by nonjudicial punishment and ready to be considered at that time, including all offenses arising from a single incident or course of conduct, shall be considered together and shall not be made the basis for multiple punishments. This subsection shall in no way restrict the right of a commander to prefer court-martial charges for an offense previously punished under the provisions of this section.

P. In accordance with subsection B of Section 843 of this title (Article 43, subsection B), a person accused of an offense is not liable to be punished under this section if the offense was committed more than two (2) years before the imposition of punishment. Periods in which the accused is absent without authority shall be excluded in computing the period of limitation prescribed in this section.

Q. Whenever a punishment of forfeiture of pay is imposed under this section, the forfeiture shall not apply to pay accruing before the date that punishment is imposed, but only pay accruing on or after the date that punishment is imposed.

R. The Adjutant General may promulgate regulations prescribing the type and form of records to be kept of proceedings conducted pursuant to this section. The Adjutant General may promulgate any other regulations necessary to carry out the provisions of this section.

Added by Laws 2019, c. 408, § 21, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 12, emerg. eff. April 13, 2021.

§44-816. Courts-martial classified.

ARTICLE 16. Courts-martial classified.

A. The three kinds of courts-martial in the state military forces are the following:

1. General courts-martial, as described in subsection B of this section;
2. Special courts-martial, as described in subsection C of this section; and
3. Summary courts-martial, as described in subsection D of this section.

B. General courts-martial. General courts-martial are of the following two types:

1. A general court-martial consisting of a military judge and eight members, subject to paragraph 3 of subsection E of Section 825 and Section 829 of this title (Article 25, subsection E, paragraph 3, and Article 29); and
2. A general court-martial consisting of a military judge alone, if, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court



composed of a military judge alone and the military judge approves the request.

C. Special courts-martial. Special courts-martial are of the following two types:

1. A special court-martial consisting of a military judge and four members, subject to paragraph 3 of subsection E of Section 825 and Section 829 of this title (Article 25, subsection E, paragraph 3, and Article 29); and

2. A special court-martial consisting of a military judge alone:

- a. if the case is so referred by the convening authority, subject to Section 819 of this title (Article 19) and such limitations as may be prescribed by regulations promulgated by the Adjutant General, or
- b. if the case is referred under paragraph 1 of this subsection and, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court composed of a military judge alone and the military judge approves the request.

D. Summary court-martial. A summary court-martial consists of one commissioned officer.

Added by Laws 2019, c. 408, § 22, eff. Oct. 1, 2019.

§44-817. Jurisdiction of courts-martial in general.

ARTICLE 17. Jurisdiction of courts-martial in general.

A. Each force component shall have court-martial jurisdiction over all persons subject to the Oklahoma Uniform Code of Military Justice. The exercise of jurisdiction by one force component over personnel of the other force component shall be in accordance with regulations promulgated by the Adjutant General.

B. In all cases, the force component review after that by the officer with authority to convene a general court-martial for the command which held the trial, where that review is required under the Code, shall be carried out by the same force component of which the accused is a member.

Added by Laws 2019, c. 408, § 23, eff. Oct. 1, 2019.

§44-818. General courts-martial.

ARTICLE 18. General courts-martial.

Subject to Section 817 of this title (Article 17), general courts-martial shall have jurisdiction to try persons subject to the Oklahoma Uniform Code of Military Justice for any offense made punishable by the Code and may, under such limitations as the Governor or Adjutant General may prescribe by regulation, adjudge any punishment not forbidden by the Code.

Added by Laws 2019, c. 408, § 24, eff. Oct. 1, 2019.

§44-819. Jurisdiction of special courts-martial.

ARTICLE 19. Jurisdiction of special courts-martial.

A. Subject to Section 817 of this title (Article 17), special courts-martial have jurisdiction to try persons subject to the Oklahoma Uniform Code of Military Justice for any offense made punishable by the Code and may, under such limitations prescribed by regulation promulgated by the Governor or Adjutant General, adjudge any punishment not forbidden by the Code except dishonorable discharge, dismissal, confinement for more than one (1) year, forfeiture of pay exceeding two-thirds (2/3) pay per month, or forfeiture of pay for more than one (1) year.

B. Neither confinement for more than six (6) months, nor forfeiture of pay for more than six (6) months may be adjudged if charges and specifications are referred to a special court-martial consisting of a military judge alone under subparagraph a of paragraph 2 of subsection C of Section 816 of this title (Article 16, subsection C, paragraph 2, subparagraph a).

Added by Laws 2019, c. 408, § 25, eff. Oct. 1, 2019.

§44-820. Jurisdiction and appeals of summary courts-martial.

ARTICLE 20. Jurisdiction and appeals of summary courts-martial.

A. Subject to Section 817 of this title (Article 17), summary courts-martial have jurisdiction to try persons subject to the Oklahoma Uniform Code of Military Justice, except officers, cadets and officer candidates for any offense made punishable by the Code under such limitations as may be prescribed by regulation promulgated by the Governor or Adjutant General. No person with respect to whom summary courts-martial have jurisdiction shall be brought to trial before a summary court-martial if he or she objects thereto. If objection to trial by summary court-martial is made by an accused, trial may be ordered by special or general court-martial as may be appropriate. Summary courts-martial may, under such limitations as may be prescribed by regulation promulgated by the Governor or Adjutant General, adjudge any punishment not forbidden by the Code except dismissal, dishonorable or bad-conduct discharge, confinement for more than one (1) month, hard labor without confinement for more than forty-five (45) days, restriction to specified limits for more than two (2) months, or forfeiture of more than two-thirds (2/3) of one (1) month's pay.

B. A summary court-martial is a noncriminal forum. A finding of guilty at a summary court-martial does not constitute a criminal conviction.

C. Regular appeals. A person found guilty at a summary court-martial who considers the punishment unjust or disproportionate to the offense may appeal to a senior officer designated by the

Adjutant General to adjudicate appeals. A senior officer designated by the Adjutant General shall be an officer assigned to joint forces headquarters and shall be a member of the same component of the state military forces as the accused. An appeal made pursuant to this subsection shall be lodged within thirty (30) calendar days after the date the accused receives written notice from the convening authority that the convening authority has complied with the requirements of subsection B of Section 860C of this title (Article 860C, subsection B). Before acting on an appeal submitted pursuant to this subsection, the senior officer exercising appellate authority shall refer the case to a judge advocate for consideration and advice. When a senior officer is designated by the Adjutant General to adjudicate appeals pursuant to this subsection, such designation shall be accomplished in writing and shall be considered a military publication, as defined in Section 801 of this title (Article 1).

D. Appeals in certain instances. Except for summary courts-martial convened by the Governor or the Adjutant General, the final appellate authority for summary courts-martial convened pursuant to this Code shall be the Adjutant General. A person found guilty at a summary court-martial whose appeal was previously denied by a senior officer designated to adjudicate appeals may lodge an additional appeal with the Adjutant General within fifteen (15) calendar days after the appeal is denied. In the event the officer who convened the summary court-martial is a senior officer who is also designated to adjudicate appeals, an appeal thereof shall be addressed directly to the Adjutant General. In the event the officer who convened the summary court-martial is the Adjutant General, an appeal thereof shall be addressed directly to the Governor. An appeal offered pursuant to this subsection shall be made only in writing. Neither the Governor nor the Adjutant General shall delegate his or her duties as an appellate authority under this subsection.

E. The Adjutant General may promulgate regulations prescribing the type and form of records to be kept of appellate proceedings undertaken pursuant to subsections C and D of this section. Added by Laws 2019, c. 408, § 26, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 13, emerg. eff. April 13, 2021.

§44-821. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 27, eff. Oct. 1, 2019.

§44-822. Who may convene general courts-martial.

ARTICLE 22. Who may convene general courts-martial.

A. General courts-martial may be convened by:

1. The Governor;
2. The Adjutant General;

3. Any other commanding officer in the state military forces designated by the Adjutant General; or

4. Any other commanding officer in the state military forces designated by the Governor.

B. If any such officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered desirable by that superior authority.

Added by Laws 2019, c. 408, § 28, eff. Oct. 1, 2019.

§44-823. Who may convene special courts-martial.

ARTICLE 23. Who may convene special courts-martial.

A. Special courts-martial may be convened by:

1. Any person who may convene a general court-martial;

2. The commanding officer of a brigade in the army component of state military forces;

3. The commanding officer of a wing in the air component of state military forces; or

4. Any other commanding officer designated by the Adjutant General.

B. If any such officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered desirable by that superior authority.

Added by Laws 2019, c. 408, § 29, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 14, emerg. eff. April 13, 2021.

§44-824. Who may convene summary courts-martial.

ARTICLE 24. Who may convene summary courts-martial.

A. Summary courts-martial may be convened by:

1. Any person who may convene a general or special court-martial;

2. The commanding officer of a battalion in the army component of state military forces;

3. The commanding officer of a group in the air component of state military forces; or

4. Any other commanding officer designated by the Adjutant General.

B. If any such officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered desirable by that superior authority.

Added by Laws 2019, c. 408, § 30, eff. Oct. 1, 2019.

§44-825. Who may serve on courts-martial.

ARTICLE 25. Who may serve on courts-martial.

A. Any commissioned officer who is a member of the same force component as the accused is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

B. Any warrant officer who is a member of the same force component as the accused is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

C. 1. Any enlisted member from the same force component as the accused is eligible to serve on a general or special court-martial for the trial of an enlisted member.

2. Before a court-martial with a military judge and members is assembled for trial, an enlisted member who is an accused may personally request, orally on the record or in writing, that:

- a. the membership of the court-martial be comprised entirely of officers, or
- b. enlisted members comprise at least one-third (1/3) of the membership of the court-martial, regardless of whether enlisted members have been detailed to the court-martial.

3. After such a request, the accused may not be tried by a general or special court-martial if the membership of the court-martial is inconsistent with the request.

D. The accused in a court-martial with a military judge and members may, after the findings are announced and before any matter is presented in the sentencing phase, request, orally on the record or in writing, sentencing by members.

E. 1. No person subject to the Oklahoma Uniform Code of Military Justice may be tried by a court-martial any member of which is junior to him or her in rank or grade.

2. When convening a court-martial, the convening authority shall detail as members thereof such members of the same force component as the accused as, in his or her opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of the state military force is eligible to serve as a member of a general or special court-martial when he or she is the accuser or a witness or has acted as preliminary hearing officer or as counsel in the same case.

3. The convening authority shall detail not less than the number of members necessary to impanel the court-martial under Section 829 of this title (Article 29).

F. Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. Under regulations promulgated by the Adjutant General, the convening authority may delegate his or her

authority under this subsection to his or her staff judge advocate, to an assistant staff judge advocate or to any other principal assistant.

Added by Laws 2019, c. 408, § 31, eff. Oct. 1, 2019.

§44-826. Military trial judge of a general or special court-martial.

ARTICLE 26. Military trial judge of a general or special court-martial.

A. A military trial judge shall be detailed to each general and special court-martial. The Adjutant General shall promulgate regulations prescribing the manner of selection, certification and detailing of military trial judges for such general and special courts-martial. The military trial judge shall preside over each open session of the court-martial to which he or she has been detailed.

B. A military trial judge shall be a member of the bar of the highest court of a state, or a member of the bar of a federal court.

C. A military trial judge shall be qualified, by reason of education, training, experience, and judicial temperament, for duty as a military trial judge and shall be one of the following:

1. A commissioned officer of the state military forces who is a member of the bar of the highest court of a state, or a member of the bar of a federal court, and who is certified to be qualified for such duty by the State Judge Advocate;

2. A retired commissioned officer of the state military forces who is a member of the bar of the highest court of a state, or a member of the bar of a federal court, and who is certified to be qualified for such duty by the State Judge Advocate;

3. A judge advocate in any department of the Armed Forces of the United States serving on active duty within the meaning of Title 10 of the United States Code who is certified to be qualified for duty as a military trial judge by the Judge Advocate General of the armed force of which such military trial judge is a member;

4. A judge presently serving in any judicial district within the State of Oklahoma who possesses at least one (1) year of trial experience and who currently serves or previously served as a judge advocate in any department of the Armed Forces of the United States, to include reserve components of the same;

5. A retired judge or justice who served in any judicial capacity within the judicial department of the State of Oklahoma and who previously served as a judge advocate in any department of the Armed Forces of the United States, to include reserve components of the same;

6. A federal district court judge presently serving in any federal judicial district within the State of Oklahoma who possesses at least one (1) year of trial experience and who previously served

as a judge advocate in any department of the Armed Forces of the United States, to include reserve components of the same; or

7. A retired federal district court judge or retired federal appellate court judge who previously served as a judge advocate in any department of the Armed Forces of the United States, to include reserve components of the same.

D. 1. In accordance with regulations prescribed under subsection A of this section, a military trial judge of a general or special court-martial shall be designated for detail by the senior force component judge advocate of the same force component as the accused.

2. Neither the convening authority nor any member of the staff of the convening authority shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military trial judge so detailed, which relates to the military trial judge's performance of duty as a military trial judge.

3. A commissioned officer of the state military forces who is certified to be qualified for duty as a military trial judge of a general court-martial:

- a. may perform such duties only when the officer is assigned and directly responsible to the senior force component judge advocate of the force component of which the military trial judge is a member, and
- b. may perform duties of a judicial or nonjudicial nature other than those relating to the officer's primary duty as a military trial judge of a general court-martial only when such duties are assigned to the officer by or with the approval of that senior force component judge advocate.

4. A commissioned officer of any department of the Armed Forces of the United States serving on active duty within the meaning of Title 10 of the United States Code who, pursuant to the Oklahoma Uniform Code of Military Justice and the regulations promulgated pursuant to subsection A of this section, is certified to be qualified for duty as a military trial judge of a general court-martial shall not be assigned other duties of a judicial or nonjudicial nature other than those relating to the officer's primary duty as a military trial judge of a general court-martial, except when such duties are assigned to the officer by or with the approval of the Judge Advocate General of the armed force of which the military trial judge is a member.

5. In accordance with regulations promulgated by the Adjutant General, assignments of military trial judges under this section who are members of the state military forces shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.

6. No military trial judge shall be eligible to review the record of any trial if such military trial judge served as an Assistant Attorney General, district attorney, assistant district attorney or municipal prosecutor who determined or participated in the determination of whether to prosecute a nonmilitary offense when the act or omission in question could have violated both the Oklahoma Uniform Code of Military Justice and state or local criminal laws.

E. No person is eligible to act as military trial judge in a case if he or she is the accuser, a witness or has acted as preliminary hearing officer or a counsel in the same case.

F. The military trial judge of a court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor may he or she vote with the members of the court.

G. A military trial judge who is a commissioned officer in the state military forces may be detailed under subsection A of this section to a court-martial or a proceeding under subsection A of Section 830 of this title (Article 30, subsection A) that is convened in a different force component of the state military forces, when so permitted by the senior force component judge advocate of the force component of which the military trial judge is a member.

H. A military trial judge detailed pursuant to this section who is not a member of the Oklahoma National Guard shall receive compensation calculated on the basis of the current basic pay received by a member in active federal service at the grade of O-6 with twenty (20) years of time in service. The Adjutant General shall promulgate regulations establishing the method of calculating compensation for less than full-time service by a military trial judge retained pursuant to this section who is not a member of the Oklahoma National Guard. A military trial judge may be paid such actual and necessary expenses as may be provided for in regulations promulgated by the Adjutant General.

Added by Laws 2019, c. 408, § 32, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 15, emerg. eff. April 13, 2021.

§44-826A. Military magistrates.

ARTICLE 26A. Military magistrates.

A. Qualifications. A military magistrate:

1. Shall be a member of the bar of a federal court or a member of the bar of the highest court of a state and may be a commissioned officer of the state military forces; and

2. Shall be certified to be qualified, by reason of education, training, experience and judicial temperament, for duty as a military magistrate by the State Judge Advocate.

B. Limitations.



1. Neither the State Judge Advocate nor a senior force component judge advocate shall be detailed or appointed as a military magistrate.

2. When performing the duties provided for in subsection C of Section 17 of this act (Article 30A, subsection C), no person shall be eligible to act as a military magistrate in a case where such person serves as an Assistant Attorney General, district attorney, assistant district attorney or municipal prosecutor who could determine or participate in the determination of whether to prosecute a nonmilitary offense when the act or omission in question could have violated both the Oklahoma Uniform Code of Military Justice and state or local criminal laws.

3. When performing the duties provided for in subsection C of this section, no person shall be eligible to act as a military magistrate in a case where such person served as an Assistant Attorney General, district attorney, assistant district attorney or municipal prosecutor who determined or participated in the determination of whether to prosecute a nonmilitary offense when the act or omission in question could have violated both the Oklahoma Uniform Code of Military Justice and state or local criminal laws.

4. Neither the convening authority nor any member of the staff of the convening authority shall prepare or review any report concerning the effectiveness, fitness or efficiency of a military magistrate so detailed or retained which relates to the military magistrate's performance of duty as a military magistrate.

5. A person shall not act as a military magistrate in any case that he or she is the accuser, a witness or has acted as counsel in the same case.

C. Appellate remand. A military magistrate may be detailed or retained pursuant to this section for purposes of conducting an appellate proceeding on behalf of the Military Court of Appeals ordered pursuant to paragraph 3 of subsection J of Section 866 of Title 44 of the Oklahoma Statutes (Article 66, subsection J, paragraph 3).

D. Duties. In accordance with regulations promulgated by the Adjutant General, in addition to duties when detailed under Section 17 of this act (Article 30A), a military magistrate, who is also a commissioned officer of the state military forces, may be assigned to perform other duties of a nonjudicial nature.

E. The compensation of a military magistrate retained pursuant to this section who is not a member of the Oklahoma National Guard shall be established pursuant to regulations promulgated by the Adjutant General. Such regulations may allow for payment of actual and necessary expenses.

Added by Laws 2021, c. 12, § 16, emerg. eff. April 13, 2021.

§44-827. Detail of trial counsel and defense counsel.

ARTICLE 27. Detail of trial counsel and defense counsel.

A. 1. Trial counsel and defense counsel shall be detailed for each general and special court-martial. Assistant trial counsel and assistant and associate defense counsel may be detailed for each general and special court-martial. The Adjutant General shall promulgate regulations providing for the manner in which counsel are detailed for such courts-martial and for the persons who are authorized to detail counsel for such courts-martial.

2. No person who, with respect to a case, has served as a preliminary hearing officer, court member, military judge, military magistrate, or appellate judge, may later serve as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

B. Trial counsel, defense counsel, or assistant defense counsel detailed for a general or a special court-martial:

1. Shall be a judge advocate who is a graduate of an accredited law school or is a member of the bar of a federal court or of the highest court of a state; and

2. Shall be certified as competent to perform such duties by the senior force component judge advocate of the same force component of the state military forces of which he or she is a member.

C. Any costs arising from the detailing of a military defense counsel from a National Guard organization other than the Oklahoma National Guard may be reimbursed out of funds available in the Military Justice Fund established in Section 941 of this title. Added by Laws 2019, c. 408, § 34, eff. Oct. 1, 2019.

§44-828. Detail or employment of reporters and interpreters.

ARTICLE 28. Detail or employment of reporters and interpreters.

Under such regulations as the Adjutant General may prescribe, the convening authority of a court-martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court. Under like regulations the convening authority of a court-martial or court of inquiry may detail or employ interpreters who shall interpret for the court.

Added by Laws 2019, c. 408, § 35, eff. Oct. 1, 2019.

§44-829. Assembly and impaneling of members - Detail of new members and military judges.

ARTICLE 29. Assembly and impaneling of members; detail of new members and military judges.

A. The military judge shall announce the assembly of a general or special court-martial with members. After such a court-martial is assembled, no member may be absent, unless the member is excused:

1. As a result of a challenge;

2. Under subparagraph b of paragraph 1 of subsection B of this section; or

3. By order of the military judge or the convening authority for disability or other good cause.

B. 1. Under rules promulgated by the Adjutant General, the military judge of a general or special court-martial with members shall:

a. after determination of challenges, impanel the court-martial, and

b. excuse the members who, having been assembled, are not impaneled.

2. In a general court-martial, the military judge shall impanel eight members.

3. In a special court-martial, the military judge shall impanel four members.

C. In addition to members specified in subsection B of this section, the military judge shall impanel alternate members, if the convening authority authorizes alternate members.

D. 1. If, after members are impaneled, the membership of the court-martial is reduced to:

a. fewer than six members with respect to a general court-martial, or

b. fewer than four members with respect to a special court-martial,

the trial may not proceed unless the convening authority details new members and, from among the members so detailed, the military judge impanels new members sufficient in number to provide the membership specified in paragraph 2 of this subsection.

2. The membership referred to in paragraph 1 of this subsection is as follows:

a. at least six but not more than eight members with respect to a general court-martial, and

b. four members with respect to a special court-martial.

E. If the military judge is unable to proceed with the trial because of disability or otherwise, a new military judge shall be detailed to the court-martial.

F. 1. In the case of new members detailed under subsection D of this section, the trial may proceed with the new members present after the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new members, the military judge, the accused, and counsel for both sides.

2. In the case of a new military judge under subsection E of this section, the trial shall proceed as if no evidence had been introduced, unless the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new military judge, the accused, and counsel for both sides.

Added by Laws 2019, c. 408, § 36, eff. Oct. 1, 2019.

§44-830. Charges and specifications.

ARTICLE 30. Charges and specifications.

A. Charges and specifications:

1. May be preferred only by a person subject to the Oklahoma Uniform Code of Military Justice; and

2. Shall be preferred by presentment in writing, signed under oath before a commissioned officer of the armed forces who is authorized to administer oaths.

B. The writing specified in paragraph 2 of subsection A of this section shall state that the signer:

1. Has personal knowledge of, or has investigated, the matters set forth in the charges and specifications; and

2. The matters set forth in the charges and specifications are true, to the best of the knowledge and belief of the signer.

C. When charges and specifications are preferred under subsection A of this section, the proper authority shall, as soon as practicable:

1. Inform the person accused of the charges and specifications; and

2. Determine what disposition should be made of the charges and specifications in the interest of justice and discipline.

Added by Laws 2019, c. 408, § 37, eff. Oct. 1, 2019.

§44-830A. Certain proceedings conducted before referral.

ARTICLE 30A. Certain proceedings conducted before referral.

A. In general.

1. Proceedings may be conducted to review or otherwise act on the following matters before referral of charges and specifications to court-martial for trial in accordance with regulations promulgated by the Adjutant General:

a. prereferral investigative subpoenas,

b. prereferral warrants or orders for electronic communications, and

c. prereferral matters under subsection D of Section 806B of Title 44 of the Oklahoma Statutes (Article 6B, subsection D).

2. The regulations promulgated under paragraph 1 of this subsection shall:

- a. include procedures for the review of such rulings that may be ordered under this section as the Adjutant General considers appropriate, and
- b. provide such limitations on the relief that may be ordered under this section as the Adjutant General considers appropriate.

3. If any matter in a proceeding under this section becomes a subject at issue with respect to charges that have been referred to a general or special court-martial, the matter shall be transferred to the military trial judge detailed to the court-martial.

B. Detail of military trial judge. The Adjutant General shall promulgate regulations providing for the manner in which military trial judges are detailed to proceedings under subsection A of this section.

C. Detail or employment of military magistrate. The Adjutant General may promulgate regulations providing for the detailing or employment of military magistrates who, other than a proceeding described in subparagraph a of paragraph 1 of subsection A of this section, may preside over the proceedings provided for in subparagraphs b and c of paragraph 1 of subsection A of this section.

Added by Laws 2021, c. 12, § 17, emerg. eff. April 13, 2021.

§44-831. Compulsory self-incrimination prohibited.

ARTICLE 31. Compulsory self-incrimination prohibited.

A. No person subject to the Oklahoma Uniform Code of Military Justice shall compel any person to incriminate himself or herself or to answer any question the answer to which may tend to incriminate him or her.

B. No person subject to the Code shall interrogate or request any statement from an accused or a person suspected of an offense without first informing that person of the nature of the accusation and advising that person that the person does not have to make any statement regarding the offense of which the person is accused or suspected and that any statement made by the person may be used as evidence against the person in an administrative board proceeding, in nonjudicial punishment, or in a trial by court-martial.

C. No person subject to the Code shall compel any person to make a statement or produce evidence in the course of an administrative board proceeding, nonjudicial punishment or before any military court if the statement or evidence is not material to the issue and may tend to degrade the person.

D. No statement obtained from any person in violation of this section or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against the person in an administrative board proceeding, in nonjudicial punishment or in a trial by court-martial.

Added by Laws 2019, c. 408, § 38, eff. Oct. 1, 2019.

§44-832. Preliminary hearing required before referral to general court-martial.

ARTICLE 32. Preliminary hearing required before referral to general court-martial.

A. In general.

1. a. Except as provided in subparagraph b of this paragraph, a preliminary hearing shall be held before referral of charges and specifications for trial by general court-martial. The preliminary hearing shall be conducted by an impartial hearing officer, detailed by the convening authority in accordance with subsection B of this section.
- b. Under regulations promulgated by the Adjutant General, a preliminary hearing need not be held if the accused submits a written waiver to the convening authority and the convening authority determines that a hearing is not required.

2. The purpose of the preliminary hearing shall be limited to determining the following:

- a. whether or not the specification alleges an offense under the Oklahoma Uniform Code of Military Justice,
- b. whether or not there is probable cause to believe that the accused committed the offense charged,
- c. whether or not the convening authority has court-martial jurisdiction over the accused and over the offense, and
- d. a recommendation as to the disposition that should be made of the case.

B. Hearing officer.

1. A preliminary hearing under this section shall be conducted by an impartial hearing officer, who shall be a judge advocate who is certified under paragraph 2 of subsection B of Section 827 of this title (Article 27, subsection B, paragraph 2).

2. Whenever practicable, the hearing officer shall be equal in grade or senior in grade to military counsel who are detailed to represent the accused or the government at the preliminary hearing.

C. Report to convening authority. After a preliminary hearing under this section, the hearing officer shall submit to the convening authority a written report, accompanied by a recording of the preliminary hearing as required under subsection E of this section, that includes the following:

1. For each specification, a statement of the reasoning and conclusions of the hearing officer with respect to determinations under paragraph 2 of subsection A of this section, including a summary of relevant witness testimony and documentary evidence

presented at the hearing and any observations of the hearing officer concerning the testimony of witnesses and the availability and admissibility of evidence at trial;

2. Recommendations for any necessary modifications to the form of the charges or specifications;

3. An analysis of any additional information submitted after the hearing by the parties or by a victim of an offense that, under such rules as the Adjutant General may promulgate, is relevant to disposition under Sections 830 and 834 of this title (Articles 30 and 34); and

4. A statement of action taken on evidence adduced with respect to uncharged offenses, as described in subsection F of this section.

D. Rights of accused.

1. The accused shall be advised of the charges against the accused and of the accused's right to be represented by counsel at the preliminary hearing under this section. The accused has the right to be represented at the preliminary hearing as provided in Section 838 of this title (Article 38) and in regulations prescribed under that article.

2. The accused may cross-examine witnesses who testify at the preliminary hearing and present additional evidence that is relevant to the issues for determination under paragraph 2 of subsection A of this section.

3. The presentation of evidence and examination, including cross-examination, of witnesses at a preliminary hearing shall be limited to the matters relevant to determinations under paragraph 2 of subsection A of this section.

E. Effect of evidence of uncharged offense. If evidence adduced in a preliminary hearing conducted under subsection A of this section indicates that the accused committed an uncharged offense, the hearing officer may consider the subject matter of that offense without the accused having first been charged with the offense if the accused:

1. Is present at the preliminary hearing;

2. Is informed of the nature of each uncharged offense considered; and

3. Is afforded the opportunities for representation, cross-examination, and presentation consistent with subsection D of this section.

F. Effect of violation. The requirements of this section are binding on all persons administering the Code, but failure to follow the requirements does not constitute jurisdictional error. A defect in a report under subsection C of this section is not a basis for relief if the report is in substantial compliance with subsection C of this section.

Added by Laws 2019, c. 408, § 39, eff. Oct. 1, 2019.

§44-833. Disposition guidance.

ARTICLE 33. Disposition guidance.

The Adjutant General shall issue nonbinding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to disposition of charges and specifications in the interest of justice and discipline under Sections 830 and 834 of this title (Articles 30 and 34). Such guidance shall take into account, with appropriate consideration of military requirements, the principles contained in official guidance of the United States Attorney General to attorneys for the government with respect to disposition of federal criminal cases in accordance with the principle of fair and evenhanded administration of federal criminal law.

Added by Laws 2019, c. 408, § 40, eff. Oct. 1, 2019.

§44-834. Advice to convening authority before referral for trial.

ARTICLE 34. Advice to convening authority before referral for trial.

A. General court-martial.

1. Staff judge advocate advice required before referral.

Before referral of charges and specifications to a general court-martial for trial, the convening authority shall submit the matter to the staff judge advocate for advice, which the staff judge advocate shall provide to the convening authority in writing. The convening authority may not refer a specification under a charge to a general court-martial unless the staff judge advocate advises the convening authority in writing that:

- a. the specification alleges an offense under the Oklahoma Uniform Code of Military Justice,
- b. there is probable cause to believe that the accused committed the offense charged, and
- c. a court-martial would have jurisdiction over the accused and the offense.

2. Staff judge advocate recommendation as to disposition.

Together with the written advice provided under paragraph 1 of this subsection, the staff judge advocate shall provide a written recommendation to the convening authority as to the disposition that should be made of the specification in the interest of justice and discipline.

3. Staff judge advocate advice and recommendation to accompany referral. When a convening authority makes a referral for trial by general court-martial, the written advice of the staff judge advocate under paragraph 1 of this subsection and the written recommendation of the staff judge advocate under paragraph 2 of this subsection with respect to each specification shall accompany the referral.



B. Special court-martial; convening authority consultation with judge advocate. Before referral of charges and specifications to a special court-martial for trial, the convening authority shall consult a judge advocate on relevant legal issues.

C. General and special courts-martial; correction of charges and specifications before referral. Before referral for trial by general court-martial or special court-martial, changes may be made to charges and specifications:

1. To correct errors in form; and

2. When applicable, to conform to the substance of the evidence contained in a report under subsection C of Section 832 of this title (Article 32, subsection C).

D. Referral defined. In this section, the term "referral" means the order of a convening authority that charges and specifications against an accused be tried by a specified court-martial.

Added by Laws 2019, c. 408, § 41, eff. Oct. 1, 2019.

§44-835. Service of charges - Commencement of trial.

ARTICLE 35. Service of charges; commencement of trial.

A. In general. Trial counsel detailed for a court-martial under Section 827 of this title (Article 27) shall cause to be served upon the accused a copy of the charges and specifications referred for trial.

B. Commencement of trial.

1. Subject to paragraph 2 of this subsection, no trial or other proceeding of a general court-martial or a special court-martial, including any session under subsection A of Section 839 of this title (Article 39, subsection A) may be held over the objection of the accused:

a. with respect to a general court-martial, from the time of service through the fifth day after the date of service, or

b. with respect to a special court-martial, from the time of service through the third day after the date of service.

2. An objection under paragraph 1 of this subsection may be raised only at the first session of the trial or other proceeding and only if the first session occurs before the end of the applicable periods under subparagraph a or b of paragraph 1 of this subsection. If the first session occurs before the end of the applicable period, the military judge shall, at that session, inquire as to whether the defense objects under this subsection.

C. Continuances. Upon a showing of good cause, the military judge in a general or special court-martial may grant a continuance of any hearing in which the presence of the accused is required.

Added by Laws 2019, c. 408, § 42, eff. Oct. 1, 2019.

§44-836. Procedure for courts-martial.

ARTICLE 36. Procedure for courts-martial.

A. The procedure, in all cases tried by courts-martial under the Oklahoma Uniform Code of Military Justice, shall be the federal Rules for Courts-Martial, as prescribed in the most recent edition of the Manual for Courts-Martial, United States, including all amendments thereto adopted from time to time, except when such rules are contrary to or inconsistent with the Code.

B. The federal Military Rules of Evidence shall govern the modes of proof in all cases tried by courts-martial under the Code, as prescribed in the most recent edition of the Manual for Courts-Martial, United States, including all amendments thereto adopted from time to time, except when such rules are contrary to or inconsistent with the Code.

C. The Governor or Adjutant General may promulgate additional regulations applicable to courts-martial procedure. All regulations made under this section shall be uniform insofar as practicable. Added by Laws 2019, c. 408, § 43, eff. Oct. 1, 2019.

§44-837. Unlawfully influencing action of court.

ARTICLE 37. Unlawfully influencing action of court.

A. No authority convening a general, special, or summary court-martial nor any other commanding officer, or officer serving on the staff thereof, shall censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his or her functions in the conduct of the proceeding. No person subject to the Oklahoma Uniform Code of Military Justice shall attempt to coerce or, by an unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his or her judicial acts. The foregoing provisions of this subsection shall not apply with respect to:

1. General instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial; or

2. To statements and instructions given in open court by the military judge or counsel.

B. In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the state military forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the state

military forces, or in determining whether a member of the state military forces should be retained, no person subject to the Code may, in preparing any such report:

1. Consider or evaluate the performance of duty of any such member as a member of a court-martial; or
  2. Give a less favorable rating or evaluation of any member of the state military forces because of the zeal with which such member, as counsel, represented any accused before a court-martial.
- Added by Laws 2019, c. 408, § 44, eff. Oct. 1, 2019.

§44-838. Duties of trial counsel and defense counsel.

ARTICLE 38. Duties of trial counsel and defense counsel.

A. The trial counsel of a general or special court-martial shall prosecute in the name of the State of Oklahoma, and shall, under the direction of the court, prepare the record of the proceedings.

B. 1. The accused has the right to be represented in his or her defense before a general or special court-martial or at a preliminary hearing under Section 832 of this title (Article 32) as provided in this subsection.

2. The accused may be represented by civilian counsel if provided by the accused.

3. The accused may be represented:

- a. by military counsel detailed under Section 827 of this title (Article 27), or
- b. by military counsel of his or her own selection if that counsel is reasonably available as determined under regulations prescribed under paragraph 7 of this subsection.

4. If the accused is represented by civilian counsel, military counsel detailed or selected under paragraph 3 of this subsection shall act as associate counsel unless excused at the request of the accused.

5. Except as provided under paragraph 6 of this subsection, if the accused is represented by military counsel of his or her own selection under subparagraph b of paragraph 3 of this subsection, any military counsel detailed under subparagraph a of paragraph 3 of this subsection shall be excused.

6. The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under Section 827 of this title (Article 27) to detail counsel, in his or her sole discretion:

- a. may detail additional military counsel as assistant defense counsel, and
- b. if the accused is represented by military counsel of his or her own selection under subparagraph b of paragraph 3 of this subsection, may approve a request

from the accused that military counsel detailed under subparagraph a of paragraph 3 of this subsection, act as associate defense counsel.

7. The Adjutant General shall, by regulation, define "reasonably available" for the purpose of subparagraph b of paragraph 3 of this subsection, and establish procedures for determining whether the military counsel selected by an accused under that paragraph is reasonably available. Such regulations may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused is from a force component other than the one of which the accused is a member. To the maximum extent practicable, such regulations shall establish uniform policies between the force components of the state military forces while recognizing the differences in the circumstances and needs of both force components.

C. In any court-martial proceeding resulting in a conviction, the defense counsel:

1. May forward for attachment to the record of proceedings a brief of such matters as he or she determines should be considered in behalf of the accused on review (including any objection to the contents of the record which he or she considers appropriate);

2. May assist the accused in the submission of any matter under Section 860, 860A or 860B of this title (Article 60, 60A or 60B); and

3. May take other action authorized by the Oklahoma Uniform Code of Military Justice.

D. An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he or she is qualified to be a trial counsel as required by Section 827 of this title (Article 27), perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

E. An assistant defense counsel of a general or special court-martial may perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

Added by Laws 2019, c. 408, § 45, eff. Oct. 1, 2019.

§44-839. Sessions.

ARTICLE 39. Sessions.

A. At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to Section 835 of this title (Article 35), call the court into session without the presence of the members for the purpose of:

1. Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

2. Hearing and ruling upon any matter which may be ruled upon by the military judge under the Oklahoma Uniform Code of Military Justice, whether or not the matter is appropriate for later consideration or decision by the members of the court;

3. Holding the arraignment and receiving the pleas of the accused;

4. Conducting a sentencing proceeding and sentencing the accused under paragraph 1 of subsection B of Section 853 of this title (Article 53, subsection B, paragraph 1); and

5. Performing any other procedural function which may be performed by the military judge under the Code or under rules prescribed pursuant to Section 836 of this title (Article 36) and which does not require the presence of the members of the court.

B. Proceedings under subsection A of this section shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record. These proceedings may be conducted notwithstanding the number of members of the court and without regard to Section 829 of this title (Article 29). If authorized by regulations promulgated by the Adjutant General, and if at least one defense counsel is physically in the presence of the accused, the presence required by this subsection may otherwise be established by audiovisual technology, such as video-teleconferencing technology.

C. When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge.

D. The findings, holdings, interpretations, and other precedents of military commissions under Chapter 47A of Title 10 of the United States Code:

1. May not be introduced or considered in any hearing, trial, or other proceeding of a court-martial under the Code; and

2. May not form the basis of any holding, decision, or other determination of a court-martial.

Added by Laws 2019, c. 408, § 46, eff. Oct. 1, 2019.

§44-840. Continuances.

ARTICLE 40. Continuances.

The military judge or a summary court-martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

Added by Laws 2019, c. 408, § 47, eff. Oct. 1, 2019.

§44-841. Challenges.

ARTICLE 41. Challenges.

A. 1. The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

2. If exercise of a challenge for cause reduces the court below the number of members required by Section 816 of this title (Article 16), all parties shall, notwithstanding Section 829 of this title (Article 29), either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges shall not be exercised at that time.

B. 1. Each accused and the trial counsel are entitled initially to one peremptory challenge of the members of the court. The military judge may not be challenged except for cause.

2. If exercise of a peremptory challenge reduces the court below the number of members required by Section 816 of this title (Article 16), the parties shall, notwithstanding Section 829 of this title (Article 29), either exercise or waive any remaining peremptory challenge (not previously waived) against the remaining members of the court before additional members are detailed to the court.

C. Whenever additional members are detailed to the court, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

Added by Laws 2019, c. 408, § 48, eff. Oct. 1, 2019.

§44-842. Oaths.

ARTICLE 42. Oaths.

A. Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant or associate defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations promulgated by the Adjutant General. These regulations may provide that an oath to perform faithfully duties as a military judge, trial counsel, assistant trial counsel, defense

counsel, or assistant or associate defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty, and if such an oath is taken it need not again be taken at the time the judge advocate, or other person is detailed to that duty.

B. Each witness before a court-martial shall be examined on oath.

Added by Laws 2019, c. 408, § 49, eff. Oct. 1, 2019.

§44-843. Statute of limitations.

ARTICLE 43. Statute of limitations.

A. Except as otherwise provided in this section, a person charged with a military offense is not liable to be tried by court-martial if the offense was committed more than three (3) years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

B. A person accused of an offense is not liable to be punished under Section 815 of this title (Article 15) if the offense was committed more than two (2) years before the imposition of punishment.

C. Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section.

D. Periods in which the accused was absent from territory in which the State of Oklahoma has the authority to apprehend him or her, or in the custody of civil authorities, or on active duty within the meaning of Title 10 of the United States Code, or in the hands of the enemy, shall be excluded in computing the periods of limitation prescribed in this section.

E. When the United States is at war, the running of any statute of limitations applicable to any offense under the Oklahoma Uniform Code of Military Justice:

1. Involving fraud or attempted fraud against the United States, the State of Oklahoma, or any agency of the foregoing in any manner, whether by conspiracy or not;

2. Committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States, or the State of Oklahoma; or

3. Committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or government agency, is suspended until three (3) years after the termination of hostilities as proclaimed by the President of the United States or by a joint resolution of Congress.

F. Defective or insufficient charges.

1. If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations:

- a. has expired, or
- b. will expire within one hundred eighty (180) days after the date of dismissal of the charges and specifications,

trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph 2 of this subsection are met.

2. The conditions referred to in paragraph 1 of this subsection are that the new charges and specifications shall:

- a. be received by an officer exercising summary court-martial jurisdiction over the command within one hundred eighty (180) days after the dismissal of the charges or specifications, and
- b. allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege acts or omissions that were included in the dismissed charges or specifications).

G. A person charged with fraudulent enlistment or fraudulent appointment under Section 904A of this title (Article 104A) may be tried by court-martial if the sworn charges and specifications are received by an officer exercising summary court-martial jurisdiction with respect to that person, as follows:

1. In the case of an enlisted member, during the period of the enlistment or five (5) years, whichever provides a longer period; and

2. In the case of an officer, during the period of the appointment or five (5) years, whichever provides a longer period.

H. If deoxyribonucleic acid (DNA) testing implicates an identified person in the commission of an offense punishable by confinement for more than one (1) year, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.

Added by Laws 2019, c. 408, § 50, eff. Oct. 1, 2019.

§44-844. Former jeopardy.

ARTICLE 44. Former jeopardy.

A. No person may, without his or her consent, be tried a second time for the same offense.

B. No proceeding in which an accused has been found guilty by court-martial upon any charge or specification is a trial in the



sense of this section until the finding of guilty has become final after review of the case has been fully completed.

C. 1. A court-martial with a military judge alone is a trial for the purposes of this section if, without fault of the accused:

- a. after introduction of evidence, and
- b. before announcement of findings under Section 853 of this title (Article 53),

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

2. A court-martial with a military judge and members is a trial in the sense of this section if, without fault of the accused:

- a. after the members, having taken an oath as members under Section 842 of this title (Article 42) and after completion of challenges under Section 841 of this title (Article 41), are impaneled, and
- b. before announcement of findings under Section 853 of this title (Article 53),

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

Added by Laws 2019, c. 408, § 51, eff. Oct. 1, 2019.

§44-845. Pleas of the accused.

ARTICLE 45. Pleas of the accused.

A. Irregular and similar pleas. If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he or she has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he or she fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he or she had pleaded not guilty.

B. Pleas of guilty. With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

C. Harmless error. A variance from the requirements of this section is harmless error if the variance does not materially prejudice the substantial rights of the accused.

Added by Laws 2019, c. 408, § 52, eff. Oct. 1, 2019.

§44-846. Opportunity to obtain witnesses and other evidence in trials by court-martial.

ARTICLE 46. Opportunity to obtain witnesses and other evidence in trials by court-martial.

A. Opportunity to obtain witnesses and other evidence. In a case referred for trial by court-martial, the trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as may be promulgated by the Adjutant General.

B. Subpoena and other process generally. Any subpoena or other process issued under this section:

1. Shall be similar to that which courts of the State of Oklahoma having criminal jurisdiction may issue pursuant to Title 22 of the Oklahoma Statutes;

2. Shall be executed in accordance with regulations promulgated by the Adjutant General; and

3. Shall run to any part of the State of Oklahoma.

C. Subpoena and other process for witnesses. A subpoena or other process may be issued to compel a witness to appear and testify:

1. Before a court-martial or court of inquiry;

2. At a deposition under Section 849 of this title (Article 49); or

3. As otherwise authorized under the Oklahoma Uniform Code Of Military Justice.

D. Subpoena and other process for evidence.

1. In general. A subpoena or other process may be issued to compel the production of evidence:

a. for a court-martial or court of inquiry,

b. for a deposition under Section 849 of this title (Article 49),

c. for an investigation of an offense under the Code, or

d. as otherwise authorized under the Code.

2. Investigative subpoena. An investigative subpoena under subparagraph c of paragraph 1 of this subsection may be issued before referral of charges to a court-martial only if a general court-martial convening authority has authorized counsel for the government to issue such a subpoena, or a military trial judge issues such a subpoena pursuant to subsection A of Section 830 of this title (Article 30, subsection A), or a military magistrate issues such a subpoena pursuant to subparagraph a of paragraph 1 of subsection A of Section 17 of this act (Article 30A, subsection A, paragraph 1, subparagraph a).

3. Warrant or order for wire or electronic communications. With respect to an investigation of an offense under the Code, a military trial judge detailed in accordance with Section 826 or subsection A of Section 830 of this title (Article 26 or Article 30,

subsection A) may issue warrants or court orders for the contents of, and records concerning, wire or electronic communications in the same manner as such warrants and orders may be issued by a district court of the State of Oklahoma under the provisions of Title 22 of the Oklahoma Statutes, subject to such limitations as may be prescribed by regulations promulgated by the Adjutant General. No military magistrate detailed or retained under Section 17 of this act (Article 30A) shall issue warrants or court orders for the contents of, and records concerning, wire or electronic communications.

E. Request for relief from subpoena or other process. If a person requests relief from a subpoena or other process under this section (article) on grounds that compliance is unreasonable or oppressive or is prohibited by law, a military trial judge detailed in accordance with Section 826 or subsection A of Section 830 of this title (Article 26 or Article 30, subsection A) shall review the request and shall:

1. Order that the subpoena or other process be modified or withdrawn, as appropriate; or

2. Order the person to comply with the subpoena or other process.

Added by Laws 2019, c. 408, § 53, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 18, emerg. eff. April 13, 2021.

§44-847. Refusal to appear or testify.

ARTICLE 47. Refusal to appear or testify.

A. In general.

1. Any person described in paragraph 2 of this subsection who:
  - a. willfully neglects or refuses to appear, or
  - b. willfully refuses to qualify as a witness or to testify or to produce any evidence which that person is required to produce,

shall be guilty of indirect contempt of the court-martial or court of inquiry from which the subpoena issued.

2. The persons referred to in paragraph 1 of this subsection are the following:

- a. any person not subject to the Oklahoma Uniform Code of Military Justice who:
  - (1) is issued a subpoena or other process described in subsection C of Section 846 of this title (Article 46, subsection C), and
  - (2) is provided a means for payment of fees and mileage pursuant to subsection D of this section, and
- b. any person not subject to the Code who is issued a subpoena or other process described in subsection D of Section 846 of this title (Article 46, subsection D).

B. Any person who commits indirect contempt shall be punished in accordance with Sections 566, 567 and 568 of Title 21 of the Oklahoma Statutes.

C. The district attorney exercising jurisdiction in the county where the court-martial or court of inquiry is convened, shall, upon the certification of the facts to him or her by the military court, court of inquiry or convening authority, file an information against and prosecute any person violating this section.

D. The fees and mileage of witnesses shall be paid as follows:

1. Any civilian witness, who is not a federal employee, appearing in obedience to an order, subpoena, or other lawful compulsion at any stage of a general or special court-martial or court of inquiry where the party seeking the attendance of the witness is the trial counsel, the defense counsel or the defendant appearing pro se, shall be paid from any monies available in the Military Justice Fund established in Section 941 of Title 44 of the Oklahoma Statutes, the fees and mileage at the rate prescribed by Section 81 of Title 28 of the Oklahoma Statutes;

2. Any witness appearing in obedience to an order, subpoena, or other lawful compulsion at any stage of a court-martial for which no provision in this subsection is applicable, shall be paid at the discretion of the military judge presiding over a general or special court-martial proceeding from any monies available in the Military Justice Fund established in Section 941 of Title 44 of the Oklahoma Statutes, the fees and mileage at the rate prescribed by Section 81 of Title 28 of the Oklahoma Statutes;

3. The comptroller of the military department, or any other person designated by the Adjutant General, shall, upon proof of claim, issue to witnesses, summoned pursuant to this subsection, certificates showing the names of witnesses, number of days' attendance, distance traveled and the amount of such fees and mileage; and

4. The Adjutant General may promulgate additional regulations governing the method and process for payment of fees and mileage to a civilian witness, who is not a federal employee, appearing in obedience to an order, subpoena, or other lawful compulsion at any stage of a general, special or summary court-martial or court of inquiry.

Added by Laws 2019, c. 408, § 54, eff. Oct. 1, 2019.

§44-848. Contempt.

ARTICLE 48. Contempt.

A. Authority to punish.

1. With respect to any proceeding under the Oklahoma Uniform Code of Military Justice, a judicial officer specified in paragraph 2 of this subsection may punish for contempt any person who:

- a. uses any menacing word, sign, or gesture in the presence of the judicial officer during the proceeding,
- b. disturbs the proceeding by any riot or disorder, or
- c. willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

2. A judicial officer referred to in paragraph 1 of this subsection is any of the following:

- a. any military trial judge detailed to a court-martial,
- b. any military magistrate detailed or retained to conduct prereferral proceedings under subsection D of Section 806B of this title (Article 6B, subsection D) or subparagraph a of paragraph 1 of subsection A of Section 17 of this act (Article 30A, subsection A, paragraph 1, subparagraph a) or appellate proceedings under paragraph 3 of subsection J of Section 866 of this title (Article 66, subsection J, paragraph 3),
- c. the chief judge of the Military Court of Appeals, or
- d. the president of a court of inquiry.

B. Opportunity to be heard and warning. A judicial officer, as specified in paragraph 2 of subsection A of this section, may punish a person cited for contempt after an opportunity to be heard has been given. Censure shall be imposed by the judicial officer only if:

1. It is clear from the identity of the offender and the character of his or her acts that disruptive conduct is willfully contemptuous; or

2. The conduct warranting the sanction is preceded by a clear warning that the conduct is impermissible and that specified sanctions may be imposed for its repetition.

C. Notification of contempt proceedings. The judicial officer, as specified in paragraph 2 of subsection A of this section, as soon as practicable after he or she is satisfied that courtroom misconduct requires contempt proceedings, should inform the alleged offender of his or her intention to institute said proceedings.

D. Notice and opportunity to provide evidence or testimony. Before imposing any punishment for contempt, the judicial officer shall give the offender notice of the charges and an opportunity to adduce evidence or argument relevant to guilt or punishment.

E. Imposition of sanctions. The judicial officer before whom the misconduct occurs may impose appropriate sanctions including punishment for contempt.

F. Punishment. The punishment for contempt under subsection A of this section shall not exceed the punishments provided in subsection A of Section 566 of Title 21 of the Oklahoma Statutes.

G. Review. A punishment under this section:

1. If imposed by a military trial judge, may be reviewed by the Military Court of Appeals in accordance with the uniform rules of procedure for the Military Court of Appeals under subsection L of Section 866 of this title (Article 66, subsection L);

2. If imposed by the chief judge of the Military Court of Appeals, shall constitute a judgment of the court, subject to review under the applicable provisions of Section 867 of this title (Article 67); and

3. If imposed by a court of inquiry, shall be subject to review by the convening authority in accordance with regulations promulgated by the Adjutant General.

Added by Laws 2019, c. 408, § 55, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 19, emerg. eff. April 13, 2021.

#### §44-849. Depositions.

##### ARTICLE 49. Depositions.

###### A. In general.

1. Subject to paragraph 2 of this subsection, a convening authority or a military judge may order depositions at the request of any party.

2. A deposition may be ordered under paragraph 1 of this subsection only if the requesting party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the testimony of a prospective witness be preserved for use at a court-martial or court of inquiry.

3. A party who requests a deposition under this section shall give to every other party reasonable written notice of the time and place for the deposition.

4. A deposition under this section shall be taken before, and authenticated by, an impartial officer, as follows:

- a. whenever practicable, by an impartial judge advocate certified under subsection B of Section 827 of this title (Article 27, subsection B), and
- b. in exceptional circumstances, by an impartial military or civil officer authorized to administer oaths by:
  - (1) the laws of the United States, or
  - (2) the laws of the place where the deposition is taken.

B. Representation by counsel. Representation of the parties with respect to a deposition shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under Section 827 of this title (Article 27). In addition, the accused shall have the right to be represented by civilian or military counsel in the same manner as such counsel is provided for in subsection B of Section 838 of this title (Article 38, subsection B).

C. Admissibility and use as evidence. A deposition order under subsection A of this section does not control the admissibility of the deposition in a court-martial or other proceeding under the Oklahoma Uniform Code of Military Justice. A party may use all or part of a deposition as provided by the federal Military Rules of Evidence.

Added by Laws 2019, c. 408, § 56, eff. Oct. 1, 2019.

§44-850. Admissibility of sworn testimony from records of courts of inquiry.

ARTICLE 50. Admissibility of sworn testimony from records of courts of inquiry.

A. Use as evidence by any party. In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

B. Use as evidence by defense. Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

C. Use in courts of inquiry and military boards. Such testimony may also be read in evidence before a court of inquiry or an administrative board.

D. Audiotape or videotape. Sworn testimony that:

1. Is recorded by audiotape, videotape, or similar method; and
2. Is contained in the duly authenticated record of proceedings

of a court of inquiry, shall be admissible before a court-martial, court of inquiry, or military board, to the same extent as sworn testimony may be read in evidence before any such body under this section.

Added by Laws 2019, c. 408, § 57, eff. Oct. 1, 2019.

§44-850A. Defense of lack of mental responsibility.

ARTICLE 50A. Defense of lack of mental responsibility.

A. It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

B. The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

C. Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall

instruct the members of the court as to the defense of lack of mental responsibility under this section and shall charge them to find the accused:

1. Guilty;
2. Not guilty; or
3. Not guilty only by reason of lack of mental responsibility.

D. Subsection C of this section does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed of a military judge only, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall find the accused:

1. Guilty;
2. Not guilty; or
3. Not guilty only by reason of lack of mental responsibility.

E. Notwithstanding the provisions of Section 852 of this title (Article 52), the accused shall be found not guilty only by reason of lack of mental responsibility if:

1. A majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or
2. In the case of a court-martial composed of a military judge only, the military judge determines that the defense of lack of mental responsibility has been established.

Added by Laws 2019, c. 408, § 58, eff. Oct. 1, 2019.

§44-851. Voting and rulings.

ARTICLE 51. Voting and rulings.

A. Voting by members of a general or special court-martial on the findings and on the sentence shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

B. The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused is final and constitutes the ruling of the court, except that the military judge may change a ruling at any time during trial.

C. Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them:

1. That the accused shall be presumed to be innocent until his or her guilt is established by legal and competent evidence beyond reasonable doubt;



2. That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt shall be resolved in favor of the accused and he or she shall be acquitted;

3. That, if there is reasonable doubt as to the degree of guilt, the finding shall be in a lower degree as to which there is no reasonable doubt; and

4. That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the government.

D. This section does not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

Added by Laws 2019, c. 408, § 59, eff. Oct. 1, 2019.

§44-852. Votes required for conviction, sentencing and other matters.

ARTICLE 52. Votes required for conviction, sentencing and other matters.

A. In general. No person may be convicted of an offense in a general or special court-martial, other than:

1. After a plea of guilty under subsection B of Section 845 of this title (Article 45, subsection B);

2. By a military judge in a court-martial with a military judge alone, under Section 816 of this title (Article 16); or

3. In a court-martial with members under Section 816 of this title (Article 16), by the concurrence of at least three-fourths (3/4) of the members present when the vote is taken.

B. Level of concurrence required.

1. In general. Except as provided in paragraph 2 of subsection A of this section, all matters to be decided by members of a general or special court-martial shall be determined by a majority vote, but a reconsideration of a finding of guilty or reconsideration of a sentence, with a view toward decreasing the sentence, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

2. Sentencing. All sentences imposed by members under the Oklahoma Uniform Code of Military Justice shall be determined by the concurrence of at least three-fourths (3/4) of the members present when the vote is taken.

Added by Laws 2019, c. 408, § 60, eff. Oct. 1, 2019.

§44-853. Findings and sentencing.

ARTICLE 53. Findings and sentencing.

A. A court-martial shall announce its findings and sentence to the parties as soon as determined.

B. Sentencing generally.

1. General and special courts-martial.

a. Sentencing by military judge. Except as provided in subparagraph b of this paragraph, if the accused is convicted of an offense in a trial by general or special court-martial, the military judge shall sentence the accused.

b. Sentencing by members. If the accused is convicted of an offense by general or special court-martial consisting of a military judge and members and the accused elects sentencing by members under Section 825 of this title (Article 25), the members shall sentence the accused.

c. Sentence of the accused. The sentence determined pursuant to this paragraph constitutes the sentence of the accused.

2. Summary courts-martial. If the accused is convicted of an offense in a trial by summary court-martial, the court-martial shall sentence the accused.

Added by Laws 2019, c. 408, § 61, eff. Oct. 1, 2019.

§44-853A. Plea agreements.

ARTICLE 53A. Plea agreements.

A. In general.

1. At any time before the announcement of findings under Section 853 of this title (Article 53), the convening authority and the accused may enter into a plea agreement with respect to such matters as:

a. the manner in which the convening authority will dispose of one or more charges and specifications, and

b. limitations on the sentence that may be adjudged for one or more charges and specifications.

2. The military judge of a general or special court-martial may not participate in discussions between the parties concerning prospective terms and conditions of a plea agreement.

B. Limitation on acceptance of plea agreements. The military judge of a general or special court-martial shall reject a plea agreement that:

1. Contains a provision that has not been accepted by both parties; or

2. Contains a provision that is not understood by the accused.

C. Binding effect of plea agreement. Upon acceptance by the military judge of a general or special court-martial, a plea agreement shall bind the parties and the court-martial.

Added by Laws 2019, c. 408, § 62, eff. Oct. 1, 2019.

§44-854. Record of trial.

ARTICLE 54. Record of trial.

A. General and special courts-martial. Each general or special court-martial shall keep a separate record of the proceedings in each case brought before it. The record shall be certified by a court reporter, except that in the case of death, disability, or absence of a court reporter, the record shall be certified by an official selected as the Adjutant General may prescribe by regulation.

B. Summary courts-martial. Each summary court-martial shall keep a separate record of the proceedings in each case, and the record shall be certified in the manner required by such regulations as the Adjutant General may prescribe.

C. Contents of record.

1. Except as provided in paragraph 2 of this subsection, the record shall contain such matters as the Adjutant General may prescribe by regulation.

2. In accordance with regulations prescribed by the Adjutant General, a complete record of proceedings and testimony shall be prepared in any case of a sentence of dismissal, discharge, confinement for more than six (6) months, or forfeiture of pay for more than six (6) months.

D. A copy to the accused. A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is certified.

E. Copy to victim. In the case of a general or special court-martial upon request, a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The record of the proceedings shall be provided without charge and as soon as the records are certified. The victim shall be notified of the opportunity to receive the records of the proceedings.

Added by Laws 2019, c. 408, § 63, eff. Oct. 1, 2019.

§44-855. Cruel and unusual punishments prohibited.

ARTICLE 55. Cruel and unusual punishments prohibited.

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to the Oklahoma Uniform Code of Military Justice. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

Added by Laws 2019, c. 408, § 64, eff. Oct. 1, 2019.

§44-856. Sentencing.

ARTICLE 56. Sentencing.

A. Sentence maximums. The punishment which a court-martial may direct for an offense may not exceed such limits as the Governor or Adjutant General may prescribe for that offense.

B. Imposition of sentence.

1. In general. In sentencing an accused under Section 853 of this title (Article 53), a court-martial shall impose punishment that is sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the state military forces, taking into consideration:

- a. the nature and circumstances of the offense and the history and characteristics of the accused,
- b. the impact of the offense on:
  - (1) the financial, social, psychological, or medical well-being of any victim of the offense, and
  - (2) the mission, discipline, or efficiency of the command of the accused and any victim of the offense,
- c. the need for the sentence:
  - (1) to reflect the seriousness of the offense,
  - (2) to promote respect for the law,
  - (3) to provide just punishment for the offense,
  - (4) to promote adequate deterrence of misconduct,
  - (5) to protect others from further crimes by the accused,
  - (6) to rehabilitate the accused, and
  - (7) to provide, in appropriate cases, the opportunity for retraining and return to duty to meet the needs of the service, and
- d. the sentences available under this chapter.

2. Sentencing by military judge. In announcing the sentence in a general or special court-martial in which the accused is sentenced by a military judge alone under Section 853 of this title (Article 53), the military judge shall, with respect to each offense of which the accused is found guilty, specify the term of confinement, if any, and the amount of the fine, if any. If the accused is sentenced to confinement for more than one offense, the military judge shall specify whether the terms of confinement are to run consecutively or concurrently.

3. Sentencing by members. In a general or special court-martial in which the accused has elected sentencing by members, the court-martial shall announce a single sentence for all of the offenses of which the accused was found guilty.

C. Appeal of sentence by the State of Oklahoma.

1. With the approval of the State Judge Advocate and consistent with standards and procedures set forth in regulations prescribed by

the Governor or the Adjutant General, the government may appeal a sentence to the Military Court of Appeals, on the grounds that:

- a. the sentence violates the law, or
- b. the sentence is plainly unreasonable, as determined in accordance with standards and procedures prescribed by the Governor or the Adjutant General.

2. An appeal under this subsection shall be filed within sixty (60) days after the date on which the judgment of a court-martial is entered into the record under Section 860C of this title (Article 60C).

Added by Laws 2019, c. 408, § 65, eff. Oct. 1, 2019.

§44-857. Effective date of sentences.

ARTICLE 57. Effective date of sentences.

A. Execution of sentences. A court-martial sentence shall be executed and take effect as follows:

1. Forfeiture and reduction. A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect. Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of:

- a. the date that is fourteen (14) days after the date on which the sentence is adjudged, or
- b. in the case of a summary court-martial, the date on which the sentence is approved by the convening authority;

2. Confinement. Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement;

3. Approval of dismissal. If, in the case of a commissioned officer, or cadet, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Adjutant General. In such a case, the Adjutant General may commute, remit, or suspend the sentence, or any part of the sentence, as the Adjutant General sees fit. In time of war or national emergency he or she may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six (6) months thereafter;

4. Completion of appellate review. If a sentence extends to dismissal, or a dishonorable or bad-conduct discharge, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may be executed, in accordance with applicable regulations, after completion of appellate review and, with respect

to dismissal, approval under paragraph 3 of this subsection, as appropriate; and

5. Other sentences. Except as otherwise provided in this subsection, a general or special court-martial sentence is effective upon entry of judgment and a summary court-martial sentence is effective when the convening authority acts on the sentence.

B. Deferral of sentences.

1. In general. On application by an accused, the convening authority or, if the accused is no longer under his or her jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may, in his or her sole discretion, defer the effective date of a sentence of confinement, reduction, or forfeiture. The deferment shall terminate upon entry of judgment or, in the case of a summary court-martial, when the convening authority acts on the sentence. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his or her jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

2. Deferral of certain persons sentenced to confinement. In any case in which a court-martial sentences a person referred to in paragraph 3 of this subsection to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the state military forces by a state or foreign country referred to in that paragraph.

3. Covered persons. Paragraph 2 of this subsection applies to a person subject to this chapter who:

- a. while in the custody of a state or foreign country is temporarily returned by that state or foreign country to the state military forces for trial by court-martial, and
- b. after the court-martial, is returned to that state or foreign country under the authority of a mutual agreement or treaty, as the case may be.

4. State defined. In this subsection, the term "state" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

5. Deferral while review pending. In any case in which a court-martial sentences a person to confinement, but in which review of the case under subsection A of Section 867 of this title (Article 67, subsection A) is pending, the Adjutant General may defer further service of the sentence to confinement while that review is pending.

C. Appellate review.

1. Completion of appellate review. Appellate review is complete under this section when:

- a. a review under Section 865 of this title (Article 65) is completed, or
- b. a review under Section 866 of this title (Article 66) is completed by the Military Court of Appeals and:
  - (1) the time for the accused to file a Petition for Review by the Court of Criminal Appeals has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court,
  - (2) such a petition is rejected by the Court of Criminal Appeals, or
  - (3) review is completed in accordance with the judgment of the Court of Criminal Appeals.

2. Completion as final judgment of legality of proceedings. The completion of appellate review shall constitute a final judgment as to the legality of the proceedings.

Added by Laws 2019, c. 408, § 66, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 20, emerg. eff. April 13, 2021.

§44-858. Execution of confinement.

ARTICLE 58. Execution of confinement.

A. Under such regulations as the Governor or Adjutant General may prescribe, a sentence of confinement adjudged by a court-martial, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of the state military forces or in any penal or correctional institution used or under the control of the Oklahoma Department of Corrections. Persons so confined in a penal or correctional institution not under the control of the state military forces are subject to the same discipline and treatment as persons confined or committed by the courts of this state.

B. No confinement ordered by a court-martial shall include hard labor.

Added by Laws 2019, c. 408, § 67, eff. Oct. 1, 2019.

§44-858A. Sentences - Reduction in enlisted grade.

ARTICLE 58A. Sentences: reduction in enlisted grade.

A. A court-martial sentence of an enlisted member in a pay grade above E-1, as set forth in the judgment of the court-martial entered into the record under Section 860C of this title (Article 60C), that includes:

- 1. A dishonorable or bad-conduct discharge; or
- 2. Confinement,

reduces that member to pay grade E-1, if such a reduction is authorized by regulation prescribed by the Governor or Adjutant

General. The reduction in pay grade shall take effect on the date on which the judgment is so entered.

B. If the sentence of a member who is reduced in pay grade under subsection A of this section is set aside or reduced, or, as finally affirmed, does not include any punishment named in paragraphs 1 or 2 of subsection A of this section, the rights and privileges of which he or she was deprived because of that reduction shall be restored to him or her and he or she is entitled to the pay and allowances to which he or she would have been entitled, for the period the reduction was in effect, had he or she not been so reduced.

Added by Laws 2019, c. 408, § 68, eff. Oct. 1, 2019.

§44-858B. Sentences - Forfeiture of pay and allowances during confinement.

ARTICLE 58B. Sentences: forfeiture of pay and allowances during confinement.

A. 1. A court-martial sentence described in paragraph 2 of this subsection shall result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole. The forfeiture pursuant to this section shall take effect on the date determined under Section 857 of this title (Article 57) and may be deferred as provided in that article. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during such period and, in the case of a special court-martial, shall be two-thirds (2/3) of all pay due that member during such period.

2. A sentence covered by this section is any sentence that includes:

- a. confinement for more than six (6) months; or
- b. confinement for six (6) months or less and a dishonorable or bad-conduct discharge or dismissal.

B. In a case involving an accused who has dependents, the convening authority or other person acting under Section 860A or 860B of this title (Article 60A or 60B) may waive any or all of the forfeitures of pay and allowances required by subsection A of this section for a period not to exceed six (6) months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

C. If the sentence of a member who forfeits pay and allowances under subsection A of this section is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in paragraph 2 of subsection A of this section, the member shall be paid the pay and allowances which the member would have been paid,



except for the forfeiture, for the period which the forfeiture was in effect.

Added by Laws 2019, c. 408, § 69, eff. Oct. 1, 2019.

§44-858C. Enforcement of fines or adjudication of pecuniary liability.

ARTICLE 58C. Enforcement of fines or adjudication of pecuniary liability.

When a sentence, including a fine, or a finally approved adjudication of pecuniary liability under a report of survey or financial liability investigation of property loss (FLIPL) has been ordered executed pursuant to regulations promulgated by the Adjutant General, the collection of the fine or the adjudication of pecuniary liability may be made executory and enforced by the Oklahoma Attorney General, or his or her designee, in the judicial district as described in Section 22 of Title 20 of the Oklahoma Statutes in which the court martial was held or in the district court judicial district, where nonjudicial punishment was decided or district court judicial district of residence of the accused or person against whom the pecuniary charge was raised in the same manner as a money judgment in a civil case or by the withholding of any funds due the accused from the state or any of its agencies in accordance with regulations prescribed by the Adjutant General. To the extent not prohibited by federal law or regulation, a fine may be enforced by withholding federal funds due the accused.

Added by Laws 2019, c. 408, § 70, eff. Oct. 1, 2019.

§44-858D. Parole.

ARTICLE 58D. Parole.

The system of parole established pursuant to Section 10 of Article VI of the Oklahoma Constitution and Titles 22 and 57 of the Oklahoma Statutes shall be applicable to any person in any place of confinement under the control of the state military forces or in any penal or correctional institution used or under the control of the Oklahoma Department of Corrections when such person is in confinement as a result of a sentence adjudged by a court-martial conducted by the state military forces.

Added by Laws 2021, c. 12, § 21, emerg. eff. April 13, 2021.

§44-859. Error of law - Lesser included offense.

ARTICLE 59. Error of law - lesser included offense.

A. A finding or sentence of court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

B. Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

Added by Laws 2019, c. 408, § 71, eff. Oct. 1, 2019.

§44-860. Posttrial processing in general and special courts-martial.

ARTICLE 60. Posttrial processing in general and special courts-martial.

A. Statement of trial results.

1. The military judge of a general or special court-martial shall enter into the record of trial a document entitled "Statement of Trial Results", which shall set forth:

- a. each plea and finding,
- b. the sentence, if any, and
- c. such other information as the Adjutant General may prescribe by regulation.

2. Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

B. Posttrial motions. In accordance with regulations prescribed by the Adjutant General, the military judge in a general or special court-martial shall address all posttrial motions and other posttrial matters that:

1. May affect a plea, a finding, the sentence, the Statement of Trial Results, the record of trial, or any posttrial action by the convening authority; and

2. Are subject to resolution by the military judge before entry of judgment.

Added by Laws 2019, c. 408, § 72, eff. Oct. 1, 2019.

§44-860A. Limited authority to act on sentence in specified posttrial circumstances.

ARTICLE 60A. Limited authority to act on sentence in specified posttrial circumstances.

A. In general.

1. The convening authority of a general or special court-martial described in paragraph 2 of this subsection:

- a. may act on the sentence of the court-martial only as provided in subsection B, C or D of this section, and
- b. may not act on the findings of the court-martial.

2. The courts-martial referred to in paragraph 1 of this subsection are the following:

- a. a general or special court-martial in which the maximum sentence of confinement established under subsection A of Section 856 of this title (Article 56, subsection A) for any offense of which the accused is found guilty is more than two (2) years,

- b. a general or special court-martial in which the total of the sentences of confinement imposed, running consecutively, is more than six (6) months, and
- c. a general or special court-martial in which the sentence imposed includes a dismissal, dishonorable discharge, or bad-conduct discharge.

3. Except as provided in subsection D of this section, the convening authority may act under this section only before entry of judgment.

4. Under regulations prescribed by the Adjutant General, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

B. Reduction, commutation, and suspension of sentences generally.

1. Except as provided in subsection C or D of this section, the convening authority may not reduce, commute, or suspend any of the following sentences:

- a. a sentence of confinement, if the total period of confinement imposed for all offenses involved, running consecutively, is greater than six (6) months, and
- b. a sentence of dismissal, dishonorable discharge, or bad-conduct discharge.

2. The convening authority may reduce, commute, or suspend any sentence not specified in paragraph 1 of this subsection.

C. Suspension of certain sentences upon recommendation of military judge.

1. Upon recommendation of the military judge, as included in the Statement of Trial Results, together with an explanation of the facts supporting the recommendation, the convening authority may suspend:

- a. a sentence of confinement, in whole or in part, or
- b. a sentence of dismissal, dishonorable discharge, or bad-conduct discharge.

2. The convening authority may not, under paragraph 1 of this subsection:

- a. suspend a mandatory minimum sentence, or
- b. suspend a sentence to an extent in excess of the suspension recommended by the military judge.

D. Reduction of sentence for substantial assistance by accused.

1. Upon a recommendation by the trial counsel, if the accused, after sentencing and before entry of judgment, provides substantial assistance in the investigation or prosecution of another person, the convening authority may reduce, commute, or suspend a sentence, in whole or in part, including any mandatory minimum sentence.

2. Upon a recommendation by a trial counsel, designated in accordance with regulations prescribed by the Adjutant General, if

the accused, after entry of judgment, provides substantial assistance in the investigation or prosecution of another person, a convening authority, designated under such regulations, may reduce, commute, or suspend a sentence, in whole or in part, including any mandatory minimum sentence.

3. In evaluating whether the accused has provided substantial assistance under this subsection, the convening authority may consider the presentence assistance of the accused.

E. Submissions by accused and victim.

1. In accordance with regulations prescribed by the Adjutant General, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of an offense. Such rules shall include:

- a. procedures for notice of the opportunity to make such submissions,
- b. the deadlines for such submissions, and
- c. procedures for providing the accused and any victim of an offense with a copy of the recording of any open sessions of the court-martial and copies of, or access to, any admitted, unsealed exhibits.

2. The convening authority shall not consider under this section any submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.

F. Decision of convening authority.

1. The decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

2. If, under this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall include a written explanation of the reasons for such action.

3. If, under paragraph 2 of subsection D of this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall be forwarded to the military judge for appropriate modification of the entry of judgment, which shall be transmitted to the State Judge Advocate for appropriate action.

Added by Laws 2019, c. 408, § 73, eff. Oct. 1, 2019.

§44-860B. Posttrial actions in summary courts-martial and certain general and special courts-martial.

ARTICLE 60B. Posttrial actions in summary courts-martial and certain general and special courts-martial.

A. In general.

1. In a court-martial not specified in paragraph 2 of subsection A of Section 860A of this title (Article 60A, subsection A, paragraph 2), the convening authority may:

- a. dismiss any charge or specification by setting aside the finding of guilty,
- b. change a finding of guilty to a charge or specification to a finding of guilty to a lesser included offense,
- c. disapprove the findings and the sentence and dismiss the charges and specifications,
- d. disapprove the findings and the sentence and order a rehearing as to the findings and the sentence,
- e. disapprove, commute, or suspend the sentence, in whole or in part, or
- f. disapprove the sentence and order a rehearing as to the sentence.

2. In a summary court-martial, the convening authority shall approve the sentence or take other action on the sentence under paragraph 1 of this subsection.

3. Except as provided in paragraph 4 of this subsection, the convening authority may act under this section only before entry of judgment.

4. The convening authority may act under this section after entry of judgment in a general or special court-martial in the same manner as the convening authority may act under paragraph 2 of subsection D of Section 860A of this title (Article 60A, subsection D, paragraph 2). Such action shall be forwarded to the military judge, who shall ensure appropriate modification to the entry of judgment and shall transmit the entry of judgment to the State Judge Advocate for appropriate action.

5. Under regulations prescribed by the Adjutant General, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

B. Limitations on rehearings. The convening authority may not order a rehearing under this section:

1. As to the findings, if there is insufficient evidence in the record to support the findings;

2. To reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty; or

3. To reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of the Oklahoma Uniform Code of Military Justice.

C. Submissions by accused and victim. In accordance with regulations prescribed by the Adjutant General, in determining whether to act under this section, the convening authority shall

consider matters submitted in writing by the accused or any victim of the offense. Such rules shall include the matter required by subsection E of Section 860A of this title (Article 60A, subsection E).

D. Decision of convening authority.

1. In a general or special court-martial, the decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

2. If the convening authority acts on the findings or the sentence under paragraph 1 of subsection A of this section, the decision of the convening authority shall include a written explanation of the reasons for such action.

Added by Laws 2019, c. 408, § 74, eff. Oct. 1, 2019.

§44-860C. Entry of judgment.

ARTICLE 60C. Entry of judgment.

A. Entry of judgment of general or special court-martial.

1. In accordance with regulations prescribed by the Adjutant General, in a general or special court-martial, the military judge shall enter into the record of trial the judgment of the court. The judgment of the court shall consist of the following:

- a. the Statement of Trial Results under Section 860 of this title (Article 60),
- b. any modifications of, or supplements to, the Statement of Trial Results by reason of:
  - (1) any posttrial action by the convening authority, or
  - (2) any ruling, order, or other determination of the military judge that affects a plea, a finding, or the sentence.

2. Under regulations prescribed by the Adjutant General, the judgment under paragraph 1 of this subsection shall be:

- a. provided to the accused and to any victim of the offense, and
- b. made available to the public.

B. Summary court-martial judgment. The findings and sentence of a summary court-martial, as modified by any posttrial action by the convening authority under Section 860B of this title (Article 60B), constitutes the judgment of the court-martial and shall be recorded and distributed under regulations prescribed by the Adjutant General.

Added by Laws 2019, c. 408, § 75, eff. Oct. 1, 2019.

§44-861. Waiver of right to appeal - Withdrawal of appeal.

ARTICLE 61. Waiver of right to appeal; withdrawal of appeal.

A. Waiver of right to appeal. After entry of judgment in a general or special court-martial, under regulations promulgated by the Adjutant General, the accused may waive the right to appellate review in each case subject to such review under Section 866 of this title (Article 66). Such a waiver shall be:

1. Signed by the accused and by defense counsel; and
2. Attached to the record of trial.

B. Withdrawal of appeal. In a general or special court-martial, the accused may withdraw an appeal at any time.

C. Waiver or withdrawal as bar. A waiver or withdrawal under this section bars review under Section 866 of this title (Article 66).

Added by Laws 2019, c. 408, § 76, eff. Oct. 1, 2019.

§44-862. Appeal by the State of Oklahoma.

ARTICLE 62. Appeal by the State of Oklahoma.

A. 1. In a trial by general or special court-martial, or in a pretrial proceeding under Section 830A of this title (Article 30A), the State of Oklahoma may appeal the following:

- a. an order or ruling of the military judge which terminates the proceedings with respect to a charge or specification,
- b. an order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding,
- c. an order or ruling which directs the disclosure of classified or confidential information,
- d. an order or ruling which imposes sanctions for nondisclosure of classified or confidential information,
- e. a refusal of the military judge to issue a protective order sought by the State of Oklahoma to prevent the disclosure of classified or confidential information,
- f. a refusal by the military judge to enforce an order described in subparagraph e of this paragraph that has previously been issued by appropriate authority, and
- g. an order or ruling of the military judge entering a finding of not guilty with respect to a charge or specification following the return of a finding of guilty by the members.

2. a. An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within seventy-two (72) hours of the order or ruling. Such notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and (if the order or ruling appealed is one

which excludes evidence) that the evidence excluded is substantial proof of a fact material in the proceeding.

b. An appeal of an order or ruling may not be taken when prohibited by Section 844 of this title (Article 44).

3. An appeal under this section shall be diligently prosecuted by appellate government counsel.

B. An appeal under this section shall be forwarded by a means prescribed under regulations of the Adjutant General directly to the Military Court of Appeals and shall, whenever practicable, have priority over all other proceedings before that court. In ruling on an appeal under this section, the Military Court of Appeals may act only with respect to matters of law.

C. Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

D. The provisions of this section shall be liberally construed to effect its purposes.

Added by Laws 2019, c. 408, § 77, eff. Oct. 1, 2019.

#### §44-863. Rehearings.

##### ARTICLE 63. Rehearings.

A. Each rehearing under the Oklahoma Uniform Code of Military Justice shall take place before a court-martial composed of members who were not members of the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he or she was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be adjudged, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

B. If the sentence adjudged by the first court-martial was in accordance with a plea agreement under Section 853A of this title (Article 53A) and the accused at the rehearing does not comply with the agreement, or if a plea of guilty was entered for an offense at the first court-martial and a plea of not guilty was entered at the rehearing, the sentence as to those charges or specifications may include any punishment not in excess of that which could have been adjudged at the first court-martial, subject to such limitations as the Adjutant General may prescribe by regulation.

C. If, after appeal by the government under subsection C of Section 856 of this title (Article 56, subsection C), the sentence adjudged is set aside and a rehearing on sentence is ordered by the Military Court of Appeals or Court of Criminal Appeals, the court-



martial may impose any sentence that is in accordance with the order or ruling setting aside the adjudged sentence, subject to such limitations as the Adjutant General may prescribe by regulation. Added by Laws 2019, c. 408, § 78, eff. Oct. 1, 2019.

§44-864. Judge advocate review of finding of guilty in summary court-martial.

ARTICLE 64. Judge advocate review of finding of guilty in summary court-martial.

A. In general. Under regulations prescribed by the Adjutant General, each summary court-martial in which there is a finding of guilty shall be reviewed by a judge advocate. A judge advocate may not review a case under this subsection if the judge advocate has acted in the same case as an accuser, preliminary hearing officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The judge advocate's review shall be in writing and shall contain the following:

1. Conclusions as to whether:

- a. the court had jurisdiction over the accused and the offense,
- b. the charge and specification stated an offense, and
- c. the sentence was within the limits prescribed as a matter of law;

2. A response to each allegation of error made in writing by the accused; and

3. If the case is sent for action under subsection B of this section, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

B. Record. The record of trial and related documents in each case reviewed under subsection A of this section shall be sent for action to the person exercising general court-martial jurisdiction over the accused at the time the court was convened (or to that person's successor in command) if:

1. The judge advocate who reviewed the case recommends corrective action; or

2. Such action is otherwise required by regulations of the Adjutant General.

C. 1. The person to whom the record of trial and related documents are sent under subsection B of this section may:

- a. disapprove or approve the findings or sentence, in whole or in part,
- b. remit, commute, or suspend the sentence in whole or in part,
- c. except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both, or

d. dismiss the charges.

2. If a rehearing is ordered but the convening authority finds a rehearing impracticable, he or she shall dismiss the charges.

3. If the opinion of the judge advocate in the judge advocate's review under subsection A of this section is that corrective action is required as a matter of law and if the person required to take action under subsection B does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the State Judge Advocate for review under Section 869 of this title (Article 69).

Added by Laws 2019, c. 408, § 79, eff. Oct. 1, 2019.

§44-865. Transmittal and review of records.

ARTICLE 65. Transmittal and review of records.

A. Transmittal of records.

1. Finding of guilty in general or special court-martial. If the judgment of a general or special court-martial entered under Section 860C of this title (Article 60C) includes a finding of guilty, the record shall be transmitted to the State Judge Advocate.

2. Other cases. In all other cases, records of trial by court-martial and related documents shall be transmitted and disposed of as the Adjutant General may prescribe by regulation.

B. Cases for direct appeal.

1. Automatic review. If the judgment includes a sentence of dismissal of a commissioned officer, or cadet, dishonorable discharge or bad-conduct discharge, or confinement for two (2) years or more, the State Judge Advocate shall forward the record of trial to the Military Court of Appeals for review under paragraph 3 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 3).

2. Cases eligible for direct appeal review.

a. In general. If the case is eligible for direct review under paragraph 1 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 1), the State Judge Advocate shall:

(1) forward a copy of the record of trial to an appellate defense counsel who shall be detailed to review the case and, upon request of the accused, to represent the accused before the Military Court of Appeals, and

(2) upon written request of the accused, forward a copy of the record of trial to civilian counsel provided by the accused.

b. Inapplicability. Subparagraph a of this paragraph shall not apply if the accused:

- (1) waives the right to appeal under Section 861 of this title (Article 61), or
- (2) declines in writing the detailing of appellate defense counsel under division (1) of subparagraph a of this paragraph.

C. Notice of right to appeal.

1. In general. The State Judge Advocate shall provide notice to the accused of the right to file an appeal under paragraph 1 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 1) by means of depositing in the United States mail for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in the official service record of the accused.

2. Inapplicability upon waiver of appeal. Paragraph 1 of this subsection shall not apply if the accused waives the right to appeal under Section 861 of this title (Article 61).

D. Review by State Judge Advocate.

1. By whom. A review conducted under this subsection may be conducted by an attorney within the Office of the State Judge Advocate or another attorney designated under regulations prescribed by the Adjutant General.

2. Review of cases not eligible for direct appeal.

a. In general. A review under subparagraph b of this paragraph shall be completed in each general and special court-martial that is not eligible for direct appeal under paragraph 1 or 3 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 1 or 3).

b. Scope of review. A review referred to in subparagraph a of this paragraph shall include a written decision providing each of the following:

- (1) a conclusion as to whether the court had jurisdiction over the accused and the offense,
- (2) a conclusion as to whether the charge and specification stated an offense,
- (3) a conclusion as to whether the sentence was within the limits prescribed as a matter of law, and
- (4) a response to each allegation of error made in writing by the accused.

3. Review when direct appeal is waived, withdrawn, or not filed.

a. In general. A review under subparagraph b of this paragraph shall be completed in each general and special court-martial if:

- (1) the accused waives the right to appeal or withdraws appeal under Section 861 of this title (Article 61), or
  - (2) the accused does not file a timely appeal in a case eligible for direct appeal under subparagraph a, b or c of paragraph 1 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 1, subparagraph a, b or c).
- b. Scope of review. A review referred to in subparagraph a of this paragraph shall include a written decision limited to providing conclusions on the matters specified in divisions (1), (2) and (3) of subparagraph b of paragraph 2 of this subsection.

E. Remedy.

1. In general. If, after a review of a record under subsection D of this section, the attorney conducting the review believes corrective action may be required, the record shall be forwarded to the State Judge Advocate, who may set aside the findings or sentence, in whole or in part.

2. Rehearing. In setting aside findings or sentence, the State Judge Advocate may order a rehearing, except that a rehearing may not be ordered in violation of Section 844 of this title (Article 44).

3. Remedy without rehearing.

- a. Dismissal when no rehearing ordered. If the State Judge Advocate sets aside findings and sentence and does not order a rehearing, the State Judge Advocate shall dismiss the charges.
- b. Dismissal when rehearing impractical. If the State Judge Advocate sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.

Added by Laws 2019, c. 408, § 80, eff. Oct. 1, 2019.

§44-866. Military Court of Appeals for state military forces.

ARTICLE 66. Military Court of Appeals for state military forces.

A. Military Court of Appeals. There is hereby established a Military Court of Appeals for the state military forces of the State of Oklahoma. The Military Court of Appeals shall be a court of record and except as provided in Section 867 of this title (Article 67), the appellate jurisdiction of the Military Court of Appeals shall be exclusive in all courts-martial cases convened by state military forces regardless of whether a court-martial was conducted within or without the physical boundaries of the State of Oklahoma.

B. Composition and method of appointment. The Military Court of Appeals shall be composed of one panel of not less than three appellate military judges. At the time the Military Court of Appeals is initially constituted and each time thereafter when a vacancy shall occur or is certain to occur on the Court, the State Judge Advocate shall choose and submit to the Governor at least one nominee for a vacant seat, certified by the State Judge Advocate as qualified, by reason of education, training, experience, and judicial temperament, for duty as an appellate military judge. Prior to submission of a nominee to the Governor, the nominee shall have previously notified the State Judge Advocate in writing that he or she will serve as an appellate military judge if appointed. The Governor shall appoint one nominee to fill the vacancy, but if the Governor fails to do so within sixty (60) days after the State Judge Advocate submits the nominee to the Governor or the Governor does not affirmatively reject in writing the nominee so submitted, the State Judge Advocate shall appoint one nominee, the appointment to be certified by the Secretary of State. No person so nominated and appointed by the Governor or by the State Judge Advocate shall take his or her seat on the Military Court of Appeals without first receiving the approbation of the Senate through advice and consent; provided that, in the case of any vacancy that occurs while the Legislature is not in regular session within the meaning of Section 26 of Article V of the Oklahoma Constitution, the Governor, or the State Judge Advocate as provided in this subsection, shall appoint a person who satisfies the requirements established in subsection C of this section to serve as an appellate military judge. If the interim nomination of the appellate military judge is not approved by the Senate during the first regular session following its submission, it shall be deemed rejected. No person shall be nominated to serve as a member of the Military Court of Appeals who is presently employed by the Oklahoma Military Department, either in a full-time or part-time capacity, nor shall any person employed as a federal technician, as defined in Title 32 of the United States Code, be nominated to serve as a member of the Military Court of Appeals.

C. Qualifications. An appellate military judge who is appointed to the Military Court of Appeals shall be a licensed practicing attorney or judge of a court of record, or both, in Oklahoma for one (1) year preceding his or her appointment and shall continue to be a duly licensed attorney while in office to be eligible to hold the office. No appellate military judge shall be appointed to the Military Court of Appeals who did not previously serve as a judge advocate in any department of the Armed Forces of the United States, to include reserve components of the same. The Military Court of Appeals shall include at least one appellate military judge who previously served in the United States Army or a

reserve component of the same. The Military Court of Appeals shall include at least one appellate military judge who previously served in the United States Air Force or a reserve component of the same.

D. Term of office and causes for removal or retirement. Each appellate military judge appointed pursuant to this section shall, unless removed for cause, serve out the term for which he or she is appointed. Appellate military judges appointed pursuant to this section shall serve for fixed terms of office of appropriate minimum periods which shall be prescribed by regulations promulgated by the Adjutant General. The appellate military judges of the Military Court of Appeals, exercising judicial power under the provisions of the Oklahoma Uniform Code of Military Justice, shall be subject to removal from office, or to compulsory retirement from office, by proceedings in the Court on the Judiciary, for:

1. Gross neglect of duty, corruption in office, habitual drunkenness, commission while in office of any offense involving moral turpitude, gross partiality in office, oppression in office, mental or physical disability preventing the proper performance of official duty or incompetence to perform the duties of the office; or

2. Other reasons arising from military customs and practices defined in regulations promulgated by the Adjutant General.

E. Compensation. Appellate military judges shall receive compensation calculated on the basis of the current basic pay received by a member in active federal service at the grade of O-6 with twenty (20) years of time in service. The Adjutant General shall promulgate regulations establishing the method of calculating compensation for less than full-time service by members of the Military Court of Appeals. Appellate military judges may be paid such actual and necessary expenses as may be provided for in regulations promulgated by the Adjutant General.

F. Review.

1. Appeals by accused. The Military Court of Appeals shall have jurisdiction over a timely appeal from the judgment of a court-martial, entered into the record under Section 860C of this title (Article 60C), as follows:

- a. on appeal by the accused in a case in which the sentence extends to confinement for more than six (6) months and the case is not subject to automatic review under paragraph 3 of this subsection,
- b. on appeal by the accused in a case in which the government previously filed an appeal under Section 862 of this title (Article 62),
- c. on appeal by the accused in a case that the State Judge Advocate has sent to the Military Court of Appeals for review of the sentence under subsection C

of Section 856 of this title (Article 56, subsection C),

- d. in a case in which the accused filed an application for review with the Court under subparagraph b of paragraph 1 of subsection D of Section 869 of this title (Article 69, subsection D, paragraph 1, subparagraph b) and the application has been granted by the Court.

2. Review of certain sentences. The Military Court of Appeals shall have jurisdiction over all cases that the State Judge Advocate orders sent to the Court for review under subsection C of Section 856 of this title (Article 56, subsection C).

3. Automatic review. The Military Court of Appeals shall have jurisdiction over a court-martial in which the judgment entered into the record under Section 860C of this title (Article 60C) includes a sentence of dismissal of a commissioned officer, cadet, dishonorable discharge or bad-conduct discharge, or confinement for two (2) years or more.

G. Timeliness. An appeal under paragraph 1 of subsection F of this section is timely if it is filed as follows:

1. In the case of an appeal by the accused under subparagraph a or b of paragraph 1 of subsection F of this section, if filed before the later of:

- a. the end of the ninety-day period beginning on the date the accused is provided notice of appellate rights under subsection C of Section 865 of this title (Article 65, subsection C), or
- b. the date set by the Military Court of Appeals by rule or order; and

2. In the case of an appeal by the accused under paragraph 1 of subsection C of Section 865 of this title (Article 65, subsection C, paragraph 1), if filed before the later of:

- a. the end of the ninety-day period beginning on the date the accused is notified that the application for review has been granted by letter placed in the United States mail for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his or her official service record, or
- b. the date set by the Military Court of Appeals by rule or order.

H. Duties.

1. Cases appealed by accused. In any case before the Military Court of Appeals under subsection F of this section, the Court may act only with respect to the findings and sentence as entered into the record under Section 860C of this title (Article 60C). The

Court may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the Court finds correct on the basis of applicable law.

2. Error or excessive delay. In any case before the Military Court of Appeals under subsection F of this section, the Court may provide appropriate relief if the accused demonstrates error or excessive delay in the processing of the court-martial after the judgment was entered into the record under Section 860C of this title (Article 60C).

I. Consideration of appeal of sentence by the State of Oklahoma.

1. In general. In considering a sentence on appeal or review as provided in subsection C of Section 856 of this title (Article 56, subsection C), the Military Court of Appeals may consider:

- a. whether the sentence violates the law, and
- b. whether the sentence is plainly unreasonable.

2. Record on appeal or review. In an appeal or review under this subsection or subsection C of Section 856 of this title (Article 56, subsection C), the record on appeal or review shall consist of:

- a. any portion of the record in the case that is designated as pertinent by either of the parties,
- b. the information submitted during the sentencing proceeding, and
- c. any information required by regulations promulgated by the Adjutant General or by rule or order of the Military Court of Appeals.

J. Limits of authority.

1. Set aside of findings.

- a. In general. If the Military Court of Appeals sets aside the findings, the Court:
  - (1) may affirm any lesser included offense, and
  - (2) may, except when prohibited by Section 844 of this title (Article 44), order a rehearing.

- b. Dismissal when no rehearing ordered. If the Military Court of Appeals sets aside the findings and does not order a rehearing, the Court shall order that the charges be dismissed.

- c. Dismissal when rehearing impracticable. If the Military Court of Appeals orders a rehearing on a charge and the convening authority finds a rehearing impracticable, the convening authority may dismiss the charge.

2. Set aside of sentence. If the Military Court of Appeals sets aside the sentence, the Court may:

- a. modify the sentence to a lesser sentence, or
- b. order a rehearing.



3. Additional proceedings. If the Military Court of Appeals determines that additional proceedings are warranted, the Court may order a hearing as may be necessary to address a substantial issue, subject to such limitations as the Court may direct and under such regulations as the Adjutant General may prescribe.

K. Action in accordance with decisions of courts. The State Judge Advocate shall, unless there is to be further action by the Governor, the Adjutant General, or the Oklahoma Court of Criminal Appeals, instruct the appropriate authority to take action in accordance with the decision of the Military Court of Appeals.

L. Rules of procedure and designation of chief judge. The State Judge Advocate shall prescribe uniform rules of procedure for the Military Court of Appeals which shall be published as a military publication and shall meet periodically to formulate policies and procedure in regard to review of court-martial cases in the office of the State Judge Advocate and by the Military Court of Appeals. The State Judge Advocate shall designate as chief judge one of the appellate military judges of the Military Court of Appeals.

M. Prohibition on evaluation of other members of courts. No member of the Military Court of Appeals shall be required, or on his or her own initiative be permitted, to prepare, approve, disapprove, review, or submit, with respect to any other member of the Military Court of Appeals, an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the state military forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the state military forces, or in determining whether a member of the state military forces should be retained as a member of the state military forces.

N. Ineligibility of members of courts to review records of cases involving certain prior member service. No member of the Military Court of Appeals shall be eligible to review the record of any trial if such member served as investigating officer in the case or served as a member of the court-martial before which such trial was conducted, or served as military trial judge, trial or defense counsel, or reviewing officer of such trial. No member of the Military Court of Appeals shall be eligible to review the record of any trial if such member served as an Assistant Attorney General, district attorney, assistant district attorney or municipal prosecutor who determined or participated in the determination of whether to prosecute a nonmilitary offense when the act or omission in question could have violated both the Oklahoma Uniform Code of Military Justice and state or local criminal laws.  
Added by Laws 2019, c. 408, § 81, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 22, emerg. eff. April 13, 2021.

§44-867. Review by the Oklahoma Court of Criminal Appeals.

ARTICLE 67. Review by the Oklahoma Court of Criminal Appeals.

A. Powers as court of last resort. The Oklahoma Court of Criminal Appeals shall be the court of last resort for all general and special courts-martial convened by the state military forces. In reviewing petitions or appeals granted pursuant to this section, the Oklahoma Court of Criminal Appeals shall have and shall exercise all powers granted to the Court under the Oklahoma Statutes and the Oklahoma Constitution. The provisions of Title 22 of the Oklahoma Statutes establishing criminal procedure in the district courts of the state shall not apply to court-martial proceedings convened pursuant to this Code. Where provisions of Title 22 of the Oklahoma Statutes establishing appellate procedures in the Oklahoma Court of Criminal Appeals conflict with any appellate provisions within this Code, the conflicting provisions in Title 22 of the Oklahoma Statutes shall not apply to appellate proceedings arising from court-martial proceedings convened pursuant to this Code.

B. Petition for Review. Except as provided in subsection C of this section for appeals arising from a guilty plea, a decision of the Military Court of Appeals may be reviewed by the Oklahoma Court of Criminal Appeals upon the filing of an appeal in the form of a Petition for Review if a majority of judges on the Oklahoma Court of Criminal Appeals directs that such Petition for Review shall be granted. Decisions of the Military Court of Appeals shall be final unless a Petition for Review is granted by the Oklahoma Court of Criminal Appeals or a writ of certiorari is granted pursuant to subsection C of this section.

C. Appeals arising from guilty plea. All appeals taken from any conviction on a plea of guilty shall first be decided by the Military Court of Appeals. In the event the conviction arising from a plea of guilty is upheld by the Court of Military Appeals, an appeal may be taken by petition for writ of certiorari to the Oklahoma Court of Criminal Appeals, as provided in subsection D of this section; provided, such petition must be filed within ninety (90) days from the date of said conviction. The Oklahoma Court of Criminal Appeals may take jurisdiction of any case for the purpose of correcting the appeal records when the same do not disclose judgment and sentence; such jurisdiction shall be for the sole purpose of correcting such defect or defects.

D. Procedures established by court rules. The procedures for filing a Petition for Review or appeal made pursuant to subsection B or C of this section shall be as provided in the Rules of the Court of Criminal Appeals; and the Oklahoma Court of Criminal Appeals shall provide by court rules, which shall have the force of statute:

1. The procedure to be followed by the courts-martial in the preparation and authentication of transcripts and records in cases appealed under the Oklahoma Uniform Code of Military Justice;

2. The procedure to be followed by the Court of Military Appeals in the preparation of the record in cases brought up on appeal to the Oklahoma Court of Criminal Appeals under the Code;

3. The procedure to be followed for the completion and submission of the Petition for Review or such other appeals lodged pursuant to the Code; and

4. The procedure to be followed for filing a petition for and the issuance of a writ of certiorari.

E. Scope of review on certiorari. The scope of review to be afforded on certiorari shall be prescribed by the Oklahoma Court of Criminal Appeals.

F. Additional proceedings. If the Oklahoma Court of Criminal Appeals determines that additional proceedings are warranted, the Oklahoma Court of Criminal Appeals may order a hearing, rehearing or other proceedings in accordance with the Rules of the Court of Criminal Appeals.

G. Action in accordance with decisions of the Oklahoma Court of Criminal Appeals. The State Judge Advocate shall instruct the appropriate authority to take action in accordance with the decision of the Oklahoma Court of Criminal Appeals.

Added by Laws 2019, c. 408, § 82, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 23, emerg. eff. April 13, 2021.

§44-867A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 83, eff. Oct. 1, 2019.

§44-868. Reserved.

RESERVED

Added by Laws 2019, c. 408, § 84, eff. Oct. 1, 2019.

§44-869. Review by State Judge Advocate.

ARTICLE 69. Review by State Judge Advocate.

A. In general. Upon application by the accused and subject to subsections B, C and D of this section, the State Judge Advocate may modify or set aside, in whole or in part, the findings and sentence in a court-martial that is not reviewed under Section 866 of this title (Article 66).

B. Timing. To qualify for consideration, an application under subsection A of this section shall be submitted to the State Judge Advocate not later than one (1) year after the date of completion of review under Section 864 or 865 of this title (Article 64 or 65), as the case may be. The State Judge Advocate may, for good cause shown, extend the period for submission of an application, but may not consider an application submitted more than three (3) years after such completion date.

C. Scope.

1. a. In a case reviewed under Section 864 or subsection B of Section 865 of this title (Article 64 or Article 65, subsection B), the State Judge Advocate may set aside the findings or sentence, in whole or in part, on the grounds of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence.
- b. In setting aside findings or sentence, the State Judge Advocate may order a rehearing, except that a rehearing may not be ordered in violation of Section 844 of this title (Article 44).
- c. If the State Judge Advocate sets aside findings and sentence and does not order a rehearing, the State Judge Advocate shall dismiss the charges.
- d. If the State Judge Advocate sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.

2. In a case reviewed under subsection B of Section 865 of this title (Article 65, subsection B), review under this section is limited to the issue of whether the waiver or withdrawal of an appeal was invalid under the law. If the State Judge Advocate determines that the waiver or withdrawal of an appeal was invalid, the State Judge Advocate shall order appropriate corrective action under regulations promulgated by the Adjutant General.

D. Military Court of Appeals.

1. The Military Court of Appeals may review the action taken by the State Judge Advocate under subsection C of this section:

- a. in a case sent to the Military Court of Appeals by order of the State Judge Advocate, or
- b. in a case submitted to the Military Court of Appeals by the accused in an application for review.

2. The Military Court of Appeals may grant an application under subparagraph b of paragraph 1 of this subsection only if:

- a. the application demonstrates a substantial basis for concluding that the action on review under subsection C of this section constituted prejudicial error, and
- b. the application is filed not later than the earlier of:
  - (1) sixty (60) days after the date on which the accused is notified of the decision of the State Judge Advocate, or
  - (2) sixty (60) days after the date on which a copy of the decision of the State Judge Advocate is deposited in the United States mail for delivery

by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his or her official service record.

3. The submission of an application for review under this subsection does not constitute a proceeding before the Military Court of Appeals for purposes of paragraph 1 of subsection C of Section 870 of this title (Article 70, subsection C, paragraph 1).

E. Action only on matters of law. Notwithstanding Section 866 of this title (Article 66), in any case reviewed by the Military Court of Appeals under subsection D of this section, the Court may take action only with respect to matters of law.

Added by Laws 2019, c. 408, § 85, eff. Oct. 1, 2019.

§44-870. Appellate counsel.

ARTICLE 70. Appellate counsel.

A. The State Judge Advocate shall detail in his or her office one or more commissioned officers as appellate government counsel, and one or more commissioned officers as appellate defense counsel, who are qualified under paragraph 1 of subsection B of Section 827 of this title (Article 27, subsection B, paragraph 1).

B. Appellate government counsel shall represent the State of Oklahoma before the Military Court of Appeals or the Court of Criminal Appeals when directed to do so by the State Judge Advocate.

C. Appellate defense counsel shall represent the accused before the Military Court of Appeals, or the Court of Criminal Appeals:

1. When requested by the accused;
2. When the State of Oklahoma is represented by counsel; or
3. When the State Judge Advocate has sent the case to the

Military Court of Appeals.

D. The accused has the right to be represented before the Military Court of Appeals, or the Court of Criminal Appeals by civilian counsel if provided by him or her.

E. Military appellate counsel shall also perform such other functions in connection with the review of court-martial cases as the State Judge Advocate directs.

F. As provided in regulations promulgated by the Adjutant General, if needed, the State Judge Advocate may employ civilian appellate counsel for the government and for the defense.

Added by Laws 2019, c. 408, § 86, eff. Oct. 1, 2019.

§44-871. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 87, eff. Oct. 1, 2019.

§44-872. Vacation of suspension.

ARTICLE 72. Vacation of suspension.

A. Before the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The State Judge Advocate shall detail a judge advocate, who is certified under subsection B of Section 827 of this title (Article 27, subsection B), to conduct the hearing. The probationer shall be represented at the hearing by counsel if the probationer so desires.

B. The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the Adjutant General. If the Adjutant General vacates the suspension, any unexecuted part of the sentence shall be executed, subject to applicable restrictions in Section 857 of this title (Article 57).

C. The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

Added by Laws 2019, c. 408, § 88, eff. Oct. 1, 2019.

§44-873. Petition for a new trial.

ARTICLE 73. Petition for a new trial.

At any time within three (3) years after the date of the entry of judgment under Section 860C of this title (Article 60C), the accused may petition the State Judge Advocate for a new trial on the grounds of newly discovered evidence or fraud on the court. If the accused's case is pending before the Military Court of Appeals or before the Court of Criminal Appeals, the State Judge Advocate shall refer the petition to the appropriate court for action. Otherwise, the State Judge Advocate shall act upon the petition.

Added by Laws 2019, c. 408, § 89, eff. Oct. 1, 2019.

§44-874. Remission and suspension.

ARTICLE 74. Remission and suspension.

A. The Adjutant General, the State Judge Advocate, or commanding officer may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the Governor.

B. The Adjutant General may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

Added by Laws 2019, c. 408, § 90, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 24, emerg. eff. April 13, 2021.

§44-875. Restoration.

ARTICLE 75. Restoration.

A. Under such regulations as the Adjutant General may promulgate, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing.

B. If a previously executed sentence of dishonorable or bad-conduct discharge is not imposed on a new trial, the Adjutant General shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his or her enlistment.

C. If a previously executed sentence of dismissal is not imposed on a new trial, the Adjutant General shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed pursuant to Sections 875 and 12203 of Title 10 of the United States Code and any applicable regulations prescribed thereunder by the President of the United States or the Secretary concerned.

Added by Laws 2019, c. 408, § 91, eff. Oct. 1, 2019.

§44-876. Finality of proceedings, findings, and sentences.

ARTICLE 76. Finality of proceedings, findings, and sentences.

The appellate review of records of trial provided by the Oklahoma Uniform Code of Military Justice, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by the Code, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by the Code, are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the State of Oklahoma, subject only to action upon a petition for a new trial as provided in Section 873 of this title (Article 73) and to action by the Adjutant General as provided in Section 874 of this title (Article 74) and the authority of the Governor.

Added by Laws 2019, c. 408, § 92, eff. Oct. 1, 2019.

§44-876A. Leave required to be taken pending review of certain court-martial convictions.

ARTICLE 76A. Leave required to be taken pending review of certain court-martial convictions.

Under regulations promulgated by the Adjutant General, an accused who has been sentenced by a court-martial may be required to take leave pending completion of action under this part if the

sentence includes an unsuspended dismissal or an unsuspended dishonorable or bad-conduct discharge. The accused may be required to begin such leave on the date of the entry of judgment under Section 860C of this title (Article 60C) or at any time after such date, and such leave may be continued until the date on which action under this part is completed or may be terminated at any earlier time.

Added by Laws 2019, c. 408, § 93, eff. Oct. 1, 2019.

§44-876B. Lack of mental capacity or mental responsibility.

ARTICLE 76B. Lack of mental capacity or mental responsibility.

A. No person accused of violating a punitive section under the Oklahoma Uniform Code of Military Justice shall be brought to trial by a general or special court-martial if that person is presently suffering from a mental disease or defect rendering him or her mentally incompetent to the extent that he or she is unable to understand the nature of the proceedings against him or her or to conduct or cooperate intelligently in the defense of the case.

B. A person is presumed to have the capacity to stand trial unless the contrary is established.

C. The procedure for determining mental competence shall be established in regulations promulgated by the Adjutant General.

Added by Laws 2019, c. 408, § 94, eff. Oct. 1, 2019.

§44-877. Principals.

ARTICLE 77. Principals.

Any person punishable under the Oklahoma Uniform Code of Military Justice who:

1. Commits an offense punishable by the Oklahoma Uniform Code of Military Justice, or aids, abets, counsels, commands, or procures its commission; or

2. Causes an act to be done which if directly performed by him or her would be punishable by this chapter, shall be a principal.

Added by Laws 2019, c. 408, § 95, eff. Oct. 1, 2019.

§44-878. Accessory after the fact.

ARTICLE 78. Accessory after the fact.

Any person subject to the Oklahoma Uniform Code of Military Justice who, knowing that an offense punishable by the Code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his or her apprehension, trial, or punishment shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 96, eff. Oct. 1, 2019.

§44-879. Conviction of offense charged, lesser included offenses.



ARTICLE 79. Conviction of offense charged, lesser included offenses.

A. In general. An accused may be found guilty of any of the following:

1. The offense charged;
2. A lesser included offense;
3. An attempt to commit the offense charged; and
4. An attempt to commit a lesser included offense, if the attempt is an offense in its own right.

B. Lesser included offense defined. In this section, the term "lesser included offense" means:

1. An offense that is necessarily included in the offense charged; and
2. Any lesser included offense so designated by regulation prescribed by the Adjutant General.

C. Regulatory authority. Any designation of a lesser-included offense in a regulation referred to in subsection B of this section shall be reasonably included in the greater offense.

Added by Laws 2019, c. 408, § 97, eff. Oct. 1, 2019.

§44-880. Attempts.

ARTICLE 80. Attempts.

A. An act, done with specific intent to commit an offense under the Oklahoma Uniform Code of Military Justice, amounting to more than mere preparation and tending, even though failing, to effect its commission, shall be an attempt to commit that offense.

B. Any person subject to the Code who attempts to commit any offense punishable by the Code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

C. Any person subject to the Code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

Added by Laws 2019, c. 408, § 98, eff. Oct. 1, 2019.

§44-881. Conspiracy.

ARTICLE 81. Conspiracy.

Any person subject to the Oklahoma Uniform Code of Military Justice who conspires with any other person to commit an offense under the Code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 99, eff. Oct. 1, 2019.

§44-882. Soliciting commission of offenses.

ARTICLE 82. Soliciting commission of offenses.

A. Soliciting commission of offenses generally. Any person subject to the Oklahoma Uniform Code of Military Justice who

solicits or advises another to commit an offense under the Code, other than an offense specified in subsection B of this section, shall be punished as a court-martial may direct.

B. Soliciting desertion, mutiny, sedition, or misbehavior before the enemy. Any person subject to the Code who solicits or advises another to violate Section 885 of this title (Article 85), Section 894 of this title (Article 94), or Section 899 of this title (Article 99):

1. If the offense solicited or advised is attempted or is committed, shall be punished with the punishment provided for the commission of the offense; and

2. If the offense solicited or advised is not attempted or committed, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 100, eff. Oct. 1, 2019.

§44-883. Malingering.

ARTICLE 83. Malingering.

Any person subject to the Oklahoma Uniform Code of Military Justice who, with the intent to avoid work, duty, or service:

1. Feigns illness, physical disablement, mental lapse, or mental derangement; or

2. Intentionally inflicts self-injury, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 101, eff. Oct. 1, 2019.

§44-884. Breach of medical quarantine.

ARTICLE 84. Breach of medical quarantine.

Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who is ordered into medical quarantine by a person authorized to issue such order; and

2. Who, with knowledge of the quarantine and the limits of the quarantine, goes beyond those limits before being released from the quarantine by proper authority, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 102, eff. Oct. 1, 2019.

§44-885. Desertion.

ARTICLE 85. Desertion.

A. Any member of the state military forces who:

1. Without authority goes or remains absent from his or her unit, organization, or place of duty with intent to remain away therefrom permanently;

2. Quits his or her unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or

3. Without being regularly separated from one of the force components of state military forces enlists or accepts an

appointment in the same or another one of the armed forces without fully disclosing the fact that he or she has not been regularly separated, or enters any foreign armed service except when authorized by the United States, is guilty of desertion.

B. Any commissioned officer of the state military forces who, after tender of his or her resignation and before notice of its acceptance, quits his or her post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

C. Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment as a court-martial may direct.

Added by Laws 2019, c. 408, § 103, eff. Oct. 1, 2019.

§44-886. Absence without leave.

ARTICLE 86. Absence without leave.

Any member of the state military forces who, without authority:

1. Fails to go to his or her appointed place of duty at the time prescribed;

2. Goes from that place; or

3. Absents himself or herself or remains absent from his or her unit, organization, or place of duty at which he or she is required to be at the time prescribed,

shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 104, eff. Oct. 1, 2019.

§44-887. Missing movement - Jumping from vessel.

ARTICLE 87. Missing movement; jumping from vessel.

A. Missing movement. Any person subject to the Oklahoma Uniform Code of Military Justice who, through neglect or design, misses the movement of a ship, aircraft, or unit with which the person is required in the course of duty to move shall be punished as a court-martial may direct.

B. Jumping from vessel into the water. Any person subject to the Code who wrongfully and intentionally jumps into the water from a vessel in use by the armed forces shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 105, eff. Oct. 1, 2019.

§44-887A. Resistance, flight, breach of arrest, and escape.

ARTICLE 87A. Resistance, flight, breach of arrest, and escape.

Any person subject to the Oklahoma Uniform Code of Military Justice who:

1. Resists apprehension;
2. Flees from apprehension;
3. Breaks arrest; or
4. Escapes from custody or confinement,

shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 106, eff. Oct. 1, 2019.

§44-887B. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 107, eff. Oct. 1, 2019.

§44-888. Contempt toward officials.

ARTICLE 88. Contempt toward officials.

Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of Homeland Security, the Governor of the State of Oklahoma, or the Oklahoma Legislature shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 108, eff. Oct. 1, 2019.

§44-889. Disrespect toward superior commissioned officer - Assault of superior commissioned officer.

ARTICLE 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer.

A. Disrespect. Any person subject to the Oklahoma Uniform Code of Military Justice who behaves with disrespect toward that person's superior commissioned officer shall be punished as a court-martial may direct.

B. Assault. Any person subject to the Code who strikes that person's superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer while the officer is in the execution of the officer's office shall be punished, if the offense is committed in time of declared war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment as a court-martial may direct.

Added by Laws 2019, c. 408, § 109, eff. Oct. 1, 2019.

§44-890. Willfully disobeying superior commissioned officer.

ARTICLE 90. Willfully disobeying superior commissioned officer.

Any person subject to the Oklahoma Uniform Code of Military Justice who willfully disobeys a lawful command of that person's superior commissioned officer shall be punished, if the offense is committed in time of declared war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment as a court-martial may direct.

Added by Laws 2019, c. 408, § 110, eff. Oct. 1, 2019.

§44-891. Insubordinate conduct toward warrant officer, or noncommissioned officer.

ARTICLE 91. Insubordinate conduct toward warrant officer, or noncommissioned officer.

Any warrant officer or enlisted member who:

1. Strikes or assaults a warrant officer, or noncommissioned officer, while that officer is in the execution of his or her office;

2. Willfully disobeys the lawful order of a warrant officer, or noncommissioned officer; or

3. Treats with contempt or is disrespectful in language or deportment toward a warrant officer, or noncommissioned officer, while that officer is in the execution of his or her office, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 111, eff. Oct. 1, 2019.

§44-892. Failure to obey order or regulation.

ARTICLE 92. Failure to obey order or regulation.

Any person subject to the Oklahoma Uniform Code of Military Justice who:

1. Violates or fails to obey any lawful general order or regulation;

2. Having knowledge of any other lawful order issued by a member of the state military forces, which it is his or her duty to obey, fails to obey the order; or

3. Is derelict in the performance of his or her duties, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 112, eff. Oct. 1, 2019.

§44-893. Cruelty and maltreatment.

ARTICLE 93. Cruelty and maltreatment.

Any person subject to the Oklahoma Uniform Code of Military Justice who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his or her orders shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 113, eff. Oct. 1, 2019.

§44-893A. Prohibited activities with military recruit or trainee by person in position of special trust.

ARTICLE 93A. Prohibited activities with military recruit or trainee by person in position of special trust.

A. Abuse of training leadership position. Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who is an officer, or a noncommissioned officer;

2. Who is in a training leadership position with respect to a specially protected junior member of the state military forces; and

3. Who engages in prohibited sexual activity with such specially protected junior member of the state military forces, shall be punished as a court-martial may direct.

B. Abuse of position as military recruiter. Any person subject to the Code:

1. Who is a military recruiter and engages in prohibited sexual activity with an applicant for military service; or

2. Who is a military recruiter and engages in prohibited sexual activity with a specially protected junior member of the state military forces who is enlisted under a delayed entry program, shall be punished as a court-martial may direct.

C. Consent. Consent is not a defense for any conduct at issue in a prosecution under this section (article).

D. Definitions. In this section (article):

1. Specially protected junior member of the state military forces. The term "specially protected junior member of the state military forces" means:

- a. a member of the state military forces who is assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program,
- b. a member of the state military forces who is a cadet, an officer candidate, or a student in any other officer qualification program, and
- c. a member of the state military forces in any program that, by regulation prescribed by the Secretary of the Army or the Secretary of the Air Force or the Adjutant General, is identified as a training program for initial career qualification;

2. Training leadership position. The term "training leadership position" means, with respect to a specially protected junior member of the state military forces, any of the following:

- a. any drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers' training corps unit, a training program for entry into the state military forces, or any program that, by regulation prescribed by the Secretary of the Army or the Secretary of the Air Force or the Adjutant General, and
- b. faculty and staff of any officer candidate school organized under the authority of the Adjutant General;

3. Applicant for military service. The term "applicant for military service" means a person who, under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force or

the Adjutant General, is an applicant for original enlistment or appointment in the state military forces;

4. Military recruiter. The term "military recruiter" means a person who, under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force or the Adjutant General, has the primary duty to recruit persons for service in the state military forces; and

5. Prohibited sexual activity. The term "prohibited sexual activity" means, as specified in regulations prescribed by the Secretary of the Army or the Secretary of the Air Force or the Adjutant General, inappropriate physical intimacy under circumstances described in such regulations.

Added by Laws 2019, c. 408, § 114, eff. Oct. 1, 2019.

§44-894. Mutiny or sedition.

ARTICLE 94. Mutiny or sedition.

A. Any person subject to the Oklahoma Uniform Code of Military Justice who:

1. With intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his or her duty or creates any violence or disturbance is guilty of mutiny;

2. With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

3. Fails to do his or her utmost to prevent and suppress a mutiny or sedition being committed in his or her presence, or fails to take all reasonable means to inform his or her superior commissioned officer or commanding officer of a mutiny or sedition which he or she knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

B. A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 115, eff. Oct. 1, 2019.

§44-895. Offenses by sentinel or lookout.

ARTICLE 95. Offenses by sentinel or lookout.

A. Drunk or sleeping on post, or leaving post before being relieved. Any sentinel or lookout who is drunk on post, who sleeps on post, or who leaves post before being regularly relieved, shall be punished, if the offense is committed in time of war, by confinement of not more than ten (10) years or other punishment as a court-martial may direct, but if the offense is committed at any other time, by such punishment as a court-martial may direct.

B. Loitering or wrongfully sitting on post. Any sentinel or lookout who loiters or wrongfully sits down on post shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 116, eff. Oct. 1, 2019.

§44-895A. Disrespect toward sentinel or lookout.

ARTICLE 95A. Disrespect toward sentinel or lookout.

A. Disrespectful language toward sentinel or lookout. Any person subject to the Oklahoma Uniform Code of Military Justice who, knowing that another person is a sentinel or lookout, uses wrongful and disrespectful language that is directed toward and within the hearing of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.

B. Disrespectful behavior toward sentinel or lookout. Any person subject to the Code who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner that is directed toward and within the sight of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 117, eff. Oct. 1, 2019.

§44-896. Release of prisoner without authority - Drinking with prisoner.

ARTICLE 96. Release of prisoner without authority; drinking with prisoner.

A. Release of prisoner without authority. Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who, without authority to do so, releases a prisoner; or
  2. Who, through neglect or design, allows a prisoner to escape,
- shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with the law.

B. Drinking with prisoner. Any person subject to the Code who unlawfully drinks any alcoholic beverage with a prisoner shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 118, eff. Oct. 1, 2019.

§44-897. Unlawful detention.

ARTICLE 97. Unlawful detention.

Any person subject to the Oklahoma Uniform Code of Military Justice who, except as provided by law, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 119, eff. Oct. 1, 2019.

§44-898. Misconduct as prisoner.

ARTICLE 98. Misconduct as prisoner.



Any person subject to the Oklahoma Uniform Code of Military Justice who, while in the hands of the enemy in time of war:

1. For the purpose of securing favorable treatment by his or her captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

2. While in a position of authority over such persons maltreats them without justifiable cause,

shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 120, eff. Oct. 1, 2019.

§44-899. Misbehavior before the enemy.

ARTICLE 99. Misbehavior before the enemy.

Any person subject to the Oklahoma Uniform Code of Military Justice who before or in the presence of the enemy:

1. Runs away;

2. Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his or her duty to defend;

3. Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

4. Casts away his or her arms or ammunition;

5. Is guilty of cowardly conduct;

6. Quits his or her place of duty to plunder or pillage;

7. Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the state military forces;

8. Willfully fails to do his or her utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his or her duty so to encounter, engage, capture, or destroy; or

9. Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the State of Oklahoma, or to any other state, when engaged in battle, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 121, eff. Oct. 1, 2019.

§44-900. Subordinate compelling surrender.

ARTICLE 100. Subordinate compelling surrender.

Any person subject to the Oklahoma Uniform Code of Military Justice who compels or attempts to compel the commander of any place, vessel, aircraft, or other military property, or of any body of members of the state military forces, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy

without proper authority, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 122, eff. Oct. 1, 2019.

§44-901. Improper use of countersign.

ARTICLE 101. Improper use of countersign.

Any person subject to the Oklahoma Uniform Code of Military Justice who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his or her knowledge, he or she was authorized and required to give, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 123, eff. Oct. 1, 2019.

§44-902. Forcing a safeguard.

ARTICLE 102. Forcing a safeguard.

Any person subject to the Oklahoma Uniform Code of Military Justice who forces a safeguard shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 124, eff. Oct. 1, 2019.

§44-903. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 125, eff. Oct. 1, 2019.

§44-903A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 126, eff. Oct. 1, 2019.

§44-903B. Aiding the enemy.

ARTICLE 103B. Aiding the enemy.

Any person who:

1. Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

2. Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 127, eff. Oct. 1, 2019.

§44-903C. Unlawful disclosure of confidential information.

ARTICLE 103C. Unlawful disclosure of confidential information.

Any person subject to the Oklahoma Uniform Code of Military Justice who, with intent or reason to believe that it is to be used in the commission of a crime or act of terrorism under Oklahoma law, communicates, delivers or transmits, or attempts to communicate,

deliver or transmit confidential information, directly or indirectly, to any other person shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 128, eff. Oct. 1, 2019.

§44-904. Public records offenses.

ARTICLE 104. Public records offenses.

Any person subject to the Oklahoma Uniform Code of Military Justice who willfully and unlawfully alters, conceals, removes, mutilates, obliterates, destroys, or takes with the intent to alter, conceal, remove, mutilate, obliterate, or destroy, a certain public record, and whose conduct, under the circumstances, was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 129, eff. Oct. 1, 2019.

§44-904A. Fraudulent enlistment, appointment, or separation.

ARTICLE 104A. Fraudulent enlistment, appointment, or separation.

Any person who:

1. Procures his or her own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to his or her qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

2. Procures his or her own separation from the state military forces by knowingly false representation or deliberate concealment as to his or her eligibility for that separation, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 130, eff. Oct. 1, 2019.

§44-904B. Unlawful enlistment, appointment, or separation.

ARTICLE 104B. Unlawful enlistment, appointment, or separation.

Any person subject to the Oklahoma Uniform Code of Military Justice who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to him or her to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 131, eff. Oct. 1, 2019.

§44-905. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 132, eff. Oct. 1, 2019.

§44-905A. False or unauthorized pass offenses.

ARTICLE 105A. False or unauthorized pass offenses.

A. Wrongful making, altering, etc. Any person subject to the Oklahoma Uniform Code of Military Justice who, wrongfully and falsely, makes, alters, counterfeits, or tampers with a military or official pass, permit, discharge certificate, or identification card shall be punished as a court-martial may direct.

B. Wrongful sale, etc. Any person subject to the Code who wrongfully sells, gives, lends, or disposes of a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

C. Wrongful use or possession. Any person subject to the Code who wrongfully uses or possesses a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 133, eff. Oct. 1, 2019.

§44-906. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 134, eff. Oct. 1, 2019.

§44-906A. Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button.

ARTICLE 106A. Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button.

Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who is not authorized to wear an insignia, decoration, badge, ribbon, device, or lapel button; and

2. Who wrongfully wears such insignia, decoration, badge, ribbon, device, or lapel button upon the person's uniform or civilian clothing,

shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 135, eff. Oct. 1, 2019.

§44-907. False official statements - False swearing.

ARTICLE 107. False official statements; false swearing.

A. False official statements. Any person subject to the Oklahoma Uniform Code of Military Justice who, with intent to deceive:

1. Signs any false record, return, regulation, order, or other official document, knowing it to be false; or

2. Makes any other false official statement knowing it to be false,

shall be punished as a court-martial may direct.

B. False swearing. Any person subject to the Code:

1. Who takes an oath that:

- a. is administered in a matter in which such oath is required or authorized by law, and
- b. is administered by a person with authority to do so; and

2. Who, upon such oath, makes or subscribes to a statement, if the statement is false and at the time of taking the oath, the person does not believe the statement to be true, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 136, eff. Oct. 1, 2019.

§44-907A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 137, eff. Oct. 1, 2019.

§44-908. Military property-loss, damage, destruction, or wrongful disposition.

ARTICLE 108. Military property-loss, damage, destruction, or wrongful disposition.

Any person subject to the Oklahoma Uniform Code of Military Justice who, without proper authority:

1. Sells or otherwise disposes of;
2. Willfully or through neglect damages, destroys, or loses; or
3. Willfully or through neglect suffers to be lost, damaged,

destroyed, sold, or wrongfully disposed of, any military property of the United States, the State of Oklahoma, or any other state, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 138, eff. Oct. 1, 2019.

§44-908A. Captured or abandoned property.

ARTICLE 108A. Captured or abandoned property.

A. All persons subject to the Oklahoma Uniform Code of Military Justice shall secure all public property taken for the service of the United States, or the State of Oklahoma, or another state, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

B. Any person subject to the Code who:

1. Fails to carry out the duties prescribed in subsection A of this section;

2. Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he or she receives or expects any profit, benefit, or advantage to himself or herself or another directly or indirectly connected with himself or herself; or

3. Engages in looting or pillaging,

shall be punished as a court-martial may direct.  
Added by Laws 2019, c. 408, § 139, eff. Oct. 1, 2019.

§44-909. Property other than military property - Waste, spoilage, or destruction.

ARTICLE 109. Property other than military property-waste, spoilage, or destruction.

Any person subject to the Oklahoma Uniform Code of Military Justice who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States or of the State of Oklahoma or of any other state shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 140, eff. Oct. 1, 2019.

§44-909A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 141, eff. Oct. 1, 2019.

§44-910. Improper hazarding of vessel or aircraft.

ARTICLE 110. Improper hazarding of vessel or aircraft.

A. Willful and wrongful hazarding. Any person subject to the Oklahoma Uniform Code of Military Justice who, willfully and wrongfully, hazards or suffers to be hazarded any vessel or aircraft of the armed forces of the United States, the state military forces, or of the military forces of any other state shall be punished as a court-martial may direct.

B. Negligent hazarding. Any person subject to the Code who negligently hazards or suffers to be hazarded any vessel or aircraft of the armed forces of the United States, the state military forces, or of the military forces of any other state shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 142, eff. Oct. 1, 2019.

§44-911. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 143, eff. Oct. 1, 2019.

§44-912. Drunkenness and other incapacitation offenses.

ARTICLE 112. Drunkenness and other incapacitation offenses.

A. Drunk on duty. Any person subject to the Oklahoma Uniform Code of Military Justice, other than a sentinel or lookout, who is drunk on duty shall be punished as a court-martial may direct.

B. Incapacitation for duty from drunkenness or drug use. Any person subject to the Code who, as a result of indulgence in any alcoholic beverage or any drug, is incapacitated for the proper performance of duty shall be punished as a court-martial may direct.

C. Drunk prisoner. Any person subject to the Code who is a prisoner and, while in such status, is drunk shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 144, eff. Oct. 1, 2019.

§44-912A. Wrongful use, possession, etc., of controlled substances.

ARTICLE 112A. Wrongful use, possession, etc., of controlled substances.

A. Any person subject to the Oklahoma Uniform Code of Military Justice who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the Armed Forces of the United States or of the state military forces a substance described in subsection B of this section shall be punished as a court-martial may direct.

B. The substances referred to in subsection A of this section are the following:

1. Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and marijuana and any compound or derivative of any such substance;

2. Any substance not specified in paragraph 1 of this subsection that is listed on a schedule of controlled substances prescribed by the President for the purposes of the Uniform Code of Military Justice, Title 10 of the United States Code, Section 801, et seq.; and

3. Any other substance not specified in paragraph 1 of this subsection or contained on a list prescribed by the President under paragraph 2 of this subsection that is listed in schedules I through V of article 202 of the Controlled Substances Act, Title 21 of the United States Code, Section 812.

Added by Laws 2019, c. 408, § 145, eff. Oct. 1, 2019.

§44-913. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 146, eff. Oct. 1, 2019.

§44-914. Endangerment offenses.

ARTICLE 114. Endangerment offenses.

A. Reckless endangerment. Any person subject to the Oklahoma Uniform Code of Military Justice who engages in conduct that:

1. Is wrongful and reckless or is wanton; and

2. Is likely to produce death or grievous bodily harm to another person,

shall be punished as a court-martial may direct.

B. Dueling. Any person subject to the Code:

1. Who fights or promotes, or is concerned in or connives at fighting, a duel; or

2. Who, having knowledge of a challenge sent or about to be sent, fails to report the facts promptly to the proper authority, shall be punished as a court-martial may direct.

C. Firearm discharge, endangering human life. Any person subject to the Code who, willfully and wrongly, discharges a firearm, under circumstances such as to endanger human life shall be punished as a court-martial may direct.

D. State active duty, personal firearms. Any person subject to the Code and in a state active duty status who carries a personal firearm openly or concealed on or about his or her person without the authorization of the Adjutant General or pursuant to the state rules for the use of force then in effect shall be punished as a court-martial may direct.

E. Carrying concealed weapon. Any person subject to the Code who unlawfully carries a dangerous weapon concealed on or about his or her person shall be punished as a court-martial may direct.  
Added by Laws 2019, c. 408, § 147, eff. Oct. 1, 2019.

§44-915. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 148, eff. Oct. 1, 2019.

§44-916. Riot or breach of peace.

ARTICLE 116. Riot or breach of peace.

Any person subject to the Oklahoma Uniform Code of Military Justice who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 149, eff. Oct. 1, 2019.

§44-917. Provoking speeches or gestures.

ARTICLE 117. Provoking speeches or gestures.

Any person subject to the Oklahoma Uniform Code of Military Justice who uses provoking or reproachful words or gestures towards any other person subject to the Code shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 150, eff. Oct. 1, 2019.

§44-917A. Wrongful broadcast or distribution of intimate visual images.

ARTICLE 117A. Wrongful broadcast or distribution of intimate visual images.

A. Prohibition. Any person subject to the Oklahoma Uniform Code of Military Justice:



1. Who knowingly and wrongfully broadcasts or distributes an intimate visual image of another person or a visual image of sexually explicit conduct involving a person who:

- a. is at least eighteen (18) years of age at the time the intimate visual image or visual image of sexually explicit conduct was created,
- b. is identifiable from the intimate visual image or visual image of sexually explicit conduct itself, or from information displayed in connection with the intimate visual image or visual image of sexually explicit conduct, and
- c. does not explicitly consent to the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

2. Who knows or reasonably should have known that the intimate visual image or visual image of sexually explicit conduct was made under circumstances in which the person depicted in the intimate visual image or visual image of sexually explicit conduct retained a reasonable expectation of privacy regarding any broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

3. Who knows or reasonably should have known that the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct is likely:

- a. to cause harm, harassment, intimidation, emotional distress, or financial loss for the person depicted in the intimate visual image or visual image of sexually explicit conduct, or
- b. to harm substantially the depicted person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships; and

4. Whose conduct, under the circumstances, had a reasonably direct and palpable connection to a military mission or military environment, is guilty of wrongful distribution of intimate visual images or visual images of sexually explicit conduct and shall be punished as a court-martial may direct.

B. Definitions. In this section:

1. Broadcast. The term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

2. Distribute. The term "distribute" means to deliver to the actual or constructive possession of another person, including transmission by mail or electronic means;

3. Intimate visual image. The term "intimate visual image" means a visual image that depicts a private area of a person;

4. Private area. The term "private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple;

5. Reasonable expectation of privacy. The term "reasonable expectation of privacy" means circumstances in which a reasonable person would believe that a private area of the person, or sexually explicit conduct involving the person, would not be visible to the public;

6. Sexually explicit conduct. The term "sexually explicit conduct" means actual or simulated genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, bestiality, masturbation, or sadistic or masochistic abuse; and

7. Visual image. The term "visual image" means the following:

- a. any developed or undeveloped photograph, picture, film, or video,
- b. any digital or computer image, picture, film, or video made by any means, including those transmitted by any means, including streaming media, even if not stored in a permanent format, or
- c. any digital or electronic data capable of conversion into a visual image.

Added by Laws 2019, c. 408, § 151, eff. Oct. 1, 2019.

§44-918. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 152, eff. Oct. 1, 2019.

§44-919. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 153, eff. Oct. 1, 2019.

§44-919A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 154, eff. Oct. 1, 2019.

§44-919B. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 155, eff. Oct. 1, 2019.

§44-920. Sexual assault generally.

ARTICLE 120. Sexual assault generally.

A. Sexual assault. Any person subject to the Oklahoma Uniform Code of Military Justice who:

1. Commits a sexual act upon another person by:
  - a. threatening or placing that other person in fear,

- b. making a fraudulent representation that the sexual act serves a professional purpose, or
  - c. inducing a belief by any artifice, pretense, or concealment that the person is another person;
2. Commits a sexual act upon another person:
- a. without the consent of the other person, or
  - b. when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or
3. Commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to:
- a. impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person, or
  - b. a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person,

is guilty of sexual assault and shall be punished as a court-martial may direct.

B. Aggravated sexual contact. Any person subject to the Oklahoma Uniform Code of Military Justice who commits or causes sexual contact upon or by another person, if to do so would violate Section 1111 of Title 21 of the Oklahoma Statutes, had the sexual contact been a sexual act as defined in subsection F of this section, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

C. Abusive sexual contact. Any person subject to the Code who commits or causes sexual contact upon or by another person, if to do so would violate subsection A of this section had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

D. Proof of threat. In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

E. Defenses. An accused may raise any applicable defenses available under the Code or the Rules for Court-Martial contained in the most recent edition of the Manual for Courts-Martial, United States, including all amendments thereto adopted from time to time, except when such rules are contrary to or inconsistent with the Code. Marriage is not a defense for any conduct in issue in any prosecution under this section.

F. Definitions. In this section:

- 1. Sexual act. The term "sexual act" means:
  - a. the penetration, however slight, of the penis into the vulva or anus or mouth,

- b. contact between the mouth and the penis, vulva, scrotum, or anus, or
- c. the penetration, however slight, of the vulva or penis or anus of another by any part of the body or any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person;

2. Sexual contact. The term "sexual contact" means touching, or causing another person to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body or an object;

3. Grievous bodily harm. The term "grievous bodily harm" means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose;

4. Force. The term "force" means:

- a. the use of a weapon,
- b. the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person, or
- c. inflicting physical harm sufficient to coerce or compel submission by the victim;

5. Unlawful force. The term "unlawful force" means an act of force done without legal justification or excuse;

6. Threatening or placing that other person in fear. The term "threatening or placing that other person in fear" means a communication or action that is of sufficient consequence to cause a reasonable fear that noncompliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action;

7. Consent.

- a. the term "consent" means a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance does not constitute consent. Submission resulting from the use of force, threat of force, or placing another person in fear also does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent,

- b. a sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or under the circumstances described in subparagraph b or c of paragraph 1 of subsection A of this section,
- c. all the surrounding circumstances are to be considered in determining whether a person gave consent; and

8. Incapable of consenting. The term "incapable of consenting" means the person is:

- a. incapable of appraising the nature of the conduct at issue, or
- b. physically incapable of declining participation in, or communicating unwillingness to engage in, the sexual act at issue.

Added by Laws 2019, c. 408, § 156, eff. Oct. 1, 2019.

§44-920A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 157, eff. Oct. 1, 2019.

§44-920B. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 158, eff. Oct. 1, 2019.

§44-920C. Other sexual misconduct.

ARTICLE 120C. Other sexual misconduct.

A. Indecent viewing, visual recording, or broadcasting. Any person subject to the Oklahoma Uniform Code of Military Justice who, without legal justification or lawful authorization:

- 1. Knowingly and wrongfully views the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy;
- 2. Knowingly photographs, videotapes, films, or records by any means the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy; or
- 3. Knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under the circumstances proscribed in paragraphs 1 and 2 of this subsection, is guilty of an offense under this section and shall be punished as a court-martial may direct.

B. Forcible pandering. Any person subject to the Code who compels another person to engage in an act of prostitution with any person is guilty of forcible pandering and shall be punished as a court-martial may direct.

C. Indecent exposure. Any person subject to the Code who intentionally exposes, in an indecent manner, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall be punished as a court-martial may direct.

D. Definitions. In this section:

1. Act of prostitution. The term "act of prostitution" means a sexual act or sexual contact, as defined in subsection F of Section 920 of this title (Article 120, subsection F), on account of which anything of value is given to, or received by, any person;

2. Private area. The term "private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple;

3. Reasonable expectation of privacy. The term "under circumstances in which that other person has a reasonable expectation of privacy" means:

- a. circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the person was being captured, or
- b. circumstances in which a reasonable person would believe that a private area of the person would not be visible to the public;

4. Broadcast. The term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

5. Distribute. The term "distribute" means delivering to the actual or constructive possession of another, including transmission by electronic means;

6. Indecent manner. The term "indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

Added by Laws 2019, c. 408, § 159, eff. Oct. 1, 2019.

§44-920D. Fraternalization.

ARTICLE 120D. Fraternalization.

Any person subject to the Oklahoma Uniform Code of Military Justice who is a commissioned officer, warrant officer or noncommissioned officer and:

1. Who fraternizes on terms of military equality with one or more certain enlisted members in a certain manner;

2. Who then knows the person or persons to be an enlisted person or persons;

3. Who, through such fraternization, knowingly violates the customs of the United States Army, if a member of the army component of the state military forces, or the customs of the United States

Air Force, if a member of the air force component of the state military forces, that officers shall not fraternize with enlisted members on terms of equality; and

4. Under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the state military forces or was of a nature to bring discredit upon the state military forces,  
shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 160, eff. Oct. 1, 2019.

§44-921. Larceny and wrongful appropriation.

ARTICLE 121. Larceny and wrongful appropriation.

A. Any person subject to the Oklahoma Uniform Code of Military Justice who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind:

1. With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

2. With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of any person other than the owner, is guilty of wrongful appropriation.

B. Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 161, eff. Oct. 1, 2019.

§44-921A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 162, eff. Oct. 1, 2019.

§44-921B. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 163, eff. Oct. 1, 2019.

§44-922. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 164, eff. Oct. 1, 2019.

§44-922A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 165, eff. Oct. 1, 2019.

§44-923. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 166, eff. Oct. 1, 2019.

§44-923A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 167, eff. Oct. 1, 2019.

§44-924. Frauds against the government.

ARTICLE 124. Frauds against the government.

Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who, knowing it to be false or fraudulent:

- a. makes any claim against the United States, the State of Oklahoma, or any officer thereof, or
- b. presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the State of Oklahoma, or any officer thereof;

2. Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the State of Oklahoma, or any officer thereof:

- a. makes or uses any writing or other paper knowing it to contain any false or fraudulent statements,
- b. makes any oath, affirmation or certification to any fact or to any writing or other paper knowing the oath, affirmation or certification to be false, or
- c. forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

3. Who, having charge, possession, custody, or control of any money, or other property of the United States or the State of Oklahoma, furnished or intended for the Armed Forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he or she receives a certificate or receipt; or

4. Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the State of Oklahoma, furnished or intended for the Armed Forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the State of Oklahoma, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 168, eff. Oct. 1, 2019.

§44-924A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 169, eff. Oct. 1, 2019.



§44-924B. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 170, eff. Oct. 1, 2019.

§44-925. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 171, eff. Oct. 1, 2019.

§44-926. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 172, eff. Oct. 1, 2019.

§44-927. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 173, eff. Oct. 1, 2019.

§44-928. Assault.

ARTICLE 128. Assault.

A. Any person subject to the Oklahoma Uniform Code of Military Justice who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

B. Any person subject to the Code who:

1. Commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or

2. Commits an assault and intentionally inflicts grievous bodily harm with or without a weapon,  
is guilty of aggravated assault and shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 174, eff. Oct. 1, 2019.

§44-928A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 175, eff. Oct. 1, 2019.

§44-928B. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 176, eff. Oct. 1, 2019.

§44-929. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 177, eff. Oct. 1, 2019.

§44-929A. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 178, eff. Oct. 1, 2019.

§44-930. Stalking.

ARTICLE 130. Stalking.

A. In general. Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner;

2. Who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner; and

3. Whose conduct induces reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner, is guilty of stalking and shall be punished as a court-martial may direct.

B. Definitions. In this section:

1. The term "conduct" means conduct of any kind, including use of surveillance, the mails, an interactive computer service, an electronic communication service, or an electronic communication system;

2. The term "course of conduct" means:

- a. a repeated maintenance of visual or physical proximity to a specific person,
- b. a repeated conveyance of verbal threats, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person, or
- c. a pattern of conduct composed of repeated acts evidencing a continuity of purpose;

3. The term "repeated", with respect to conduct, means two or more occasions of such conduct;

4. The term "immediate family", in the case of a specific person, means:

- a. that person's spouse, parent, brother or sister, child, or other person to whom he or she stands in loco parentis, or
- b. any other person living in his or her household and related to him or her by blood or marriage; and

5. The term "intimate partner", in the case of a specific person, means:

- a. a former spouse of the specific person, a person who shares a child in common with the specific person, or a person who cohabits with or has cohabited as a spouse with the specific person, or
- b. a person who has been in a social relationship of a romantic or intimate nature with the specific person, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Added by Laws 2019, c. 408, § 179, eff. Oct. 1, 2019.

§44-931. Perjury.

ARTICLE 131. Perjury.

Any person subject to the Oklahoma Uniform Code of Military Justice who in a judicial proceeding or court of inquiry or in a course of justice willfully and corruptly:

1. Upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or

2. In any declaration, certificate, verification, or statement under penalty of perjury subscribes any false statement material to the issue or matter of inquiry, is guilty of perjury and shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 180, eff. Oct. 1, 2019.

§44-931A. Subornation of perjury.

ARTICLE 131A. Subornation of perjury.

A. In general. Any person subject to the Oklahoma Uniform Code of Military Justice who induces and procures another person:

1. To take an oath; and

2. To falsely testify, depose, or state upon such oath, shall, if the conditions specified in subsection B are satisfied, be punished as a court-martial may direct.

B. Conditions. The conditions referred to in subsection A are the following:

1. The oath is administered with respect to a matter for which such oath is required or authorized by law;

2. The oath is administered by a person having authority to do so;

3. Upon the oath, the other person willfully makes or subscribes a statement;

4. The statement is material;

5. The statement is false; and

6. When the statement is made or subscribed, the person subject to the Code and the other person do not believe that the statement is true.

Added by Laws 2019, c. 408, § 181, eff. Oct. 1, 2019.

§44-931B. Obstructing justice.

ARTICLE 131B. Obstructing justice.

Any person subject to the Oklahoma Uniform Code of Military Justice who engages in conduct in the case of a certain person against whom the accused had reason to believe there were or would be criminal or disciplinary proceedings pending, with intent to influence, impede, or otherwise obstruct the due administration of justice, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 182, eff. Oct. 1, 2019.

§44-931C. Misprision of serious offense.

ARTICLE 131C. Misprision of serious offense.

Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who knows that another person has committed a serious offense; and
  2. Wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible,
- shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 183, eff. Oct. 1, 2019.

§44-931D. Wrongful refusal to testify.

ARTICLE 131D. Wrongful refusal to testify.

Any person subject to the Oklahoma Uniform Code of Military Justice who, in the presence of a court-martial, a board of officers, a court of inquiry, a preliminary hearing, or an officer taking a deposition, of or for the State of Oklahoma, wrongfully refuses to qualify as a witness or to answer a question after having been directed to do so by the person presiding shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 184, eff. Oct. 1, 2019.

§44-931E. Reserved.

RESERVED.

Added by Laws 2019, c. 408, § 185, eff. Oct. 1, 2019.

§44-931F. Noncompliance with procedural rules.

ARTICLE 131F. Noncompliance with procedural rules.

Any person subject to the Oklahoma Uniform Code of Military Justice who:

1. Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under the Code; or

2. Knowingly and intentionally fails to enforce or comply with any provision of the Code regulating the proceedings before, during, or after trial of an accused, shall be punished as a court-martial may direct.  
Added by Laws 2019, c. 408, § 186, eff. Oct. 1, 2019.

§44-931G. Wrongful interference with adverse administrative proceeding.

ARTICLE 131G. Wrongful interference with adverse administrative proceeding.

Any person subject to the Oklahoma Uniform Code of Military Justice who, having reason to believe that an adverse administrative proceeding is pending against any person subject to the Code, wrongfully acts with the intent:

1. To influence, impede, or obstruct the conduct of the proceeding; or
2. Otherwise to obstruct the due administration of justice, shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 187, eff. Oct. 1, 2019.

§44-932. Retaliation.

ARTICLE 132. Retaliation.

A. In general. Any person subject to the Oklahoma Uniform Code of Military Justice who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication:

1. Wrongfully takes or threatens to take an adverse personnel action against any person; or
2. Wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person, shall be punished as a court-martial may direct.

B. Definitions. In this section:

1. The term "protected communication" means the following:

- a. a lawful communication to a Member of Congress or a Member of the Oklahoma Legislature or an Inspector General, and
- b. a communication to a covered individual or organization in which a member of the state military forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:
  - (1) a violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination, or

(2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

2. The term "Inspector General" has the meaning given that term in Section 1034(j) of Title 10 of the United States Code;

3. The term "covered individual or organization" means any recipient of a communication specified in clauses (i) through (v) of Section 1034(b)(1)(B) of Title 10 of the United States Code; and

4. The term "unlawful discrimination" means discrimination on the basis of race, color, religion, sex, or national origin.

Added by Laws 2019, c. 408, § 188, eff. Oct. 1, 2019.

§44-933. Conduct unbecoming an officer and a gentleman.

ARTICLE 133. Conduct unbecoming an officer and a gentleman.

Any commissioned officer, cadet, or officer candidate who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

Added by Laws 2019, c. 408, § 189, eff. Oct. 1, 2019.

§44-934. General article.

ARTICLE 134. General article.

Though not specifically mentioned in the Oklahoma Uniform Code of Military Justice, all disorders and neglects to the prejudice of good order and discipline in the state military forces, all conduct of a nature to bring discredit upon the state military forces, and crimes and offenses not capital, of which persons subject to the Code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, where a crime constitutes an offense that violates both the Code and the criminal laws of the State of Oklahoma, jurisdiction over the offense shall be determined in accordance with Section 802 of this title (Article 2).

Added by Laws 2019, c. 408, § 190, eff. Oct. 1, 2019.

§44-935. Courts of inquiry.

ARTICLE 135. Courts of inquiry.

A. Courts of inquiry to investigate any matter of concern to the state military forces may be convened by any person authorized to convene a general court-martial or by any other person designated by the Adjutant General for that purpose, whether or not the persons involved have requested such an inquiry.

B. A court of inquiry consists of three or more commissioned officers. For each court of inquiry, the convening authority shall also appoint counsel for the court.

C. 1. Any person subject to the Oklahoma Uniform Code of Military Justice whose conduct is subject to inquiry shall be designated as a party.

2. Any person subject to the Code and employed by the Oklahoma Military Department, and who has a direct interest in the subject of inquiry, has the right to be designated as a party upon request to the court.

3. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

D. Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

E. The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

F. Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

G. Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

H. Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

Added by Laws 2019, c. 408, § 191, eff. Oct. 1, 2019.

§44-936. Authority to administer oaths.

ARTICLE 136. Authority to administer oaths.

A. The following persons may administer oaths for the purposes of military administration, including military justice:

1. All judge advocates;

2. All summary courts-martial;

3. All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;

4. All commanding officers of the state military forces;

5. All staff judge advocates, and acting or assistant staff judge advocates; or

6. All other persons designated by regulations of the Armed Forces of the United States or by statute.

B. The following persons on active duty or performing inactive-duty training may administer oaths necessary in the performance of their duties:

1. The military judge, trial counsel, and assistant trial counsel for all general and special courts-martial;

2. The president and the counsel for the court of any court of inquiry;

3. All officers designated to take a deposition;

4. All persons detailed to conduct an investigation;

5. All recruiting officers;

6. All other persons designated by regulations of the Armed Forces of the United States or by statute.

C. Each judge and the senior judge of the Military Court of Appeals shall have the powers relating to oaths, affirmations, and acknowledgments provided to justices and judges of the State of Oklahoma.

D. The signature without seal of any such person, together with the title of his or her office, is prima facie evidence of the authority of that person.

Added by Laws 2019, c. 408, § 192, eff. Oct. 1, 2019.

§44-937. Articles to be explained.

ARTICLE 137. Articles to be explained.

A. 1. The sections of the Oklahoma Uniform Code of Military Justice specified in paragraph 3 of this subsection shall be carefully explained, either orally or in writing, to each officer and enlisted member at the time of, or within one hundred twenty (120) days after, the officer's or enlisted member's initial entrance into a duty status with the state military forces.

2. Such articles shall be explained again:

a. after the enlisted member has completed basic or recruit training, and

b. at the time when the enlisted member reenlists.

3. This subsection applies with respect to Sections 802, 803, 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this title (Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-139).

B. The text of the Code and of the regulations prescribed pursuant to the Code shall be made available to an officer or enlisted member of the state military forces, upon request, for the officer's or enlisted member's personal examination. Electronic or online availability of the Code and of the regulations prescribed pursuant to the Code shall constitute availability for purposes of personal examination by officers or enlisted members of the state military forces.

Added by Laws 2019, c. 408, § 193, eff. Oct. 1, 2019. Amended by Laws 2021, c. 12, § 25, emerg. eff. April 13, 2021.

§44-938. Complaints of wrongs.

ARTICLE 138. Complaints of wrongs.

Any member of the state military forces who believes himself or herself wronged by a commanding officer, and who, upon due



application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising special court-martial jurisdiction over the officer against whom it is made. The officer exercising special court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of; and shall, as soon as possible, send to the Adjutant General a true statement of that complaint, with the proceedings had thereon.

Added by Laws 2019, c. 408, § 194, eff. Oct. 1, 2019.

§44-939. Redress of injuries to property.

ARTICLE 139. Redress of injuries to property.

A. Whenever a complaint is made to any commanding officer that willful damage has been done to the property of any person or that the person's property has been wrongfully taken by members of the state military forces, the commanding officer, under such regulations promulgated by the Adjutant General, shall convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by that officer shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for payment to the injured parties of the damages so assessed and approved.

B. If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

Added by Laws 2019, c. 408, § 195, eff. Oct. 1, 2019.

§44-940. Delegation by the Governor.

ARTICLE 140. Delegation by the Governor.

The Governor may delegate any authority vested in the Governor under the Oklahoma Uniform Code of Military Justice, and provide for the subdelegation of any such authority, except the powers given the Governor by Section 822 and subsection K of Section 815 of this title (Article 22 and Article 15, subsection K). Any delegations of authority carried out pursuant to this section shall be published as

an executive order which the Adjutant General shall also cause to be published as a military publication.

Added by Laws 2019, c. 408, § 196, eff. Oct. 1, 2019.

§44-940A. Precedence of regulations.

ARTICLE 140A. Precedence of regulations.

When both the Governor and Adjutant General are authorized under the Oklahoma Uniform Code of Military Justice to promulgate regulations governing the same matter, if such regulations conflict, the regulations promulgated by the Governor shall take precedence.

Added by Laws 2019, c. 408, § 197, eff. Oct. 1, 2019.

§44-940B. Publication by Secretary of State.

ARTICLE 140B. Publication by Secretary of State.

Military publications promulgated or published by or under the authority of the Adjutant General shall be provided to the Secretary of State to be published and archived as official records of the State of Oklahoma. In the event state or federal law restricts access to a military publication, the requirements of this section shall not be applicable. Military publications promulgated or published by a previous Adjutant General shall remain in effect until otherwise modified or rescinded in writing by the next Adjutant General.

Added by Laws 2019, c. 408, § 198, eff. Oct. 1, 2019.

§44-941. Payment of fees, costs and expenses - Military Justice Fund.

A. The fees and authorized travel expenses of all witnesses, experts, victims, court reporters, and interpreters, fees for the service of process, the costs of collection, apprehension, detention and confinement, and all other necessary expenses of prosecution and the administration of military justice, not otherwise payable by any other source, shall be paid out of the Military Justice Fund.

B. For the foregoing purposes, there is created in the State Treasury a fund to be designated the Military Justice Fund that shall be administered by the Adjutant General, from which expenses of military justice shall be paid in the amounts and manner as prescribed by law. The Legislature may appropriate and have deposited in the Military Justice Fund such funds as it deems necessary to carry out the purposes of this code.

Added by Laws 2007, c. 86, § 155, eff. Nov. 1, 2007. Renumbered from § 3398 of this title by Laws 2019, c. 408, § 216, eff. Oct. 1, 2019.

§44-942. Payment and collection of fines.

ARTICLE 142. Payment and collection of fines.

A. Fines imposed by a military court or through imposition of nonjudicial punishment shall be paid to the State of Oklahoma and delivered to the convening authority or his or her designee or in the case of nonjudicial punishment, the imposing officer. Fines may be collected in the following manner:

1. By cash or money order;
2. By retention of any pay or allowances due or to become due to the person fined from any state or the United States; or
3. By garnishment or levy, together with costs, on the wages, goods, and chattels of a person delinquent in paying a fine, as provided by law.

B. Any sum so received or retained shall be deposited in the Military Justice Fund, except that the court may direct that the sum so received or retained be provided to a victim or victims as restitution.

Added by Laws 2019, c. 408, § 199, eff. Oct. 1, 2019.

§44-943. Uniformity of interpretation.

ARTICLE 143. Uniformity of interpretation.

The Oklahoma Uniform Code of Military Justice shall be so construed as to effectuate its general purpose to make it uniform, so far as practical, with the Uniform Code of Military Justice, Chapter 47 of Title 10 of the United States Code.

Added by Laws 2019, c. 408, § 200, eff. Oct. 1, 2019.

§44-944. Immunity for duties performed under Code.

ARTICLE 144. Immunity for duties performed under Code.

Any person acting under the provisions of the Oklahoma Uniform Code of Military Justice, whether as a member of the military or as a civilian, shall be immune from personal liability for any of the acts or omissions which he or she did or failed to do as part of his or her duties under the Code.

Added by Laws 2019, c. 408, § 201, eff. Oct. 1, 2019.

§44-945. Jurisdiction not extended to certain crimes.

ARTICLE 145. Jurisdiction not extended to certain crimes.

Though not specifically mentioned in the Oklahoma Uniform Code of Military Justice, all disorders and neglects to the prejudice of good order and discipline in the state military forces, of which persons subject to the Code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial according to the nature and degree of the offense and shall be punished at the discretion of that court. However, cognizance may not be taken of, and jurisdiction shall not be extended to, the crimes of murder, manslaughter, rape, rape and sexual assault of a child, child endangerment, death or injury of an unborn child, kidnapping, domestic violence, arson, robbery, maiming, arson, extortion,

burglary, parole violations or housebreaking, jurisdiction of which is reserved to civil courts.

Added by Laws 2019, c. 408, § 202, eff. Oct. 1, 2019.

§44-946. Continuances for military service.

ARTICLE 146. Continuances for military service.

A. It shall be the duty of any justice, judge, judicial referee, corporation commissioner, administrative law judge or hearing officer presiding over any civil, criminal or administrative proceeding in this state to continue any trial, hearing or other action pending before the court or an administrative forum when a party to the pending action or the primary counsel representing a party to the pending action is not present at the time the case or matter in question is reached on the docket or schedule by reason of participation in:

1. Active federal service, as defined in Title 10 of the United States Code;

2. Title 32 active duty, as defined in Section 801 of this title (Article 1);

3. Service in other reserve components of the Armed Forces of the United States, as defined in Title 10 of the United States Code; or

4. State active duty, as defined in Section 801 of this title (Article 1).

B. The trial, hearing or other pending action may proceed if the party, without the presence of his or her primary counsel, or the primary counsel, without the presence of the party, declares that the case or matter in question is nevertheless ready to proceed at the scheduled time.

C. If the primary counsel of a party to the pending action is not present due to military service pursuant to subsection A of this section, the party so affected shall declare under oath that he or she cannot properly proceed with the trial, hearing or other action pending before the court or administrative forum without the presence of the primary counsel.

D. If a party to the pending action is not present due to military service pursuant to subsection A of this section, his or her legal counsel shall appear and shall state in his or her place that the case or matter in question cannot properly proceed without the presence of the absent party.

E. Continuances granted pursuant to this section shall remain in effect no longer than ninety (90) calendar days. The justice, judge, judicial referee, corporation commissioner, administrative law judge or hearing officer may, at his or her discretion, continue the proceeding in question in order to carry out the administration of justice. The protections provided to service members in this

section shall be available in addition to any protections afforded to service members under Section 208.1 of this title.

Added by Laws 2019, c. 408, § 203, eff. Oct. 1, 2019.

§44-2101. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2102. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2103. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2104. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2105. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2106. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2201. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2202. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2203. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2204. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2205. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2206. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2207. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2208. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2301. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2401. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2402. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2403. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2404. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2405. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2406. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2407. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2408. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2501. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2502. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2503. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2504. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2505. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2506. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2507. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2508. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2601. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2602. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2603. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2604. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2605. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2606. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2701. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2702. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2703. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2704. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2705. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2706. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2707. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2708. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2709. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2710. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2711. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2712. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2713. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2714. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2715. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2716. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2717. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2718. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2719. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2801. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2802. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2803. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2804. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2805. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2806. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2901. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2902. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2903. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2904. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2905. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2906. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-2907. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2908. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2909. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2910. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2911. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2912. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2913. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-2914. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3001. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3002. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3003. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3004. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3005. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3006. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3007. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3008. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3009. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3010. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3011. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3012. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3013. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3014. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3015. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

§44-3016. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.



§44-3017. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3018. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3019. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3020. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3021. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3022. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3023. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3024. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3025. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3026. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3027. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3028. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3029. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3030. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3031. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3032. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3033. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3034. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3035. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3036. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3037. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3038. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3039. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.  
§44-3040. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.

- §44-3041. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3042. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3043. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3044. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3045. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3101. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3102. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3103. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3104. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3105. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3106. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3107. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3108. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3109. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3110. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3111. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3112. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3113. Repealed by Laws 2007, c. 86, § 162, eff. Nov. 1, 2007.
- §44-3114. Repealed by Laws 1980, c. 68, § 1, emerg. eff. April 10, 1980.
- §44-3200. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.
- §44-3201. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.
- §44-3202. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.
- §44-3203. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3204. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3205. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3206. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3207. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3211. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3221. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3231. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3242. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3251. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3252. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3253. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3261. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3280. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3291. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3298. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3301. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3302. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3303. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3320. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3321. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3331. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3332. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3333. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
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§44-3351. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3352. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3353. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3355. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3356. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3357. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3358. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3359. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3360. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3361. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3362. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3363. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3364. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

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§44-3367. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3368. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3369. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3370. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3371. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3372. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3373. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3374. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3375. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3376. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3377. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3378. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3379. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3380. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3381. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3382. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3383. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3384. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3385. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3386. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3387. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.  
§44-3388. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.



§44-3389. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3390. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3391. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3392. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3393. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3394. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3395. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3396. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3397. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-3398. Renumbered as § 941 of this title by Laws 2019, c. 408, § 216, eff. Oct. 1, 2019.

§44-3399. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-4000. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-4001. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-4002. Repealed by Laws 2019, c. 408, § 217, eff. Oct. 1, 2019.

§44-4300. Short title - Oklahoma Uniformed Services Employment and Reemployment Rights Act.

Sections 2 through 24 of this act shall be known and may be cited as the "Oklahoma Uniformed Services Employment and Reemployment Rights Act". The Oklahoma Uniformed Services Employment and Reemployment Rights Act shall be applicable to members of the state military forces while serving on state active duty or Title 32 active duty. "State military forces", "state active duty" and "Title 32 active duty", for the purposes of the Oklahoma Uniformed Services Employment and Reemployment Rights Act, shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes.

Added by Laws 2021, c. 122, § 2, emerg. eff. April 21, 2021.

§44-4301. Purposes.

The purposes of the Oklahoma Uniformed Services Employment and Reemployment Rights Act are:

1. To encourage noncareer service in the state military forces by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

2. To minimize the disruption to the lives of persons performing service in the state military forces as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of service; and

3. To prohibit discrimination against persons because of their service in the state military forces.

Added by Laws 2021, c. 122, § 3, emerg. eff. April 21, 2021.

#### §44-4302. Construction with other laws.

A. Nothing in the Oklahoma Uniformed Services Employment and Reemployment Rights Act shall be construed to supersede, nullify or diminish any federal law or state law, including any county or municipal law or ordinance, contract, agreement, policy, plan, practice or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

B. The Oklahoma Uniformed Services Employment and Reemployment Rights Act supersedes any other state law, including any county or municipal law or ordinance, contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by the Oklahoma Uniformed Services Employment and Reemployment Rights Act, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

Added by Laws 2021, c. 122, § 4, emerg. eff. April 21, 2021.

#### §44-4303. Definitions.

As used in the Oklahoma Uniformed Services Employment and Reemployment Rights Act:

1. "Adjutant General" shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes;

2. "Benefit", "benefit of employment", or "rights and benefits" means the terms, conditions, or privileges of employment, including any advantage, profit, privilege, gain, status, account, or interest, including wages or salary for work performed, that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage, awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment;

3. "Commissioner of Labor" means the Oklahoma Commissioner of Labor whose office is established in Section 1 of Article VI of the Oklahoma Constitution and whose powers and duties are established pursuant to Section 1 of Title 40 of the Oklahoma Statutes or any person designated or retained by the Commissioner of Labor to carry out a responsibility of the Commissioner of Labor under the Oklahoma Uniformed Services Employment and Reemployment Rights Act;

4. "District attorney" means the executive officer established pursuant to Section 215.1 of Title 19 of the Oklahoma Statutes. The powers and duties exercised by a district attorney pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act, upon designation by the district attorney, may also be performed by an assistant district attorney or by a special district attorney appointed pursuant to subsection C of Section 215.37M of Title 19 of the Oklahoma Statutes;

5. "Employee" means any person employed by an employer. Employee includes any person who is a citizen, national, or permanent resident alien of the United States;

6. a. Except as provided in subparagraphs b and c of this paragraph, "employer" means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including:

- (1) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities,
- (2) the State of Oklahoma,
- (3) any political subdivision within the State of Oklahoma,
- (4) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph, and
- (5) a person, institution, organization, or other entity that has denied initial employment in violation of Section 7 of this act.

b. Where a soldier or airman of the Oklahoma National Guard performs his or her duty as an Active Guard and Reserve program participant or where a National Guard technician is employed under 32 U.S.C., Section 709, "employer" does not mean the Adjutant General.

c. Where a National Guard technician is employed under 32 U.S.C., Section 709, "employer" means the Adjutant General.

d. (1) Whether the term "successor in interest" applies with respect to an entity described in division (4) of subparagraph a of this paragraph shall be

determined on a case-by-case basis using a multifactor test that considers the following factors:

- (a) substantial continuity of business operations,
  - (b) use of the same or similar facilities,
  - (c) continuity of workforce,
  - (d) similarity of jobs and working conditions,
  - (e) similarity of supervisory personnel,
  - (f) similarity of machinery, equipment, and production methods, and
  - (g) similarity of products or services.
- (2) The entity's lack of notice or awareness of a potential or pending claim under the Oklahoma Uniformed Services Employment and Reemployment Rights Act at the time of a merger, acquisition, or other form of succession shall not be considered when applying the multifactor test under division (1) of this subparagraph;

7. "Health plan" means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid;

8. "Notice" means any written or verbal notification of an obligation or intention to perform service in the state military forces provided to an employer by the employee who will perform such service or by the state military force component in which the service is to be performed;

9. "Political subdivision" means the seventy-seven counties of the state, incorporated municipalities, including both cities and towns, and all public entities or instrumentalities, including, but not limited to, municipal corporations, municipal sewer and water authorities, public trusts and public authorities in the state which are not a state agency, an executive officer, the legislative branch or the judicial branch of the state. Political subdivisions include, but are not limited to, special districts, authorities and instrumentalities such as school districts, fire protection districts, conservation districts, water and sewer districts, emergency medical service districts and airport and housing authorities;

10. "Qualified", with respect to an employment position, means having the ability to perform the essential tasks of the position;

11. "Reasonable efforts", in actions required of an employer under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, means actions, including training, provided by an employer which do not place an undue hardship on the employer;

12. "Secretary concerned" means either the Secretary of the Army or the Secretary of the Air Force as the context requires;

13. "Seniority" means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment;

14. "Service in the state military forces" means the performance of duty on a voluntary or involuntary basis in the state military forces under competent authority when ordered to "state active duty" or "Title 32 active duty" as defined in Section 801 of Title 44 of the Oklahoma Statutes;

15. "State" means the State of Oklahoma;

16. "State agency" includes any executive branch agency within the state, whether appropriated or nonappropriated, established either by the Oklahoma Constitution or by the Oklahoma Statutes, including the Oklahoma Military Department with respect to the state employees employed by the Oklahoma Military Department;

17. "State government" means any state agency, the legislative branch of the state, and the judicial branch of the state;

18. "State military forces" shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes; and

19. "Undue hardship", in actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of:

- a. the nature and cost of the action needed,
- b. the overall financial resources of the facility or facilities involved in the provision of the action, the number of persons employed at the facility, the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility,
- c. the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; or the number, type, and location of its facilities, and
- d. the type of operation or operations of the employer, including the composition, structure, and functions of the workforce of such employer; or the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

Added by Laws 2021, c. 122, § 5, emerg. eff. April 21, 2021.

§44-4304. Termination of entitlement to benefits.

A person's entitlement to the benefits of the Oklahoma Uniformed Services Employment and Reemployment Rights Act due to the person's service in the state military forces terminates upon any of the following events:

1. A separation of the person from the state military forces with a dishonorable or bad conduct discharge;

2. A separation of the person from the state military forces under other than honorable conditions, as characterized pursuant to state law or regulations prescribed by the National Guard Bureau or applicable regulations of the United States Army or the United States Air Force;

3. A dismissal of the person permitted under the Oklahoma Uniform Code of Military Justice or the regulations promulgated pursuant to the provisions of the Oklahoma Uniform Code of Military Justice or the applicable regulations of the National Guard Bureau or the United States Army or the United States Air Force; or

4. A dropping of the person from the rolls pursuant to the Oklahoma Uniform Code of Military Justice or the regulations promulgated pursuant to the provisions of the Oklahoma Uniform Code of Military Justice or the applicable regulations of the National Guard Bureau or the United States Army or the United States Air Force.

Added by Laws 2021, c. 122, § 6, emerg. eff. April 21, 2021.

§44-4311. Employment rights - Discrimination by employer.

A. A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in the state military forces shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

B. An employer shall not discriminate in employment against or take any adverse employment action against any person because the person:

1. Has taken an action to enforce a protection afforded pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act;

2. Has testified or otherwise made a statement in or in connection with any proceeding under the Oklahoma Uniformed Services Employment and Reemployment Rights Act;

3. Has assisted or otherwise participated in an investigation under the Oklahoma Uniformed Services Employment and Reemployment Rights Act; or

4. Has exercised a right provided for in the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the state military forces.

C. An employer shall be considered to have engaged in actions prohibited:

1. Under subsection A of this section if the person's membership, application for membership, service, application for service, or obligation for service in the state military forces is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation for service; or

2. Under subsection B of this section if the person's:

- a. action to enforce a protection afforded any person under the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- b. testimony or making of a statement in or in connection with any proceeding under the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- c. assistance or other participation in an investigation under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, or
- d. exercise of a right provided for in the Oklahoma Uniformed Services Employment and Reemployment Rights Act,

is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such person's enforcement action, testimony, statement, assistance, participation, or exercise of a right.

D. The prohibitions in subsections A and B of this section shall apply to any position of employment, including a position that is described in subparagraph c of paragraph 1 of subsection D of Section 8 of this act.

Added by Laws 2021, c. 122, § 7, emerg. eff. April 21, 2021.

§44-4312. Reemployment rights and benefits.

A. Subject to subsections B, C and D of this section and subject to Section 6 of this act, any person whose absence from a position of employment is necessitated by reason of service in the state military forces shall be entitled to the reemployment rights and benefits and other employment benefits of the Oklahoma Uniformed Services Employment and Reemployment Rights Act if:

1. The person, or an appropriate officer of the state military forces in which such service is performed, has given advance written or verbal notice of service to the person's employer;

2. The cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the Uniformed Services of the United States does not exceed five (5) years; and

3. Except as provided in subsection F of this section, the person reports to, or submits an application for reemployment to,

his or her employer in accordance with the provisions of subsection E of this section.

B. No notice is required under paragraph 1 of subsection A of this section if the giving of notice is precluded by military necessity or, under all of the relevant circumstances, the giving of notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to the applicable regulations prescribed by the Secretary of Defense pursuant to 38 U.S.C., Section 4312 or pursuant to regulations prescribed by the Adjutant General and shall not be subject to judicial review.

C. Subsection A of this section shall apply to a person who is absent from a position of employment by reason of service in the state military forces if his or her cumulative period of service in the state military forces, with respect to the employer relationship for which he or she seeks reemployment, does not exceed five (5) years, except that any such period of service shall not include any service:

1. That is required, beyond five (5) years, to complete an initial period of obligated service;

2. During which the person was unable to obtain orders releasing him or her from a period of service in the state military forces before the expiration of the five-year period and the inability was through no fault of the person;

3. Performed as required pursuant to 32 U.S.C., Section 502 or 503, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining;

4. Performed by a member of the state military forces who is:

a. ordered to state active duty in support of a mission or requirement of the state military forces,

b. ordered to or retained on Title 32 active duty under 32 U.S.C., Section 502(f), or

c. ordered to or retained on state active duty or Title 32 active duty, other than for training, under any provision of state or federal law to execute the laws of the state, or suppress insurrections or repel invasions or for any state emergency declared by the Governor or the Oklahoma Legislature, as determined by the Adjutant General for state active duty or by the Secretary concerned for Title 32 active duty; or

5. Performed as active duty, as defined in 10 U.S.C., Section 101(d)(1).

D. 1. An employer is not required to reemploy a person under the Oklahoma Uniformed Services Employment and Reemployment Rights Act if:



- a. the employer's circumstances have so changed as to make reemployment impossible or unreasonable,
  - b. for a person entitled to reemployment under paragraph 3 or 4 of subsection A of Section 9 of this act or subparagraph b of paragraph 2 of subsection B of Section 9 of this act, the employment would impose an undue hardship on the employer, or
  - c. the employment from which the person leaves to serve in the state military forces is for a brief, nonrecurrent period and there is no reasonable expectation that the employment will continue indefinitely or for a significant period.
2. In any proceeding involving an issue of whether:
- a. any reemployment referred to in paragraph 1 of this subsection is impossible or unreasonable because of a change in an employer's circumstances,
  - b. any accommodation, training, or effort referred to in paragraph 3 or 4 of subsection A of Section 9 of this act or subparagraph b of paragraph 2 of subsection B of Section 9 of this act would impose an undue hardship on the employer, or
  - c. the employment referred to in subparagraph c of paragraph 1 of this subsection is for a brief, nonrecurrent period and there is no reasonable expectation that the employment will continue indefinitely or for a significant period,

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

E. 1. Subject to paragraph 2 of this subsection, a person referred to in subsection A of this section shall, upon the completion of a period of service in the state military forces, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

- a. for a person whose period of service in the state military forces was less than thirty-one (31) days, by reporting to the employer:
  - (1) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight (8) hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence, or

- (2) as soon as possible after the expiration of the eight-hour period referred to in division (1) of this subparagraph, if reporting within the period is impossible or unreasonable through no fault of the person,
  - b. for a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the state military forces, by reporting in the manner and time referred to in subparagraph a of paragraph 1 of this subsection,
  - c. for a person whose period of service in the state military forces was for more than thirty (30) days but less than one hundred eighty-one (181) days, by submitting an application for reemployment with the employer not later than fourteen (14) days after the completion of the period of service or if submitting the application within the period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of the application becomes possible, or
  - d. for a person whose period of service in the state military forces was for more than one hundred eighty (180) days, by submitting an application for reemployment with the employer not later than ninety (90) days after the completion of the period of service.
2.
  - a. A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the state military forces shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer, for a person described in subparagraph a or b of paragraph 1 of this subsection or submit an application for reemployment with such employer, for a person described in subparagraph c or d of paragraph 1 of this subsection. Except as provided in subparagraph b of this paragraph, the period of recovery shall not exceed two (2) years.
  - b. The two-year period shall be extended by the minimum time required to accommodate the circumstances beyond the person's control which make reporting within the period specified in subparagraph a of this paragraph impossible or unreasonable.
3. A person who fails to report or apply for employment or reemployment within the appropriate period specified in this

subsection shall not automatically forfeit his or her entitlement to the rights and benefits referred to in subsection A of this section but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

F. 1. A person who submits an application for reemployment in accordance with subparagraph c or d of paragraph 1 of subsection E of this section or paragraph 2 of subsection E of this section shall provide to his or her employer, upon request of the employer, documentation to establish that:

- a. his or her application is timely,
- b. he or she has not exceeded the service limitations provided in paragraph 2 of subsection A of this section, except as permitted under subsection C of this section, and
- c. his or her entitlement to the benefits under this act has not been terminated pursuant to Section 6 of this act.

2. Documentation of any matter referred to in paragraph 1 of this subsection that satisfies regulations prescribed by the Commissioner of Labor shall satisfy the documentation requirements in such paragraph.

3. a. Except as provided in subparagraph b of this paragraph, the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph 2 of this subsection shall not be a basis for denying reemployment in accordance with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after reemployment, documentation becomes available that establishes the person does not meet one or more of the requirements referred to in subparagraphs a, b and c of paragraph 1 of this subsection, the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.
- b. An employer who reemploys a person absent from a position of employment for more than ninety (90) days may require that the person provide the employer with the documentation referred to in subparagraph a of this paragraph before beginning to treat the person as not having incurred a break in service for pension purposes.

4. An employer shall not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

G. The right of a person to reemployment pursuant to this section shall not entitle the person to retention, preference, or displacement rights over any person with a superior claim under the provisions of Title 5 of the United States Code relating to veterans and other preference eligibles.

H. In any determination of a person's entitlement to protection under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, the timing, frequency, and duration of his or her training or service, or the nature of the training or service, including voluntary service, in the state military forces shall not be a basis for denying protection of the Oklahoma Uniformed Services Employment and Reemployment Rights Act if the service does not exceed the limitations set forth in subsection C of this section and the notice requirements established in paragraph 1 of subsection A of this section and the notification requirements established in subsection E of this section are met.

Added by Laws 2021, c. 122, § 8, emerg. eff. April 21, 2021.

§44-4313. Employees of state government or political subdivisions - Reemployment.

A. Subject to subsection B of this section for any employee, and Sections 10 and 11 of this act for an employee of a state government or a political subdivision thereof, a person who is entitled to reemployment under Section 8 of this act, upon completion of a period of service in the state military forces, shall be promptly reemployed in the following order of priority:

1. Except as provided in paragraphs 3 and 4 of this subsection, for a person whose period of service in the state military forces was for less than ninety-one (91) days:

- a. in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by the service, the duties of which the person is qualified to perform, or
- b. in the position of employment in which the person was employed on the date of the commencement of the service in the state military forces, only if he or she is not qualified to perform the duties of the position referred to in subparagraph a of this paragraph after reasonable efforts by the employer to qualify the person;

2. Except as provided in paragraphs 3 and 4 of this subsection, for a person whose period of service in the state military forces was for more than ninety (90) days:

- a. in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by the service, or a position of like seniority, status and pay, the duties of which he or she is qualified to perform, or
- b. in the position of employment in which the person was employed on the date of the commencement of the service in the state military forces, or a position of like seniority, status and pay, the duties of which he or she is qualified to perform, only if he or she is not qualified to perform the duties of a position referred to in subparagraph a of this paragraph after reasonable efforts by the employer to qualify the person;

3. For a person who has a disability incurred in, or aggravated during, the service, and who, after reasonable efforts by the employer to accommodate the disability, is not qualified due to the disability to be employed in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by the service:

- a. in any other position which is equivalent in seniority, status, and pay, the duties of which he or she is qualified to perform or would become qualified to perform with reasonable efforts by the employer, or
- b. if not employed under subparagraph a of this paragraph, in a position which is the nearest approximation to a position referred to in subparagraph a of this paragraph in terms of seniority, status, and pay consistent with circumstances of his or her case; or

4. For a person who is not qualified pursuant to subparagraph a of paragraph 2 of this subsection to be employed in the position of employment in which he or she:

- a. would have been employed if the continuous employment of the person with the employer had not been interrupted by the service, or
- b. was employed on the date of the commencement of the service in the state military forces for any reason, other than disability incurred in, or aggravated during, service in the state military forces, and cannot become qualified with reasonable efforts by the employer, in any other position which is the nearest approximation to a position referred to first in subparagraph a of this paragraph and then in subparagraph b of this paragraph which such person is qualified to perform, with full seniority.

B. 1. If two or more persons are entitled to reemployment under Section 8 of this act in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

2. Any person entitled to reemployment under Section 8 of this act who is not reemployed in a position of employment by reason of paragraph 1 of this subsection shall be entitled to be reemployed as follows:

- a. except as provided in subparagraph b of this paragraph, in any other position of employment referred to in paragraph 1 or 2 of subsection A of this section, as the case may be, in the order of priority set out in subsection A of this section, that provides a similar status and pay to a position of employment referred to in paragraph 1 of this subsection, consistent with the circumstances of his or her case, with full seniority, or
- b. for a person who has a disability incurred in, or aggravated during, a period of service in the state military forces that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in paragraph 3 of subsection A of this section, in the order of priority set out in subsection A of this section, that provides a similar status and pay to a position referred to in paragraph 1 of this subsection, consistent with circumstances of his or her case, with full seniority.

Added by Laws 2021, c. 122, § 9, emerg. eff. April 21, 2021.

§44-4314. Reemployment - Director of Human Capital Management of the Office of Management and Enterprise Services duties.

A. Except as provided in subsections B, C and D of this section, if a person is entitled to reemployment by the state government under Section 8 of this act, he or she shall be reemployed in a position of employment as described in Section 9 of this act.

B. 1. If the Director of Human Capital Management of the Office of Management and Enterprise Services makes a determination described in paragraph 2 of this subsection with respect to a person who was employed by a state agency at the time he or she entered the state military forces from which he or she seeks reemployment under this section, the Director shall:

- a. identify a position of like seniority, status, and pay at another state agency that satisfies the

requirements of Section 9 of this act and for which the person is qualified, and

b. ensure that the person is offered such a position.

2. The Director shall carry out the duties in subparagraphs a and b of paragraph 1 of this subsection if the Director determines that:

a. the state agency that employed the person no longer exists and the functions of the agency have not been transferred to another state agency, or

b. it is impossible or unreasonable for the agency to reemploy the person.

C. If the employer of a person described in subsection A of this section was, at the time the person entered the state military forces from which the person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the state and the employer determines that it is impossible or unreasonable for the employer to reemploy the person, the person shall, upon application to the Director of Human Capital Management of the Office of Management and Enterprise Services, be ensured an offer of employment in an alternative position in a state agency on the basis described in subsection B of this section.

D. If the Adjutant General determines it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under 32 U.S.C., Section 709, the person shall, upon application to the Director of Human Capital Management of the Office of Management and Enterprise Services, be ensured an offer of employment in an alternative position in a state agency on the basis described in subsection B of this section.

Added by Laws 2021, c. 122, § 10, emerg. eff. April 21, 2021.

§44-4315. State agency or political subdivision procedures for ensuring rights apply to employees.

A. The administrator of each state agency or political subdivision shall prescribe procedures for ensuring that the rights under the Oklahoma Uniformed Services Employment and Reemployment Rights Act apply to the employees of the state agency or political subdivision.

B. In prescribing procedures pursuant to subsection A of this section, the administrator shall ensure, to the maximum extent practicable, that the procedures of the state agency or political subdivision for reemploying persons who serve in the state military forces provide for the reemployment of such persons in the state agency or political subdivision in a manner similar to the manner of reemployment described in Section 9 of this act.

C. 1. The procedures prescribed in subsection A of this section shall designate an employee at the state agency or political subdivision who shall determine whether or not the reemployment of a

person referred to in subsection B of this section by the state agency or political subdivision is impossible or unreasonable.

2. Upon making a determination that the reemployment is impossible or unreasonable, the official designated in paragraph 1 of this subsection shall notify the person seeking reemployment and the Director of Human Capital Management of the Office of Management and Enterprise Services of such determination.

3. A determination made pursuant to this subsection shall not be subject to judicial review.

4. The administrator of each state agency or political subdivision shall submit to the Committee on Veterans and Military Affairs of the Oklahoma House of Representatives and the Committee on Veterans and Military Affairs of the Oklahoma State Senate by December 31 of each year a report on the number of persons whose reemployment with the state agency or political subdivision was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each determination. In the event such determination is not made within the preceding reporting period, no report shall be required pursuant to this paragraph.

D. 1. Except as provided in this section, nothing in this section or Section 9 of this act shall be construed to exempt any state agency or political subdivision referred to in subsection A of this section from compliance with any other substantive provision of the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

2. This section shall not be construed as prohibiting:

- a. an employee of a state agency or political subdivision from seeking information from the Commissioner of Labor regarding assistance in pursuing reemployment from the state agency or political subdivision under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, alternative employment in the state government under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, or information relating to the rights and obligations of employees and state agencies, political subdivisions or their instrumentalities under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, or
- b. such a state agency or political subdivision from voluntarily cooperating with or seeking assistance in or clarification from the Commissioner of Labor or the Director of Human Capital Management of the Office of Management and Enterprise Services for any matter arising under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.



E. The Director of Human Capital Management of the Office of Management and Enterprise Services shall ensure the offer of employment to a person in a position in a state agency on the basis described in subsection B of this section if:

1. The person was an employee of a state agency or political subdivision at the time he or she entered the state military forces from which the person seeks reemployment under this section;

2. The appropriate officer of the state agency or political subdivision determines under subsection C of this section that reemployment of the person by the state agency or political subdivision is impossible or unreasonable; and

3. The person submits an application to the Director of Human Capital Management of the Office of Management and Enterprise Services for an offer of employment pursuant to this section. Added by Laws 2021, c. 122, § 11, emerg. eff. April 21, 2021.

§44-4316. Reemployment - Retention of seniority and other rights and benefits.

A. A person who is reemployed under the Oklahoma Uniformed Services Employment and Reemployment Rights Act is entitled to the seniority and other rights and benefits determined by seniority that he or she had on the date of the commencement of service in the state military forces plus the additional seniority and rights and benefits that he or she would have attained if he or she had remained continuously employed.

B. 1. Subject to paragraphs 2 through 5 of this subsection, a person who is absent from a position of employment by reason of service in the state military forces shall be:

a. deemed to be on furlough or leave of absence while performing such service, and

b. entitled to other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of the service or established while such person performs the service.

2. a. Subject to subparagraph b of this paragraph, a person who:

(1) is absent from a position of employment by reason of service in the state military forces, and

(2) knowingly provides written notice of intent not to return to a position of employment after service in the state military forces,

is not entitled to rights and benefits under subparagraph b of paragraph 1 of this subsection.

- b. For the purposes of subparagraph a of this paragraph, the employer shall have the burden of proving that a person knowingly provided clear written notice of intent not to return to a position of employment after service in the state military forces and, in doing so, was aware of the specific rights and benefits to be lost under subparagraph a of this paragraph.

3. A person deemed to be on furlough or leave of absence under this subsection while serving in the state military forces shall not be entitled to any benefits under this subsection which he or she would not otherwise be entitled if he or she had remained continuously employed.

4. A person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to paragraph 1 of this subsection to the extent other employees on furlough or leave of absence are so required.

5. The entitlement of a person to coverage under a health plan is provided for under Section 13 of this act.

C. A person who is reemployed by an employer under the Oklahoma Uniformed Services Employment and Reemployment Rights Act shall not be discharged from such employment, except for cause:

1. Within one (1) year after the date of reemployment, if his or her period of service before the reemployment was more than one hundred eighty (180) days; or

2. Within one hundred eighty (180) days after the date of reemployment, if his or her period of service before the reemployment was more than thirty (30) days but less than one hundred eighty-one (181) days.

D. Any person whose employment is interrupted by a period of service in the state military forces shall be permitted, upon request of the person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service. No employer may require any such person to use vacation, annual, or similar leave during the period of service.

E. 1. An employer shall grant an employee who is a member of the state military forces an authorized leave of absence from a position of employment to allow that employee to perform funeral honors duty as authorized by 10 U.S.C., Section 12503 or 32 U.S.C., Section 115.

2. For purposes of paragraph 1 of subsection E of Section 8 of this act, an employee who takes an authorized leave of absence pursuant to this subsection is deemed to have notified the employer of the employee's intent to return to such position of employment. Added by Laws 2021, c. 122, § 12, emerg. eff. April 21, 2021.

§44-4317. Continuation of health coverage.

A. 1. In any case in which a person or his or her dependents have coverage under a health plan in connection with the person's position of employment, including a group health plan as defined in Section 607(1) of the federal Employee Retirement Income Security Act of 1974, and the person is absent from his or her position of employment due to service in the state military forces, the plan shall provide that he or she may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and his or her dependents under an election shall be the lesser of:

- a. a twenty-four-month period beginning on the date on which his or her absence begins, or
- b. the day after the date on which the person fails to apply for or return to a position of employment, as determined in subsection E of Section 8 of this act.

2. A person who elects to continue health plan coverage under this section may be required to pay not more than one hundred two percent (102%) of the full premium under the plan, determined in the same manner as the applicable premium under Section 4980B(f)(4) of the Internal Revenue Code of 1986, associated with the coverage for other employees of the employer, except where a person is absent due to service in the state military forces for less than thirty-one (31) days, the person shall not be required to pay more than the employee share, if any, for such coverage.

3. For a health plan that is a multiemployer plan, as defined in Section 3(37) of the federal Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated:

- a. by the plan in such manner as the plan sponsor shall provide, or
- b. if the sponsor does not provide:
  - (1) to the last employer employing the person before the period served by the person in the state military forces, or
  - (2) if such last employer is no longer functional, to the plan.

B. 1. Except as provided in paragraph 2 of this subsection, for a person whose coverage under a health plan was terminated by reason of service in the state military forces, or by reason of the person's having become eligible for medical and dental care provided to the person incidental to his or her service in the state military forces, an exclusion or waiting period shall not be imposed in connection with the reinstatement of coverage upon reemployment under the Oklahoma Uniformed Services Employment and Reemployment Rights Act if an exclusion or waiting period would not have been imposed under a health plan had coverage of the person by the plan not been terminated as a result of the service or eligibility. This

paragraph applies to the person who is reemployed and to any person who is covered by the plan by reason of the reinstatement of the coverage of the person. This paragraph shall not apply to the coverage of any illness or injury determined by the Adjutant General to have been incurred in, or aggravated during, performance of state active duty or Title 32 active duty in the state military forces.

2. If a person whose coverage under a health plan is terminated due to the person becoming eligible for medical and dental care provided to the person incidental to his or her service in the state military forces but the person subsequently does not commence a period of state active duty or Title 32 active duty under the order to state active duty or Title 32 active duty that established eligibility because the order is canceled before the duty commences, the provisions of paragraph 1 of this subsection related to any exclusion or waiting period in connection with the reinstatement of coverage under a health plan shall apply to the person's continued employment, upon the termination of eligibility for medical and dental care provided to the person due to his or her service in the state military forces that is incident to the cancellation of the order, in the same manner as if the person had become reemployed upon termination of eligibility.

Added by Laws 2021, c. 122, § 13, emerg. eff. April 21, 2021.

§44-4319. Liability of controlling Oklahoma employer of foreign entity - Applicability to foreign employer.

A. Liability of controlling Oklahoma employer of foreign entity. If an employer controls an entity that is incorporated or otherwise organized in a foreign country, any denial of employment, reemployment, or benefit by such entity shall be presumed to be by the employer.

B. Applicability to foreign employer. This section shall not apply to foreign operations of an employer that is a foreign person not controlled by an Oklahoma employer, except that any employer conducting business in Oklahoma, even a foreign entity not registered with the Oklahoma Secretary of State, or any employer with employees working in Oklahoma shall be subject to this act.

C. Determination of controlling employer. For purposes of this section, the determination of whether an employer controls an entity shall be based upon the interrelations of operations, common management, centralized control of labor relations, and common ownership or financial control of the employer and the entity.

D. Exemption. Notwithstanding any other provision of this section, an employer, or an entity controlled by an employer, shall be exempt from compliance with Sections 7 through 14 of this act with respect to an employee in a workplace in a foreign country, if compliance would cause the employer or entity controlled by an

employer, to violate the law of the foreign country in which the workplace is located.

Added by Laws 2021, c. 122, § 14, emerg. eff. April 21, 2021.

§44-4321. Assistance from Commissioner of Labor.

The Commissioner of Labor shall provide assistance to any person regarding the employment and reemployment rights and benefits which the person is entitled to under the Oklahoma Uniformed Services Employment and Reemployment Rights Act. In providing assistance, the Commissioner may request assistance from existing federal and state agencies engaged in similar or related activities and utilize the assistance of volunteers.

Added by Laws 2021, c. 122, § 15, emerg. eff. April 21, 2021.

§44-4322. Refusal to comply - Complaint process.

A. A person who claims that:

1. He or she is entitled under the Oklahoma Uniformed Services Employment and Reemployment Rights Act to employment or reemployment rights or benefits with respect to employment; and

2. a. His or her employer has failed or refused, or is about to fail or refuse, to comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act, or

b. His or her employer is a state agency and the employer or the Office of Management and Enterprise Services, Human Capital Management, has failed or refused, or is about to fail or refuse, to comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act,

may file a complaint with the Commissioner of Labor as provided in subsection B of this section, and the Commissioner shall investigate such complaint.

B. The complaint shall be in writing on a form prescribed by the Commissioner, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

C. 1. Not later than five (5) business days after the Commissioner receives a complaint submitted pursuant to this section, the Commissioner shall notify the complainant in writing of his or her rights with respect to the complaint under this section and Section 17 of this act.

2. The Commissioner shall, upon request, provide technical assistance to a potential complainant for a complaint under this subsection and, when appropriate, to the complainant's employer.

D. The Commissioner shall investigate each complaint submitted pursuant to this section. If the Commissioner determines as a result of the investigation that the action alleged in the complaint

occurred, the Commissioner shall attempt to resolve the complaint by making reasonable efforts to ensure that the employer named in the complaint complies with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

E. If the efforts of the Commissioner do not resolve the complaint, the Commissioner shall notify the complainant in writing of:

1. The results of the Commissioner's investigation; and
2. The complainant's entitlement to proceed under the enforcement of rights provisions in Section 17 of this act for a complainant against a state or private employer.

F. Any action required by subsections D and E of this section for a complaint submitted by a complainant to the Commissioner under subsection A of this section shall be completed by the Commissioner not later than ninety (90) days after receipt of the complaint. Added by Laws 2021, c. 122, § 16, emerg. eff. April 21, 2021.

§44-4323. Action for relief - Referral to district attorney.

A. Action for relief. 1. A person who receives from the Commissioner of Labor a notification pursuant to subsection E of Section 16 of this act of an unsuccessful effort to resolve a complaint relating to a state government employer may request that the Commissioner refer the complaint to the district attorney with relevant jurisdiction. The Commissioner shall refer the complaint to the district attorney with relevant jurisdiction not later than sixty (60) days after receiving the request. If the district attorney is reasonably satisfied that the complainant is entitled to the rights or benefits sought, the district attorney may appear on behalf of, and act as attorney for, the complainant and commence an action for relief under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

2. Not later than sixty (60) days after the date the district attorney receives a referral as provided in paragraph 1 of this subsection, the district attorney shall:

- a. make a decision whether to appear on behalf of, and act as attorney for, the complainant, and
- b. notify the complainant in writing of the decision.

3. A person may commence an action for relief based on a complaint against a state government employer or a private employer if the person:

- a. has chosen not to request assistance from the Commissioner under Section 16 of this act,
- b. has chosen not to request the Commissioner to refer the complaint to the district attorney pursuant to paragraph 1 of this subsection, or
- c. has been refused representation by the district attorney.

B. Jurisdiction. In an action against a state government employer or a private employer commenced by the district attorney, the district courts shall have jurisdiction over the action.

C. Venue. 1. In an action by a district attorney against a state government employer, the action may proceed in the district court of the county where the complainant resides or was previously assigned for duty as a state employee immediately prior to service in the state military forces.

2. In an action by a district attorney against a private employer, the action may proceed in the district court of the county where the private employer of the complainant maintains a place of business.

D. Remedies. 1. In any action pursuant to this section, the court may award any or all of the following types of relief by requiring the employer to:

- a. comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
  - b. compensate the complainant for any loss of wages or benefits suffered by reason of the employer's failure to comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
  - c. pay the complainant an amount equal to the amount provided in subparagraph b of this paragraph as liquidated damages, if the court determines that the employer willfully failed to comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
  - d. pay actual and compensatory damages, and
  - e. pay punitive damages. Punitive damages awarded pursuant to this subparagraph shall be determined in accordance with applicable state law.
2. a. Any compensation awarded pursuant to this subsection shall be in addition to, and shall not diminish, any of the other rights and benefits provided for under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.
- b. In an action commenced in the name of the State of Oklahoma for which the relief includes compensation awarded pursuant to subparagraph b, c, d or e of paragraph 1 of this subsection, the compensation shall be held in a special deposit account and shall be paid, on order of the district attorney who commenced the action against a state government employer or a private employer, directly to the complainant. If the compensation is not paid to the complainant because of inability to do so within a period of three (3) years,

the compensation shall be deposited in the Unclaimed Property Fund of the State Treasury pursuant to the Uniform Unclaimed Property Act, Section 651 et seq. of Title 60 of the Oklahoma Statutes.

3. The State of Oklahoma shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

E. Equity powers. The court shall use, if it deems appropriate, its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

F. Standing. An action pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act may be initiated only by a person claiming rights or benefits as provided in the act under subsection A of this section or by the State of Oklahoma under paragraphs 1 and 2 of subsection A of this section.

G. Respondent. In any action pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act, only an employer or a potential employer shall be a necessary party respondent.

H. Fees and court costs. 1. No fees or court costs shall be charged against or imposed upon any person claiming rights under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

2. In any action or proceeding to enforce a provision of the Oklahoma Uniformed Services Employment and Reemployment Rights Act by a complainant who obtained private counsel for an action or proceeding, the court may award a prevailing complainant reasonable attorney fees, expert witness fees, and other litigation expenses.

I. Definition. As used in this section, "private employer" includes the political subdivisions of the State of Oklahoma as defined in Section 5 of this act.

Added by Laws 2021, c. 122, § 17, emerg. eff. April 21, 2021.

§44-4326. Investigatory powers - Subpoenas - District court writs.

A. In any investigations pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act:

1. Duly authorized representatives of the Commissioner of Labor shall, at all reasonable times, have reasonable access to and the right to interview persons with information relevant to an investigation and shall have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Commissioner considers relevant to the investigation; and

2. The Commissioner may require by subpoena the attendance and testimony of witnesses and the production of documents relating to



any matter under investigation. If a party disobeys a subpoena, and upon request of the Commissioner, the district attorney with jurisdiction in the county where the complainant resides or where the complainant was previously assigned for duty as a state employee immediately prior to service in the military forces may apply to district court for an order enforcing the subpoena.

B. Upon application, district courts of the state shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Commissioner or to comply with any order of the Commissioner made pursuant to a lawful investigation pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act, and district courts shall have jurisdiction to punish a party for failure to obey a subpoena or other lawful order of the Commissioner as a contempt of court.

C. Subsections A and B of this section shall not apply to the legislative branch or the judicial branch of the state.

Added by Laws 2021, c. 122, § 18, emerg. eff. April 21, 2021.

§44-4327. Effect of noncompliance of state officials with deadlines - Inapplicability of statutes of limitations.

A. Effect of noncompliance of state officials with deadlines.

1. The inability of the Commissioner of Labor or a district attorney to comply with a deadline applicable to such official under Section 16 or 17 of this act shall not:

- a. affect the authority of the district attorney to represent and file an action or submit a complaint on behalf of a person under Section 17 of this act,
- b. affect the right of a person to:
  - (1) commence an action under Section 17 of this act, or
  - (2) obtain any type of assistance or relief authorized by the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- c. deprive a district court of jurisdiction over an action or complaint filed by the district attorney or a person under Section 17 of this act, and
- d. constitute a defense, including a statute of limitations period, that any employer, including state government, its political subdivisions or a private employer, may raise in an action filed by the district attorney or a person under Section 17 of this act.

2. If the Commissioner or the district attorney is unable to meet a deadline applicable to such official in Section 16 or 17 of this act, and the complainant agrees to an extension of time, the Commissioner or the district attorney shall complete the required action within the additional period of time agreed to by the complainant.

B. Inapplicability of statutes of limitations. If any person seeks to file a complaint or claim with the Commissioner of Labor or a district court alleging a violation of the Oklahoma Uniformed Services Employment and Reemployment Rights Act, there shall be no limitation on the period for filing the complaint or claim. Added by Laws 2021, c. 122, § 19, emerg. eff. April 21, 2021.

§44-4331. Authority to prescribe regulations.

A. The Commissioner of Labor, in consultation with the Adjutant General, may prescribe regulations implementing the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act as it applies to state government, political subdivisions, and private employers.

B. The Director of Human Capital Management of the Office of Management and Enterprise Services, in consultation with the Commissioner of Labor and the Adjutant General, may prescribe regulations implementing the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act as it applies to state agencies as employers. The regulations shall be consistent with regulations pertaining to political subdivisions and private employers, except that state employees may be given greater or additional rights.

Added by Laws 2021, c. 122, § 20, emerg. eff. April 21, 2021.

§44-4332. Annual report by the Commissioner of Labor.

A. Annual report by the Commissioner of Labor. The Commissioner shall, after consultation with the district attorney to whom a complaint pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act has been referred, transmit to the Committee on Veterans and Military Affairs of the Oklahoma House of Representatives and the Committee on Veterans and Military Affairs of the Oklahoma State Senate not later than July 1 of each year a report on matters for the fiscal year ending in the year before the year in which the report is transmitted the number of cases reviewed by the Department of Labor under the Oklahoma Uniformed Services Employment and Reemployment Rights Act during the fiscal year for which the report is made.

B. In the event no complaints are received pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act during the fiscal year for which the report is made, no report shall be required pursuant to this section.

Added by Laws 2021, c. 122, § 21, emerg. eff. April 21, 2021.

§44-4333. Informing persons and employers of rights, benefits, and obligations.

The Commissioner of Labor, Adjutant General, and Executive Director of the Oklahoma Department of Veterans Affairs shall take

such actions as they determine to be appropriate to inform persons entitled to rights and benefits under the Oklahoma Uniformed Services Employment and Reemployment Rights Act and employers of the rights, benefits, and obligations of employees and employers under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

Added by Laws 2021, c. 122, § 22, emerg. eff. April 21, 2021.

§44-4334. Notice of rights, benefits, and obligations to be posted by employer.

A. Requirement to provide notice. Each employer shall identify their employees who are members of the state military forces and provide them with a notice of the rights, benefits, and obligations of employees and employers subject to the Oklahoma Uniformed Services Employment and Reemployment Rights Act. This notice requirement may be met by posting the notice where employers customarily place notices for employees.

B. Content of the notice. The Commissioner of Labor shall provide employers with the content of the notice required by this section.

Added by Laws 2021, c. 122, § 23, emerg. eff. April 21, 2021.

§44-4335. Training to be provided by state agencies and political subdivisions.

A. Training required. The administrator of each state agency and political subdivision shall provide training for the human resources personnel of the agency or political subdivision on the following:

1. The rights, benefits, and obligations provided in the Oklahoma Uniformed Services Employment and Reemployment Rights Act for employees who are members of the state military forces; and
2. The application and administration of the requirements of the Oklahoma Uniformed Services Employment and Reemployment Rights Act by the agency or political subdivision.

B. Training consultation and frequency. The training required by subsection A of this section for state agencies shall be developed and provided in consultation with the Director of Human Capital Management of the Office of Management and Enterprise Services. The training shall be provided as determined by the Director of Human Capital Management of the Office of Management and Enterprise Services in order to ensure that the human resources personnel of state agencies are kept fully and currently informed of the issues covered by the training.

C. Human resources personnel defined. As used in this section, "human resources personnel" means any personnel of a state agency or political subdivision who are authorized to recommend, take, or approve any employee action which is subject to the requirements of

the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

Added by Laws 2021, c. 122, § 24, emerg. eff. April 21, 2021.