

**FLOOR AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2382 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Ty Burns

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 FLOOR SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2382

6 By: Burns

7 FLOOR SUBSTITUTE

8 An Act relating to militia; amending 44 O.S. 2021,  
9 Sections 21, 23, 24, 25, 26, 27, 45, 48, 49, Section  
10 1, Chapter 74, O.S.L. 2022, 241, and 243 (44 O.S.  
11 Supp. 2022, Section 233.10a), which relate to The  
12 Oklahoma Military Code; clarifying personnel to staff  
13 joint forces headquarters; providing for Adjutant  
14 General to assign necessary persons to headquarters;  
15 clarifying personnel in state military forces;  
16 providing gender-neutral language; establishing term  
17 limit for Adjutant General upon certain date;  
18 authorizing removal for cause; modifying eligibility  
19 criteria for Adjutant General; authorizing Governor  
20 to waive certain eligibility requirements; directing  
21 certain comparable rate of compensation for Adjutant  
22 General; modifying authority of Adjutant General;  
23 authorizing Adjutant General to establish rules  
24 allowing the Military Department to accept donations  
to create a certain scholarship program; permitting  
delegation of oversight to a nonprofit public  
charity; providing gender-neutral language; modifying  
oath of office for 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  
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

1 procedures be in conformity with certain laws, rules,  
2 and regulations; amending 44 O.S. 2021, Sections 815,  
3 821, 875, 905, 912A, 928B, 934, and 937, which relate  
4 to the Oklahoma Uniform Code of Military Justice;  
5 providing exception for reduction in rank of certain  
6 members; authorizing reduction as possible  
7 nonjudicial punishment; prohibiting federal officials  
8 from convening certain court-martial proceedings  
9 without prior consent of the Governor; requiring  
10 consent to be in writing and published by Governor;  
11 authorizing Governor to reappoint certain dismissed  
12 officers; providing for reappointment procedures;  
13 directing Governor or Adjutant General to prescribe  
14 certain regulations; prohibiting act of forgery;  
15 prescribing punishment for forgery; prohibiting use  
16 or ingestion of certain substances; prescribing  
17 punishment for certain violent offenses or threats;  
18 including certain specifically enumerated offenses;  
19 modifying timing for explanation of Code; providing  
20 for adoption of Manual for Courts-Martial; providing  
21 for codification; and providing an effective date.

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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:

Section 21. 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

1 | staffed by ~~Army National Guard and Air National Guard~~ personnel of  
2 | the state military forces who, under the authority and direction of  
3 | the Adjutant General, shall support and assist the Adjutant General  
4 | in the exercise of command and control over state military forces  
5 | when not activated for federal duty under Title 10 of the United  
6 | States Code. There shall be assigned to the joint ~~force~~ forces  
7 | headquarters, officers, enlisted personnel, and civilian employees  
8 | as may be considered necessary by the Governor as Commander in Chief  
9 | and ~~as may be authorized by law and Army National Guard regulations~~  
10 | ~~and Air National Guard regulations~~ the Adjutant General.

11 | SECTION 2. AMENDATORY 44 O.S. 2021, Section 23, is  
12 | amended to read as follows:

13 | Section 23. The Governor of the state shall be the Commander in  
14 | Chief of the Militia, and, as such, shall have supreme command of  
15 | the military forces of the state while in the service of the state  
16 | or until they are ordered ~~and accepted~~ into the actual service of  
17 | the United States within the meaning of Clauses 15 and 16 of Section  
18 | 8 of Article I of the United States Constitution and Section 2 of  
19 | Article II of the United States Constitution. While in the service  
20 | of the ~~state~~ State of Oklahoma, he the Governor shall have power to  
21 | muster out any organization of the state military forces, discharge  
22 | enlisted ~~men~~ personnel, as provided herein, and perform such other  
23 | acts in keeping with the laws of the Commander in Chief, ~~subject to~~  
24 | ~~the laws of the United States and regulations prescribed by the~~

1 ~~President of the United States.~~ No armed military force from  
2 another state or territory shall be permitted to enter the state  
3 without ~~his~~ permission of the Governor, unless such military force  
4 be a part of the United States, or is acting under the authority of  
5 the United States. No independent military organization, except as  
6 a corps of cadets at the educational institutions, shall be  
7 permitted to bear arms without first securing permission of the  
8 Commander in Chief.

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

11 Section 24. A. The Adjutant General shall be appointed by the  
12 Governor, by and with the advice and consent of the Senate, ~~and~~  
13 ~~shall serve at the pleasure of the Governor.~~ Beginning January 1,  
14 2027, the appointment of the Adjutant General shall be for a term of  
15 five (5) years, requiring a new reappointment process for any  
16 additional term. The Adjutant General may be removed for cause by  
17 the Governor during the appointed term.

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

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

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

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

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

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

16        Section 25. A. The Adjutant General shall have the rank of  
17 Major General and devote full time to the duties of the office.  
18 Regardless of whether or not the Adjutant General has been  
19 recognized federally at the rank of Major General at the time of  
20 appointment by the Governor, the Adjutant General shall be  
21 compensated at the same rate of pay and allowances afforded to a  
22 Major General serving on federal Title 10 active duty with the same  
23 time in grade.

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

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

1 D. The Adjutant General may employ a state employee in the  
2 position of Executive Assistant and Programs Manager for the  
3 Military Department of the state. Said position shall be  
4 unclassified and exempt from the Oklahoma Personnel Act and the  
5 Merit Rules for Employment, except leave regulations.

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

8 Section 26. A. The Adjutant General shall be in control of the  
9 Military Department of the State of Oklahoma, subordinate only to  
10 the Governor. Within the limitations and under the provisions of  
11 law, he or she shall supervise and direct the Oklahoma National  
12 Guard within the service of the state and when under state control  
13 in all of its organization, training and other activities; shall  
14 receive and give effect to the orders of the Governor; and shall  
15 perform such other military and defense duties, not otherwise  
16 assigned by law, as the Governor may prescribe. The Adjutant  
17 General shall have the authority to arm members of the state  
18 military forces on military installations and other places under the  
19 control of the Military Department with weaponry as the Adjutant  
20 General deems necessary to adequately provide for the security of  
21 the facilities and their occupants.

22 B. The Adjutant General, when absent from the state, may  
23 temporarily delegate any authority vested under this title and any  
24 such duties as an agency appointing authority to an Assistant



1 Adjutant General, other state officer or employee within the  
2 Military Department of the State of Oklahoma. Such temporary  
3 delegations of authority pursuant to this subsection shall be  
4 accomplished in writing. The Adjutant General may also promulgate  
5 regulations providing for the delegation of any such authority.

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

13 D. The organizational chart required in subsection C of this  
14 section shall be updated no less than annually and shall include all  
15 enlisted and officer billets assigned to joint forces headquarters  
16 and shall depict all existing command relationships established by  
17 the Adjutant General within joint forces headquarters. The  
18 organizational chart required herein shall not be considered a  
19 military publication within the meaning of Section 801 of this title  
20 (Article 1).

21 E. In accordance with all relevant requirements of the United  
22 States Army, the United States Air Force or the National Guard  
23 Bureau, the Adjutant General shall develop, publish and maintain an  
24 enlisted and officer rating scheme for all enlisted and officer

1 billets assigned to joint forces headquarters. The rating scheme  
2 required herein shall not be considered a military publication  
3 within the meaning of Section 801 of this title (Article 1).

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

8 G. The Adjutant General may establish rules allowing the  
9 Military Department of the State of Oklahoma to accept donations and  
10 bequests to create a scholarship program for the benefit of members  
11 of the Oklahoma National Guard. The Adjutant General may delegate  
12 oversight of scholarship program funds to a nonprofit public charity  
13 for the purpose of creating and administering an endowment fund for  
14 the scholarship program.

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

17 Section 27. The Adjutant General and Assistant Adjutants  
18 General shall be paid a sum equivalent to the pay of ~~his/her~~ his or  
19 her federally recognized rank, exclusive of allowances. Other  
20 officers and enlisted men and women and employees of the Department  
21 shall be paid in amounts fixed by the Adjutant General and within  
22 amounts appropriated for that purpose, according to the policies and  
23 regulations prescribed by the Adjutant General. Military Department  
24

1 personnel matters shall be preempted and governed by federal law and  
2 managed by the Adjutant General.

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

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

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

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

21 Section 48. Enlisted ~~men~~ personnel discharged from service in  
22 the Oklahoma National Guard ~~of this state~~ shall receive a discharge  
23 in writing in such form and with such classification as is or shall  
24 be prescribed by National Guard regulations, and in time of peace

1 discharges may be given prior to the expiration of terms of  
2 enlistment in the following cases:

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

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

16 Section 49. All matters relating to organization, commissioning  
17 and discharging of officers, enlisting and discharge of enlisted ~~men~~  
18 personnel, discipline, and government of the Oklahoma National  
19 Guard, not otherwise provided in this code, ~~shall~~ may be decided ~~by~~  
20 according to the customs, regulations, and usage of the United  
21 States Army or the United States Air Force or National Guard  
22 regulations.

23  
24

1 SECTION 10. AMENDATORY Section 1, Chapter 74, O.S.L.  
2 2022 (44 O.S. Supp. 2022, Section 233.10a), is amended to read as  
3 follows:

4 Section 233.10a The Military Department of the State of  
5 Oklahoma may purchase information technology including, but not  
6 limited to, computer hardware or software, or any services related  
7 to software development, software modifications, or any other  
8 services related to the operation and maintenance of computer  
9 hardware or software or both, independently and without prior  
10 approval from the Office of Management and Enterprise Services  
11 Information Services Division. All federal programs managed by the  
12 Military Department of the State of Oklahoma shall be exempt from  
13 any and all Information Services Division requirements.

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

16 Section 241. The Governor, pursuant to the authority granted  
17 the states by Section 109 of Title 32 of the United States Code or a  
18 successor provision, ~~and under such regulations as the Secretary of~~  
19 ~~Defense may prescribe for discipline in training,~~ is hereby  
20 authorized to enlist, organize, maintain, equip and discipline such  
21 military forces other than the Oklahoma National Guard as he or she  
22 may deem necessary to defend the state. Such forces shall be  
23 uniformed and subject to Sections 1 through 117, Sections 208  
24 through 237, and Sections 800 through 946 of this title, insofar as

1 such sections do not conflict with Sections 241 through 250 of this  
2 title.

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

5 Section 243. A. The Governor is hereby authorized to prescribe  
6 rules and regulations governing the enlistment, organization,  
7 administration, equipment, discipline and discharge of the personnel  
8 of such military forces; to requisition from the Secretary of  
9 Defense such arms and equipment as may be in the possession of and  
10 can be spared by the Department of Defense and to extend thereto the  
11 facilities of state armories, Armed Forces Reserve Centers,  
12 readiness centers, logistics, aviation, and training facilities,  
13 warehouses and their equipment and such other state premises and  
14 property as may be available for the purpose of drill and  
15 instruction. ~~Insofar as applicable the procedure for the~~  
16 ~~enlistment, organization, pay, maintenance, equipment and~~  
17 ~~disciplining of such forces shall be in conformity with the law and~~  
18 ~~the rules and regulations governing and pertaining to the National~~  
19 ~~Guard; provided, that the officers~~ Officers and enlisted personnel  
20 in the Oklahoma ~~State~~ National Guard shall not receive any  
21 compensation or monetary allowances from the state except when  
22 activated for state active duty, as defined in Section 801 of this  
23 title, by order of the Governor.

24

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

5 C. When prescribing the rules and regulations governing  
6 enlistment, organization, administration, equipment, discipline and  
7 discharge of the personnel of the Oklahoma ~~State~~ National Guard, the  
8 Governor shall issue such rules and regulations in the form of an  
9 executive order or in a series of such orders. An executive order  
10 or a series of such orders prescribing the rules and regulations  
11 governing enlistment, organization, administration, equipment,  
12 discipline and discharge of the personnel of the Oklahoma ~~State~~  
13 National Guard shall also be published by the Adjutant General as a  
14 military publication.

15 SECTION 13. AMENDATORY 44 O.S. 2021, Section 815, is  
16 amended to read as follows:

17 Section 815. ARTICLE 15. Commanding officer's nonjudicial  
18 punishment.

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

24

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

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

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

- 16 1. An admonition;
- 17 2. A reprimand;
- 18 3. The withholding of privileges for not more than six (6)  
19 months which need not be consecutive;
- 20 4. The forfeiture of pay of not more than seven (7) days' pay;
- 21 5. A fine of not more than seven (7) days' pay;
- 22 6. A reduction to the next inferior pay grade, if the grade  
23 from which demoted is within the promotion authority of the officer  
24



1 imposing the reduction or any officer subordinate to the one who  
2 imposes the reduction;

3 7. Extra duties, including fatigue or other duties, for not  
4 more than fourteen (14) days, which need not be consecutive; and

5 8. Restriction to certain specified limits, with or without  
6 suspension from duty, for not more than fourteen (14) days, which  
7 need not be consecutive.

8 E. Any Except as provided in subsection S of this section, any  
9 commanding officer of the grade of major or above may impose upon  
10 enlisted members of the officer's command:

11 1. An admonition;

12 2. A reprimand;

13 3. The withholding of privileges for not more than six (6)  
14 months which need not be consecutive;

15 4. The forfeiture of not more than one-half (1/2) of one (1)  
16 month's pay per month for two (2) months;

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

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

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

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

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

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

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

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

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

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

20 G. Whenever any punishments are combined to run consecutively,  
21 the total length of the combined punishment shall not exceed the  
22 authorized duration of the longest punishment included in the  
23 combination, and there shall be an apportionment of punishments so  
24

1 that no single punishment in the combination exceeds its authorized  
2 length under this section.

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

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

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

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

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

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

23 K. A person punished under this section who considers the  
24 punishment unjust or disproportionate to the offense may, through

1 his or her chain of command, appeal to a senior officer designated  
2 by the Adjutant General to adjudicate appeals arising from  
3 nonjudicial punishment. A senior officer so designated by the  
4 Adjutant General shall be a member of the same component of the  
5 state military forces as the accused. An appeal made pursuant to  
6 this subsection shall be lodged within fifteen (15) days after the  
7 punishment is announced to the accused. The officer exercising  
8 appellate authority may, at his or her discretion, extend the  
9 deadline for an appeal. The appeal shall be promptly forwarded and  
10 decided, and the member shall not be punished until the appeal is  
11 decided. The senior officer designated by the Adjutant General as  
12 exercising appellate authority may exercise the same powers with  
13 respect to the punishment imposed as may be exercised under  
14 subsection I of this section by the officer who imposed the  
15 punishment. Before acting on an appeal from a punishment, the  
16 senior officer exercising appellate authority shall refer the case  
17 to a judge advocate for consideration and advice. When a senior  
18 officer is designated by the Adjutant General to adjudicate appeals  
19 arising from nonjudicial punishment, such designation shall be  
20 accomplished in writing and shall be considered a military  
21 publication, as defined in Section 801 of this title (Article 1).

22 L. Except for nonjudicial punishment imposed by the Governor or  
23 the Adjutant General, the final appellate authority for nonjudicial  
24 punishment imposed within state military forces is the Adjutant

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

15 M. Whenever nonjudicial punishment is imposed under this  
16 section:

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

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

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

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

18           O. When nonjudicial punishment has been imposed for an offense,  
19 punishment shall not again be imposed for the same offense under  
20 this section. Once nonjudicial punishment has been imposed, it may  
21 not be increased, upon appeal or otherwise. When a commander or  
22 officer in charge determines that nonjudicial punishment is  
23 appropriate for a particular member, all known offenses determined  
24 to be appropriate for disposition by nonjudicial punishment and

1 ready to be considered at that time, including all offenses arising  
2 from a single incident or course of conduct, shall be considered  
3 together and shall not be made the basis for multiple punishments.  
4 This subsection shall in no way restrict the right of a commander to  
5 prefer court-martial charges for an offense previously punished  
6 under the provisions of this section.

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

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

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

23 S. For purposes of this section, no member of the Oklahoma  
24 National Guard of the rank of E-8 or E-9 shall be reduced in rank



1 pursuant to this section except when the reduction results from  
2 nonjudicial punishment imposed by an officer of the Oklahoma  
3 National Guard of the rank of brigadier general or by the Adjutant  
4 General. When imposing nonjudicial punishment on enlisted persons  
5 of the rank of E-7 or below, a commander or officer in charge who  
6 possesses the rank of colonel may consider reduction in rank as a  
7 possible punishment.

8 SECTION 14. AMENDATORY 44 O.S. 2021, Section 821, is  
9 amended to read as follows:

10 Section 821. ~~RESERVED.~~ ARTICLE 21. Convening of court-martial  
11 by federal officials.

12 In no case shall the President of the United States, the  
13 Secretary of Defense, the Secretary of a military department, a  
14 military officer serving on active duty within the meaning of Title  
15 10 of the United States Code, or any other federal official convene  
16 a court-martial proceeding pursuant to The Oklahoma Military Code  
17 unless prior consent has been granted by the Governor. Such  
18 consent, if granted by the Governor, shall be accomplished in  
19 writing and shall be published by the Governor.

20 SECTION 15. AMENDATORY 44 O.S. 2021, Section 875, is  
21 amended to read as follows:

22 Section 875. ARTICLE 75. Restoration.

23 A. Under such regulations as the Adjutant General may  
24 promulgate, all rights, privileges, and property affected by an

1 executed part of a court-martial sentence which has been set aside  
2 or disapproved, except an executed dismissal or discharge, shall be  
3 restored unless a new trial or rehearing is ordered and such  
4 executed part is included in a sentence imposed upon the new trial  
5 or rehearing.

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

11 C. If a previously executed sentence of dismissal is not  
12 imposed on a new trial, the Adjutant General shall substitute  
13 therefor a form of discharge authorized for administrative issue,  
14 and the commissioned officer dismissed by that sentence may be  
15 reappointed ~~pursuant to Sections 875 and 12203 of Title 10 of the~~  
16 ~~United States Code and any applicable regulations prescribed~~  
17 ~~thereunder by the President of the United States or the Secretary~~  
18 ~~concerned~~ solely by the Governor to such commissioned grade and with  
19 such rank as in the opinion of the Governor that former officer  
20 would have attained had he or she not been dismissed. The  
21 reappointment of such a former officer shall be without regard to  
22 the existence of a vacancy and shall affect the promotion status of  
23 other officers only insofar as the Governor may direct. All time  
24 between the dismissal and the reappointment shall be considered as

1 actual service for all purposes, including the right to pay and  
2 allowances.

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

8 SECTION 16. AMENDATORY 44 O.S. 2021, Section 905, is  
9 amended to read as follows:

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

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

13 1. Falsely makes or alters any signature to, or any part of,  
14 any writing which would, if genuine, apparently impose a legal  
15 liability on another or change his or her legal right or liability  
16 to his or her prejudice; or

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

21 SECTION 17. AMENDATORY 44 O.S. 2021, Section 912A, is  
22 amended to read as follows:

23 Section 912A. ARTICLE 112A. Wrongful use, possession, etc., of  
24 controlled substances.

1       A. Any person subject to the Oklahoma Uniform Code of Military  
2 Justice who wrongfully uses, possesses, manufactures, distributes,  
3 imports into the customs territory of the United States, exports  
4 from the United States, or introduces into an installation, vessel,  
5 vehicle, or aircraft used by or under the control of the Armed  
6 Forces of the United States or of the state military forces a  
7 substance described in subsection B of this section shall be  
8 punished as a court-martial may direct.

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

11       1. Opium, heroin, cocaine, amphetamine, lysergic acid  
12 diethylamide, methamphetamine, phencyclidine, barbituric acid, and  
13 marijuana and any compound or derivative of any such substance;

14       2. Any substance not specified in paragraph 1 of this  
15 subsection that is listed on a schedule of controlled substances  
16 prescribed by the President for the purposes of the Uniform Code of  
17 Military Justice, Title 10 of the United States Code, Section 801,  
18 et seq.; and

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

24

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

5        SECTION 18.        AMENDATORY        44 O.S. 2021, Section 928B, is  
6 amended to read as follows:

7        Section 928B. ~~RESERVED.~~

8        Any person subject to the Oklahoma Uniform Code of Military  
9 Justice who:

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

12        2. With intent to threaten or intimidate a spouse, an intimate  
13 partner, or an immediate family member of that person, commits an  
14 offense under this chapter against any person or property, including  
15 an animal;

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

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

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

1 SECTION 19. AMENDATORY 44 O.S. 2021, Section 934, is  
2 amended to read as follows:

3 Section 934. ARTICLE 134. General article.

4 Though not specifically mentioned in the Oklahoma Uniform Code  
5 of Military Justice, all disorders and neglects to the prejudice of  
6 good order and discipline in the state military forces, all conduct  
7 of a nature to bring discredit upon the state military forces, and  
8 crimes and offenses not capital, of which persons subject to the  
9 Code may be guilty, shall be taken cognizance of by a general,  
10 special, or summary court-martial, according to the nature and  
11 degree of the offense, and shall be punished at the discretion of  
12 that court. However, where a crime constitutes an offense that  
13 violates both the Code and the criminal laws of the State of  
14 Oklahoma, jurisdiction over the offense shall be determined in  
15 accordance with Section 802 of this title (Article 2). This section  
16 shall encompass all specifically enumerated offenses included in  
17 Section 934 of Title 10 of the United States Code, including all  
18 amendments thereto adopted from time to time, except when such  
19 provisions are contrary to or inconsistent with the Code.

20 SECTION 20. AMENDATORY 44 O.S. 2021, Section 937, is  
21 amended to read as follows:

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

23 A. 1. The sections of the Oklahoma Uniform Code of Military  
24 Justice specified in paragraph 3 of this subsection shall be

1 carefully explained, either orally or in writing, to each officer  
2 and enlisted member at the time of, or within one hundred twenty  
3 (120) days after, the officer's or enlisted member's initial  
4 entrance into a duty status with the state military forces.

5 2. Such articles shall be explained again:

6 a. after the enlisted member has completed basic or  
7 recruit training, and

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

10 3. This subsection applies with respect to Sections 802, 803,  
11 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this  
12 title (Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-  
13 139).

14 B. The text of the Code and of the regulations prescribed  
15 pursuant to the Code shall be made available to an officer or  
16 enlisted member of the state military forces, upon request, for the  
17 officer's or enlisted member's personal examination. Electronic or  
18 online availability of the Code and of the regulations prescribed  
19 pursuant to the Code shall constitute availability for purposes of  
20 personal examination by officers or enlisted members of the state  
21 military forces.

22 SECTION 21. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 940C of Title 44, unless there  
24 is created a duplication in numbering, reads as follows:

1       ARTICLE 140C.   Manual for Courts-Martial.

2       Manual for Courts-Martial, United States, including all  
3 amendments thereto adopted from time to time, except when such rules  
4 are contrary to or inconsistent with the Oklahoma Uniform Code of  
5 Military Justice, shall be adopted as the Oklahoma State Manual for  
6 Courts-Martial.

7       SECTION 22.   This act shall become effective November 1, 2023.

8  
9       59-1-7974       EK       03/08/23

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