

1 ENGROSSED HOUSE
2 BILL NO. 3712

By: Kannady of the House

and

Gollihare of the Senate

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6 An Act relating to militia; amending 44 O.S. 2021,
7 Sections 21, 23, 24, 25, 26, 27, 45, 48, 49, Section
8 1, Chapter 74, O.S.L. 2022, 241, and 243 (44 O.S.
9 Supp. 2022, Section 233.10a), which relate to the
10 Oklahoma Military Code; clarifying personnel to staff
11 joint forces headquarters; providing for Adjutant
12 General to assign necessary persons to headquarters;
13 clarifying personnel in state military forces;
14 providing gender-neutral language; modifying
15 eligibility criteria for Adjutant General;
16 authorizing Governor to waive certain eligibility
17 requirements; directing certain comparable rate of
18 compensation for Adjutant General; clarifying
19 retirement pay for Adjutant General; modifying
20 authority of Adjutant General; authorizing Adjutant
21 General to establish rules allowing the Oklahoma
22 Military Department to accept donations to create a
23 certain scholarship program; permitting delegation of
24 oversight to a nonprofit public charity; appointing
the Adjutant General as the chief of fire and police
units operating under the Military Department;
providing gender-neutral language; modifying oath of
office for Oklahoma National Guard officers; updating
language; directing Adjutant General to prescribe
policies and regulations for personnel compensation;
preempting Military Department personnel matters;
clarifying personnel discharge procedures by the
Governor as Commander in Chief; authorizing certain
personnel matters to be decided according to customs
and state and federal regulations; permitting
Military Department to purchase information
technology; exempting certain federal programs from
Information Services Division requirements; removing
reference to certain regulations prescribed by the
Secretary of Defense; striking requirement that
personnel procedures be in conformity with certain
laws, rules, and regulations; removing language

1 prohibiting certain National Guard monetary
2 allowances and compensation; creating the Oklahoma
3 National Guard Supplemental Retirement Pay Revolving
4 Fund; stating purposes of fund; providing for
5 authorized revenue sources; providing procedures for
6 expenditure; prohibiting payments prior to certain
7 date; providing for certain payment to members of
8 Oklahoma National Guard; excluding payment to persons
9 retired from full-time military service; prohibiting
10 payment to survivors or beneficiaries; providing for
11 disposition of amounts paid prior to death; providing
12 eligibility for supplemental payments; providing for
13 pro rata reduction in payment amounts; providing for
14 use of subsequently acquired funds to compensate for
15 reduced payment amounts; amending 44 O.S. 2021,
16 Sections 815, 821, 875, 905, 912A, 928B, 934, and
17 937, which relate to the Oklahoma Uniform Code of
18 Military Justice; providing exception for reduction
19 in rank of certain members; authorizing reduction as
20 possible nonjudicial punishment; prohibiting federal
21 officials from convening certain court-martial
22 proceedings without prior consent of the Governor;
23 requiring consent to be in writing and published by
24 Governor; authorizing Governor to reappoint certain
dismissed officers; providing for reappointment
procedures; directing Governor or Adjutant General to
prescribe certain regulations; prohibiting act of
forgery; prescribing punishment for forgery;
prohibiting use or ingestion of certain substances;
prescribing punishment for certain violent offenses
or threats; including certain specifically enumerated
offenses; modifying timing for explanation of Code;
providing for adoption of Manual for Courts-Martial;
providing for codification; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 44 O.S. 2021, Section 21, is
amended to read as follows:

1 Section 21. The Military Department of the State of Oklahoma is
2 hereby established and shall be under the command and control of the
3 Governor as Commander in Chief, with the Adjutant General as the
4 executive and administrative head thereof. The Military Department
5 shall be constituted of the state military forces, as defined by
6 Section 801 of this title, and is hereby organized into a joint
7 headquarters which shall be identified as the joint forces
8 headquarters. The joint forces headquarters shall be jointly
9 staffed by ~~Army National Guard and Air National Guard~~ personnel of
10 the state military forces who, under the authority and direction of
11 the Adjutant General, shall support and assist the Adjutant General
12 in the exercise of command and control over state military forces
13 when not activated for federal duty under Title 10 of the United
14 States Code. There shall be assigned to the joint ~~force~~ forces
15 headquarters, officers, enlisted personnel, and civilian employees
16 as may be considered necessary by the Governor as Commander in Chief
17 and ~~as may be authorized by law and Army National Guard regulations~~
18 ~~and Air National Guard regulations~~ the Adjutant General.

19 SECTION 2. AMENDATORY 44 O.S. 2021, Section 23, is
20 amended to read as follows:

21 Section 23. The Governor of the state shall be the Commander in
22 Chief of the Militia, and, as such, shall have supreme command of
23 the military forces of the state while in the service of the state
24 or until they are ordered ~~and accepted~~ into the actual service of

1 the United States within the meaning of Clauses 15 and 16 of Section
2 8 of Article I of the United States Constitution and Section 2 of
3 Article II of the United States Constitution. While in the service
4 of the ~~state~~ State of Oklahoma, ~~he~~ the Governor shall have power to
5 muster out any organization of the state military forces, discharge
6 enlisted ~~men~~ personnel, as provided herein, and perform such other
7 acts in keeping with the laws of the Commander in Chief, ~~subject to~~
8 ~~the laws of the United States and regulations prescribed by the~~
9 ~~President of the United States.~~ No armed military force from
10 another state or territory shall be permitted to enter the state
11 without ~~his~~ permission of the Governor, unless such military force
12 be a part of the United States, or is acting under the authority of
13 the United States. No independent military organization, except as
14 a corps of cadets at the educational institutions, shall be
15 permitted to bear arms without first securing permission of the
16 Commander in Chief.

17 SECTION 3. AMENDATORY 44 O.S. 2021, Section 24, is
18 amended to read as follows:

19 Section 24. A. The Adjutant General shall be appointed by the
20 Governor, by and with the advice and consent of the Senate, and
21 shall serve at the pleasure of the Governor.

22 B. To be eligible to hold the office of Adjutant General of
23 this state, at the time of appointment the appointee:
24

1 1. Shall be a federally recognized and currently serving
2 officer of the Oklahoma National Guard ~~and of the National Guard of~~
3 ~~the United States for~~ who is not presently retired nor has ever
4 previously retired from the Oklahoma National Guard and with no less
5 than three (3) years of service in the Oklahoma National Guard;

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

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

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

19 SECTION 4. AMENDATORY 44 O.S. 2021, Section 25, is
20 amended to read as follows:

21 Section 25. A. The Adjutant General shall have the rank of
22 Major General and devote full time to the duties of the office.
23 Regardless of whether or not the Adjutant General has been
24 recognized federally at the rank of Major General at the time of

1 appointment by the Governor, the Adjutant General shall be
2 compensated at the same rate of pay and allowances afforded to a
3 Major General serving on federal Title 10 active duty with the same
4 time in service. Upon retirement, the Adjutant General shall
5 receive the same retirement pay as a Major General serving on
6 federal Title 10 active duty with the same time in service until
7 federal benefits for retirement become available.

8 B. The Governor may appoint Assistant Adjutants General for
9 Army and Assistant Adjutants General for Air to assist the Adjutant
10 General in the discharge and performance of his or her duties. When
11 appointing Assistant Adjutants General, the Governor shall take into
12 consideration the number of such positions contemplated or
13 recommended by the National Guard Bureau for manning the joint
14 forces headquarters of a state. Such Assistant Adjutants General
15 shall have the qualifications prescribed by law for the Adjutant
16 General and shall have the rank of Brigadier General. The Assistant
17 Adjutants General appointed by the Governor shall be considered
18 staff officers and not commanders except that, in the discretion of
19 the Adjutant General, specific command or supervisory authority may
20 be delegated by the Adjutant General to an Assistant Adjutant
21 General but such delegation shall be accomplished in writing and
22 shall be considered a military publication, as defined in Section
23 801 of this title (Article 1).

24

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

9 D. The Adjutant General may employ a state employee in the
10 position of Executive Assistant and Programs Manager for the
11 Military Department of the state. Said position shall be
12 unclassified and exempt from the Oklahoma Personnel Act and the
13 Merit Rules for Employment, except leave regulations.

14 SECTION 5. AMENDATORY 44 O.S. 2021, Section 26, is
15 amended to read as follows:

16 Section 26. A. The Adjutant General shall be in control of the
17 Military Department of the State of Oklahoma, subordinate only to
18 the Governor. Within the limitations and under the provisions of
19 law, he or she shall supervise and direct the Oklahoma National
20 Guard within the service of the state and when under state control
21 in all of its organization, training and other activities; shall
22 receive and give effect to the orders of the Governor; and shall
23 perform such other military and defense duties, not otherwise
24 assigned by law, as the Governor may prescribe. The Adjutant

1 General shall have the authority to arm members of the state
2 military forces on military installations and other places under the
3 control of the Military Department with weaponry as the Adjutant
4 General deems necessary to adequately provide for the security of
5 the facilities and their occupants.

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

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

21 D. The organizational chart required in subsection C of this
22 section shall be updated no less than annually and shall include all
23 enlisted and officer billets assigned to joint forces headquarters
24 and shall depict all existing command relationships established by

1 the Adjutant General within joint forces headquarters. The
2 organizational chart required herein shall not be considered a
3 military publication within the meaning of Section 801 of this title
4 (Article 1).

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

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

16 G. The Adjutant General may establish rules allowing the
17 Military Department of the State of Oklahoma to accept donations and
18 bequests to create a scholarship program for the benefit of members
19 of the Oklahoma National Guard. The Adjutant General may delegate
20 oversight of scholarship program funds to a nonprofit public charity
21 for the purpose of creating and administering an endowment fund for
22 the scholarship program.

23 H. The Adjutant General shall serve as the chief of all fire
24 protection units operating under the Oklahoma Military Department

1 and shall supervise and administer the fire protection units in
2 accordance with the rules and procedures prescribed by the Military
3 Department.

4 I. The Adjutant General shall serve as the chief of all police
5 units and officers appointed under the Oklahoma Military Department.
6 The Adjutant General may appoint police officers in accordance with
7 Section 230 of this title.

8 SECTION 6. AMENDATORY 44 O.S. 2021, Section 27, is
9 amended to read as follows:

10 Section 27. The Adjutant General and Assistant Adjutants
11 General shall be paid a sum equivalent to the pay of ~~his/her~~ his or
12 her federally recognized rank, exclusive of allowances. Other
13 officers and enlisted men and women and employees of the Department
14 shall be paid in amounts fixed by the Adjutant General and within
15 amounts appropriated for that purpose, according to the policies and
16 regulations prescribed by the Adjutant General. Military Department
17 personnel matters shall be preempted and governed by federal law and
18 managed by the Adjutant General.

19 SECTION 7. AMENDATORY 44 O.S. 2021, Section 45, is
20 amended to read as follows:

21 Section 45. Oath for National Guard Officers. Each
22 commissioned officer, before entering upon the duties of his or her
23 office, shall take and subscribe to the following oath, ~~or such~~
24 ~~other oath as may be required by National Guard Regulations:~~

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

11 SECTION 8. AMENDATORY 44 O.S. 2021, Section 48, is
12 amended to read as follows:

13 Section 48. Enlisted ~~men~~ personnel discharged from service in
14 the Oklahoma National Guard ~~of this state~~ shall receive a discharge
15 in writing in such form and with such classification as is or shall
16 be prescribed by National Guard regulations, and in time of peace
17 discharges may be given prior to the expiration of terms of
18 enlistment in the following cases:

19 By sentence of a general court-martial; by direction of the
20 Governor on account of disability; on account of sentence of
21 imprisonment by a civil court whether suspended or not; on account
22 of a bona fide permanent change of residence to another state; and
23 for the purpose of enlisting in regular Army, Air Force, Navy, or
24 Marine Corps, and for such other causes as may be prescribed by

1 ~~National Guard regulations or~~ the Governor as Commander in Chief;
2 provided, that an enlisted ~~man~~ person who has not returned or
3 accounted for all of the public property for which he or she is
4 responsible, shall under no circumstances receive an honorable
5 discharge.

6 SECTION 9. AMENDATORY 44 O.S. 2021, Section 49, is
7 amended to read as follows:

8 Section 49. All matters relating to organization, commissioning
9 and discharging of officers, enlisting and discharge of enlisted ~~men~~
10 personnel, discipline, and government of the Oklahoma National
11 Guard, not otherwise provided in this code, ~~shall~~ may be decided ~~by~~
12 according to the customs, regulations, and usage of the United
13 States Army or the United States Air Force or National Guard
14 regulations.

15 SECTION 10. AMENDATORY Section 1, Chapter 74, O.S.L.
16 2022 (44 O.S. Supp. 2022, Section 233.10a), is amended to read as
17 follows:

18 Section 233.10a The Military Department of the State of
19 Oklahoma may purchase information technology including, but not
20 limited to, computer hardware or software, or any services related
21 to software development, software modifications, or any other
22 services related to the operation and maintenance of computer
23 hardware or software or both, independently and without prior
24 approval from the Office of Management and Enterprise Services

1 Information Services Division. All federal programs managed by the
2 Military Department of the State of Oklahoma shall be exempt from
3 any and all Information Services Division requirements.

4 SECTION 11. AMENDATORY 44 O.S. 2021, Section 241, is
5 amended to read as follows:

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

17 SECTION 12. AMENDATORY 44 O.S. 2021, Section 243, is
18 amended to read as follows:

19 Section 243. A. The Governor is hereby authorized to prescribe
20 rules and regulations governing the enlistment, organization,
21 administration, equipment, discipline and discharge of the personnel
22 of such military forces; to requisition from the Secretary of
23 Defense such arms and equipment as may be in the possession of and
24 can be spared by the Department of Defense and to extend thereto the

1 facilities of state armories, Armed Forces Reserve Centers,
2 readiness centers, logistics, aviation, and training facilities,
3 warehouses and their equipment and such other state premises and
4 property as may be available for the purpose of drill and
5 instruction. ~~Insofar as applicable the procedure for the~~
6 ~~enlistment, organization, pay, maintenance, equipment and~~
7 ~~disciplining of such forces shall be in conformity with the law and~~
8 ~~the rules and regulations governing and pertaining to the National~~
9 ~~Guard; provided, that the officers and enlisted personnel in the~~
10 ~~Oklahoma State Guard shall not receive any compensation or monetary~~
11 ~~allowances from the state except when activated for state active~~
12 ~~duty, as defined in Section 801 of this title, by order of the~~
13 ~~Governor.~~

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

18 C. When prescribing the rules and regulations governing
19 enlistment, organization, administration, equipment, discipline and
20 discharge of the personnel of the Oklahoma ~~State~~ National Guard, the
21 Governor shall issue such rules and regulations in the form of an
22 executive order or in a series of such orders. An executive order
23 or a series of such orders prescribing the rules and regulations
24 governing enlistment, organization, administration, equipment,

1 discipline and discharge of the personnel of the Oklahoma ~~State~~
2 National Guard shall also be published by the Adjutant General as a
3 military publication.

4 SECTION 13. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 271 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 There is hereby created in the State Treasury a revolving fund
8 for the Oklahoma Military Department to be designated the "Oklahoma
9 National Guard Supplemental Retirement Pay Revolving Fund". The
10 fund shall be a continuing fund, not subject to fiscal year
11 limitations, and shall consist of all monies received by the
12 Oklahoma Military Department from funds provided by law. All monies
13 accruing to the credit of said fund are hereby appropriated and may
14 be budgeted and expended by the Oklahoma Military Department for the
15 purpose of implementing the provisions of Section 3 of this act.
16 Expenditures from said fund shall be made upon warrants issued by
17 the State Treasurer against claims filed as prescribed by law with
18 the Director of the Office of Management and Enterprise Services for
19 approval and payment.

20 SECTION 14. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 272 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:
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1 A. The provisions of this section shall not be operative and no
2 payments shall be made from the Oklahoma National Guard Supplemental
3 Retirement Pay Revolving Fund until November 1, 2026.

4 B. The provisions of this section shall only be applicable to a
5 member of the Oklahoma National Guard who has accrued enough service
6 credit prior to the effective date of this act in order to retire
7 from the system maintained by the Defense Finance Accounting
8 Service, or its successor in interest, for the benefit of members of
9 state National Guards, but who has not attained the required age
10 prior to the effective date of this act in order to be paid the full
11 amount of such benefit. No member of the National Guard shall be
12 eligible to receive a payment pursuant to the provisions of this
13 section unless the member has completed twenty-five (25) years of
14 military service and who retires as a member of the Oklahoma
15 National Guard.

16 C. The provisions of this section shall not be applicable to
17 any person who retires with an active duty military pension.

18 D. The amount of the payment shall be determined as follows:

19 1. Determine the average basic pay for the member using the
20 same formula to compute average basic pay for purposes of the active
21 duty military retirement system based on the member's total years of
22 service;

23 2. If the members of the active duty military retirement system
24 were eligible for a cost-of-living adjustment for the year for which

1 the computation of the payment amount authorized by this section is
2 to be made, the cost-of-living adjustment amount in an annualized
3 form shall be added to the result of the computation in paragraph 1
4 of this subsection;

5 3. Multiply the result of the computation in paragraph 1 and,
6 if applicable, paragraph 2 of this subsection by fifty percent
7 (50%);

8 4. The resulting amount shall be paid to the National Guard
9 member in twelve equal monthly amounts with allowance as required
10 for rounding.

11 E. Any benefit payable to an eligible member of the Oklahoma
12 National Guard shall only be payable during the member's lifetime
13 and no benefit authorized pursuant to the provisions of this act
14 shall be payable to a survivor other than amounts paid to a member
15 prior to member's death which are payable to another person
16 pursuant to the provisions of a joint tenancy bank account with a
17 right of survivorship naming a person or persons as beneficiary, a
18 bank account with a transfer on death or payable on death feature,
19 an express trust, including but not limited to a trust created by
20 the payee member during his or her lifetime, a will or the statute
21 of intestate succession for distribution of the assets of a person
22 who does not otherwise provide for the disposition of their assets
23 after death.

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1 F. The payment otherwise authorized pursuant to the provisions
2 of this act may only be made to a person who has become eligible to
3 receive retirement benefits from the retirement system under the
4 supervision of the Defense Finance Accounting Finance Service, or
5 its successor in interest, as of the date the first payment pursuant
6 to this act is authorized.

7 G. The payments authorized by this section shall be paid to the
8 eligible member until the member begins to receive federal
9 retirement benefits from the Defense Finance Account Services, or
10 its successor interest, but shall not be paid for any period of time
11 after such time period.

12 H. In the event the funds required for full payment to all
13 eligible members pursuant to the provisions of this section is not
14 sufficient, the payments to the eligible members shall be prorated
15 by dividing the total number of eligible members by the total amount
16 of available funds. The resulting quotient shall be multiplied by
17 the payment amount otherwise due to the eligible member and the
18 result of that computation shall be the reduced dollar amount paid
19 to each member for the applicable period. For any period of time
20 during which payments are prorated pursuant to this subsection, the
21 next increment of available funds shall be used to make payments to
22 the eligible members whose payment amounts were prorated to
23 compensate for the reduction made in the prior payment period.

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1 SECTION 15. AMENDATORY 44 O.S. 2021, Section 815, is
2 amended to read as follows:

3 Section 815. ARTICLE 15. Commanding officer's nonjudicial
4 punishment.

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

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

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

22 D. ~~Any~~ Except as provided in subsection S of this section, any
23 commanding officer may impose upon enlisted members of the officer's
24 command:

- 1 1. An admonition;
 - 2 2. A reprimand;
 - 3 3. The withholding of privileges for not more than six (6)
 - 4 months which need not be consecutive;
 - 5 4. The forfeiture of pay of not more than seven (7) days' pay;
 - 6 5. A fine of not more than seven (7) days' pay;
 - 7 6. A reduction to the next inferior pay grade, if the grade
 - 8 from which demoted is within the promotion authority of the officer
 - 9 imposing the reduction or any officer subordinate to the one who
 - 10 imposes the reduction;
 - 11 7. Extra duties, including fatigue or other duties, for not
 - 12 more than fourteen (14) days, which need not be consecutive; and
 - 13 8. Restriction to certain specified limits, with or without
 - 14 suspension from duty, for not more than fourteen (14) days, which
 - 15 need not be consecutive.
- 16 E. ~~Any~~ Except as provided in subsection S of this section, any
- 17 commanding officer of the grade of major or above may impose upon
- 18 enlisted members of the officer's command:
- 19 1. An admonition;
 - 20 2. A reprimand;
 - 21 3. The withholding of privileges for not more than six (6)
 - 22 months which need not be consecutive;
 - 23 4. The forfeiture of not more than one-half (1/2) of one (1)
 - 24 month's pay per month for two (2) months;

1 5. A fine of not more than one (1) month's pay;

2 6. A reduction to the lowest or any intermediate pay grade, if
3 the grade from which demoted is within the promotion authority of
4 the officer imposing the reduction or any officer subordinate to the
5 one who imposes the reduction, but an enlisted member in a pay grade
6 above E-4 shall not be reduced more than two pay grades;

7 7. Extra duties, including fatigue or other duties, for not
8 more than forty-five (45) days which need not be consecutive; and

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

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

14 1. Upon officers of the officer's command:

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

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

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

23 Admonitions or reprimands given as nonjudicial punishment to
24 commissioned officers and warrant officers shall be administered in

1 writing. In all other cases, unless otherwise prescribed by
2 regulations promulgated by the Adjutant General, such punishments
3 may be administered either orally or in writing.

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

10 H. Once the commander has determined that nonjudicial
11 punishment is appropriate, the commander shall provide reasonable
12 notice to the member of his or her intent to impose nonjudicial
13 punishment. At the time the commander provides notification as
14 required in this subsection, the member shall be entitled to examine
15 all statements and other evidence that the commander has examined
16 and intends to rely upon as the basis for punishment. The member
17 shall be provided a copy of the documentary evidence unless it is
18 privileged, classified, or otherwise restricted by law, regulation,
19 or instruction. At the time the commander provides notification as
20 required in this subsection, the commander shall also inform the
21 member as to the quantum of punishment potentially to be imposed.
22 While a member undergoing nonjudicial punishment is not entitled to
23 representation by a duly appointed defense counsel, the member may

24

1 seek legal advice from any judge advocate available for this
2 purpose.

3 I. The right to demand trial by court-martial in lieu of
4 nonjudicial punishment shall arise only when arrest in quarters or
5 restriction will be considered as punishments. If the commanding
6 officer determines that arrest in quarters or restriction will be
7 considered as punishments, prior to the offer of nonjudicial
8 punishment the accused shall be notified in writing of the right to
9 demand trial by court-martial. Should the commanding officer
10 determine that the punishment options will not include arrest in
11 quarters or restriction, the accused shall be notified that there is
12 no right to trial by court-martial in lieu of nonjudicial
13 punishment. Upon notification by the commander or officer in charge
14 of his or her intent to impose nonjudicial punishment that includes
15 arrest in quarters or restriction, the accused shall be afforded a
16 reasonable amount of time to confer with legal counsel and to
17 prepare a response.

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

- 23 1. Reduction in grade to forfeiture of pay;
- 24 2. Arrest in quarters to restriction; or

1 3. Extra duties to restriction.

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

7 K. A person punished under this section who considers the
8 punishment unjust or disproportionate to the offense may, through
9 his or her chain of command, appeal to a senior officer designated
10 by the Adjutant General to adjudicate appeals arising from
11 nonjudicial punishment. A senior officer so designated by the
12 Adjutant General shall be a member of the same component of the
13 state military forces as the accused. An appeal made pursuant to
14 this subsection shall be lodged within fifteen (15) days after the
15 punishment is announced to the accused. The officer exercising
16 appellate authority may, at his or her discretion, extend the
17 deadline for an appeal. The appeal shall be promptly forwarded and
18 decided, and the member shall not be punished until the appeal is
19 decided. The senior officer designated by the Adjutant General as
20 exercising appellate authority may exercise the same powers with
21 respect to the punishment imposed as may be exercised under
22 subsection I of this section by the officer who imposed the
23 punishment. Before acting on an appeal from a punishment, the
24 senior officer exercising appellate authority shall refer the case

1 to a judge advocate for consideration and advice. When a senior
2 officer is designated by the Adjutant General to adjudicate appeals
3 arising from nonjudicial punishment, such designation shall be
4 accomplished in writing and shall be considered a military
5 publication, as defined in Section 801 of this title (Article 1).

6 L. Except for nonjudicial punishment imposed by the Governor or
7 the Adjutant General, the final appellate authority for nonjudicial
8 punishment imposed within state military forces is the Adjutant
9 General. A person punished under this section whose appeal was
10 previously denied by a senior officer designated to adjudicate
11 appeals may, through his or her chain of command, lodge an
12 additional appeal with the Adjutant General within five (5) days
13 after the appeal is denied. In the event the officer imposing
14 nonjudicial punishment is a senior officer who is also designated to
15 adjudicate appeals arising from nonjudicial punishment, an appeal
16 thereof shall be addressed directly to the Adjutant General. In the
17 event the officer imposing nonjudicial punishment is the Adjutant
18 General, an appeal thereof shall be addressed directly to the
19 Governor. An appeal offered pursuant to this subsection shall be
20 made only in writing. Neither the Governor nor the Adjutant General
21 shall delegate his or her duties as an appellate authority under
22 this subsection.

23 M. Whenever nonjudicial punishment is imposed under this
24 section:

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

5 a. excuse the accused from attendance at scheduled unit
6 training assemblies, or

7 b. arrange for the accused to drill on alternate dates
8 and in alternate locations; or

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

15 N. The imposition and enforcement of disciplinary punishment
16 under this section for any act or omission shall not be a bar to
17 trial by court-martial or a civilian court of competent jurisdiction
18 for a crime or offense arising out of the same act or omission; but
19 the fact that a disciplinary punishment has been enforced may be
20 demonstrated by the accused upon trial and, when so demonstrated, it
21 shall be considered in determining the measure of punishment to be
22 adjudged in the event of a finding or verdict of guilty.

23 Nonjudicial punishment shall not be imposed for an offense
24

1 previously tried by a civilian court unless so authorized by
2 regulations promulgated by the Adjutant General.

3 O. When nonjudicial punishment has been imposed for an offense,
4 punishment shall not again be imposed for the same offense under
5 this section. Once nonjudicial punishment has been imposed, it may
6 not be increased, upon appeal or otherwise. When a commander or
7 officer in charge determines that nonjudicial punishment is
8 appropriate for a particular member, all known offenses determined
9 to be appropriate for disposition by nonjudicial punishment and
10 ready to be considered at that time, including all offenses arising
11 from a single incident or course of conduct, shall be considered
12 together and shall not be made the basis for multiple punishments.
13 This subsection shall in no way restrict the right of a commander to
14 prefer court-martial charges for an offense previously punished
15 under the provisions of this section.

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

23 Q. Whenever a punishment of forfeiture of pay is imposed under
24 this section, the forfeiture shall not apply to pay accruing before

1 the date that punishment is imposed, but only pay accruing on or
2 after the date that punishment is imposed.

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

8 S. For purposes of this section, no member of the Oklahoma
9 National Guard of the rank of E-8 or E-9 shall be reduced in rank
10 pursuant to this section except when the reduction results from
11 nonjudicial punishment imposed by an officer of the Oklahoma
12 National Guard of the rank of brigadier general or by the Adjutant
13 General. When imposing nonjudicial punishment on enlisted persons
14 of the rank of E-7 or below, a commander or officer in charge who
15 possesses the rank of colonel may consider reduction in rank as a
16 possible punishment.

17 SECTION 16. AMENDATORY 44 O.S. 2021, Section 821, is
18 amended to read as follows:

19 Section 821. ~~RESERVED.~~ ARTICLE 21. Convening of court-martial
20 by federal officials.

21 In no case shall the President of the United States, the
22 Secretary of Defense, the secretary of a military department, a
23 military officer serving on active duty within the meaning of Title
24 10 of the United States Code, or any other federal official convene

1 a court-martial proceeding pursuant to the Oklahoma Military Code
2 unless prior consent has been granted by the Governor. Such
3 consent, if granted by the Governor, shall be accomplished in
4 writing and shall be published by the Governor.

5 SECTION 17. AMENDATORY 44 O.S. 2021, Section 875, is
6 amended to read as follows:

7 Section 875. ARTICLE 75. Restoration.

8 A. Under such regulations as the Adjutant General may
9 promulgate, all rights, privileges, and property affected by an
10 executed part of a court-martial sentence which has been set aside
11 or disapproved, except an executed dismissal or discharge, shall be
12 restored unless a new trial or rehearing is ordered and such
13 executed part is included in a sentence imposed upon the new trial
14 or rehearing.

15 B. If a previously executed sentence of dishonorable or bad-
16 conduct discharge is not imposed on a new trial, the Adjutant
17 General shall substitute therefor a form of discharge authorized for
18 administrative issuance unless the accused is to serve out the
19 remainder of his or her enlistment.

20 C. If a previously executed sentence of dismissal is not
21 imposed on a new trial, the Adjutant General shall substitute
22 therefor a form of discharge authorized for administrative issue,
23 and the commissioned officer dismissed by that sentence may be
24 ~~reappointed pursuant to Sections 875 and 12203 of Title 10 of the~~

1 ~~United States Code and any applicable regulations prescribed~~
2 ~~thereunder by the President of the United States or the Secretary~~
3 ~~concerned~~ solely by the Governor to such commissioned grade and with
4 such rank as in the opinion of the Governor that former officer
5 would have attained had he or she not been dismissed. The
6 reappointment of such a former officer shall be without regard to
7 the existence of a vacancy and shall affect the promotion status of
8 other officers only insofar as the Governor may direct. All time
9 between the dismissal and the reappointment shall be considered as
10 actual service for all purposes, including the right to pay and
11 allowances.

12 D. The Governor or Adjutant General shall prescribe
13 regulations, with such limitations as the Governor or Adjutant
14 General considers appropriate, governing eligibility for pay and
15 allowances for the period after the date on which an executed part
16 of a court-martial sentence is set aside.

17 SECTION 18. AMENDATORY 44 O.S. 2021, Section 905, is
18 amended to read as follows:

19 Section 905. ~~RESERVED.~~ ARTICLE 105. Forgery.

20 Any person subject to the Oklahoma Uniform Code of Military
21 Justice who, with intent to defraud:

22 1. Falsely makes or alters any signature to, or any part of,
23 any writing which would, if genuine, apparently impose a legal
24

1 liability on another or change his or her legal right or liability
2 to his or her prejudice; or

3 2. Utters, offers, issues, or transfers such a writing, known
4 by him or her to be so made or altered, is guilty of forgery and
5 shall be punished as a court-martial may direct.

6 SECTION 19. AMENDATORY 44 O.S. 2021, Section 912A, is
7 amended to read as follows:

8 Section 912A. ARTICLE 112A. Wrongful use, possession, etc., of
9 controlled substances.

10 A. Any person subject to the Oklahoma Uniform Code of Military
11 Justice who wrongfully uses, possesses, manufactures, distributes,
12 imports into the customs territory of the United States, exports
13 from the United States, or introduces into an installation, vessel,
14 vehicle, or aircraft used by or under the control of the Armed
15 Forces of the United States or of the state military forces a
16 substance described in subsection B of this section shall be
17 punished as a court-martial may direct.

18 B. The substances referred to in subsection A of this section
19 are the following:

20 1. Opium, heroin, cocaine, amphetamine, lysergic acid
21 diethylamide, methamphetamine, phencyclidine, barbituric acid, and
22 marijuana and any compound or derivative of any such substance;

23 2. Any substance not specified in paragraph 1 of this
24 subsection that is listed on a schedule of controlled substances

1 prescribed by the President for the purposes of the Uniform Code of
2 Military Justice, Title 10 of the United States Code, Section 801,
3 et seq.; and

4 3. Any other substance not specified in paragraph 1 of this
5 subsection or contained on a list prescribed by the President under
6 paragraph 2 of this subsection that is listed in schedules I through
7 V of article 202 of the Controlled Substances Act, Title 21 of the
8 United States Code, Section 812.

9 C. It shall be unlawful for any member of the state military
10 forces to knowingly use or ingest marijuana or any substances or
11 products derived from marijuana including, but not limited to, hemp,
12 tetrahydrocannabinol, and cannabidiol.

13 SECTION 20. AMENDATORY 44 O.S. 2021, Section 928B, is
14 amended to read as follows:

15 Section 928B. ~~RESERVED.~~ Any person subject to the Oklahoma
16 Uniform Code of Military Justice who:

17 1. Commits a violent offense against a spouse, an intimate
18 partner, or an immediate family member of that person;

19 2. With intent to threaten or intimidate a spouse, an intimate
20 partner, or an immediate family member of that person, commits an
21 offense under this chapter against any person or property, including
22 an animal;

23
24

1 3. With intent to threaten or intimidate a spouse, an intimate
2 partner, or an immediate family member of that person, violates a
3 protection order;

4 4. With intent to commit a violent offense against a spouse, an
5 intimate partner, or an immediate family member of that person,
6 violates a protection order; or

7 5. Assaults a spouse, an intimate partner, or an immediate
8 family member of that person by strangling or suffocating,
9 shall be punished as a court-martial may direct.

10 SECTION 21. AMENDATORY 44 O.S. 2021, Section 934, is
11 amended to read as follows:

12 Section 934. ARTICLE 134. General article.

13 Though not specifically mentioned in the Oklahoma Uniform Code
14 of Military Justice, all disorders and neglects to the prejudice of
15 good order and discipline in the state military forces, all conduct
16 of a nature to bring discredit upon the state military forces, and
17 crimes and offenses not capital, of which persons subject to the
18 Code may be guilty, shall be taken cognizance of by a general,
19 special, or summary court-martial, according to the nature and
20 degree of the offense, and shall be punished at the discretion of
21 that court. However, where a crime constitutes an offense that
22 violates both the Code and the criminal laws of the State of
23 Oklahoma, jurisdiction over the offense shall be determined in
24 accordance with Section 802 of this title (Article 2). This section

1 shall encompass all specifically enumerated offenses included in
2 Section 934 of Title 10 of the United States Code, including all
3 amendments thereto adopted from time to time, except when such
4 provisions are contrary to or inconsistent with the Code.

5 SECTION 22. AMENDATORY 44 O.S. 2021, Section 937, is
6 amended to read as follows:

7 Section 937. ARTICLE 137. Articles to be explained.

8 A. 1. The sections of the Oklahoma Uniform Code of Military
9 Justice specified in paragraph 3 of this subsection shall be
10 carefully explained, either orally or in writing, to each officer
11 and enlisted member at the time of, or within one hundred twenty
12 (120) days after, the officer's or enlisted member's initial
13 entrance into a duty status with the state military forces.

14 2. Such articles shall be explained again:

15 a. after the enlisted member has completed basic or
16 recruit training, and

17 b. ~~at the time when the enlisted member reenlists~~ within
18 ninety (90) days of each re-enlistment.

19 3. This subsection applies with respect to Sections 802, 803,
20 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this
21 title (Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-
22 139).

23 B. The text of the Code and of the regulations prescribed
24 pursuant to the Code shall be made available to an officer or

1 enlisted member of the state military forces, upon request, for the
2 officer's or enlisted member's personal examination. Electronic or
3 online availability of the Code and of the regulations prescribed
4 pursuant to the Code shall constitute availability for purposes of
5 personal examination by officers or enlisted members of the state
6 military forces.

7 SECTION 23. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 940C of Title 44, unless there
9 is created a duplication in numbering, reads as follows:

10 ARTICLE 140C. Manual for Courts-Martial.

11 Manual for Courts-Martial, United States, including all
12 amendments thereto adopted from time to time, except when such rules
13 are contrary to or inconsistent with the Oklahoma Uniform Code of
14 Military Justice, shall be adopted as the Oklahoma State Manual for
15 Courts-Martial.

16 SECTION 24. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 238 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 The co-located readiness and joint operating center facilities
20 constructed by the Military Department or on behalf of the Military
21 Department shall be named the "Benjamin T. Walkingstick National
22 Guard Complex".

23 SECTION 25. This act shall become effective November 1, 2024.

24

1 Passed the House of Representatives the 13th day of March, 2024.

2
3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2024.

7
8 _____
9 Presiding Officer of the Senate