

Act No. 77
Public Acts of 2024
Approved by the Governor
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2024**

Introduced by Senators Klinefelt, Polehanki and McCann

ENROLLED SENATE BILL No. 690

AN ACT to amend 1980 PA 523, entitled “An act to provide a uniform code of military justice for the state military forces; and to repeal certain acts and parts of acts,” by amending sections 2, 3, 6, 10, 15, 16, 17, 18, 19, 20, 23, 24, 26, 27, 29, 32, 34, 36, 43, 48, 52, 54, 58, 61, 65, 66, 67, 121, and 147 (MCL 32.1002, 32.1003, 32.1006, 32.1010, 32.1015, 32.1016, 32.1017, 32.1018, 32.1019, 32.1020, 32.1023, 32.1024, 32.1026, 32.1027, 32.1029, 32.1032, 32.1034, 32.1036, 32.1043, 32.1048, 32.1052, 32.1054, 32.1058, 32.1061, 32.1065, 32.1066, 32.1067, 32.1121, and 32.1147), sections 2, 3, 15, 16, 26, 27, and 29 as amended and section 121 as added by 2005 PA 186, and by adding sections 6a, 30a, 38a, 58a, 58b, 93a, 106, 106a, 112a, 120, 121a, 121b, 122, 123, 128, 131a, 131b, 131c, 132a, 134a, 134b, 134c, and 134d; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) “Accuser” means an individual who signs and swears to charges, an individual who directs that charges be signed and sworn to by another, or an individual who has an interest other than an official interest in the prosecution of the accused.

(b) “Active service” means service, active state service, or special duty required by law, regulation, or order of the governor. Active service includes the continuing obligations of active members of the national guard and the defense force by virtue of their commissions, appointments, or enlistments.

(c) “Active state duty” means the actual weekend, annual training, or special call up duty in the state military forces and includes travel to and from the duty site or station.

(d) “Active state service” means military service in support of civil authorities ordered by the governor or as provided by the Michigan military act, 1967 PA 150, MCL 32.501 to 32.851.

(e) “Apprehension” means the taking of an individual into custody.

(f) “Cadet” means an individual who is enrolled in or attending a state military academy, a regional training institute, or any other formal education program for the purpose of becoming a commissioned officer in the state military forces.

(g) “Commanding officer” includes only a commissioned officer.

(h) “Confinement” means the physical restraint of an individual.

(i) “Controlled substance” means opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, marijuana, any compound or derivative of any such substance, and any other substance that is listed in schedules I through V of 21 USC 812, including any subsequent amendments to that act.

(j) “Convening authority” includes either of the following:

(i) The person who convened the court.

(ii) A commissioned officer commanding for the time being or a successor in command to the convening authority.

(k) “Correctional custody” means the physical restraint of an individual during duty or nonduty while on active state duty and includes extra duty, fatigue duty, or hard labor.

(l) “Defense counsel” means a commissioned officer of the state military forces who is a member in good standing of the bar of this state and who is appointed to represent an accused in a proceeding under this code, or a civilian attorney who is a member in good standing of the bar of this state, retained at personal expense of the accused, if the accused elects nonmilitary representation.

(m) “Enlisted member” means an individual in an enlisted grade.

(n) “Extra duty” means a duty in addition to those normally assigned to the individual undergoing the punishment, and includes, but is not limited to, fatigue duty and military duty of any kind.

(o) “Fatigue duty” means labor of a nonmilitary kind, including, but not limited to, cleaning, digging, domestic duty, or other similar types of work.

(p) “Federal service” means military duty in the Armed Forces of the United States, including, without limitation, the Army National Guard of the United States and the Air National Guard of the United States, while subject to the uniform code of military justice, 10 USC 801 to 946a.

(q) “Grade” means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or rule.

(r) “Judge advocate” means a commissioned officer of the state military forces who is a member in good standing of the bar of this state, and is either of the following:

(i) Certified or designated as a judge advocate in the Judge Advocate General’s Corps of the Army, Air Force, Navy, or Marine Corps or designated as a law specialist as an officer of the Coast Guard, or a reserve component of the Army, Air Force, Navy, Marine Corps, or Coast Guard.

(ii) Certified as a nonfederally recognized judge advocate, under regulations adopted under this code, by the senior judge advocate of the commander of the force in the state military forces of which the accused is a member, as competent to perform such military justice duties required by this code, or, if no judge advocate described in this subparagraph is available, then that certification may be made by the senior judge advocate of the commander of another force in the state military forces as the convening authority directs.

(s) “Military” includes each component of the Armed Forces of the United States and each component of the state military establishment.

(t) “Military court” means a court-martial, a court of inquiry, or the military appeals tribunal.

(u) “Military judge” means an official of a general or special court-martial detailed in accordance with section 26.

(v) “Minor offense” means an offense under a punitive section of this code that a commanding officer considers minor.

(w) “Officer” means a commissioned or warrant officer.

(x) “Special victims’ counsel” means a judge advocate designated as a special victims’ counsel under 10 USC 1044e.

(y) “Staff judge advocate” means the commissioned officer responsible for supervising the administration of military justice within a command.

(z) “State staff judge advocate” means the commissioned officer responsible for supervising the administration of military justice in the state military forces.

(aa) “State military forces” means the national guard of this state, as that term is defined in 32 USC 101(3), and any other components of the state military establishment organized under the laws of this state.

(bb) “Summary court officer” means an official appointed pursuant to section 16(c) who is authorized to serve warrants.

(cc) “Superior commissioned officer” means a commissioned officer superior in rank or command.

(dd) “Unit” means a regularly organized body of the military.

(ee) “Victim of an offense under this code” means an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense under this code, or any other individual defined as a victim under the William Van Regenmorter crime victim’s rights act, 1985 PA 87, MCL 780.751 to 780.834.

Sec. 3. (1) This code applies to all members of the state military forces at all times, except when in federal service.

(2) This code applies to an individual subject to this code while serving out of state and while going to and returning from the service out of state to the same extent as an individual serving within this state.

(3) Subject matter jurisdiction is established if the individual subject to this code was on any type of duty status with the state military forces at the time of the offense, including travel to and from the duty site or station or, if the individual subject to this code was not on any type of duty status with the state military forces at the time of the offense, a nexus exists between the offense and the state military forces.

(4) Courts-martial and courts of inquiry may be convened and held in units of the state military forces while serving out of state with the same jurisdiction and powers as if held within this state. Offenses committed out of state may be tried and punished either out of state or within this state.

Sec. 6. (1) The adjutant general shall appoint an officer of the state military forces as state staff judge advocate. To be eligible for appointment, an officer must be licensed to practice law in this state, and have practiced law in this state for at least 5 years, and must be a commissioned officer of the rank of lieutenant colonel or higher in the judge advocate general's corps.

(2) The state staff judge advocate or the state staff judge advocate's delegate shall make frequent inspections in the field in the supervision of the administration of military justice.

(3) Each convening authority shall communicate directly with its staff judge advocate or judge advocate in matters relating to the administration of military justice. The staff judge advocate or judge advocate of a command is entitled to communicate directly with the staff judge advocate or judge advocate of a superior or subordinate command, or with the state staff judge advocate.

(4) An individual who has acted as member, military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer in a court-martial case shall not act later as staff judge advocate or judge advocate to a reviewing authority or to the military appeals tribunal or be a member of a reviewing authority or a member of the military appeals tribunal on the same case.

Sec. 6a. (1) A victim of an offense under this code has the rights conferred by state law in nonmilitary courts, including, but not limited to, all of the following:

(a) The right to be reasonably protected from the accused.

(b) The right to reasonable, accurate, and timely notice provided by military trial counsel of all of the following:

(i) A public hearing concerning the continuation of confinement before the trial of the accused.

(ii) An investigation under section 32.

(iii) A court-martial relating to the offense, including all related motions, hearings, pleas, sentencing hearings, alterations or suspensions, and all related filed documents.

(iv) A public proceeding of the service clemency and parole board relating to the offense.

(v) The release or escape of the accused, unless notice may endanger the safety of any individual.

(c) The right to not be excluded from any public hearing or proceeding described in subdivision (b), unless the military judge or investigating officer under section 32, as applicable, after receiving clear and convincing evidence, determines that testimony by the victim of an offense under this code would be materially altered if the victim heard other testimony at that hearing or proceeding.

(d) The right to be reasonably heard at all of the following:

(i) A public hearing concerning the continuation of confinement before the trial of the accused.

(ii) A sentencing hearing relating to the offense.

(iii) A proceeding involving clemency and parole related to the offense.

(iv) Any public military proceedings, including appeals, in connection with the victim's legal rights where those rights are implicated.

(e) The reasonable right to confer beforehand with the counsel representing the government at a proceeding described in subdivision (b).

(f) The right to receive full restitution before a forfeiture may be received by the military as provided by law.

(g) The right to proceedings free from unreasonable delay.

(h) The right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under this code.

(2) If a victim of an offense under this code is under 18 years of age but is not a member of the military, or is incompetent, incapacitated, or deceased, the military judge shall designate a representative of the estate of the victim, a family member, or another suitable individual who must not be the accused to assume the victim's rights under this section.

(3) This section shall not be construed to do any of the following:

(a) Authorize a cause of action for damages.

(b) Create, enlarge, or imply a duty or obligation to a victim of an offense under this code or other individual for breach of which this state or any of its officers or employees could be held liable for damages other than restitution.

(c) Impair the exercise of discretion under section 30 or 34.

(4) If the victim of an offense under this code believes that an investigating officer ruling under section 32 or a court-martial ruling violates the rights of the victim afforded by a provision specified in subsection (7), the victim may file an interlocutory appeal to the military appeals tribunal, and an automatic stay of the military proceedings takes effect on the filing of the notice of appeal until final disposition of the appeal in order to require the investigating officer or the court-martial to comply with the provision.

(5) If the victim of an offense under this code is subject to an order to submit to a deposition, whether or not the victim is available to testify at the court-martial trying the accused for the offense, the victim may appeal that order in the same manner described in subsection (4) to the military appeals tribunal to quash the order.

(6) An appeal described in subsection (4) or (5) must be forwarded directly to the chairperson of the military appeals tribunal, by means that may be prescribed by the governor, and, to the extent practicable, must have priority over all other proceedings before the military appeals tribunal.

(7) Subsection (4) applies to the protections afforded by all of the following:

(a) This section.

(b) Section 32.

(c) Military Rule of Evidence 412, relating to the admission of evidence regarding a victim's sexual behavior or predisposition.

(d) Military Rule of Evidence 513, relating to the psychotherapist-patient privilege.

(e) Military Rule of Evidence 514, relating to the victim advocate-victim privilege.

(f) Military Rule of Evidence 615, relating to the exclusion of witnesses.

(8) On notice by counsel for the government to counsel for the accused of the name of an alleged victim of an offense under this code whom counsel for the government intends to call as a witness at a proceeding under this code, counsel for the accused shall make any request to interview the victim through the special victims' counsel or other counsel for the victim, if applicable.

(9) If requested by an alleged victim who is subject to a request for interview under subsection (8), any interview of the victim by counsel for the accused must take place only in the presence of the counsel for the government, a counsel for the victim, or, if applicable, a victim advocate.

Sec. 10. (1) An individual subject to this code and charged with an offense under this code must be ordered into arrest or confinement, as circumstances may require. If the individual is charged only with an offense normally tried by a summary court-martial, the individual shall not ordinarily be placed in confinement.

(2) An arrest or confinement of an individual who fails or refuses to report to the individual's appointed place of duty must be executed pursuant to a warrant issued by the convening authority in a form approved by the adjutant general.

(3) A warrant of arrest must be served by an individual authorized to serve a warrant of arrest in this state or by military personnel designated for that purpose by the commanding officer.

(4) An individual confined under this code must be confined in a place of confinement under the control of the state military forces or in a jail in the county in which the accused resides or in which the individual's unit is located. If none of these locations are feasible, an individual confined under this code may be confined in any county jail in this state.

Sec. 15. (1) Under regulations promulgated under this code, a commanding officer, in addition to or instead of an admonition or reprimand, may impose disciplinary punishment for a minor offense on an officer under that commanding officer's command without the intervention of a court-martial with 1 of the following:

(a) Restrictions to certain specified limits, with or without suspension from duty, for not more than 15 consecutive days.

(b) If imposed by an officer exercising general court-martial jurisdiction or an officer of general or flag rank in command:

(i) Arrest in quarters for not more than 15 consecutive days.

(ii) Forfeiture of not more than 1/2 of 1 month's pay per month for 2 months.

(iii) Restrictions to certain specified limits with or without suspension from duty, for not more than 15 consecutive days.

(2) Under regulations promulgated under this code, a commanding officer, in addition to or instead of an admonition or reprimand, may impose disciplinary punishment for a minor offense on other military personnel under that commanding officer's command without the intervention of a court-martial with 1 or more of the following:

(a) Forfeiture of not more than 7 duty days' pay.

(b) Reduction to the next inferior pay grade, if the individual is in the pay grade of E4 or below.

(c) Extra duties, including fatigue or other duties for not more than 15 consecutive days and not more than 2 hours per day. No extra duties may be imposed that constitute known safety or health hazards to the individual, that constitute cruel or unusual punishment, or that are not sanctioned by the customs of the military. Extra duties assigned as punishment of noncommissioned officers or any other enlisted individuals must not be of a kind that demeans the recipient's grade or position.

(d) Restrictions to certain specified limits, with or without suspension from duty, for not more than 15 consecutive days.

(e) If imposed by an officer of the rank of major or above on other military personnel under that officer's command, the punishment may include 1 or more of the following:

(i) Forfeiture of not more than 15 duty days' pay.

(ii) Reduction to the lowest or an intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction, except that an enlisted member in a pay grade above E4 may not be reduced more than 2 pay grades.

(iii) Extra duties, including fatigue or other duties, for not more than 15 consecutive days. No extra duties may be imposed that constitute known safety or health hazards to the individual, that constitute cruel or unusual punishment, or that are not sanctioned by customs of the military. Extra duties assigned as punishment of noncommissioned officers or any other enlisted individuals must not be of a kind that demeans the recipient's grade or position.

(iv) Restrictions to certain specified limits, with or without suspension from duty, for not more than 15 consecutive days.

(3) Two or more disciplinary punishments of arrest in quarters, extra duties, and restriction must not be combined to run consecutively in the maximum amount imposed for each. If any of those punishments are combined to run consecutively, the commanding officer shall apportion the punishment.

(4) An officer in charge may impose upon an enlisted member assigned to the unit of which the officer is in charge a punishment authorized under subsection (2) as the adjutant general concerned may specifically prescribe by rule.

(5) The officer who imposes the punishment, or the successor in command, may, at any time, suspend, set aside, mitigate, or remit any part or amount of the punishment and restore all rights, privileges, and property affected. The officer may also mitigate reduction in grade to forfeiture of pay, mitigate arrest in quarters to restriction, or mitigate extra duties to restriction. The mitigated punishment may not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture may not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(6) An individual punished under this section who considers the punishment received as unjust or disproportionate to the offense, through the proper channel, may appeal to the next superior authority. The appeal must be made not later than 45 days after the punishment is adjudged. The appeal must be promptly forwarded and decided, and the individual punished must not be required to undergo the punishment adjudged before a decision on the appeal is rendered. The superior authority may exercise the same powers to mitigate the punishment imposed as may be exercised under subsection (5) by the officer who imposed the punishment. The authority who is to act on the appeal shall refer the case to a judge advocate for consideration and advice before acting on the appeal.

(7) The imposition and enforcement of disciplinary punishment under this section for an act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission and not properly punishable under this section. The fact that disciplinary punishment has been enforced may be shown by the accused at trial, and if shown must be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(8) The adjutant general, by regulation, may prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings must be in writing.

(9) Before disciplinary action is taken by the commanding officer or officer in charge under this section, the commanding officer or officer in charge shall determine whether arrest in quarters or restriction are to be considered as punishments. If the officer determines that the punishment options may include arrest in quarters or restriction, the accused must be notified of the right to demand trial by court-martial. If the officer determines that the punishment options will not include arrest in quarters or restriction, the accused must be notified that there is no right to trial by court-martial in lieu of nonjudicial punishment.

(10) If a punishment of forfeiture of pay and allowance is imposed as provided in this section, the forfeiture may apply to pay or allowances becoming due on or after the date of the punishment but must not apply to pay and allowances accrued before the date.

Sec. 16. The 3 kinds of courts-martial in the state military forces are:

(a) General courts-martial, consisting of a military judge and not less than 8 members; or only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of the military judge and the military judge approves.

(b) Special courts-martial consisting of a military judge and not less than 4 members; or only a military judge, if the accused under the same conditions as those prescribed in subdivision (a), requests a court composed only of the military judge.

(c) Summary courts-martial, consisting of 1 commissioned officer of field grade rank or above who is certified for that duty by the state staff judge advocate and who is not a member of the accused's unit.

Sec. 17. Subject to this code, the Michigan Army National Guard and Michigan Air National Guard each have court-martial jurisdiction over its members.

Sec. 18. A general court-martial has jurisdiction to try an individual subject to this code for an offense made punishable by this code and may adjudge any of the following punishments:

(a) Confinement of not more than 2 years.

(b) A fine of not more than \$2,500.00 for a single offense.

(c) Forfeiture of all pay and allowances.

(d) A reprimand.

(e) Restitution.

(f) Dismissal, dishonorable discharge, or bad conduct discharge.

(g) Reduction of an enlisted member to an inferior grade.

(h) A combination of the punishments under subdivisions (a) to (g).

Sec. 19. (1) A special court-martial has jurisdiction to try an individual subject to this code for an offense for which the individual may be punished under this code. A special court-martial may adjudge the same punishments as a general court-martial except that the special court-martial may not adjudge the punishments of dishonorable discharge, dismissal, confinement for more than 1 year, a fine of more than \$1,000.00, forfeiture of pay exceeding 2/3 pay per month, or forfeiture of pay for more than 1 year.

(2) A bad conduct discharge, a confinement for more than 6 months, or a forfeiture of pay for more than 6 months may not be adjudged if charges and specifications are referred to a special court-martial consisting of a military judge alone.

Sec. 20. (1) A summary court-martial has jurisdiction to try an individual subject to this code, except an officer or a cadet, for an offense made punishable by this code.

(2) An individual must not be tried by a summary court-martial if, before trial, the individual objects to a summary court-martial. If objection to trial by summary court-martial is made by an accused, trial may be ordered by special or general court-martial, as appropriate.

(3) A summary court-martial may adjudge the same punishments as a general court-martial except that the summary court-martial may not adjudge the punishments of dismissal, dishonorable discharge or bad conduct discharge, confinement for more than 25 days, a fine of more than \$500.00, or forfeiture of more than 2/3 of 1 month's pay.

Sec. 23. Except as otherwise provided in this section, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene a special court-martial. A special court-martial may also be convened by superior competent authority. If the commanding officer is an accuser, the court shall be convened by superior competent authority. A commanding officer shall not convene a special court-martial without the written consent of the adjutant general.

Sec. 24. Except as otherwise provided in this section, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of 1 commissioned officer who meets the qualifications of section 16(c). A commanding officer shall not convene a summary court-martial without the written consent of the adjutant general.

Sec. 26. (1) Subject to this section, a military judge must be detailed to each general or special court-martial.

(2) A military judge must be a commissioned officer who is licensed to practice law in this state and who is certified to be qualified, by reason of education, training, experience, and judicial temperament, for duty as a military judge by the state staff judge advocate.

(3) A military judge must be detailed by the state staff judge advocate.

(4) The convening authority and any member of the staff of the convening authority shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge detailed under subsection (1) that relates to the military judge's performance of duty as a military judge.

(5) An individual is not eligible to act as military judge in a case if that individual is the accuser, is a witness for the prosecution, or has acted as investigating officer or as a counsel in that same case.

(6) A military judge shall not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, and shall not vote with the members of the court.

(7) A military judge shall rule finally on all matters of law, rule finally on all motions, and except as otherwise provided, decide all other questions raised at the trial of the accused.

Sec. 27. (1) For each general and special court-martial, the convening authority shall request the state staff judge advocate to detail trial counsel and defense counsel, and those assistants as the convening authority considers appropriate. An individual who has acted as investigating officer, military judge, or court member in any case shall not act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. An individual who has acted for the prosecution shall not act later in the same case for the defense, nor shall an individual who has acted for the defense act later in the same case for the prosecution.

(2) Military trial counsel or military defense counsel for a general or special courts-martial shall be licensed to practice law in this state and certified as competent to perform those duties by the state staff judge advocate.

Sec. 29. (1) A member of a general or special courts-martial shall not be absent or excused after the accused has been arraigned except for physical disability or as a result of a challenge or by order of the convening authority for good cause.

(2) If a general court-martial is reduced below 8 members, the trial may not proceed unless the convening authority appoints new members sufficient in number to provide not less than 8 members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court-martial in the presence of the military judge, the accused, and counsel.

(3) If a special court-martial is reduced below 4 members, the trial may not proceed unless the convening authority appoints new members sufficient in number to provide not less than 4 members. When the new members have been sworn, the trial shall proceed as if no evidence had previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation of that testimony is read to the court-martial in the presence of the accused and counsel.

Sec. 30a. (1) A military judge may be appointed to conduct proceedings to review, or otherwise act on, the following matters before referral of charges and specifications to court-martial in accordance with regulations promulgated under this code:

(a) Prereferral investigative subpoenas.

(b) Prereferral warrants or orders for electronic communications.

(c) Prereferral matters referred by an appellate court.

(d) Prereferral matters under section 6a(2).

(2) The regulations promulgated under subsection (1) must include both of the following as considered appropriate by the adjutant general:

(a) Procedures for the review of rulings that may be ordered under this section.

(b) Limitations on the relief that may be ordered under this section.

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

Sec. 32. (1) A charge or specification must not be referred to a general court-martial for trial until a thorough and impartial investigation of all matters set forth in the charge or specification has been made. The conduct of this investigation is the responsibility of the officer exercising special court-martial jurisdiction over the accused and must include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition that should be made of the case in the interest of justice and discipline. The investigating officer shall submit a formal report to the convening authority, the state staff judge advocate, and the accused. This report must include all of the following:

(a) A statement of the name, organization, or address of counsel and information as to the presence or absence of counsel throughout the proceedings if counsel has been requested by the accused.

(b) A summarized statement of all relevant testimony including the names and units, if applicable, of the individuals giving testimony.

(c) A statement indicating all sources of information considered by that officer in reaching conclusions or making recommendations.

(d) A statement of the names and units of all witnesses essential to the defense or prosecution of the case.

(2) Before an investigation initiated under this code, the accused must be informed of the accused's rights under section 31, including the right to counsel, in the manner provided in that section, and, in addition, must be informed of all of the following:

(a) The offense of which the accused is suspected, accused, or charged.

(b) The name of the accuser and the witnesses against the accused that are known by the investigating officer.

(c) The fact that charges are about to be investigated.

(d) The accused's right to cross-examine witnesses and to present anything by way of statement or otherwise the accused may desire in the accused's own behalf, either in defense, extenuation, or mitigation.

(3) At an investigation, full opportunity must be given to the accused to cross-examine witnesses if the witnesses are available, and to present anything the accused may desire in the accused's own behalf, either in defense or mitigation, and the investigation officer shall examine available witnesses requested by the accused.

(4) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsections (2) and (3), further investigation of that charge is not necessary under this section unless it is demanded by the accused after the accused is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer new evidence in the accused's own behalf.

Sec. 34. (1) Before directing the trial of a charge by a general court-martial, the convening authority shall refer the charge to the state staff judge advocate for consideration and advice. The convening authority shall not refer a charge to a general court-martial for trial unless the convening authority has found that the charge alleges an offense under this code and is warranted by evidence indicated in the report of the investigation.

(2) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and the changes in the charges or specifications as are needed to make the charges or specifications conform to the evidence may be made.

Sec. 36. The Military Rules of Evidence and the Rules for Courts-Martial as promulgated in the most recent version of the Manual for Courts-Martial must, as recognized in military criminal cases in the courts of the military, apply to a court-martial convened under this code to the extent practical and to the extent that the Military Rules of Evidence and the Rules for Courts-Martial as promulgated in the most recent version of the Manual for Courts-Martial do not conflict with state substantive law. The adjutant general may promulgate supplemental regulations to govern matters not provided for in the Manual for Courts-Martial.

Sec. 38a. The accused in a proceeding under this code must be permitted to request a military defense counsel of choice who, if reasonably available, must be detailed to represent the accused and who, if not a member of the bar of this state, may represent the accused on a pro hac vice motion to the court approved by the military judge.

Sec. 43. (1) An individual charged with desertion or absence without leave when the governor, by proclamation has declared a state of emergency, or with aiding the enemy, or mutiny, shall be tried and punished at any time without limitation.

(2) An individual charged with an offense under this code is not liable to be tried by court-martial or punished under section 15 if the offense was committed more than 5 years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command, or before the imposition of punishment under section 15.

(3) Periods in which the accused was outside of this state, in the custody of civil authorities, or in the hands of the enemy must be excluded in computing the period of limitations prescribed in this section.

(4) Periods in which the accused is absent without authority or is fleeing from justice must be excluded in computing the period of limitation prescribed in this section.

Sec. 48. A military court may punish for contempt an individual subject to this code who willfully and unlawfully refuses to be sworn or to affirm as a witness, or who refuses to answer a legal or proper question, or who uses a menacing word, sign, or gesture in the court's presence, or who disturbs the court proceedings by riot or disorder. The punishment for contempt in a summary court-martial proceeding must be confinement for not more than 25 days or a fine of not more than \$500.00, or both. The punishment for contempt in any other military court must be confinement for not more than 100 days or a fine of not more than \$2,500.00, or both.

Sec. 52. (1) An individual must not be convicted of an offense in a general or special court-martial, except under any of the following circumstances:

(a) After a plea of guilty under section 45.

(b) By a military judge in a court-martial with a military judge alone under section 16.

(c) In a court-martial with members under section 16, by the concurrence of 3/4 of the members present at the time the vote is taken.

(2) Each sentence imposed by a court-martial must be determined by the concurrence of 3/4 of the members present at the time that the vote is taken.

(3) Any other question to be decided by the members of a general or special court-martial must be determined by a majority vote, but the determination to reconsider a finding of guilty or reconsider a sentence, to decrease or lessen the sentence, may be made by a lesser vote that indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

Sec. 54. (1) Each general and special court-martial shall keep a separate record of the proceedings in each case. The record must be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of death, disability, or absence, the record must be authenticated by the trial counsel. If both the military judge and the trial counsel are unavailable for the reasons set forth in this subsection, the record must be authenticated by 2 members.

(2) Each summary court-martial shall keep a separate record of the proceedings in each case. The record must reflect the pleas of the accused to the charges and specifications, the findings and sentence, and the action by the convening authority.

(3) After final action by the convening authority, the original record of trial of each court-martial must be filed in the office of the state staff judge advocate, 1 copy must be filed in the office of the staff judge advocate of the command concerned, 1 copy must be filed in the headquarters of the special court-martial convening authority over the accused, and 1 copy must be given to the accused.

Sec. 58. (1) A sentence of confinement issued by a court-martial may be carried into execution by confinement in a place allowed by section 10 as designated by the convening authority. An individual confined is subject to the same discipline and treatment as an individual imprisoned by a civil court of this state.

(2) The omission of the words "hard labor" from a sentence of a court-martial adjudging confinement does not deprive the authority executing that sentence of the power to require hard labor as a part of the punishment.

(3) The keeper or officer in charge of a county jail shall receive an individual ordered into confinement before trial by the convening authority and an individual sentenced to confinement by a military court and shall confine the individual according to law. A keeper or officer in charge shall not require payment of a fee or compensation for receiving or confining the prisoner.

(4) The proceeds of all fines in summary, special, and general courts-martial cases must be paid to the general fund of this state. The costs of prosecution must be paid out of the funds appropriated to the office of the adjutant general.

Sec. 58a. (1) A court-martial sentence of an enlisted member in a pay grade above E1, as approved by the convening authority, that includes a dishonorable or bad conduct discharge or confinement reduces that member to pay grade E1 effective on the date of that approval.

(2) If the sentence of a member who is reduced in pay grade under subsection (1) is set aside or disapproved, or, as finally approved, does not include any punishment provided in subsection (1), the rights and privileges that the individual was deprived of because of that reduction must be restored, including pay and allowances.

Sec. 58b. (1) A court-martial sentence described in subsection (4) must result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole.

(2) A forfeiture under this section takes effect on the date determined under section 57 and may be deferred as provided in that section.

(3) The pay and allowances forfeited, in the case of a general court-martial, must be all pay and allowances due that member during any period of confinement or parole and, in the case of a special court-martial, must be 2/3 of all pay due that member during that period.

(4) A court-martial sentence covered by this section is any sentence that includes either of the following:

(a) Confinement for more than 6 months.

(b) Confinement for 6 months or less and a dishonorable or bad conduct discharge or dismissal.

(5) If an accused has dependents, the convening authority may waive any or all of the forfeitures of pay and allowances required by subsection (1) or (3) for a period of not more than 6 months. Any amount of pay or allowances that, except if waived under this subsection, would be forfeited must be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

(6) If the sentence of a member who forfeits pay and allowances under subsection (1) or (3) is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (4), the member must be paid the pay and allowances that the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.

Sec. 61. Except as provided in section 71 and before taking action in a general court-martial, the convening authority shall refer the record of each general court-martial to the state staff judge advocate who shall review the record and submit a written opinion on the record to the convening authority. The review must include a summary of the evidence in the case, an opinion as to the adequacy and weight of the evidence, the effect of any error or irregularity reflecting the proceedings, and a specific recommendation as to the action to be taken by the convening authority. If the final action of the court resulted in an acquittal of the charges and specifications, the opinion must be limited to questions of jurisdiction.

Sec. 65. (1) If the convening authority is the governor, the action on the review of a record of trial is final.

(2) If the convening authority is not the governor, all of the following apply:

(a) If the convening authority has taken final action in a general court-martial case, the convening authority shall forward the entire record including the action on the case and the opinion of the staff judge advocate or judge advocate to the state staff judge advocate for review.

(b) If the sentence of a special court-martial as approved by the convening authority includes a bad conduct discharge, whether or not suspended, the record must be forwarded to the officer exercising general court-martial jurisdiction over the command, to be reviewed in the same manner as a record of trial by a general court-martial. If the sentence as approved by an officer exercising general court-martial jurisdiction includes a bad conduct discharge, whether or not suspended, the entire record, including the officer's action on the sentence and the opinion of the staff judge advocate, must be forwarded to the state staff judge advocate for review.

(c) All other special and summary courts-martial records must be forwarded to a judge advocate and must be acted on, transmitted, and disposed of as prescribed by rules promulgated under section 147.

(3) The state staff judge advocate shall review the record of trial in each case forwarded for review as provided in this section. If the sentence as approved affects a general officer or extends to the dismissal of an officer, the state staff judge advocate shall submit a written opinion on the sentence to the governor. If the final action of the court-martial in a case forwarded to the state staff judge advocate results in an acquittal of the charges and specifications, the opinion of the state staff judge advocate is limited to questions of jurisdiction.

(4) In each case reviewable by the state staff judge advocate that does not affect a general officer or extend to the dismissal of an officer, the state staff judge advocate shall take final action.

(5) In a case reviewable by the governor in which the governor is not the convening authority and in a case reviewable by the state staff judge advocate, the governor or the state judge staff advocate has the authority to do any of the following:

(a) Act only with respect to the findings and sentence as approved by the convening authority.

(b) Affirm only those findings of guilty, and the sentence or that part or amount of the sentence as the governor or the state staff judge advocate finds correct in law and fact and determines on the basis of the entire record should be approved.

(c) Weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses.

(d) Order a rehearing if the governor or the state staff judge advocate sets aside the findings and sentence, except if the setting aside is based on lack of sufficient evidence to support the findings.

(e) Order that the charges be dismissed if the governor or the state staff judge advocate sets aside the findings and sentence and does not order a rehearing.

(6) Unless the governor is to take further action, the state staff judge advocate shall instruct the convening authority to take action pursuant to the state staff judge advocate's decision on a review. If a rehearing has been ordered, but the convening authority finds a rehearing impracticable, the state staff judge advocate may dismiss the charges.

(7) The state staff judge advocate may constitute 1 or more boards of review, each composed of not fewer than 3 officers of the organized militia or retired list, that shall review the record of a trial by court-martial referred to it by the state staff judge advocate. Each officer appointed to a board of review must be a member of the bar of this state. A board of review has the same authority and powers on the review of a record that the state staff judge advocate has under this section.

(8) A finding or sentence of a court-martial must not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(9) A reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding that includes a lesser included offense.

Sec. 66. (1) Upon the final military review of a sentence of a general court-martial or of a sentence to a dishonorable discharge by a special court-martial, the accused has the right to be represented by counsel before the reviewing authority.

(2) Upon the request of an accused entitled to be represented, the convening authority shall appoint a commissioned officer who is a member of the bar of this state to represent the accused before the reviewing authority or before the staff judge advocate, and before the state staff judge advocate, in the review of cases specified in subsection (1).

(3) An accused entitled to be represented may be represented by civilian counsel if provided by the accused before the reviewing authority, the staff judge advocate, or judge advocate and before the state staff judge advocate.

Sec. 67. (1) A military appeals tribunal is established and located for administrative purposes only in the department of military and veterans affairs. The tribunal shall consist of 5 members appointed by the governor, by and with the advice and consent of the senate, for a term of 4 years. Initial appointments to the military appeals tribunal must be 1 member for a 2-year term, 2 members for a 3-year term, and 2 members for a 4-year term. The term of office of all successor members must be for a 4-year term. A member appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the unexpired term of the predecessor. A member may be reappointed and a vacancy shall be filled for an unexpired term in the same manner as an appointment is made for a full term. An individual is eligible for appointment to the military appeals tribunal if the individual is a commissioned officer or a civilian and licensed to practice law in this state.

(2) The governor shall appoint the chairperson of the tribunal. The chairperson has general supervisory control of and is in charge of the assignment of the work of the tribunal.

(3) A majority of the tribunal constitutes a quorum. The military appeals tribunal shall sit as a panel of 3 members. The concurrence of 2 members is necessary for a decision of the tribunal.

(4) A member of the military appeals tribunal may be removed by the governor, upon notice and hearing, for neglect of duty, malfeasance in office, or for mental or physical disability.

(5) Subject to appropriations by the legislature, the military appeals tribunal shall have the legal, technical, and secretarial assistance as the chairperson considers necessary.

(6) The members of the military appeals tribunal while actually sitting in review of a matter submitted to the tribunal's jurisdiction by this code, and while traveling to and from the session, must be paid daily compensation equal to 1/250 of the state salary paid to circuit court judges, together with the actual cost of the members' meals, lodging, and actual travel expenses or the amount set by the existing appropriation if private transportation is utilized.

(7) The military appeals tribunal has appellate jurisdiction, upon the petition of an accused, to hear and review the record in all decisions of a court-martial after the review provided in this section has been completed.

(8) The accused has not more than 60 calendar days, from the time of the receipt of actual notice of the final action on the accused's case, under this code to petition the military appeals tribunal for review. The tribunal shall act on the petition not more than 60 calendar days after the receipt of the petition. The military appeals tribunal may grant a stay or defer service of the sentence of confinement or any other punishment under this code until the tribunal's final decision in the case.

(9) In a case reviewable under subsection (7), the military appeals tribunal shall act only with respect to the findings and sentence as finally approved and ordered executed by the convening authority.

(10) If the military appeals tribunal sets aside the findings and sentence, the tribunal may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the tribunal sets aside the findings and sentence and does not order a rehearing, the tribunal shall order that the charges be dismissed. After the military appeals tribunal acts on the case, the record must be returned to the state staff judge advocate, who shall notify the convening authority of the tribunal's decision. If further action is required, the state staff judge advocate shall instruct the convening authority to take action pursuant to that decision. If the tribunal orders a rehearing, but the convening authority finds a rehearing impracticable, the state staff judge advocate shall dismiss the charges.

Sec. 93a. (1) An individual subject to this code must be punished as a court-martial directs if all of the following apply:

(a) The individual is an officer or a noncommissioned officer.

(b) The individual is in a training leadership position with respect to a specially protected junior member of the military.

(c) The individual engages in prohibited sexual activity with a specially protected junior member of the military.

(2) An individual subject to this code must be punished as a court-martial directs if that individual is a military recruiter and engages in a prohibited sexual activity with either of the following:

(a) An applicant that individual is recruiting to enlist in military service.

(b) A specially protected junior member of the military who is enlisted under a delayed entry program.

(3) Consent is not a defense for any conduct at issue in a prosecution under this section.

(4) As used in this section:

(a) "Military recruiter" means an individual who has the primary duty to recruit individuals for military service.

(b) "Prohibited sexual activity" means the penetration, however slight, of the penis into the vulva or anus or mouth, contact between the mouth and the penis, vulva, scrotum, or anus, or the penetration, however slight, of the vulva or penis or anus of another by any part of the body or any object, with an intent to abuse, humiliate, harass, or degrade any individual or to arouse or gratify the sexual desire of any individual. Prohibited sexual activity also means touching by any part of the body or an object, or causing another individual to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, breast, inner thigh, or buttocks of any individual, with an intent to abuse, humiliate, harass, or degrade any individual or to arouse or gratify the sexual desire of any individual.

(c) “Specially protected junior member of the military” means any of the following:

(i) A member of the military who is assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program.

(ii) A member of the military who is a cadet, an officer candidate, or a student in any other officer qualification program.

(iii) A member of the military in any program that is identified as a training program for initial career qualification.

(d) “Training leadership position” means, with respect to a specially protected junior member of the military, a drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers’ training corps unit, a training program for entry into the military, or a training program for initial career qualification.

Sec. 106. An individual subject to this code who wrongfully and willfully impersonates an officer, a noncommissioned officer, a petty officer, an agent of superior authority of any component of the military, or an official of a government must be punished as a court-martial directs.

Sec. 106a. An individual subject to this code who is not authorized to wear an insignia, decoration, badge, ribbon, device, or lapel button and who wrongfully wears that insignia, decoration, badge, ribbon, device, or lapel button on the individual’s uniform or civilian clothing must be punished as a court-martial directs.

Sec. 112a. (1) An individual subject to this code who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the Armed Forces of the United States or of any state military forces a substance described in subsection (2) must be punished as a court-martial directs.

(2) Subsection (1) applies to both of the following substances:

(a) Any controlled substance.

(b) Any substance not specified in subdivision (a) that is listed on a schedule of controlled substances prescribed by the President of the United States for the purposes of the uniform code of military justice, 10 USC 801 to 946a.

Sec. 120. (1) An individual subject to this code is guilty of sexual assault and must be punished as a court-martial directs if the individual engages in sexual contact with another individual by any of the following means:

(a) By forcible compulsion.

(b) By engaging in sexual conduct with an individual who is incapable of consent because the individual is any of the following:

(i) Physically helpless.

(ii) Mentally defective.

(iii) Mentally incapacitated.

(c) By abuse of authority.

(2) As used in this section, “sexual contact” means touching by any part of the body or an object, or causing another individual to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, breast, inner thigh, or buttocks of any individual, with an intent to abuse, humiliate, harass, or degrade any individual or to arouse or gratify the sexual desire of any individual.

Sec. 121. (1) An individual subject to this code who unlawfully takes, obtains, or withholds from the United States, this state, any other state, or any person, any property, money, or article of any kind with the intent to permanently deprive the owner of the property, money, or article of any kind, is guilty of larceny.

(2) An individual who violates this section must be punished as a court-martial directs.

Sec. 121a. (1) An individual subject to this code who, knowingly and with intent to defraud, uses a stolen credit card, debit card, or other access device, a revoked, canceled, or otherwise invalid credit card, debit card, or other access device, or a credit card, debit card, or other access device without the authorization of a person whose authorization is required for that use to obtain money, property, services, or anything else of value must be punished as a court-martial directs.

(2) As used in this section, “access device” means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds, except for a transfer originated solely by paper instrument.

Sec. 121b. An individual subject to this code who, with intent to defraud, knowingly uses false pretenses to obtain services must be punished as a court-martial directs.

Sec. 122. An individual subject to this code who takes anything of value from an individual or in the presence of another, against that individual’s will, by means of force or violence or fear of immediate or future injury to the individual or property, or to the individual or property of a relative or member of the individual’s family or of anyone in the individual’s company at the time of the robbery, is guilty of robbery and must be punished as a court-martial directs.

Sec. 123. (1) An individual subject to this code must be punished as a court-martial directs if the individual does any of the following:

(a) Knowingly accesses a government computer with an unauthorized purpose, and by doing so obtains classified information, with reason to believe that information could be used to the injury of the United States or to the advantage of any foreign nation, and intentionally communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted that information to any person not entitled to receive it.

(b) Intentionally accesses a government computer with an unauthorized purpose and obtains classified or other protected information from that government computer.

(c) Knowingly causes the transmission of a program, information, code, or command and, as a result of that conduct, intentionally causes damage without authorization to a government computer.

(2) As used in this section, “computer” means that term as defined in 18 USC 1030.

Sec. 128. An individual subject to this code who unlawfully and with force or violence attempts to do bodily harm to another individual, offers to do bodily harm to another individual, or does bodily harm to another individual, is guilty of assault and must be punished as a court-martial directs.

Sec. 131a. An individual subject to this code who induces and procures another individual to take an oath, and to falsely testify, depose, or state upon that oath, must be punished as a court-martial directs if all of the following conditions are satisfied:

(a) The oath is administered with respect to a matter for which that oath is required or authorized by law.

(b) The oath is administered by an individual having authority to do so.

(c) Upon the oath, the other individual willfully makes or subscribes to a statement.

(d) The statement is material.

(e) The statement is false.

(f) When the statement is made or subscribed to, the individual subject to this code and the other individual do not believe that the statement is true.

Sec. 131b. An individual subject to this code who engages in conduct in the case of an individual against whom the accused had reason to believe there were or would be criminal or disciplinary proceedings pending, with intent to influence, impede, or otherwise obstruct the due administration of justice, must be punished as a court-martial directs.

Sec. 131c. An individual subject to this code who, having reason to believe that an adverse administrative proceeding is pending against another individual subject to this code, wrongfully acts with the intent to influence, impede, or obstruct the conduct of the proceeding, or otherwise to obstruct the due administration of justice, must be punished as a court-martial directs.

Sec. 132a. (1) An individual subject to this code must be punished as a court-martial directs if, with the intent to retaliate against another individual for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage another individual from reporting a criminal offense or making or planning to make a protected communication, the individual subject to this code does either of the following:

(a) Wrongfully takes or threatens to take an adverse personnel action against another individual.

(b) Wrongfully withholds or threatens to withhold a favorable personnel action with respect to another individual.

(2) As used in this section:

(a) "Covered individual or organization" means a recipient of a communication specified in 10 USC 1034(b)(1)(B)(i) to (v).

(b) "Inspector general" means that term as defined in 10 USC 1034(j).

(c) "Protected communication" means either of the following:

(i) A lawful communication to a member of Congress or an inspector general.

(ii) A communication to a covered individual or organization in which a member of the military complains of or discloses information that the member reasonably believes constitutes evidence of either of the following:

(A) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Sec. 134a. An individual subject to this code who is drunk and disorderly and, under the circumstances, the conduct is to the prejudice of good order and discipline in the Armed Forces of the United States or of the state military forces, or of a nature to bring discredit upon the Armed Forces of the United States or the state military forces, must be punished as a court-martial directs.

Sec. 134b. (1) An individual subject to this code who wrongfully engages in extramarital conduct with another individual subject to this code and, at the time, is married to someone else or knows the other individual is married to someone else, must be punished as a court-martial directs.

(2) As used in this section, "extramarital conduct" means any of the following acts engaged in by individuals of the same or opposite sex:

(a) Genital to genital sexual intercourse.

(b) Oral to genital sexual intercourse.

(c) Anal to genital sexual intercourse.

(d) Oral to anal sexual intercourse.

Sec. 134c. (1) An individual subject to this code who sells or furnishes alcoholic liquor to a minor must be punished as a court-martial directs.

(2) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Minor" means an individual less than 21 years of age.

Sec. 134d. An individual subject to this code must be punished as a court-martial directs if the individual does any of the following:

(a) Repetitively engages in behavior that involves unwelcome sexual advances.

(b) Requests sexual favors from or offers sexual favors to a subordinate.

(c) Engages in other verbal or physical conduct of a sexual nature if any of the following apply:

(i) Submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of an individual's job, pay, or career.

(ii) Submission to or rejection of the conduct by an individual is used as a basis for career or employment decisions affecting that individual.

(iii) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Sec. 147. The adjutant general shall promulgate rules to implement this code under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Enacting section 1. Section 21 of the Michigan code of military justice of 1980, 1980 PA 523, MCL 32.1021, is repealed.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor