

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3712

By: Kannady of the House

and

Gollihare of the Senate

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10 COMMITTEE SUBSTITUTE

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

1 Governor as Commander in Chief; authorizing certain
2 personnel matters to be decided according to customs
3 and state and federal regulations; permitting
4 Military Department to purchase information
5 technology; exempting certain federal programs from
6 Information Services Division requirements; removing
7 reference to certain regulations prescribed by the
8 Secretary of Defense; striking requirement that
9 personnel procedures be in conformity with certain
10 laws, rules, and regulations; creating the Oklahoma
11 National Guard Supplemental Retirement Pay Revolving
12 Fund; stating purposes of fund; providing for
13 authorized revenue sources; providing procedures for
14 expenditure; prohibiting payments prior to certain
15 date; providing for certain payment to members of
16 Oklahoma National Guard; excluding payment to persons
17 retired from full time military service; prohibiting
18 payment to survivors or beneficiaries; providing for
19 disposition of amounts paid prior to death; providing
20 eligibility for supplemental payments; providing for
21 pro rata reduction in payment amounts; providing for
22 use of subsequently acquired funds to compensate for
23 reduced payment amounts; amending 44 O.S. 2021,
24 Sections 815, 821, 875, 905, 912A, 928B, 934, and
937, which relate to the Oklahoma Uniform Code of
Military Justice; providing exception for reduction
in rank of certain members; authorizing reduction as
possible nonjudicial punishment; prohibiting federal
officials from convening certain court-martial
proceedings without prior consent of the Governor;
requiring consent to be in writing and published by
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.

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

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

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

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

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1 Section 23. The Governor of the state shall be the Commander in
2 Chief of the Militia, and, as such, shall have supreme command of
3 the military forces of the state while in the service of the state
4 or until they are ordered ~~and accepted~~ into the actual service of
5 the United States within the meaning of Clauses 15 and 16 of Section
6 8 of Article I of the United States Constitution and Section 2 of
7 Article II of the United States Constitution. While in the service
8 of the ~~state~~ State of Oklahoma, ~~he~~ the Governor shall have power to
9 muster out any organization of the state military forces, discharge
10 enlisted ~~men~~ personnel, as provided herein, and perform such other
11 acts in keeping with the laws of the Commander in Chief, ~~subject to~~
12 ~~the laws of the United States and regulations prescribed by the~~
13 ~~President of the United States.~~ No armed military force from
14 another state or territory shall be permitted to enter the state
15 without ~~his~~ permission of the Governor, unless such military force
16 be a part of the United States, or is acting under the authority of
17 the United States. No independent military organization, except as
18 a corps of cadets at the educational institutions, shall be
19 permitted to bear arms without first securing permission of the
20 Commander in Chief.

21 SECTION 3. AMENDATORY 44 O.S. 2021, Section 24, is
22 amended to read as follows:
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1 Section 24. A. The Adjutant General shall be appointed by the
2 Governor, by and with the advice and consent of the Senate,~~and~~
3 ~~shall serve at the pleasure of the Governor.~~

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

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

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

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

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

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

3 Section 25. A. The Adjutant General shall have the rank of
4 Major General and devote full time to the duties of the office.
5 Regardless of whether or not the Adjutant General has been
6 recognized federally at the rank of Major General at the time of
7 appointment by the Governor, the Adjutant General shall be
8 compensated at the same rate of pay and allowances afforded to a
9 Major General serving on federal Title 10 active duty with the same
10 time in grade. Upon retirement, the Adjutant General shall receive
11 the same retirement pay as a Major General serving on federal Title
12 10 active duty with the same time in grade until federal benefits
13 for retirement become available.

14 B. The Governor may appoint Assistant Adjutants General for
15 Army and Assistant Adjutants General for Air to assist the Adjutant
16 General in the discharge and performance of his or her duties. When
17 appointing Assistant Adjutants General, the Governor shall take into
18 consideration the number of such positions contemplated or
19 recommended by the National Guard Bureau for manning the joint
20 forces headquarters of a state. Such Assistant Adjutants General
21 shall have the qualifications prescribed by law for the Adjutant
22 General and shall have the rank of Brigadier General. The Assistant
23 Adjutants General appointed by the Governor shall be considered
24 staff officers and not commanders except that, in the discretion of

1 the Adjutant General, specific command or supervisory authority may
2 be delegated by the Adjutant General to an Assistant Adjutant
3 General but such delegation shall be accomplished in writing and
4 shall be considered a military publication, as defined in Section
5 801 of this title (Article 1).

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

14 D. The Adjutant General may employ a state employee in the
15 position of Executive Assistant and Programs Manager for the
16 Military Department of the state. Said position shall be
17 unclassified and exempt from the Oklahoma Personnel Act and the
18 Merit Rules for Employment, except leave regulations.

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

21 Section 26. A. The Adjutant General shall be in control of the
22 Military Department of the State of Oklahoma, subordinate only to
23 the Governor. Within the limitations and under the provisions of
24 law, he or she shall supervise and direct the Oklahoma National

1 Guard within the service of the state and when under state control
2 in all of its organization, training and other activities; shall
3 receive and give effect to the orders of the Governor; and shall
4 perform such other military and defense duties, not otherwise
5 assigned by law, as the Governor may prescribe. The Adjutant
6 General shall have the authority to arm members of the state
7 military forces on military installations and other places under the
8 control of the Military Department with weaponry as the Adjutant
9 General deems necessary to adequately provide for the security of
10 the facilities and their occupants.

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

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

3 D. The organizational chart required in subsection C of this
4 section shall be updated no less than annually and shall include all
5 enlisted and officer billets assigned to joint forces headquarters
6 and shall depict all existing command relationships established by
7 the Adjutant General within joint forces headquarters. The
8 organizational chart required herein shall not be considered a
9 military publication within the meaning of Section 801 of this title
10 (Article 1).

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

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

22 G. The Adjutant General may establish rules allowing the
23 Military Department of the State of Oklahoma to accept donations and
24 bequests to create a scholarship program for the benefit of members

1 of the Oklahoma National Guard. The Adjutant General may delegate
2 oversight of scholarship program funds to a nonprofit public charity
3 for the purpose of creating and administering an endowment fund for
4 the scholarship program.

5 H. The Adjutant General shall serve as the chief of all fire
6 protection units operating under the Oklahoma Military Department
7 and shall supervise and administer the fire protection units in
8 accordance with the rules and procedures prescribed by the Military
9 Department.

10 I. The Adjutant General shall serve as the chief of all police
11 units and officers appointed under the Oklahoma Military Department.
12 The Adjutant General may appoint police officers in accordance with
13 Section 230 of this title.

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

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

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

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

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

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

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

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

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

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

21 SECTION 10. AMENDATORY Section 1, Chapter 74, O.S.L.
22 2022 (44 O.S. Supp. 2022, Section 233.10a), is amended to read as
23 follows:
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1 Section 233.10a The Military Department of the State of
2 Oklahoma may purchase information technology including, but not
3 limited to, computer hardware or software, or any services related
4 to software development, software modifications, or any other
5 services related to the operation and maintenance of computer
6 hardware or software or both, independently and without prior
7 approval from the Office of Management and Enterprise Services
8 Information Services Division. All federal programs managed by the
9 Military Department of the State of Oklahoma shall be exempt from
10 any and all Information Services Division requirements.

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

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

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

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

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

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

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

16 There is hereby created in the State Treasury a revolving fund
17 for the Oklahoma Military Department to be designated the "Oklahoma
18 National Guard Supplemental Retirement Pay Revolving Fund". The
19 fund shall be a continuing fund, not subject to fiscal year
20 limitations, and shall consist of all monies received by the
21 Oklahoma Military Department from funds provided by law. All monies
22 accruing to the credit of said fund are hereby appropriated and may
23 be budgeted and expended by the Oklahoma Military Department for the
24 purpose of implementing the provisions of Section 3 of this act.

1 Expenditures from said fund shall be made upon warrants issued by
2 the State Treasurer against claims filed as prescribed by law with
3 the Director of the Office of Management and Enterprise Services for
4 approval and payment.

5 SECTION 14. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 272 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 A. The provisions of this section shall not be operative and no
9 payments shall be made from the Oklahoma National Guard Supplemental
10 Retirement Pay Revolving Fund until November 1, 2024.

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

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

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

2 1. Determine the average basic pay for the member using the
3 same formula to compute average basic pay for purposes of the active
4 duty military retirement system based on the member's total years of
5 service;

6 2. If the members of the active duty military retirement system
7 were eligible for a cost-of-living adjustment for the year for which
8 the computation of the payment amount authorized by this section is
9 to be made, the cost-of-living adjustment amount in an annualized
10 form shall be added to the result of the computation in paragraph 1
11 of this subsection;

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

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

17 E. Any benefit payable to an eligible member of the Oklahoma
18 National Guard shall only be payable during the member's lifetime
19 and no benefit authorized pursuant to the provisions of this act
20 shall be payable to a survivor other than amounts paid to a member
21 prior to member's death which are payable to another person
22 pursuant to the provisions of a joint tenancy bank account with a
23 right of survivorship naming a person or persons as beneficiary, a
24 bank account with a transfer on death or payable on death feature,

1 an express trust, including but not limited to a trust created by
2 the payee member during his or her lifetime, a will or the statute
3 of intestate succession for distribution of the assets of a person
4 who does not otherwise provide for the disposition of their assets
5 after death.

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

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

17 H. In the event the funds required for full payment to all
18 eligible members pursuant to the provisions of this section is not
19 sufficient, the payments to the eligible members shall be prorated
20 by dividing the total number of eligible members by the total amount
21 of available funds. The resulting quotient shall be multiplied by
22 the payment amount otherwise due to the eligible member and the
23 result of that computation shall be the reduced dollar amount paid
24 to each member for the applicable period. For any period of time

1 during which payments are prorated pursuant to this subsection, the
2 next increment of available funds shall be used to make payments to
3 the eligible members whose payment amounts were prorated to
4 compensate for the reduction made in the prior payment period.

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

7 Section 815. ARTICLE 15. Commanding officer's nonjudicial
8 punishment.

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

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

21 C. Except as provided in subsection L of this section, the
22 Governor or Adjutant General may delegate the powers established
23 under this section to a senior officer who is a member of the state
24

1 military forces and is also a member of the same force component as
2 the accused.

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

6 1. An admonition;

7 2. A reprimand;

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

10 4. The forfeiture of pay of not more than seven (7) days' pay;

11 5. A fine of not more than seven (7) days' pay;

12 6. A reduction to the next inferior pay grade, if the grade
13 from which demoted is within the promotion authority of the officer
14 imposing the reduction or any officer subordinate to the one who
15 imposes the reduction;

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

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

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

24 1. An admonition;

1 2. A reprimand;

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

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

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

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

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

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

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

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

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

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

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

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

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

16 H. Once the commander has determined that nonjudicial
17 punishment is appropriate, the commander shall provide reasonable
18 notice to the member of his or her intent to impose nonjudicial
19 punishment. At the time the commander provides notification as
20 required in this subsection, the member shall be entitled to examine
21 all statements and other evidence that the commander has examined
22 and intends to rely upon as the basis for punishment. The member
23 shall be provided a copy of the documentary evidence unless it is
24 privileged, classified, or otherwise restricted by law, regulation,

1 or instruction. At the time the commander provides notification as
2 required in this subsection, the commander shall also inform the
3 member as to the quantum of punishment potentially to be imposed.
4 While a member undergoing nonjudicial punishment is not entitled to
5 representation by a duly appointed defense counsel, the member may
6 seek legal advice from any judge advocate available for this
7 purpose.

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

23 J. The officer who imposes the punishment, or his or her
24 successor in command, may at any time suspend, set aside, mitigate

1 or remit any part or amount of the punishment and restore all
2 rights, privileges and property affected. The officer may also
3 mitigate:

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

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

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

1 exercising appellate authority may exercise the same powers with
2 respect to the punishment imposed as may be exercised under
3 subsection I of this section by the officer who imposed the
4 punishment. Before acting on an appeal from a punishment, the
5 senior officer exercising appellate authority shall refer the case
6 to a judge advocate for consideration and advice. When a senior
7 officer is designated by the Adjutant General to adjudicate appeals
8 arising from nonjudicial punishment, such designation shall be
9 accomplished in writing and shall be considered a military
10 publication, as defined in Section 801 of this title (Article 1).

11 L. Except for nonjudicial punishment imposed by the Governor or
12 the Adjutant General, the final appellate authority for nonjudicial
13 punishment imposed within state military forces is the Adjutant
14 General. A person punished under this section whose appeal was
15 previously denied by a senior officer designated to adjudicate
16 appeals may, through his or her chain of command, lodge an
17 additional appeal with the Adjutant General within five (5) days
18 after the appeal is denied. In the event the officer imposing
19 nonjudicial punishment is a senior officer who is also designated to
20 adjudicate appeals arising from nonjudicial punishment, an appeal
21 thereof shall be addressed directly to the Adjutant General. In the
22 event the officer imposing nonjudicial punishment is the Adjutant
23 General, an appeal thereof shall be addressed directly to the
24 Governor. An appeal offered pursuant to this subsection shall be

1 made only in writing. Neither the Governor nor the Adjutant General
2 shall delegate his or her duties as an appellate authority under
3 this subsection.

4 M. Whenever nonjudicial punishment is imposed under this
5 section:

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

10 a. excuse the accused from attendance at scheduled unit
11 training assemblies, or

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

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

20 N. The imposition and enforcement of disciplinary punishment
21 under this section for any act or omission shall not be a bar to
22 trial by court-martial or a civilian court of competent jurisdiction
23 for a crime or offense arising out of the same act or omission; but
24 the fact that a disciplinary punishment has been enforced may be

1 demonstrated by the accused upon trial and, when so demonstrated, it
2 shall be considered in determining the measure of punishment to be
3 adjudged in the event of a finding or verdict of guilty.

4 Nonjudicial punishment shall not be imposed for an offense
5 previously tried by a civilian court unless so authorized by
6 regulations promulgated by the Adjutant General.

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

20 P. In accordance with subsection B of Section 843 of this title
21 (Article 43, subsection B), a person accused of an offense is not
22 liable to be punished under this section if the offense was
23 committed more than two (2) years before the imposition of
24 punishment. Periods in which the accused is absent without

1 authority shall be excluded in computing the period of limitation
2 prescribed in this section.

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

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

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

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

23 Section 821. ~~RESERVED.~~ ARTICLE 21. Convening of court-martial
24 by federal officials.

1 In no case shall the President of the United States, the
2 Secretary of Defense, the Secretary of a military department, a
3 military officer serving on active duty within the meaning of Title
4 10 of the United States Code, or any other federal official convene
5 a court-martial proceeding pursuant to the Oklahoma Military Code
6 unless prior consent has been granted by the Governor. Such
7 consent, if granted by the Governor, shall be accomplished in
8 writing and shall be published by the Governor.

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

11 Section 875. ARTICLE 75. Restoration.

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

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

24

1 C. If a previously executed sentence of dismissal is not
2 imposed on a new trial, the Adjutant General shall substitute
3 therefor a form of discharge authorized for administrative issue,
4 and the commissioned officer dismissed by that sentence may be
5 reappointed ~~pursuant to Sections 875 and 12203 of Title 10 of the~~
6 ~~United States Code and any applicable regulations prescribed~~
7 ~~thereunder by the President of the United States or the Secretary~~
8 concerned solely by the Governor to such commissioned grade and with
9 such rank as in the opinion of the Governor that former officer
10 would have attained had he or she not been dismissed. The
11 reappointment of such a former officer shall be without regard to
12 the existence of a vacancy and shall affect the promotion status of
13 other officers only insofar as the Governor may direct. All time
14 between the dismissal and the reappointment shall be considered as
15 actual service for all purposes, including the right to pay and
16 allowances.

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

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

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

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

3 1. Falsely makes or alters any signature to, or any part of,
4 any writing which would, if genuine, apparently impose a legal
5 liability on another or change his or her legal right or liability
6 to his or her prejudice; or

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

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

12 Section 912A. ARTICLE 112A. Wrongful use, possession, etc., of
13 controlled substances.

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

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

24

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

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

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

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

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

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

22 1. Commits a violent offense against a spouse, an intimate
23 partner, or an immediate family member of that person;
24

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

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

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

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

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

16 Section 934. ARTICLE 134. General article.

17 Though not specifically mentioned in the Oklahoma Uniform Code
18 of Military Justice, all disorders and neglects to the prejudice of
19 good order and discipline in the state military forces, all conduct
20 of a nature to bring discredit upon the state military forces, and
21 crimes and offenses not capital, of which persons subject to the
22 Code may be guilty, shall be taken cognizance of by a general,
23 special, or summary court-martial, according to the nature and
24 degree of the offense, and shall be punished at the discretion of

1 that court. However, where a crime constitutes an offense that
2 violates both the Code and the criminal laws of the State of
3 Oklahoma, jurisdiction over the offense shall be determined in
4 accordance with Section 802 of this title (Article 2). This section
5 shall encompass all specifically enumerated offenses included in
6 Section 934 of Title 10 of the United States Code, including all
7 amendments thereto adopted from time to time, except when such
8 provisions are contrary to or inconsistent with the Code.

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

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

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

18 2. Such articles shall be explained again:

19 a. after the enlisted member has completed basic or
20 recruit training, and

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

23 3. This subsection applies with respect to Sections 802, 803,
24 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this

1 title (Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-
2 139).

3 B. The text of the Code and of the regulations prescribed
4 pursuant to the Code shall be made available to an officer or
5 enlisted member of the state military forces, upon request, for the
6 officer's or enlisted member's personal examination. Electronic or
7 online availability of the Code and of the regulations prescribed
8 pursuant to the Code shall constitute availability for purposes of
9 personal examination by officers or enlisted members of the state
10 military forces.

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

14 ARTICLE 140C. Manual for Courts-Martial.

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

20 SECTION 24. This act shall become effective November 1, 2024.

21

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
23 02/29/2024 - DO PASS, As Amended and Coauthored.

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