

An Act

ENROLLED HOUSE
BILL NO. 2362

By: Kannady of the House

and

Simpson and Rosino of the
Senate

An Act relating to militia; authorizing the Adjutant General to request certain confidential information; directing the dissemination of certain confidential information under certain circumstances; amending 44 O.S. 2011, Section 21, which relates to the Military Department; providing Military Department composition; establishing certain command and control over state military forces under certain conditions; amending 44 O.S. 2011, Section 212, which relates to action against officer or enlisted person; updating citations; updating military member references; eliminating liability for certain acts of defense; creating the Oklahoma Uniform Code of Military Justice; establishing good order and discipline; defining terms; providing persons subject to the Oklahoma Uniform Code of Military Justice; establishing subject matter jurisdiction; establishing primary jurisdiction; authorizing the promulgation of regulations; determining jurisdiction over certain crimes; authorizing imposition of nonjudicial punishment; establishing jurisdiction for certain discharged personnel; subjecting certain convicted persons to courts-martial; prohibiting relief from jurisdiction under certain conditions; reserving certain statutory sections; providing applicability at all times and places; authorizing certain courts to convene under certain conditions; requiring certain judge advocates make certain inspections; requiring certain judge advocate communications; prohibiting service as a judge advocate for persons serving in certain other capacities; providing for investigation and disposition of matters pertaining to the fitness of

military judges; listing rights of victims of certain offense; defining term; construing section; authorizing victim petition for certain appeal or relief; defining term; authorizing apprehension of persons reasonably believed to have committed certain offenses; authorizing issuance of warrant of arrest; providing warrant of arrest content requirements; directing warrant of arrest to certain peace officers; defining terms; authorizing orders of arrest and confinement; authorizing certain offenders be ordered into arrest or confinement; providing place of confinement; prohibiting refusal of committed prisoners; requiring report of certain prisoner information; prohibiting confinement in immediate association with certain other prisoners; prohibiting certain punishment before trial; authorizing delivery of certain offenders to civil authorities; directing return of certain offender under certain conditions; authorizing nonjudicial punishments; limiting or withholding certain authority; delegating powers; listing nonjudicial punishments authorized to be imposed by certain authorities; limiting duration of nonjudicial punishments; requiring notice and documentation of nonjudicial punishments; providing right to certain trial for certain nonjudicial punishments; authorizing certain appeal; authorizing absence from drill or certain training; prohibiting the barring of certain trials; prohibiting duplicative nonjudicial punishments; limiting time period to impose nonjudicial punishments; applying forfeiture of pay to certain period; authorizing promulgation of rules; classifying courts-martial; defining types of courts-martial; establishing courts-martial jurisdiction for force components; establishing general courts-martial; establishing special courts-martial jurisdiction; establishing jurisdiction of summary courts-martial; providing for summary courts-martial appeal procedure; authorizing certain persons to convene general courts-martial; authorizing certain persons to convene special courts-martial; authorizing certain persons to convene summary courts-martial; authorizing certain persons to serve on courts-martial; requiring military judge for general and special courts-martial; providing for

military judge selection and qualifications; providing certain counsel for general and special courts-martial; providing selection, qualifications and reimbursement for certain counsel; providing for court reporters and interpreters for courts-martial; assembling courts-martial with members; providing certain membership requirements; providing for certain alternate members; requiring certain amount of members under certain circumstances; providing for charges and specifications; providing certain writing contents; requiring certain notice and determination; prohibiting compulsory self-incrimination; requiring disclosure of certain rights; prohibiting immaterial or degrading statements or evidence; requiring preliminary hearing before referral to general court-martial; requiring preliminary hearing be conducted by an impartial hearing officer; requiring submission of certain written report; requiring disclosure of certain rights; requiring preliminary hearing be recorded; providing effect of evidence of uncharged offense; providing effect of certain violation; defining victim; requiring disposition of certain guidance; requiring certain advice to convening authority and consultations before referral for trial; defining term; requiring service of charges; determining commencement of trial; authorizing continuances of certain hearings; establishing procedure for courts-martial trials; prohibiting unlawful influencing action of the court; providing duties of trial counsel, defense counsel and assistant counsel; authorizing military judge to call court into session under certain conditions; requiring certain proceeding be conducted in certain manner; authorizing continuances for parties; authorizing certain challenges; establishing challenges procedures; requiring certain military officials take an oath; establishing statute of limitations for military offenses; prohibiting certain second trials; providing effect of certain pleas; requiring opportunity to obtain witnesses and other evidence in trials by courts-martial; making refusal to appear or testify an indirect contempt offense; authorizing punishment for certain contempt offenses; establishing contempt proceeding requirements; authorizing depositions be ordered;

establishing deposition proceeding requirements; admitting sworn testimony from records of courts of inquiry into evidence; establishing affirmative defense of lack of mental responsibility; requiring certain voting and rulings on military proceedings; requiring votes for conviction, sentencing and other matters; requiring announcement of certain findings and sentencing; authorizing certain plea agreements; requiring separate record of certain proceedings; dispersing copies of proceedings; prohibiting cruel and unusual punishments; providing certain sentencing guidelines; establishing effective dates of sentences; providing for execution of confinement; reducing member pay grade under certain circumstances; forfeiting pay and allowances during confinement; authorizing enforcement of fines or adjudication of pecuniary liability; prohibiting finding of sentence on the ground of error of law; authorizing a finding of a lesser included offense; providing posttrial processing requirements in general and special courts-martial; limiting authority to act on sentence in specified posttrial circumstances; authorizing posttrial actions in summary courts-martial and certain general and special courts-martial; authorizing entry of judgment and providing content requirements; authorizing waiver to right of appeal; authorizing withdrawal of appeal; authorizing the State of Oklahoma to make certain appeals; providing rehearing proceeding requirements; requiring judge advocate review of finding of guilty in summary court-martial; requiring transmittal and review of certain records; establishing a Military Court of Appeals for the State of Oklahoma; providing appointment of appellate military judge; requiring review of certain decisions by the Court of Criminal Appeals; authorizing review of certain findings and sentence by State Judge Advocate; appointing certain appellate counsel; requiring hearing for vacation of the suspension of a certain sentence; authorizing petition for a new trial on certain grounds; authorizing the remittance and suspension of the unexecuted part of any sentence; restoring certain rights, privileges and property; declaring certain proceeds, findings and sentences to be final; requiring leave to be taken

pending review of certain courts-martial convictions; prohibiting trial for persons lacking mental capacity or mental responsibility; making certain actions those of a principal; prohibiting persons acting as accessory after the fact; authorizing conviction of certain charged offenses; defining term; making an attempt a punishable offense; making a conspiracy a punishable offense; making soliciting others to commit an offense a punishable offense; making malingering a punishable offense; making a breach of medical quarantine a punishable offense; making desertion a punishable offense; making certain absences a punishable offense; making missing the movement of or jumping from certain vessels a punishable offense; making certain actions of resistance, flight, breach of arrest, and escape punishable offenses; making use of contemptuous words against officials a punishable offense; making certain actions toward a superior commissioned officer a punishable offense; making willful disobedience of a superior commissioned officer a punishable offense; making certain insubordinate conduct a punishable offense; making failure to obey an order or regulation a punishable offense; making cruelty and maltreatment a punishable offense; making certain activities with military recruit or trainee a punishable offense; making mutiny or sedition a punishable offense; making certain actions of a sentinel or lookout a punishable offense; making certain actions of disrespect toward a sentinel or lookout a punishable offense; making release of prisoner without authority and drinking with prisoner a punishable offense; making unlawful detention a punishable offense; making misconduct as a prisoner a punishable offense; making misbehavior before the enemy a punishable offense; making actions of compelling surrender a punishable offense; making improper use of countersign a punishable offense; making forcing a safeguard a punishable offense; making aiding the enemy a punishable offense; making unlawful disclosure of confidential information a punishable offense; making certain actions related to public records a punishable offense; making certain fraudulent actions a punishable offense; making unlawful enlistment, appointment or separation a

punishable offense; making certain false or unauthorized actions a punishable offense; making wearing certain unauthorized apparel a punishable offense; making certain false statements and swearing a punishable offense; making certain actions related to military property a punishable offense; making certain actions related to captured or abandoned property a punishable offense; making certain actions related to nonmilitary property a punishable offense; making improper hazarding of vessel or aircraft a punishable offense; making drunkenness and incapacitation a punishable offense; making certain actions related to controlled substances a punishable offense; making certain actions related to endangerment a punishable offense; making riot and breach of peace a punishable offense; making provoking speeches or gestures a punishable offense; making wrongful broadcast or distribution of intimate images a punishable offense; making sexual assault a punishable offense; providing certain defenses; making other sexual misconduct a punishable offense; making fraternization a punishable offense; making larceny and wrongful appropriation a punishable offense; making actions of fraud against the government a punishable offense; making assault a punishable offense; making stalking a punishable offense; making perjury a punishable offense; making subornation of perjury a punishable offense; making obstructing justice a punishable offense; making concealing a serious offense a punishable offense; making wrongful refusal to testify a punishable offense; making noncompliance with procedural rules a punishable offense; making wrongful interference with adverse administrative proceeding a punishable offense; making retaliation a punishable offense; making conduct unbecoming an officer and a gentleman a punishable offense; making certain general conduct a punishable offense; authorizing courts of inquiry to convene under certain circumstances; providing courts of inquiry proceeding requirements; authorizing administration of oaths; requiring certain sections of law be explained to enlisted members; authorizing complaints of wrongdoing; requiring certain redress of injuries to property; authorizing the Governor to delegate certain

authorities; establishing precedence of regulations; directing publication in the Oklahoma Administrative Code; directing payment and collection of certain fines be deposited in certain fund; construing the Code; providing immunity for certain duties; limiting jurisdiction for certain crimes; requiring certain continuances for certain military service; amending 44 O.S. 2011, Section 208, which relates to discrimination against officers or enlisted members; expanding discrimination prohibition to cover members of the Civil Air Patrol and certain judges; authorizing all appropriate means necessary to protect national security; amending 44 O.S. 2011, Sections 241, 242, 243, 244, 247 and 248, which relate to the State Guard Act; updating citations; modifying rule-making authority; providing applicability; requiring certain executive order; updating gender-neutral references; eliminating certain jurisdiction; renaming act; amending 21 O.S. 2011, Section 133, which relates to military punishment; modifying applicability; amending 75 O.S. 2011, Sections 250.4, as last amended by Section 12, Chapter 430, O.S.L. 2014, and 251, as amended by Section 1, Chapter 252, O.S.L. 2016 (75 O.S. Supp. 2018, Sections 250.4 and 251), which relate to the Administrative Procedures Act; exempting military publications from certain provisions of the act; directing the Secretary of State to establish method for publication and archiving of military publications; authorizing electronic filing of certain publications; requiring publication and archiving of all military publications after certain date; repealing 44 O.S. 2011, Sections 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218, 3221, 3231, 3232, 3233, 3234, 3235, 3236, 3241, 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3251, 3252, 3253, 3254, 3255, 3256, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279, 3280, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3331, 3332, 3333, 3334, 3335, 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353,

3354, 3355, 3356, 3357, 3358, 3359, 3360, 3361, 3362,
3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371,
3372, 3373, 3374, 3375, 3376, 3377, 3378, 3379, 3380,
3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3389,
3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3399,
4000, 4001 and 4002, which relate to the Uniform
State Code of Military Justice; providing for
codification; providing for recodification; and
providing an effective date.

SUBJECT: Military

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 26.2 of Title 44, unless there
is created a duplication in numbering, reads as follows:

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

SECTION 2. AMENDATORY 44 O.S. 2011, Section 21, is
amended to read as follows:

Section 21. The Military Department of the State of Oklahoma is
hereby established and shall be ~~administered and controlled by~~ under
the command and control of the Governor as Commander in Chief, with
the Adjutant General as the executive and administrative head
thereof. The Military Department shall be constituted of the state
military forces, as defined by Section 801 of this title, and is
hereby organized into a joint headquarters with separate branches
for the which shall be identified as the joint forces headquarters.

The joint forces headquarters shall be jointly staffed by Army National Guard and the Air National Guard, and there personnel who, under the authority and direction of the Adjutant General, shall support and assist the Adjutant General in the exercise of command and control over state military forces when not activated for federal duty under Title 10 of the United States Code. There shall be assigned to each the joint force headquarters, officers, enlisted men personnel and civilian employees as may be considered necessary by the Governor as Commander in Chief and as may be authorized by law and Army National Guard regulations and Air National Guard regulations.

SECTION 3. AMENDATORY 44 O.S. 2011, Section 212, is amended to read as follows:

Section 212. A. If a suit or proceeding shall be commenced in any court by any person against any officer or enlisted person member of the military forces for any act done by such officer or enlisted person the member in his or her official capacity in the discharge of any duty under Sections 1 through 117, 208 through 235.2 237, or 241 through 250, or 800 through 946 of this title, or against any soldier member of the state military forces as defined in Section 801 of this title acting under the authority or order of any such officer, or by virtue of any warrant issued by him or her pursuant to law, it shall be the duty of the Attorney General or Judge Advocate to defend such person.

The actual court costs of such a defense shall be a legal charge against the state and shall be submitted to the Legislature for payment. Before any suit or proceeding shall be filed or maintained against any officer or soldier member of state military forces as herein provided, the plaintiff shall be required to give security, to be approved by the court in a sum not less than One Hundred Dollars (\$100.00), to secure the costs. If the plaintiff fails to recover judgment such costs shall be taxed and judgment rendered therefor against him or her and his or her sureties.

B. Any officer or enlisted person of the state military forces acting in his or her official capacity in the discharge of any duty under Sections 1 through 117, 208 through 235.3, or 241 through 250 of this title, or any member of state military forces acting under the authority or order of any such officer, or by virtue of any warrant issued by him or her pursuant to law, shall be immune from personal liability for any acts that include the use of deadly force

in self-defense or in defense of another person from what the member reasonably believes is the imminent use of unlawful deadly force.

PART I.

GENERAL PROVISIONS

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 800 of Title 44, unless there is created a duplication in numbering, reads as follows:

Sections 800 through 946 of this title shall be known and may be cited as the "Oklahoma Uniform Code of Military Justice". With the Oklahoma Uniform Code of Military Justice, good order and discipline shall be established and safeguarded within state military forces pursuant to Section 40 of Article V of the Oklahoma Constitution.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 801 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 1. Definitions.

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

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

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

3. "Administrative control (ADCON)" means the control or exercise of authority over subordinate units and other organizations or units with respect to administration and support, including control of resources and equipment, personnel management, unit

logistics, individual and unit training, readiness, mobilization, demobilization and other matters not included in the operational missions of the subordinate units or other organizations or units. Lawfully issued orders implementing administrative control may incorporate references to the Oklahoma Uniform Code of Military Justice (OUCMJ) for disciplinary purposes;

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

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

6. "Assistant Adjutant General" means an officer appointed by the Adjutant General to assist the Adjutant General in the discharge and performance of his or her duties. An Assistant Adjutant General shall meet the qualifications prescribed by law for the Adjutant General. At least one Assistant Adjutant General for the Army National Guard and one Assistant Adjutant General for the Air National Guard are customarily appointed to establish lines of command and administration into each component of the state military forces. Additional assistant adjutants general may be appointed pursuant to law, custom or National Guard regulations;

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

8. "Classified information" means:

- a. any information or material that has been determined pursuant to federal law, by an Executive Order issued by the President in execution of federal law, or a lawfully promulgated federal regulation, to require protection against unauthorized disclosure for reasons of national security and that is so designated, and

b. any restricted data, as defined in Section 11(y) of the Atomic Energy Act of 1954 (42 U.S.C., Section 2014(y));

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

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

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

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

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

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

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

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

17. "Court of Criminal Appeals" means the Oklahoma Court of Criminal Appeals, the highest court in the State of Oklahoma with appellate jurisdiction in criminal cases. It is the court of last resort for courts-martial conducted under the Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32. "Military offenses" means those offenses designated as punitive articles under Sections 877 (Article 77, Principals), 878 (Article 78, Accessory after the fact), 879 (Article 79, Conviction of offense charged, lesser included offenses, and attempts), 880 (Article 80, Attempts), 881 (Article 81, Conspiracy), 882 (Article 82, Soliciting commission of offenses), 883 (Article 83, Malingering), 884 (Article 84, Breach of medical quarantine), 885 (Article 85, Desertion), 886 (Article 86, Absence without leave),

887 (Article 87, Missing movement; jumping from vessel), 887A (Article 87A, Resistance, flight, breach of arrest, and escape), 888 (Article 88, Contempt toward officials), 889 (Article 89, Disrespect toward superior commissioned officer; assault of superior commissioned officer), 890 (Article 90, Willfully disobeying superior commissioned officer), 891 (Article 91, Insubordinate conduct toward warrant officer, or noncommissioned officer), 892 (Article 92, Failure to obey order or regulation), 893 (Article 93, Cruelty and maltreatment), 893A (Article 93A, Prohibited activities with military recruit or trainee by person in position of special trust), 894 (Article 94, Mutiny or sedition), 895 (Article 95, Offenses by sentinel or lookout), 895A (Article 95A, Disrespect toward sentinel or lookout), 896 (Article 96, Release of prisoner without authority; drinking with prisoner), 897 (Article 97, Unlawful detention), 898 (Article 98, Misconduct as prisoner), 899 (Article 99, Misbehavior before the enemy), 900 (Article 100, Subordinate compelling surrender), 901 (Article 101, Improper use of countersign), 902 (Article 102, Forcing a safeguard), 903B (Article 103B, Aiding the enemy), 903C (Article 103C, Unlawful disclosure of confidential information), 904 (Article 104, Public records offenses), 904A (Article 104A, Fraudulent enlistment, appointment, or separation), 904B (Article 104B, Unlawful enlistment, appointment, or separation), 905A (Article 105A, False or unauthorized pass offenses), 906A (Article 106A, Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button), 907 (Article 107, False official statements; false swearing), 908 (Article 108, Military property-loss, damage, destruction, or wrongful disposition), 908A (Article 108A, Captured or abandoned property), 909 (Article 109, Property other than military property-waste, spoilage, or destruction), 910 (Article 110, Improper hazarding of vessel or aircraft), 912 (Article 112, Drunkenness and other incapacitation offenses), 912A (Article 112A, Wrongful use, possession, etc., of controlled substances), 914 (Article 114, Endangerment offenses), 916 (Article 116, Riot or breach of peace), 917 (Article 117, Provoking speeches or gestures), 917A (Article 117A, Wrongful broadcast or distribution of intimate visual images), 920 (Article 120, Sexual assault generally), 920C (Article 120C, Other sexual misconduct), 920D (Article 120D, Fraternalization), 921 (Article 121, Larceny and wrongful appropriation), 924 (Article 124, Frauds against the government), 928 (Article 128, Assault), 930 (Article 130, Stalking), 931 (Article 131, Perjury), 931A (Article 131A, Subornation of perjury), 931B (Article 131B, Obstructing justice), 931C (Article 131C, Misprision of serious offense), 931D (Article 131D, Wrongful refusal to testify), 931F (Article 131F, Noncompliance with procedural

rules), 931G (Article 131G, Wrongful interference with adverse administrative proceeding), 932 (Article 132, Retaliation), 933 (Article 133, Conduct unbecoming an officer and a gentleman) and 934 (Article 134, General article) of this title;

33. "Military publication" means a written publication of an administrative nature such as a regulation, instruction, pamphlet, circular, permanent or general order, numbered adjutant general policy memorandum or blank form promulgated or published by or under the authority of the Adjutant General. An order or directive issued by the Adjutant General that is operational in nature or issued in execution of a military mission shall not be included within the meaning of military publication. Rules of procedure published by the State Judge Advocate for the Military Court of Appeals are included in the meaning of military publication;

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

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

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

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

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

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

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

41. "Pay" means monetary compensation provided to members of the state military forces in exchange for performance of military

duties carried out pursuant to a lawful order or otherwise under the authority of law, including basic pay, special pay, proficiency pay and incentive pay. "Pay" shall not mean allowances as defined in this section;

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

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

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

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

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

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

47. "Senior Assistant Adjutant General" means an Assistant Adjutant General who either possesses the most time in grade or has been designated in writing by the Adjutant General as the Senior Assistant Adjutant General for his or her force component irrespective of time in grade;

48. "Senior force component judge advocate" means the judge advocate assigned as chief legal advisor to the Senior Assistant Adjutant General of the same component of the state military forces as the accused. Unless there is a conflict of interest, a senior force component judge advocate may also serve as legal counsel to

the Adjutant General and may be designated as the State Judge Advocate. The customary duty station of a senior force component judge advocate is joint forces headquarters;

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

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

51. "State active duty" means full-time duty in the state military forces under an order of the Governor or otherwise issued by authority of law, and paid by state funds, and includes travel to and from such duty;

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

53. "State military forces" means the National Guard of the State of Oklahoma, which includes an army component and an air force component, as defined in Title 32, United States Code, and Section 41 of this title; the Oklahoma State Guard, organized pursuant to Section 109 of Title 32, United States Code, and established pursuant to the Oklahoma State Guard Act; and any other military force organized under the Constitution and laws of the State of Oklahoma when not in a status placing them under exclusive federal jurisdiction pursuant to Chapter 47 of Title 10, United States Code. Unless otherwise established by Oklahoma law, the unorganized militia, as provided for in Section 41 of this title, or any other state military force that does not meet this definition shall not be considered part of the "state military forces" under the Code;

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

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

56. "Title 32 active duty" means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the Oklahoma National Guard pursuant to Section 316, 502, 503, 504 or 505 of Title 32 of the

United States Code for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

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

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 802 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

B. Subject matter jurisdiction is established if more likely than not a nexus exists between an offense, either military or nonmilitary, and the state military forces. Courts-martial shall have primary jurisdiction over military offenses as defined in the Code.

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

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

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

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 803 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 3. Jurisdiction to try certain personnel.

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

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

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 804 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 805 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 806 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 6. Judge advocates.

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

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

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

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

1. Preliminary hearing officer, court member, military judge, military magistrate, or appellate judge; or

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 806A of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 806B of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

1. The right to be reasonably protected from the accused;
2. The right to reasonable, accurate and timely notice of any of the following:
 - a. a public hearing concerning the continuation of confinement prior to trial of the accused,
 - b. a preliminary hearing under Section 832 of this title (Article 32) relating to the offense,
 - c. a court-martial relating to the offense,
 - d. a public proceeding of the parole board relating to the offense, and
 - e. the release or escape of the accused;
3. The right not to be excluded from any public hearing or proceeding described in paragraph 2 of this subsection unless the military judge or preliminary hearing officer, as applicable, after receiving clear and convincing evidence, determines that testimony by the victim of an offense under the Code would be materially altered if the victim heard other testimony at that hearing or proceeding;

4. The right to be reasonably heard at any of the following:

- a. a public hearing concerning the continuation of confinement prior to trial of the accused,
- b. a sentencing hearing relating to the offense, and
- c. a public proceeding of the parole board relating to the offense;

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

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

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

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

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

C. Nothing in this section shall be construed:

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

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

D. Enforcement by Military Court of Appeals.

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

comply with the provisions of paragraph 4 of subsection A of this section.

2. If the victim of an offense under the Code is subject to an order to submit to a deposition, notwithstanding the availability of the victim to testify at the court-martial trying the accused for the offense, the victim may petition the Military Court of Appeals for a writ of mandamus to quash such order.

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

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

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

PART II.

APPREHENSION AND RESTRAINT

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 807 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 7. Apprehension.

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

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

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

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 808 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

B. The warrant issued under this section shall:

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

6. Be signed by an authorized officer of the armed forces of this state; and

7. Specify the amount of bail.

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

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 809 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 9. Imposition of restraint.

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

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

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

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

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

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 810 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 10. Restraint of persons charged.

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

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

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

- a. to inform the person of the specific offense of which the person is accused, and
- b. to try the person or to dismiss the charges and release the person.

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

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 811 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 812 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

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

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 813 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 13. Punishment prohibited before trial.

No person, while being held for trial, shall be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him or her, nor shall the arrest or confinement imposed upon him or her be any more rigorous than the

circumstances required to insure his or her presence, but he or she may be subjected to minor punishment during that period for infractions of discipline.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 814 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 14. Delivery of offenders to civil authorities.

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

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

PART III.

NONJUDICIAL PUNISHMENT

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 815 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 15. Commanding officer's nonjudicial punishment.

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

B. Any superior commander may limit or withhold the exercise of nonjudicial punishment authority by subordinate commanders, including limiting authority over certain categories of military personnel or offenses. Likewise, individual cases may be reserved

by a superior commander. A superior authority may limit or withhold any power that a subordinate might otherwise exercise under this section.

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

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

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

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

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

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

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

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

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

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

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

1. Upon officers of the officer's command:

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

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

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

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

G. Whenever any punishments are combined to run consecutively, the total length of the combined punishment shall not exceed the authorized duration of the longest punishment included in the

combination, and there shall be an apportionment of punishments so that no single punishment in the combination exceeds its authorized length under this section.

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

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

J. A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through his or her chain of command, appeal to the Senior Assistant Adjutant General of the same component of the state military forces as the accused within fifteen (15) days after the punishment is announced to the accused. The officer exercising appellate authority may, at his or her discretion, extend the deadline for an appeal. The appeal shall be promptly forwarded and decided, and the member shall

not be punished until the appeal is decided. The Senior Assistant Adjutant General exercising appellate authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection I of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment, the Senior Assistant Adjutant General shall refer the case to a judge advocate for consideration and advice.

K. Except for nonjudicial punishment imposed by the Governor or the Adjutant General, the final appellate authority for nonjudicial punishment imposed within state military forces is the Adjutant General. A person punished under this section whose appeal was previously denied by a Senior Assistant Adjutant General may lodge an additional appeal with the Adjutant General within five (5) days after the appeal is denied. In the event the officer imposing nonjudicial punishment is the Senior Assistant Adjutant General, an appeal thereof shall be addressed directly to the Adjutant General. In the event the officer imposing nonjudicial punishment is the Adjutant General, an appeal thereof shall be addressed directly to the Governor. An appeal offered pursuant to this subsection shall be made only in writing. Neither the Governor nor the Adjutant General shall delegate his or her duties as an appellate authority under this subsection.

L. Whenever nonjudicial punishment is imposed under this section:

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

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

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

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

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

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

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

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

PART IV.

COURTS-MARTIAL JURISDICTION

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 816 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 16. Courts-martial classified.

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

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

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

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

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

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

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

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

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

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 817 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 17. Jurisdiction of courts-martial in general.

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

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

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 818 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 18. General courts-martial.

Subject to Section 817 of this title (Article 17), general courts-martial shall have jurisdiction to try persons subject to the

Oklahoma Uniform Code of Military Justice for any offense made punishable by the Code and may, under such limitations as the Governor or Adjutant General may prescribe by regulation, adjudge any punishment not forbidden by the Code.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 819 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 19. Jurisdiction of special courts-martial.

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

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

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

A. Subject to Section 817 of this title (Article 17), summary courts-martial have jurisdiction to try persons subject to the Oklahoma Uniform Code of Military Justice, except officers, cadets and officer candidates for any offense made punishable by the Code under such limitations as may be prescribed by regulation promulgated by the Governor or Adjutant General. No person with respect to whom summary courts-martial have jurisdiction shall be brought to trial before a summary court-martial if he or she objects thereto. If objection to trial by summary court-martial is made by an accused, trial may be ordered by special or general court-martial as may be appropriate. Summary courts-martial may, under such

limitations as may be prescribed by regulation promulgated by the Governor or Adjutant General, adjudge any punishment not forbidden by the Code except dismissal, dishonorable or bad-conduct discharge, confinement for more than one (1) month, hard labor without confinement for more than forty-five (45) days, restriction to specified limits for more than two (2) months, or forfeiture of more than two-thirds (2/3) of one (1) month's pay.

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

C. Regular appeals. A person found guilty at a summary court-martial who considers the punishment unjust or disproportionate to the offense may appeal to the Senior Assistant Adjutant General of the same component of the state military forces as the accused within thirty (30) calendar days after the date the accused receives written notice from the convening authority that the convening authority has complied with the requirements of subsection B of Section 860C of this title (Article 860C, subsection B). Before acting on an appeal submitted pursuant to this subsection, the Senior Assistant Adjutant General shall refer the case to a judge advocate for consideration and advice.

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

E. The Adjutant General may promulgate regulations prescribing the type and form of records to be kept of appellate proceedings undertaken pursuant to subsections C and D of this section.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 821 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

PART V.

COMPOSITION OF COURTS-MARTIAL

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 822 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 22. Who may convene general courts-martial.

A. General courts-martial may be convened by:

1. The Governor;
2. The Adjutant General;
3. Any other commanding officer in the state military forces designated by the Adjutant General; or
4. Any other commanding officer in the state military forces designated by the Governor.

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

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 823 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 23. Who may convene special courts-martial.

A. Special courts-martial may be convened by:

1. Any person who may convene a general court-martial;
2. The Senior Assistant Adjutant General of the same component of the state military forces as the accused;

3. The officer designated as the army land component commander when the accused is a member of the army component of state military forces;

4. The officer designated as the air component commander when the accused is a member of the air component of state military forces;

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

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

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

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

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 824 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 24. Who may convene summary courts-martial.

A. Summary courts-martial may be convened by:

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

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

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

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

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

convened by such authority if considered desirable by that superior authority.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 825 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 25. Who may serve on courts-martial.

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

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

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

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

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

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

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

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

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

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

F. Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. Under regulations promulgated by the Adjutant General, the convening authority may delegate his or her authority under this subsection to his or her staff judge advocate, to an assistant staff judge advocate or to any other principal assistant.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 826 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

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

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

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

D. 1. In accordance with regulations prescribed under subsection A of this section, a military judge of a general or

special court-martial shall be designated for detail by the senior force component judge advocate of the same force component as the accused.

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

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

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

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

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

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

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

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

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 826 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 827 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 27. Detail of trial counsel and defense counsel.

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

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

any person who has acted for the defense act later in the same case for the prosecution.

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

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

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

C. Any costs arising from the detailing of a military defense counsel from a National Guard organization other than the Oklahoma National Guard may be reimbursed out of funds available in the Military Justice Fund established in Section 941 of this title.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 828 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 28. Detail or employment of reporters and interpreters.

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

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 829 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

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

1. As a result of a challenge;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART VI.

PRETRIAL PROCEDURE

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 830 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 30. Charges and specifications.

A. Charges and specifications:

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

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

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

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

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

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

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

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

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 831 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 31. Compulsory self-incrimination prohibited.

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

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

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

D. No statement obtained from any person in violation of this section or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against the person

in an administrative board proceeding, in nonjudicial punishment or in a trial by court-martial.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 832 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

A. In general.

1. a. Except as provided in subparagraph b of this paragraph, a preliminary hearing shall be held before referral of charges and specifications for trial by general court-martial. The preliminary hearing shall be conducted by an impartial hearing officer, detailed by the convening authority in accordance with subsection B of this section.

b. Under regulations promulgated by the Adjutant General, a preliminary hearing need not be held if the accused submits a written waiver to the convening authority and the convening authority determines that a hearing is not required.

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

a. whether or not the specification alleges an offense under the Oklahoma Uniform Code of Military Justice,

b. whether or not there is probable cause to believe that the accused committed the offense charged,

c. whether or not the convening authority has court-martial jurisdiction over the accused and over the offense, and

d. a recommendation as to the disposition that should be made of the case.

B. Hearing officer.

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

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

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

1. For each specification, a statement of the reasoning and conclusions of the hearing officer with respect to determinations under paragraph 2 of subsection A of this section, including a summary of relevant witness testimony and documentary evidence presented at the hearing and any observations of the hearing officer concerning the testimony of witnesses and the availability and admissibility of evidence at trial;

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

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

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

D. Rights of accused.

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

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

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

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

1. Is present at the preliminary hearing;

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

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

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

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 833 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 33. Disposition guidance.

The Adjutant General shall issue nonbinding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to disposition of charges and specifications in the interest of justice and discipline under Sections 830 and 834 of this title (Articles 30 and 34). Such

guidance shall take into account, with appropriate consideration of military requirements, the principles contained in official guidance of the United States Attorney General to attorneys for the government with respect to disposition of federal criminal cases in accordance with the principle of fair and evenhanded administration of federal criminal law.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 834 of Title 44, unless there is created a duplication in numbering, reads as follows:

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

A. General court-martial.

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

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

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

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

recommendation of the staff judge advocate under paragraph 2 of this subsection with respect to each specification shall accompany the referral.

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

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

1. To correct errors in form; and

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

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

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 835 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 35. Service of charges; commencement of trial.

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

B. Commencement of trial.

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

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

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

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

PART VII.

TRIAL PROCEDURE

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 836 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 36. Procedure for courts-martial.

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

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

C. The Governor or Adjutant General may promulgate additional regulations applicable to courts-martial procedure. All regulations made under this section shall be uniform insofar as practicable.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 837 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 37. Unlawfully influencing action of court.

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

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

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

B. In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the state military forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the state military forces, or in determining whether a member of the state military forces should be retained, no person subject to the Code may, in preparing any such report:

1. Consider or evaluate the performance of duty of any such member as a member of a court-martial; or

2. Give a less favorable rating or evaluation of any member of the state military forces because of the zeal with which such member, as counsel, represented any accused before a court-martial.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 838 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 38. Duties of trial counsel and defense counsel.

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

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

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

3. The accused may be represented:

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

4. If the accused is represented by civilian counsel, military counsel detailed or selected under paragraph 3 of this subsection shall act as associate counsel unless excused at the request of the accused.

5. Except as provided under paragraph 6 of this subsection, if the accused is represented by military counsel of his or her own selection under subparagraph b of paragraph 3 of this subsection, any military counsel detailed under subparagraph a of paragraph 3 of this subsection shall be excused.

6. The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under Section 827 of this title (Article 27) to detail counsel, in his or her sole discretion:

- a. may detail additional military counsel as assistant defense counsel, and
- b. if the accused is represented by military counsel of his or her own selection under subparagraph b of paragraph 3 of this subsection, may approve a request from the accused that military counsel detailed under subparagraph a of paragraph 3 of this subsection, act as associate defense counsel.

7. The Adjutant General shall, by regulation, define "reasonably available" for the purpose of subparagraph b of paragraph 3 of this subsection, and establish procedures for determining whether the military counsel selected by an accused under that paragraph is reasonably available. Such regulations may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused is from a force component other than the one of which the accused is a member. To the maximum extent practicable, such regulations shall establish uniform policies between the force components of the state military forces while recognizing the differences in the circumstances and needs of both force components.

C. In any court-martial proceeding resulting in a conviction, the defense counsel:

1. May forward for attachment to the record of proceedings a brief of such matters as he or she determines should be considered in behalf of the accused on review (including any objection to the contents of the record which he or she considers appropriate);

2. May assist the accused in the submission of any matter under Section 860, 860A or 860B of this title (Article 60, 60A or 60B); and

3. May take other action authorized by the Oklahoma Uniform Code of Military Justice.

D. An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he or she is

qualified to be a trial counsel as required by Section 827 of this title (Article 27), perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

E. An assistant defense counsel of a general or special court-martial may perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 839 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 39. Sessions.

A. At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to Section 835 of this title (Article 35), call the court into session without the presence of the members for the purpose of:

1. Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

2. Hearing and ruling upon any matter which may be ruled upon by the military judge under the Oklahoma Uniform Code of Military Justice, whether or not the matter is appropriate for later consideration or decision by the members of the court;

3. Holding the arraignment and receiving the pleas of the accused;

4. Conducting a sentencing proceeding and sentencing the accused under paragraph 1 of subsection B of Section 853 of this title (Article 53, subsection B, paragraph 1); and

5. Performing any other procedural function which may be performed by the military judge under the Code or under rules prescribed pursuant to Section 836 of this title (Article 36) and which does not require the presence of the members of the court.

B. Proceedings under subsection A of this section shall be conducted in the presence of the accused, the defense counsel, and

the trial counsel and shall be made a part of the record. These proceedings may be conducted notwithstanding the number of members of the court and without regard to Section 829 of this title (Article 29). If authorized by regulations promulgated by the Adjutant General, and if at least one defense counsel is physically in the presence of the accused, the presence required by this subsection may otherwise be established by audiovisual technology, such as video-teleconferencing technology.

C. When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge.

D. The findings, holdings, interpretations, and other precedents of military commissions under Chapter 47A of Title 10 of the United States Code:

1. May not be introduced or considered in any hearing, trial, or other proceeding of a court-martial under the Code; and

2. May not form the basis of any holding, decision, or other determination of a court-martial.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 40. Continuances.

The military judge or a summary court-martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 841 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 41. Challenges.

A. 1. The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge shall determine

the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

2. If exercise of a challenge for cause reduces the court below the number of members required by Section 816 of this title (Article 16), all parties shall, notwithstanding Section 829 of this title (Article 29), either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges shall not be exercised at that time.

B. 1. Each accused and the trial counsel are entitled initially to one peremptory challenge of the members of the court. The military judge may not be challenged except for cause.

2. If exercise of a peremptory challenge reduces the court below the number of members required by Section 816 of this title (Article 16), the parties shall, notwithstanding Section 829 of this title (Article 29), either exercise or waive any remaining peremptory challenge (not previously waived) against the remaining members of the court before additional members are detailed to the court.

C. Whenever additional members are detailed to the court, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 842 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 42. Oaths.

A. Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant or associate defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed

in regulations promulgated by the Adjutant General. These regulations may provide that an oath to perform faithfully duties as a military judge, trial counsel, assistant trial counsel, defense counsel, or assistant or associate defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty, and if such an oath is taken it need not again be taken at the time the judge advocate, or other person is detailed to that duty.

B. Each witness before a court-martial shall be examined on oath.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 843 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 43. Statute of limitations.

A. Except as otherwise provided in this section, a person charged with a military offense is not liable to be tried by court-martial if the offense was committed more than three (3) years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

B. A person accused of an offense is not liable to be punished under Section 815 of this title (Article 15) if the offense was committed more than two (2) years before the imposition of punishment.

C. Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section.

D. Periods in which the accused was absent from territory in which the State of Oklahoma has the authority to apprehend him or her, or in the custody of civil authorities, or on active duty within the meaning of Title 10 of the United States Code, or in the hands of the enemy, shall be excluded in computing the periods of limitation prescribed in this section.

E. When the United States is at war, the running of any statute of limitations applicable to any offense under the Oklahoma Uniform Code of Military Justice:

1. Involving fraud or attempted fraud against the United States, the State of Oklahoma, or any agency of the foregoing in any manner, whether by conspiracy or not;

2. Committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States, or the State of Oklahoma; or

3. Committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or government agency,

is suspended until three (3) years after the termination of hostilities as proclaimed by the President of the United States or by a joint resolution of Congress.

F. Defective or insufficient charges.

1. If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations:

- a. has expired, or
- b. will expire within one hundred eighty (180) days after the date of dismissal of the charges and specifications,

trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph 2 of this subsection are met.

2. The conditions referred to in paragraph 1 of this subsection are that the new charges and specifications shall:

- a. be received by an officer exercising summary court-martial jurisdiction over the command within one hundred eighty (180) days after the dismissal of the charges or specifications, and
- b. allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege

acts or omissions that were included in the dismissed charges or specifications).

G. A person charged with fraudulent enlistment or fraudulent appointment under Section 904A of this title (Article 104A) may be tried by court-martial if the sworn charges and specifications are received by an officer exercising summary court-martial jurisdiction with respect to that person, as follows:

1. In the case of an enlisted member, during the period of the enlistment or five (5) years, whichever provides a longer period; and

2. In the case of an officer, during the period of the appointment or five (5) years, whichever provides a longer period.

H. If deoxyribonucleic acid (DNA) testing implicates an identified person in the commission of an offense punishable by confinement for more than one (1) year, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 844 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 44. Former jeopardy.

A. No person may, without his or her consent, be tried a second time for the same offense.

B. No proceeding in which an accused has been found guilty by court-martial upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

C. 1. A court-martial with a military judge alone is a trial for the purposes of this section if, without fault of the accused:

a. after introduction of evidence, and

b. before announcement of findings under Section 853 of this title (Article 53),

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

2. A court-martial with a military judge and members is a trial in the sense of this section if, without fault of the accused:

- a. after the members, having taken an oath as members under Section 842 of this title (Article 42) and after completion of challenges under Section 841 of this title (Article 41), are impaneled, and
- b. before announcement of findings under Section 853 of this title (Article 53),

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 845 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 45. Pleas of the accused.

A. Irregular and similar pleas. If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he or she has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he or she fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he or she had pleaded not guilty.

B. Pleas of guilty. With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

C. Harmless error. A variance from the requirements of this section is harmless error if the variance does not materially prejudice the substantial rights of the accused.

SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 846 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 46. Opportunity to obtain witnesses and other evidence in trials by court-martial.

A. Opportunity to obtain witnesses and other evidence. In a case referred for trial by court-martial, the trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as may be promulgated by the Adjutant General.

B. Subpoena and other process generally. Any subpoena or other process issued under this section:

1. Shall be similar to that which courts of the State of Oklahoma having criminal jurisdiction may issue pursuant to Title 22 of the Oklahoma Statutes;

2. Shall be executed in accordance with regulations promulgated by the Adjutant General; and

3. Shall run to any part of the State of Oklahoma.

C. Subpoena and other process for witnesses. A subpoena or other process may be issued to compel a witness to appear and testify:

1. Before a court-martial or court of inquiry;

2. At a deposition under Section 849 of this title (Article 49); or

3. As otherwise authorized under the Oklahoma Uniform Code Of Military Justice.

D. Subpoena and other process for evidence.

1. In general. A subpoena or other process may be issued to compel the production of evidence:

- a. for a court-martial or court of inquiry,
- b. for a deposition under Section 849 of this title (Article 49),
- c. for an investigation of an offense under the Code, or
- d. as otherwise authorized under the Code.

2. Investigative subpoena. An investigative subpoena under subparagraph c of paragraph 1 of this subsection may be issued before referral of charges to a court-martial only if a general court-martial convening authority has authorized counsel for the government to issue such a subpoena or a military judge issues such a subpoena pursuant to subsection A of Section 830 of this title (Article 30, subsection A).

3. Warrant or order for wire or electronic communications. With respect to an investigation of an offense under the Code, a military judge detailed in accordance with Section 826 or subsection A of Section 830 of this title (Article 26 or Article 30, subsection A) may issue warrants or court orders for the contents of, and records concerning, wire or electronic communications in the same manner as such warrants and orders may be issued by a district court of the State of Oklahoma under the provisions of Title 22 of the Oklahoma Statutes, subject to such limitations as may be prescribed by regulations promulgated by the Adjutant General.

E. Request for relief from subpoena or other process. If a person requests relief from a subpoena or other process under this section (article) on grounds that compliance is unreasonable or oppressive or is prohibited by law, a military judge detailed in accordance with Section 826 or subsection A of Section 830 of this title (Article 26 or Article 30, subsection A) shall review the request and shall:

1. Order that the subpoena or other process be modified or withdrawn, as appropriate; or

2. Order the person to comply with the subpoena or other process.

SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 847 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 47. Refusal to appear or testify.

A. In general.

1. Any person described in paragraph 2 of this subsection who:

- a. willfully neglects or refuses to appear, or
- b. willfully refuses to qualify as a witness or to testify or to produce any evidence which that person is required to produce,

shall be guilty of indirect contempt of the court-martial or court of inquiry from which the subpoena issued.

2. The persons referred to in paragraph 1 of this subsection are the following:

- a. any person not subject to the Oklahoma Uniform Code of Military Justice who:
 - (1) is issued a subpoena or other process described in subsection C of Section 846 of this title (Article 46, subsection C), and
 - (2) is provided a means for payment of fees and mileage pursuant to subsection D of this section, and
- b. any person not subject to the Code who is issued a subpoena or other process described in subsection D of Section 846 of this title (Article 46, subsection D).

B. Any person who commits indirect contempt shall be punished in accordance with Sections 566, 567 and 568 of Title 21 of the Oklahoma Statutes.

C. The district attorney exercising jurisdiction in the county where the court-martial or court of inquiry is convened, shall, upon the certification of the facts to him or her by the military court,

court of inquiry or convening authority, file an information against and prosecute any person violating this section.

D. The fees and mileage of witnesses shall be paid as follows:

1. Any civilian witness, who is not a federal employee, appearing in obedience to an order, subpoena, or other lawful compulsion at any stage of a general or special court-martial or court of inquiry where the party seeking the attendance of the witness is the trial counsel, the defense counsel or the defendant appearing pro se, shall be paid from any monies available in the Military Justice Fund established in Section 941 of Title 44 of the Oklahoma Statutes, the fees and mileage at the rate prescribed by Section 81 of Title 28 of the Oklahoma Statutes;

2. Any witness appearing in obedience to an order, subpoena, or other lawful compulsion at any stage of a court-martial for which no provision in this subsection is applicable, shall be paid at the discretion of the military judge presiding over a general or special court-martial proceeding from any monies available in the Military Justice Fund established in Section 941 of Title 44 of the Oklahoma Statutes, the fees and mileage at the rate prescribed by Section 81 of Title 28 of the Oklahoma Statutes;

3. The comptroller of the military department, or any other person designated by the Adjutant General, shall, upon proof of claim, issue to witnesses, summoned pursuant to this subsection, certificates showing the names of witnesses, number of days' attendance, distance traveled and the amount of such fees and mileage; and

4. The Adjutant General may promulgate additional regulations governing the method and process for payment of fees and mileage to a civilian witness, who is not a federal employee, appearing in obedience to an order, subpoena, or other lawful compulsion at any stage of a general, special or summary court-martial or court of inquiry.

SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 848 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 48. Contempt.

A. Authority to punish.

1. With respect to any proceeding under the Oklahoma Uniform Code of Military Justice, a judicial officer specified in paragraph 2 of this subsection may punish for contempt any person who:

- a. uses any menacing word, sign, or gesture in the presence of the judicial officer during the proceeding,
- b. disturbs the proceeding by any riot or disorder, or
- c. willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

2. A judicial officer referred to in paragraph 1 of this subsection is either of the following:

- a. any military judge detailed to a court-martial,
- b. the chief judge of the Military Court of Appeals, or
- c. the president of a court of inquiry.

B. Opportunity to be heard and warning. A judicial officer, as specified in paragraph 2 of subsection A of this section, may punish a person cited for contempt after an opportunity to be heard has been given. Censure shall be imposed by the judicial officer only if:

1. It is clear from the identity of the offender and the character of his or her acts that disruptive conduct is willfully contemptuous; or

2. The conduct warranting the sanction is preceded by a clear warning that the conduct is impermissible and that specified sanctions may be imposed for its repetition.

C. Notification of contempt proceedings. The judicial officer, as specified in paragraph 2 of subsection A of this section, as soon as practicable after he or she is satisfied that courtroom misconduct requires contempt proceedings, should inform the alleged offender of his or her intention to institute said proceedings.

D. Notice and opportunity to provide evidence or testimony. Before imposing any punishment for contempt, the judicial officer shall give the offender notice of the charges and an opportunity to adduce evidence or argument relevant to guilt or punishment.

E. Imposition of sanctions. The judicial officer before whom the misconduct occurs may impose appropriate sanctions including punishment for contempt.

F. Punishment. The punishment for contempt under subsection A of this section shall not exceed the punishments provided in subsection A of Section 566 of Title 21 of the Oklahoma Statutes.

G. Review. A punishment under this section:

1. If imposed by a military judge, may be reviewed by the Military Court of Appeals in accordance with the uniform rules of procedure for the Military Court of Appeals under subsection L of Section 866 of this title (Article 66, subsection L);

2. If imposed by the chief judge of the Military Court of Appeals, shall constitute a judgment of the court, subject to review under the applicable provisions of Section 867 of this title (Article 67); and

3. If imposed by a court of inquiry, shall be subject to review by the convening authority in accordance with regulations promulgated by the Adjutant General.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 849 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 49. Depositions.

A. In general.

1. Subject to paragraph 2 of this subsection, a convening authority or a military judge may order depositions at the request of any party.

2. A deposition may be ordered under paragraph 1 of this subsection only if the requesting party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the

testimony of a prospective witness be preserved for use at a court-martial or court of inquiry.

3. A party who requests a deposition under this section shall give to every other party reasonable written notice of the time and place for the deposition.

4. A deposition under this section shall be taken before, and authenticated by, an impartial officer, as follows:

- a. whenever practicable, by an impartial judge advocate certified under subsection B of Section 827 of this title (Article 27, subsection B), and
- b. in exceptional circumstances, by an impartial military or civil officer authorized to administer oaths by:
 - (1) the laws of the United States, or
 - (2) the laws of the place where the deposition is taken.

B. Representation by counsel. Representation of the parties with respect to a deposition shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under Section 827 of this title (Article 27). In addition, the accused shall have the right to be represented by civilian or military counsel in the same manner as such counsel is provided for in subsection B of Section 838 of this title (Article 38, subsection B).

C. Admissibility and use as evidence. A deposition order under subsection A of this section does not control the admissibility of the deposition in a court-martial or other proceeding under the Oklahoma Uniform Code of Military Justice. A party may use all or part of a deposition as provided by the federal Military Rules of Evidence.

SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 50. Admissibility of sworn testimony from records of courts of inquiry.

A. Use as evidence by any party. In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

B. Use as evidence by defense. Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

C. Use in courts of inquiry and military boards. Such testimony may also be read in evidence before a court of inquiry or an administrative board.

D. Audiotape or videotape. Sworn testimony that:

1. Is recorded by audiotape, videotape, or similar method; and

2. Is contained in the duly authenticated record of proceedings of a court of inquiry,

shall be admissible before a court-martial, court of inquiry, or military board, to the same extent as sworn testimony may be read in evidence before any such body under this section.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 50A. Defense of lack of mental responsibility.

A. It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

B. The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

C. Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall instruct the members of the court as to the defense of lack of mental responsibility under this section and shall charge them to find the accused:

1. Guilty;
2. Not guilty; or
3. Not guilty only by reason of lack of mental responsibility.

D. Subsection C of this section does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed of a military judge only, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall find the accused:

1. Guilty;
2. Not guilty; or
3. Not guilty only by reason of lack of mental responsibility.

E. Notwithstanding the provisions of Section 852 of this title (Article 52), the accused shall be found not guilty only by reason of lack of mental responsibility if:

1. A majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or

2. In the case of a court-martial composed of a military judge only, the military judge determines that the defense of lack of mental responsibility has been established.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 851 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 51. Voting and rulings.

A. Voting by members of a general or special court-martial on the findings and on the sentence shall be by secret written ballot. The junior member of the court shall count the votes. The count

shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

B. The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused is final and constitutes the ruling of the court, except that the military judge may change a ruling at any time during trial.

C. Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them:

1. That the accused shall be presumed to be innocent until his or her guilt is established by legal and competent evidence beyond reasonable doubt;

2. That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt shall be resolved in favor of the accused and he or she shall be acquitted;

3. That, if there is reasonable doubt as to the degree of guilt, the finding shall be in a lower degree as to which there is no reasonable doubt; and

4. That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the government.

D. This section does not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 852 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 52. Votes required for conviction, sentencing and other matters.

A. In general. No person may be convicted of an offense in a general or special court-martial, other than:

1. After a plea of guilty under subsection B of Section 845 of this title (Article 45, subsection B);

2. By a military judge in a court-martial with a military judge alone, under Section 816 of this title (Article 16); or

3. In a court-martial with members under Section 816 of this title (Article 16), by the concurrence of at least three-fourths (3/4) of the members present when the vote is taken.

B. Level of concurrence required.

1. In general. Except as provided in paragraph 2 of subsection A of this section, all matters to be decided by members of a general or special court-martial shall be determined by a majority vote, but a reconsideration of a finding of guilty or reconsideration of a sentence, with a view toward decreasing the sentence, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

2. Sentencing. All sentences imposed by members under the Oklahoma Uniform Code of Military Justice shall be determined by the concurrence of at least three-fourths (3/4) of the members present when the vote is taken.

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 853 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 53. Findings and sentencing.

A. A court-martial shall announce its findings and sentence to the parties as soon as determined.

B. Sentencing generally.

1. General and special courts-martial.

- a. Sentencing by military judge. Except as provided in subparagraph b of this paragraph, if the accused is convicted of an offense in a trial by general or special court-martial, the military judge shall sentence the accused.
- b. Sentencing by members. If the accused is convicted of an offense by general or special court-martial consisting of a military judge and members and the accused elects sentencing by members under Section 825 of this title (Article 25), the members shall sentence the accused.
- c. Sentence of the accused. The sentence determined pursuant to this paragraph constitutes the sentence of the accused.

2. Summary courts-martial. If the accused is convicted of an offense in a trial by summary court-martial, the court-martial shall sentence the accused.

SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 853A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 53A. Plea agreements.

A. In general.

1. At any time before the announcement of findings under Section 853 of this title (Article 53), the convening authority and the accused may enter into a plea agreement with respect to such matters as:

- a. the manner in which the convening authority will dispose of one or more charges and specifications, and
- b. limitations on the sentence that may be adjudged for one or more charges and specifications.

2. The military judge of a general or special court-martial may not participate in discussions between the parties concerning prospective terms and conditions of a plea agreement.

B. Limitation on acceptance of plea agreements. The military judge of a general or special court-martial shall reject a plea agreement that:

1. Contains a provision that has not been accepted by both parties; or
2. Contains a provision that is not understood by the accused.

C. Binding effect of plea agreement. Upon acceptance by the military judge of a general or special court-martial, a plea agreement shall bind the parties and the court-martial.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 854 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 54. Record of trial.

A. General and special courts-martial. Each general or special court-martial shall keep a separate record of the proceedings in each case brought before it. The record shall be certified by a court reporter, except that in the case of death, disability, or absence of a court reporter, the record shall be certified by an official selected as the Adjutant General may prescribe by regulation.

B. Summary courts-martial. Each summary court-martial shall keep a separate record of the proceedings in each case, and the record shall be certified in the manner required by such regulations as the Adjutant General may prescribe.

C. Contents of record.

1. Except as provided in paragraph 2 of this subsection, the record shall contain such matters as the Adjutant General may prescribe by regulation.

2. In accordance with regulations prescribed by the Adjutant General, a complete record of proceedings and testimony shall be prepared in any case of a sentence of dismissal, discharge, confinement for more than six (6) months, or forfeiture of pay for more than six (6) months.

D. A copy to the accused. A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is certified.

E. Copy to victim. In the case of a general or special court-martial upon request, a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The record of the proceedings shall be provided without charge and as soon as the records are certified. The victim shall be notified of the opportunity to receive the records of the proceedings.

PART VIII.

SENTENCES

SECTION 64. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 855 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 55. Cruel and unusual punishments prohibited.

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to the Oklahoma Uniform Code of Military Justice. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 856 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 56. Sentencing.

A. Sentence maximums. The punishment which a court-martial may direct for an offense may not exceed such limits as the Governor or Adjutant General may prescribe for that offense.

B. Imposition of sentence.

1. In general. In sentencing an accused under Section 853 of this title (Article 53), a court-martial shall impose punishment that is sufficient, but not greater than necessary, to promote

justice and to maintain good order and discipline in the state military forces, taking into consideration:

- a. the nature and circumstances of the offense and the history and characteristics of the accused,
- b. the impact of the offense on:
 - (1) the financial, social, psychological, or medical well-being of any victim of the offense, and
 - (2) the mission, discipline, or efficiency of the command of the accused and any victim of the offense,
- c. the need for the sentence:
 - (1) to reflect the seriousness of the offense,
 - (2) to promote respect for the law,
 - (3) to provide just punishment for the offense,
 - (4) to promote adequate deterrence of misconduct,
 - (5) to protect others from further crimes by the accused,
 - (6) to rehabilitate the accused, and
 - (7) to provide, in appropriate cases, the opportunity for retraining and return to duty to meet the needs of the service, and
- d. the sentences available under this chapter.

2. Sentencing by military judge. In announcing the sentence in a general or special court-martial in which the accused is sentenced by a military judge alone under Section 853 of this title (Article 53), the military judge shall, with respect to each offense of which the accused is found guilty, specify the term of confinement, if any, and the amount of the fine, if any. If the accused is sentenced to confinement for more than one offense, the military judge shall specify whether the terms of confinement are to run consecutively or concurrently.

3. Sentencing by members. In a general or special court-martial in which the accused has elected sentencing by members, the court-martial shall announce a single sentence for all of the offenses of which the accused was found guilty.

C. Appeal of sentence by the State of Oklahoma.

1. With the approval of the State Judge Advocate and consistent with standards and procedures set forth in regulations prescribed by the Governor or the Adjutant General, the government may appeal a sentence to the Military Court of Appeals, on the grounds that:

- a. the sentence violates the law, or
- b. the sentence is plainly unreasonable, as determined in accordance with standards and procedures prescribed by the Governor or the Adjutant General.

2. An appeal under this subsection shall be filed within sixty (60) days after the date on which the judgment of a court-martial is entered into the record under Section 860C of this title (Article 60C).

SECTION 66. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 857 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 57. Effective date of sentences.

A. Execution of sentences. A court-martial sentence shall be executed and take effect as follows:

1. Forfeiture and reduction. A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect. Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of:

- a. the date that is fourteen (14) days after the date on which the sentence is adjudged, or
- b. in the case of a summary court-martial, the date on which the sentence is approved by the convening authority;

2. Confinement. Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement;

3. Approval of dismissal. If in the case of a commissioned officer, or cadet, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Adjutant General or by the Senior Assistant Adjutant General of the same component as the accused if such authority is so delegated by the Adjutant General. In such a case, the Adjutant General, or Senior Assistant Adjutant General, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as the Adjutant General or Senior Assistant Adjutant General sees fit. In time of war or national emergency he or she may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six (6) months thereafter;

4. Completion of appellate review. If a sentence extends to dismissal, or a dishonorable or bad-conduct discharge, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may be executed, in accordance with applicable regulations, after completion of appellate review and, with respect to dismissal, approval under paragraph 3 of this subsection, as appropriate; and

5. Other sentences. Except as otherwise provided in this subsection, a general or special court-martial sentence is effective upon entry of judgment and a summary court-martial sentence is effective when the convening authority acts on the sentence.

B. Deferral of sentences.

1. In general. On application by an accused, the convening authority or, if the accused is no longer under his or her jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may, in his or her sole discretion, defer the effective date of a sentence of confinement, reduction, or forfeiture. The deferment shall terminate upon entry of judgment or, in the case of a summary court-martial, when the convening authority acts on the sentence. The deferment may be rescinded at any time by the officer

who granted it or, if the accused is no longer under his or her jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

2. Deferral of certain persons sentenced to confinement. In any case in which a court-martial sentences a person referred to in paragraph 3 of this subsection to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the state military forces by a state or foreign country referred to in that paragraph.

3. Covered persons. Paragraph 2 of this subsection applies to a person subject to this chapter who:

- a. while in the custody of a state or foreign country is temporarily returned by that state or foreign country to the state military forces for trial by court-martial, and
- b. after the court-martial, is returned to that state or foreign country under the authority of a mutual agreement or treaty, as the case may be.

4. State defined. In this subsection, the term "state" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

5. Deferral while review pending. In any case in which a court-martial sentences a person to confinement, but in which review of the case under subsection A of Section 867 of this title (Article 67, subsection A) is pending, the Adjutant General may defer further service of the sentence to confinement while that review is pending.

C. Appellate review.

1. Completion of appellate review. Appellate review is complete under this section when:

- a. a review under Section 865 of this title (Article 65) is completed, or
- b. a review under Section 866 of this title (Article 66) is completed by the Military Court of Appeals and:

- (1) the time for the accused to file a Petition for Review by the Court of Criminal Appeals has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court,
- (2) such a petition is rejected by the Court of Criminal Appeals, or
- (3) review is completed in accordance with the judgment of the Court of Criminal Appeals.

2. Completion as final judgment of legality of proceedings. The completion of appellate review shall constitute a final judgment as to the legality of the proceedings.

SECTION 67. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 58. Execution of confinement.

A. Under such regulations as the Governor or Adjutant General may prescribe, a sentence of confinement adjudged by a court-martial, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of the state military forces or in any penal or correctional institution used or under the control of the Oklahoma Department of Corrections. Persons so confined in a penal or correctional institution not under the control of the state military forces are subject to the same discipline and treatment as persons confined or committed by the courts of this state.

B. No confinement ordered by a court-martial shall include hard labor.

SECTION 68. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 58A. Sentences: reduction in enlisted grade.

A. A court-martial sentence of an enlisted member in a pay grade above E-1, as set forth in the judgment of the court-martial entered into the record under Section 860C of this title (Article 60C), that includes:

1. A dishonorable or bad-conduct discharge; or
2. Confinement,

reduces that member to pay grade E-1, if such a reduction is authorized by regulation prescribed by the Governor or Adjutant General. The reduction in pay grade shall take effect on the date on which the judgment is so entered.

B. If the sentence of a member who is reduced in pay grade under subsection A of this section is set aside or reduced, or, as finally affirmed, does not include any punishment named in paragraphs 1 or 2 of subsection A of this section, the rights and privileges of which he or she was deprived because of that reduction shall be restored to him or her and he or she is entitled to the pay and allowances to which he or she would have been entitled, for the period the reduction was in effect, had he or she not been so reduced.

SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858B of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 58B. Sentences: forfeiture of pay and allowances during confinement.

A. 1. A court-martial sentence described in paragraph 2 of this subsection shall result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole. The forfeiture pursuant to this section shall take effect on the date determined under Section 857 of this title (Article 57) and may be deferred as provided in that article. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during such period and, in the case of a special court-martial, shall be two-thirds (2/3) of all pay due that member during such period.

2. A sentence covered by this section is any sentence that includes:

- a. confinement for more than six (6) months; or
- b. confinement for six (6) months or less and a dishonorable or bad-conduct discharge or dismissal.

B. In a case involving an accused who has dependents, the convening authority or other person acting under Section 860A or 860B of this title (Article 60A or 60B) may waive any or all of the forfeitures of pay and allowances required by subsection A of this section for a period not to exceed six (6) months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

C. If the sentence of a member who forfeits pay and allowances under subsection A of this section is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in paragraph 2 of subsection A of this section, the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period which the forfeiture was in effect.

SECTION 70. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858C of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 58C. Enforcement of fines or adjudication of pecuniary liability.

When a sentence, including a fine, or a finally approved adjudication of pecuniary liability under a report of survey or financial liability investigation of property loss (FLIPL) has been ordered executed pursuant to regulations promulgated by the Adjutant General, the collection of the fine or the adjudication of pecuniary liability may be made executory and enforced by the Oklahoma Attorney General, or his or her designee, in the judicial district as described in Section 22 of Title 20 of the Oklahoma Statutes in which the court martial was held or in the district court judicial district, where nonjudicial punishment was decided or district court judicial district of residence of the accused or person against whom the pecuniary charge was raised in the same manner as a money judgment in a civil case or by the withholding of any funds due the accused from the state or any of its agencies in accordance with regulations prescribed by the Adjutant General. To the extent not

prohibited by federal law or regulation, a fine may be enforced by withholding federal funds due the accused.

PART IX.

POSTTRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 859 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 59. Error of law - lesser included offense.

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

B. Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

SECTION 72. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 860 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 60. Posttrial processing in general and special courts-martial.

A. Statement of trial results.

1. The military judge of a general or special court-martial shall enter into the record of trial a document entitled "Statement of Trial Results", which shall set forth:

- a. each plea and finding,
- b. the sentence, if any, and
- c. such other information as the Adjutant General may prescribe by regulation.

2. Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

B. Posttrial motions. In accordance with regulations prescribed by the Adjutant General, the military judge in a general or special court-martial shall address all posttrial motions and other posttrial matters that:

1. May affect a plea, a finding, the sentence, the Statement of Trial Results, the record of trial, or any posttrial action by the convening authority; and

2. Are subject to resolution by the military judge before entry of judgment.

SECTION 73. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 860A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 60A. Limited authority to act on sentence in specified posttrial circumstances.

A. In general.

1. The convening authority of a general or special court-martial described in paragraph 2 of this subsection:

- a. may act on the sentence of the court-martial only as provided in subsection B, C or D of this section, and
- b. may not act on the findings of the court-martial.

2. The courts-martial referred to in paragraph 1 of this subsection are the following:

- a. a general or special court-martial in which the maximum sentence of confinement established under subsection A of Section 856 of this title (Article 56, subsection A) for any offense of which the accused is found guilty is more than two (2) years,
- b. a general or special court-martial in which the total of the sentences of confinement imposed, running consecutively, is more than six (6) months, and
- c. a general or special court-martial in which the sentence imposed includes a dismissal, dishonorable discharge, or bad-conduct discharge.

3. Except as provided in subsection D of this section, the convening authority may act under this section only before entry of judgment.

4. Under regulations prescribed by the Adjutant General, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

B. Reduction, commutation, and suspension of sentences generally.

1. Except as provided in subsection C or D of this section, the convening authority may not reduce, commute, or suspend any of the following sentences:

- a. a sentence of confinement, if the total period of confinement imposed for all offenses involved, running consecutively, is greater than six (6) months, and
- b. a sentence of dismissal, dishonorable discharge, or bad-conduct discharge.

2. The convening authority may reduce, commute, or suspend any sentence not specified in paragraph 1 of this subsection.

C. Suspension of certain sentences upon recommendation of military judge.

1. Upon recommendation of the military judge, as included in the Statement of Trial Results, together with an explanation of the facts supporting the recommendation, the convening authority may suspend:

- a. a sentence of confinement, in whole or in part, or
- b. a sentence of dismissal, dishonorable discharge, or bad-conduct discharge.

2. The convening authority may not, under paragraph 1 of this subsection:

- a. suspend a mandatory minimum sentence, or

- b. suspend a sentence to an extent in excess of the suspension recommended by the military judge.

D. Reduction of sentence for substantial assistance by accused.

1. Upon a recommendation by the trial counsel, if the accused, after sentencing and before entry of judgment, provides substantial assistance in the investigation or prosecution of another person, the convening authority may reduce, commute, or suspend a sentence, in whole or in part, including any mandatory minimum sentence.

2. Upon a recommendation by a trial counsel, designated in accordance with regulations prescribed by the Adjutant General, if the accused, after entry of judgment, provides substantial assistance in the investigation or prosecution of another person, a convening authority, designated under such regulations, may reduce, commute, or suspend a sentence, in whole or in part, including any mandatory minimum sentence.

3. In evaluating whether the accused has provided substantial assistance under this subsection, the convening authority may consider the presentence assistance of the accused.

E. Submissions by accused and victim.

1. In accordance with regulations prescribed by the Adjutant General, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of an offense. Such rules shall include:

- a. procedures for notice of the opportunity to make such submissions,
- b. the deadlines for such submissions, and
- c. procedures for providing the accused and any victim of an offense with a copy of the recording of any open sessions of the court-martial and copies of, or access to, any admitted, unsealed exhibits.

2. The convening authority shall not consider under this section any submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.

F. Decision of convening authority.

1. The decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

2. If, under this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall include a written explanation of the reasons for such action.

3. If, under paragraph 2 of subsection D of this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall be forwarded to the military judge for appropriate modification of the entry of judgment, which shall be transmitted to the State Judge Advocate for appropriate action.

SECTION 74. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 860B of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 60B. Posttrial actions in summary courts-martial and certain general and special courts-martial.

A. In general.

1. In a court-martial not specified in paragraph 2 of subsection A of Section 860A of this title (Article 60A, subsection A, paragraph 2), the convening authority may:

- a. dismiss any charge or specification by setting aside the finding of guilty,
- b. change a finding of guilty to a charge or specification to a finding of guilty to a lesser included offense,
- c. disapprove the findings and the sentence and dismiss the charges and specifications,
- d. disapprove the findings and the sentence and order a rehearing as to the findings and the sentence,

- e. disapprove, commute, or suspend the sentence, in whole or in part, or
- f. disapprove the sentence and order a rehearing as to the sentence.

2. In a summary court-martial, the convening authority shall approve the sentence or take other action on the sentence under paragraph 1 of this subsection.

3. Except as provided in paragraph 4 of this subsection, the convening authority may act under this section only before entry of judgment.

4. The convening authority may act under this section after entry of judgment in a general or special court-martial in the same manner as the convening authority may act under paragraph 2 of subsection D of Section 860A of this title (Article 60A, subsection D, paragraph 2). Such action shall be forwarded to the military judge, who shall ensure appropriate modification to the entry of judgment and shall transmit the entry of judgment to the State Judge Advocate for appropriate action.

5. Under regulations prescribed by the Adjutant General, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

B. Limitations on rehearings. The convening authority may not order a rehearing under this section:

1. As to the findings, if there is insufficient evidence in the record to support the findings;

2. To reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty; or

3. To reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of the Oklahoma Uniform Code of Military Justice.

C. Submissions by accused and victim. In accordance with regulations prescribed by the Adjutant General, in determining whether to act under this section, the convening authority shall

consider matters submitted in writing by the accused or any victim of the offense. Such rules shall include the matter required by subsection E of Section 860A of this title (Article 60A, subsection E).

D. Decision of convening authority.

1. In a general or special court-martial, the decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

2. If the convening authority acts on the findings or the sentence under paragraph 1 of subsection A of this section, the decision of the convening authority shall include a written explanation of the reasons for such action.

SECTION 75. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 860C of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 60C. Entry of judgment.

A. Entry of judgment of general or special court-martial.

1. In accordance with regulations prescribed by the Adjutant General, in a general or special court-martial, the military judge shall enter into the record of trial the judgment of the court. The judgment of the court shall consist of the following:

- a. the Statement of Trial Results under Section 860 of this title (Article 60),
- b. any modifications of, or supplements to, the Statement of Trial Results by reason of:
 - (1) any posttrial action by the convening authority, or
 - (2) any ruling, order, or other determination of the military judge that affects a plea, a finding, or the sentence.

2. Under regulations prescribed by the Adjutant General, the judgment under paragraph 1 of this subsection shall be:

- a. provided to the accused and to any victim of the offense, and
- b. made available to the public.

B. Summary court-martial judgment. The findings and sentence of a summary court-martial, as modified by any posttrial action by the convening authority under Section 860B of this title (Article 60B), constitutes the judgment of the court-martial and shall be recorded and distributed under regulations prescribed by the Adjutant General.

SECTION 76. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 861 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 61. Waiver of right to appeal; withdrawal of appeal.

A. Waiver of right to appeal. After entry of judgment in a general or special court-martial, under regulations promulgated by the Adjutant General, the accused may waive the right to appellate review in each case subject to such review under Section 866 of this title (Article 66). Such a waiver shall be:

1. Signed by the accused and by defense counsel; and
2. Attached to the record of trial.

B. Withdrawal of appeal. In a general or special court-martial, the accused may withdraw an appeal at any time.

C. Waiver or withdrawal as bar. A waiver or withdrawal under this section bars review under Section 866 of this title (Article 66).

SECTION 77. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 862 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 62. Appeal by the State of Oklahoma.

A. 1. In a trial by general or special court-martial, or in a pretrial proceeding under Section 830A of this title (Article 30A), the State of Oklahoma may appeal the following:

- a. an order or ruling of the military judge which terminates the proceedings with respect to a charge or specification,
- b. an order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding,
- c. an order or ruling which directs the disclosure of classified or confidential information,
- d. an order or ruling which imposes sanctions for nondisclosure of classified or confidential information,
- e. a refusal of the military judge to issue a protective order sought by the State of Oklahoma to prevent the disclosure of classified or confidential information,
- f. a refusal by the military judge to enforce an order described in subparagraph e of this paragraph that has previously been issued by appropriate authority, and
- g. an order or ruling of the military judge entering a finding of not guilty with respect to a charge or specification following the return of a finding of guilty by the members.

2. a. An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within seventy-two (72) hours of the order or ruling. Such notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and (if the order or ruling appealed is one which excludes evidence) that the evidence excluded is substantial proof of a fact material in the proceeding.

b. An appeal of an order or ruling may not be taken when prohibited by Section 844 of this title (Article 44).

3. An appeal under this section shall be diligently prosecuted by appellate government counsel.

B. An appeal under this section shall be forwarded by a means prescribed under regulations of the Adjutant General directly to the Military Court of Appeals and shall, whenever practicable, have priority over all other proceedings before that court. In ruling on an appeal under this section, the Military Court of Appeals may act only with respect to matters of law.

C. Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

D. The provisions of this section shall be liberally construed to effect its purposes.

SECTION 78. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 863 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 63. Rehearings.

A. Each rehearing under the Oklahoma Uniform Code of Military Justice shall take place before a court-martial composed of members who were not members of the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he or she was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be adjudged, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

B. If the sentence adjudged by the first court-martial was in accordance with a plea agreement under Section 853A of this title (Article 53A) and the accused at the rehearing does not comply with the agreement, or if a plea of guilty was entered for an offense at the first court-martial and a plea of not guilty was entered at the rehearing, the sentence as to those charges or specifications may include any punishment not in excess of that which could have been adjudged at the first court-martial, subject to such limitations as the Adjutant General may prescribe by regulation.

C. If, after appeal by the government under subsection C of Section 856 of this title (Article 56, subsection C), the sentence adjudged is set aside and a rehearing on sentence is ordered by the Military Court of Appeals or Court of Criminal Appeals, the court-martial may impose any sentence that is in accordance with the order or ruling setting aside the adjudged sentence, subject to such limitations as the Adjutant General may prescribe by regulation.

SECTION 79. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 864 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 64. Judge advocate review of finding of guilty in summary court-martial.

A. In general. Under regulations prescribed by the Adjutant General, each summary court-martial in which there is a finding of guilty shall be reviewed by a judge advocate. A judge advocate may not review a case under this subsection if the judge advocate has acted in the same case as an accuser, preliminary hearing officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The judge advocate's review shall be in writing and shall contain the following:

1. Conclusions as to whether:

- a. the court had jurisdiction over the accused and the offense,
- b. the charge and specification stated an offense, and
- c. the sentence was within the limits prescribed as a matter of law;

2. A response to each allegation of error made in writing by the accused; and

3. If the case is sent for action under subsection B of this section, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

B. Record. The record of trial and related documents in each case reviewed under subsection A of this section shall be sent for action to the person exercising general court-martial jurisdiction

over the accused at the time the court was convened (or to that person's successor in command) if:

1. The judge advocate who reviewed the case recommends corrective action; or

2. Such action is otherwise required by regulations of the Adjutant General.

C. 1. The person to whom the record of trial and related documents are sent under subsection B of this section may:

a. disapprove or approve the findings or sentence, in whole or in part,

b. remit, commute, or suspend the sentence in whole or in part,

c. except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both, or

d. dismiss the charges.

2. If a rehearing is ordered but the convening authority finds a rehearing impracticable, he or she shall dismiss the charges.

3. If the opinion of the judge advocate in the judge advocate's review under subsection A of this section is that corrective action is required as a matter of law and if the person required to take action under subsection B does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the State Judge Advocate for review under Section 869 of this title (Article 69).

SECTION 80. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 865 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 65. Transmittal and review of records.

A. Transmittal of records.

1. Finding of guilty in general or special court-martial. If the judgment of a general or special court-martial entered under Section 860C of this title (Article 60C) includes a finding of guilty, the record shall be transmitted to the State Judge Advocate.

2. Other cases. In all other cases, records of trial by court-martial and related documents shall be transmitted and disposed of as the Adjutant General may prescribe by regulation.

B. Cases for direct appeal.

1. Automatic review. If the judgment includes a sentence of dismissal of a commissioned officer, or cadet, dishonorable discharge or bad-conduct discharge, or confinement for two (2) years or more, the State Judge Advocate shall forward the record of trial to the Military Court of Appeals for review under paragraph 3 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 3).

2. Cases eligible for direct appeal review.

a. In general. If the case is eligible for direct review under paragraph 1 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 1), the State Judge Advocate shall:

(1) forward a copy of the record of trial to an appellate defense counsel who shall be detailed to review the case and, upon request of the accused, to represent the accused before the Military Court of Appeals, and

(2) upon written request of the accused, forward a copy of the record of trial to civilian counsel provided by the accused.

b. Inapplicability. Subparagraph a of this paragraph shall not apply if the accused:

(1) waives the right to appeal under Section 861 of this title (Article 61), or

(2) declines in writing the detailing of appellate defense counsel under division (1) of subparagraph a of this paragraph.

C. Notice of right to appeal.

1. In general. The State Judge Advocate shall provide notice to the accused of the right to file an appeal under paragraph 1 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 1) by means of depositing in the United States mail for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in the official service record of the accused.

2. Inapplicability upon waiver of appeal. Paragraph 1 of this subsection shall not apply if the accused waives the right to appeal under Section 861 of this title (Article 61).

D. Review by State Judge Advocate.

1. By whom. A review conducted under this subsection may be conducted by an attorney within the Office of the State Judge Advocate or another attorney designated under regulations prescribed by the Adjutant General.

2. Review of cases not eligible for direct appeal.

a. In general. A review under subparagraph b of this paragraph shall be completed in each general and special court-martial that is not eligible for direct appeal under paragraph 1 or 3 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 1 or 3).

b. Scope of review. A review referred to in subparagraph a of this paragraph shall include a written decision providing each of the following:

- (1) a conclusion as to whether the court had jurisdiction over the accused and the offense,
- (2) a conclusion as to whether the charge and specification stated an offense,
- (3) a conclusion as to whether the sentence was within the limits prescribed as a matter of law, and

(4) a response to each allegation of error made in writing by the accused.

3. Review when direct appeal is waived, withdrawn, or not filed.

a. In general. A review under subparagraph b of this paragraph shall be completed in each general and special court-martial if:

(1) the accused waives the right to appeal or withdraws appeal under Section 861 of this title (Article 61), or

(2) the accused does not file a timely appeal in a case eligible for direct appeal under subparagraph a, b or c of paragraph 1 of subsection F of Section 866 of this title (Article 66, subsection F, paragraph 1, subparagraph a, b or c).

b. Scope of review. A review referred to in subparagraph a of this paragraph shall include a written decision limited to providing conclusions on the matters specified in divisions (1), (2) and (3) of subparagraph b of paragraph 2 of this subsection.

E. Remedy.

1. In general. If, after a review of a record under subsection D of this section, the attorney conducting the review believes corrective action may be required, the record shall be forwarded to the State Judge Advocate, who may set aside the findings or sentence, in whole or in part.

2. Rehearing. In setting aside findings or sentence, the State Judge Advocate may order a rehearing, except that a rehearing may not be ordered in violation of Section 844 of this title (Article 44).

3. Remedy without rehearing.

a. Dismissal when no rehearing ordered. If the State Judge Advocate sets aside findings and sentence and

does not order a rehearing, the State Judge Advocate shall dismiss the charges.

- b. Dismissal when rehearing impractical. If the State Judge Advocate sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.

SECTION 81. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 866 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 66. Military Court of Appeals for state military forces.

A. Military Court of Appeals. There is hereby established a Military Court of Appeals for the state military forces of the State of Oklahoma. The Military Court of Appeals shall be a court of record and except as provided in Section 867 of this title (Article 67), the appellate jurisdiction of the Military Court of Appeals shall be exclusive in all courts-martial cases convened by state military forces regardless of whether a court-martial was conducted within or without the physical boundaries of the State of Oklahoma.

B. Composition and method of appointment. The Military Court of Appeals shall be composed of one panel of not less than three appellate military judges. At the time the Military Court of Appeals is initially constituted and each time thereafter when a vacancy shall occur or is certain to occur on the Court, the State Judge Advocate shall choose and submit to the Governor at least one nominee for a vacant seat, certified by the State Judge Advocate as qualified, by reason of education, training, experience, and judicial temperament, for duty as an appellate military judge. Prior to submission of a nominee to the Governor, the nominee shall have previously notified the State Judge Advocate in writing that he or she will serve as an appellate military judge if appointed. The Governor shall appoint one nominee to fill the vacancy, but if the Governor fails to do so within sixty (60) days after the State Judge Advocate submits the nominee to the Governor or the Governor does not affirmatively reject in writing the nominee so submitted, the State Judge Advocate shall appoint one nominee, the appointment to be certified by the Secretary of State. No person so nominated and appointed by the Governor or by the State Judge Advocate shall take his or her seat on the Military Court of Appeals without first

receiving the approbation of the Senate through advice and consent; provided that, in the case of any vacancy that occurs while the Legislature is not in regular session within the meaning of Section 26 of Article V of the Oklahoma Constitution, the Governor, or the State Judge Advocate as provided in this subsection, shall appoint a person who satisfies the requirements established in subsection C of this section to serve as an appellate military judge. If the interim nomination of the appellate military judge is not approved by the Senate during the first regular session following its submission, it shall be deemed rejected.

C. Qualifications. An appellate military judge who is appointed to the Military Court of Appeals shall be a licensed practicing attorney or judge of a court of record, or both, in Oklahoma for one (1) year preceding his or her appointment and shall continue to be a duly licensed attorney while in office to be eligible to hold the office. No appellate military judge shall be appointed to the Military Court of Appeals who did not previously serve as a judge advocate in any department of the Armed Forces of the United States, to include reserve components of the same. The Military Court of Appeals shall include at least one appellate military judge who previously served in the United States Army or a reserve component of the same. The Military Court of Appeals shall include at least one appellate military judge who previously served in the United States Air Force or a reserve component of the same.

D. Term of office and causes for removal or retirement. Each appellate military judge appointed pursuant to this section shall, unless removed for cause, serve out the term for which he or she is appointed. Appellate military judges appointed pursuant to this section shall serve for fixed terms of office of appropriate minimum periods which shall be prescribed by regulations promulgated by the Adjutant General. The appellate military judges of the Military Court of Appeals, exercising judicial power under the provisions of the Oklahoma Uniform Code of Military Justice, shall be subject to removal from office, or to compulsory retirement from office, by proceedings in the Court on the Judiciary, for:

1. Gross neglect of duty, corruption in office, habitual drunkenness, commission while in office of any offense involving moral turpitude, gross partiality in office, oppression in office, mental or physical disability preventing the proper performance of official duty or incompetence to perform the duties of the office; or

2. Other reasons arising from military customs and practices defined in regulations promulgated by the Adjutant General.

E. Compensation. Appellate military judges shall receive compensation calculated on the basis of the current basic pay received by a member in active federal service at the grade of O-6 with twenty (20) years of time in service. The Adjutant General shall promulgate regulations establishing the method of calculating compensation for less than full-time service by members of the Military Court of Appeals. Appellate military judges may be paid such actual and necessary expenses as may be provided for in regulations promulgated by the Adjutant General.

F. Review.

1. Appeals by accused. The Military Court of Appeals shall have jurisdiction over a timely appeal from the judgment of a court-martial, entered into the record under Section 860C of this title (Article 60C), as follows:

- a. on appeal by the accused in a case in which the sentence extends to confinement for more than six (6) months and the case is not subject to automatic review under paragraph 3 of this subsection,
- b. on appeal by the accused in a case in which the government previously filed an appeal under Section 862 of this title (Article 62),
- c. on appeal by the accused in a case that the State Judge Advocate has sent to the Military Court of Appeals for review of the sentence under subsection C of Section 856 of this title (Article 56, subsection C),
- d. in a case in which the accused filed an application for review with the Court under subparagraph b of paragraph 1 of subsection D of Section 869 of this title (Article 69, subsection D, paragraph 1, subparagraph b) and the application has been granted by the Court.

2. Review of certain sentences. The Military Court of Appeals shall have jurisdiction over all cases that the State Judge Advocate

orders sent to the Court for review under subsection C of Section 856 of this title (Article 56, subsection C).

3. Automatic review. The Military Court of Appeals shall have jurisdiction over a court-martial in which the judgment entered into the record under Section 860C of this title (Article 60C) includes a sentence of dismissal of a commissioned officer, cadet, dishonorable discharge or bad-conduct discharge, or confinement for two (2) years or more.

G. Timeliness. An appeal under paragraph 1 of subsection F of this section is timely if it is filed as follows:

1. In the case of an appeal by the accused under subparagraph a or b of paragraph 1 of subsection F of this section, if filed before the later of:

- a. the end of the ninety-day period beginning on the date the accused is provided notice of appellate rights under subsection C of Section 865 of this title (Article 65, subsection C), or
- b. the date set by the Military Court of Appeals by rule or order; and

2. In the case of an appeal by the accused under paragraph 1 of subsection C of Section 865 of this title (Article 65, subsection C, paragraph 1), if filed before the later of:

- a. the end of the ninety-day period beginning on the date the accused is notified that the application for review has been granted by letter placed in the United States mail for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his or her official service record, or
- b. the date set by the Military Court of Appeals by rule or order.

H. Duties.

1. Cases appealed by accused. In any case before the Military Court of Appeals under subsection F of this section, the Court may

act only with respect to the findings and sentence as entered into the record under Section 860C of this title (Article 60C). The Court may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the Court finds correct on the basis of applicable law.

2. Error or excessive delay. In any case before the Military Court of Appeals under subsection F of this section, the Court may provide appropriate relief if the accused demonstrates error or excessive delay in the processing of the court-martial after the judgment was entered into the record under Section 860C of this title (Article 60C).

I. Consideration of appeal of sentence by the State of Oklahoma.

1. In general. In considering a sentence on appeal or review as provided in subsection C of Section 856 of this title (Article 56, subsection C), the Military Court of Appeals may consider:

- a. whether the sentence violates the law, and
- b. whether the sentence is plainly unreasonable.

2. Record on appeal or review. In an appeal or review under this subsection or subsection C of Section 856 of this title (Article 56, subsection C), the record on appeal or review shall consist of:

- a. any portion of the record in the case that is designated as pertinent by either of the parties,
- b. the information submitted during the sentencing proceeding, and
- c. any information required by regulations promulgated by the Adjutant General or by rule or order of the Military Court of Appeals.

J. Limits of authority.

1. Set aside of findings.

- a. In general. If the Military Court of Appeals sets aside the findings, the Court:

- (1) may affirm any lesser included offense, and
- (2) may, except when prohibited by Section 844 of this title (Article 44), order a rehearing.

- b. Dismissal when no rehearing ordered. If the Military Court of Appeals sets aside the findings and does not order a rehearing, the Court shall order that the charges be dismissed.
- c. Dismissal when rehearing impracticable. If the Military Court of Appeals orders a rehearing on a charge and the convening authority finds a rehearing impracticable, the convening authority may dismiss the charge.

2. Set aside of sentence. If the Military Court of Appeals sets aside the sentence, the Court may:

- a. modify the sentence to a lesser sentence, or
- b. order a rehearing.

3. Additional proceedings. If the Military Court of Appeals determines that additional proceedings are warranted, the Court may order a hearing as may be necessary to address a substantial issue, subject to such limitations as the Court may direct and under such regulations as the Adjutant General may prescribe.

K. Action in accordance with decisions of courts. The State Judge Advocate shall, unless there is to be further action by the Governor, the Adjutant General, or the Oklahoma Court of Criminal Appeals, instruct the appropriate authority to take action in accordance with the decision of the Military Court of Appeals.

L. Rules of procedure and designation of chief judge. The State Judge Advocate shall prescribe uniform rules of procedure for the Military Court of Appeals which shall be published as a military publication and shall meet periodically to formulate policies and procedure in regard to review of court-martial cases in the office of the State Judge Advocate and by the Military Court of Appeals. The State Judge Advocate shall designate as chief judge one of the appellate military judges of the Military Court of Appeals.

M. Prohibition on evaluation of other members of courts. No member of the Military Court of Appeals shall be required, or on his or her own initiative be permitted, to prepare, approve, disapprove, review, or submit, with respect to any other member of the Military Court of Appeals, an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the state military forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the state military forces, or in determining whether a member of the state military forces should be retained as a member of the state military forces.

N. Ineligibility of members of courts to review records of cases involving certain prior member service. No member of the Military Court of Appeals shall be eligible to review the record of any trial if such member served as investigating officer in the case or served as a member of the court-martial before which such trial was conducted, or served as military judge, trial or defense counsel, or reviewing officer of such trial.

SECTION 82. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 867 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 67. Review by the Oklahoma Court of Criminal Appeals.

A. Powers as court of last resort. The Oklahoma Court of Criminal Appeals shall be the court of last resort for all general and special courts-martial convened by the state military forces. In reviewing petitions or appeals granted pursuant to this section, the Oklahoma Court of Criminal Appeals shall have and shall exercise all powers granted to the Court under the Oklahoma Statutes and the Oklahoma Constitution.

B. Petition for Review. Except as provided in subsection C of this section for appeals arising from a guilty plea, a decision of the Military Court of Appeals may be reviewed by the Oklahoma Court of Criminal Appeals upon the filing of an appeal in the form of a Petition for Review if a majority of judges on the Oklahoma Court of Criminal Appeals directs that such Petition for Review shall be granted. Decisions of the Military Court of Appeals shall be final unless a Petition for Review is granted by the Oklahoma Court of Criminal Appeals or a writ of certiorari is granted pursuant to subsection C of this section.

C. Appeals arising from guilty plea. All appeals taken from any conviction on a plea of guilty shall first be decided by the Military Court of Appeals. In the event the conviction arising from a plea of guilty is upheld by the Court of Military Appeals, an appeal may be taken by petition for writ of certiorari to the Oklahoma Court of Criminal Appeals, as provided in subsection D of this section; provided, such petition must be filed within ninety (90) days from the date of said conviction. The Oklahoma Court of Criminal Appeals may take jurisdiction of any case for the purpose of correcting the appeal records when the same do not disclose judgment and sentence; such jurisdiction shall be for the sole purpose of correcting such defect or defects.

D. Procedures established by court rules. The procedures for filing a Petition for Review or appeal made pursuant to subsection B or C of this section shall be as provided in the Rules of the Court of Criminal Appeals; and the Oklahoma Court of Criminal Appeals shall provide by court rules, which shall have the force of statute:

1. The procedure to be followed by the courts-martial in the preparation and authentication of transcripts and records in cases appealed under the Oklahoma Uniform Code of Military Justice;

2. The procedure to be followed by the Court of Military Appeals in the preparation of the record in cases brought up on appeal to the Oklahoma Court of Criminal Appeals under the Code;

3. The procedure to be followed for the completion and submission of the Petition for Review or such other appeals lodged pursuant to the Code; and

4. The procedure to be followed for filing a petition for and the issuance of a writ of certiorari.

E. Scope of review on certiorari. The scope of review to be afforded on certiorari shall be prescribed by the Oklahoma Court of Criminal Appeals.

F. Additional proceedings. If the Oklahoma Court of Criminal Appeals determines that additional proceedings are warranted, the Oklahoma Court of Criminal Appeals may order a hearing, rehearing or other proceedings in accordance with the Rules of the Court of Criminal Appeals.

G. Action in accordance with decisions of the Oklahoma Court of Criminal Appeals. The State Judge Advocate shall instruct the appropriate authority to take action in accordance with the decision of the Oklahoma Court of Criminal Appeals.

SECTION 83. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 867A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 84. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 868 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED

SECTION 85. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 869 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 69. Review by State Judge Advocate.

A. In general. Upon application by the accused and subject to subsections B, C and D of this section, the State Judge Advocate may modify or set aside, in whole or in part, the findings and sentence in a court-martial that is not reviewed under Section 866 of this title (Article 66).

B. Timing. To qualify for consideration, an application under subsection A of this section shall be submitted to the State Judge Advocate not later than one (1) year after the date of completion of review under Section 864 or 865 of this title (Article 64 or 65), as the case may be. The State Judge Advocate may, for good cause shown, extend the period for submission of an application, but may not consider an application submitted more than three (3) years after such completion date.

C. Scope.

1. a. In a case reviewed under Section 864 or subsection B of Section 865 of this title (Article 64 or Article 65, subsection B), the State Judge Advocate may set aside the findings or sentence, in whole or in part, on the grounds of newly discovered evidence, fraud on

the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence.

- b. In setting aside findings or sentence, the State Judge Advocate may order a rehearing, except that a rehearing may not be ordered in violation of Section 844 of this title (Article 44).
- c. If the State Judge Advocate sets aside findings and sentence and does not order a rehearing, the State Judge Advocate shall dismiss the charges.
- d. If the State Judge Advocate sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.

2. In a case reviewed under subsection B of Section 865 of this title (Article 65, subsection B), review under this section is limited to the issue of whether the waiver or withdrawal of an appeal was invalid under the law. If the State Judge Advocate determines that the waiver or withdrawal of an appeal was invalid, the State Judge Advocate shall order appropriate corrective action under regulations promulgated by the Adjutant General.

D. Military Court of Appeals.

1. The Military Court of Appeals may review the action taken by the State Judge Advocate under subsection C of this section:

- a. in a case sent to the Military Court of Appeals by order of the State Judge Advocate, or
- b. in a case submitted to the Military Court of Appeals by the accused in an application for review.

2. The Military Court of Appeals may grant an application under subparagraph b of paragraph 1 of this subsection only if:

- a. the application demonstrates a substantial basis for concluding that the action on review under subsection C of this section constituted prejudicial error, and

b. the application is filed not later than the earlier of:

- (1) sixty (60) days after the date on which the accused is notified of the decision of the State Judge Advocate, or
- (2) sixty (60) days after the date on which a copy of the decision of the State Judge Advocate is deposited in the United States mail for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his or her official service record.

3. The submission of an application for review under this subsection does not constitute a proceeding before the Military Court of Appeals for purposes of paragraph 1 of subsection C of Section 870 of this title (Article 70, subsection C, paragraph 1).

E. Action only on matters of law. Notwithstanding Section 866 of this title (Article 66), in any case reviewed by the Military Court of Appeals under subsection D of this section, the Court may take action only with respect to matters of law.

SECTION 86. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 870 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 70. Appellate counsel.

A. The State Judge Advocate shall detail in his or her office one or more commissioned officers as appellate government counsel, and one or more commissioned officers as appellate defense counsel, who are qualified under paragraph 1 of subsection B of Section 827 of this title (Article 27, subsection B, paragraph 1).

B. Appellate government counsel shall represent the State of Oklahoma before the Military Court of Appeals or the Court of Criminal Appeals when directed to do so by the State Judge Advocate.

C. Appellate defense counsel shall represent the accused before the Military Court of Appeals, or the Court of Criminal Appeals:

1. When requested by the accused;
2. When the State of Oklahoma is represented by counsel; or
3. When the State Judge Advocate has sent the case to the Military Court of Appeals.

D. The accused has the right to be represented before the Military Court of Appeals, or the Court of Criminal Appeals by civilian counsel if provided by him or her.

E. Military appellate counsel shall also perform such other functions in connection with the review of court-martial cases as the State Judge Advocate directs.

F. As provided in regulations promulgated by the Adjutant General, if needed, the State Judge Advocate may employ civilian appellate counsel for the government and for the defense.

SECTION 87. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 871 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 88. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 872 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 72. Vacation of suspension.

A. Before the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The State Judge Advocate shall detail a judge advocate, who is certified under subsection B of Section 827 of this title (Article 27, subsection B), to conduct the hearing. The probationer shall be represented at the hearing by counsel if the probationer so desires.

B. The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the Adjutant General. If the Adjutant General vacates the suspension, any unexecuted part of the sentence shall be executed,

subject to applicable restrictions in Section 857 of this title (Article 57).

C. The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

SECTION 89. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 873 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 73. Petition for a new trial.

At any time within three (3) years after the date of the entry of judgment under Section 860C of this title (Article 60C), the accused may petition the State Judge Advocate for a new trial on the grounds of newly discovered evidence or fraud on the court. If the accused's case is pending before the Military Court of Appeals or before the Court of Criminal Appeals, the State Judge Advocate shall refer the petition to the appropriate court for action. Otherwise, the State Judge Advocate shall act upon the petition.

SECTION 90. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 874 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 74. Remission and suspension.

A. The Adjutant General and, when designated by him or her, a Senior Assistant Adjutant General, the State Judge Advocate, or commanding officer may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the Governor.

B. The Adjutant General may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

SECTION 91. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 875 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 75. Restoration.

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

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

C. If a previously executed sentence of dismissal is not imposed on a new trial, the Adjutant General shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed pursuant to Sections 875 and 12203 of Title 10 of the United States Code and any applicable regulations prescribed thereunder by the President of the United States or the Secretary concerned.

SECTION 92. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 876 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 76. Finality of proceedings, findings, and sentences.

The appellate review of records of trial provided by the Oklahoma Uniform Code of Military Justice, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by the Code, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by the Code, are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the State of Oklahoma, subject only to action upon a petition for a new trial as provided in Section 873 of this title (Article 73) and to action by the Adjutant General as provided in Section 874 of this title (Article 74) and the authority of the Governor.

SECTION 93. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 876A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 76A. Leave required to be taken pending review of certain court-martial convictions.

Under regulations promulgated by the Adjutant General, an accused who has been sentenced by a court-martial may be required to take leave pending completion of action under this part if the sentence includes an unsuspended dismissal or an unsuspended dishonorable or bad-conduct discharge. The accused may be required to begin such leave on the date of the entry of judgment under Section 860C of this title (Article 60C) or at any time after such date, and such leave may be continued until the date on which action under this part is completed or may be terminated at any earlier time.

SECTION 94. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 876B of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 76B. Lack of mental capacity or mental responsibility.

A. No person accused of violating a punitive section under the Oklahoma Uniform Code of Military Justice shall be brought to trial by a general or special court-martial if that person is presently suffering from a mental disease or defect rendering him or her mentally incompetent to the extent that he or she is unable to understand the nature of the proceedings against him or her or to conduct or cooperate intelligently in the defense of the case.

B. A person is presumed to have the capacity to stand trial unless the contrary is established.

C. The procedure for determining mental competence shall be established in regulations promulgated by the Adjutant General.

PART X.

PUNITIVE ARTICLES

SECTION 95. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 877 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 77. Principals.

Any person punishable under the Oklahoma Uniform Code of Military Justice who:

1. Commits an offense punishable by the Oklahoma Uniform Code of Military Justice, or aids, abets, counsels, commands, or procures its commission; or

2. Causes an act to be done which if directly performed by him or her would be punishable by this chapter,

shall be a principal.

SECTION 96. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 878 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 78. Accessory after the fact.

Any person subject to the Oklahoma Uniform Code of Military Justice who, knowing that an offense punishable by the Code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his or her apprehension, trial, or punishment shall be punished as a court-martial may direct.

SECTION 97. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 879 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 79. Conviction of offense charged, lesser included offenses.

A. In general. An accused may be found guilty of any of the following:

1. The offense charged;
2. A lesser included offense;
3. An attempt to commit the offense charged; and

4. An attempt to commit a lesser included offense, if the attempt is an offense in its own right.

B. Lesser included offense defined. In this section, the term "lesser included offense" means:

1. An offense that is necessarily included in the offense charged; and

2. Any lesser included offense so designated by regulation prescribed by the Adjutant General.

C. Regulatory authority. Any designation of a lesser-included offense in a regulation referred to in subsection B of this section shall be reasonably included in the greater offense.

SECTION 98. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 880 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 80. Attempts.

A. An act, done with specific intent to commit an offense under the Oklahoma Uniform Code of Military Justice, amounting to more than mere preparation and tending, even though failing, to effect its commission, shall be an attempt to commit that offense.

B. Any person subject to the Code who attempts to commit any offense punishable by the Code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

C. Any person subject to the Code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

SECTION 99. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 881 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 81. Conspiracy.

Any person subject to the Oklahoma Uniform Code of Military Justice who conspires with any other person to commit an offense under the Code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

SECTION 100. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 882 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 82. Soliciting commission of offenses.

A. Soliciting commission of offenses generally. Any person subject to the Oklahoma Uniform Code of Military Justice who solicits or advises another to commit an offense under the Code, other than an offense specified in subsection B of this section, shall be punished as a court-martial may direct.

B. Soliciting desertion, mutiny, sedition, or misbehavior before the enemy. Any person subject to the Code who solicits or advises another to violate Section 885 of this title (Article 85), Section 894 of this title (Article 94), or Section 899 of this title (Article 99):

1. If the offense solicited or advised is attempted or is committed, shall be punished with the punishment provided for the commission of the offense; and

2. If the offense solicited or advised is not attempted or committed, shall be punished as a court-martial may direct.

SECTION 101. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 883 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 83. Malingering.

Any person subject to the Oklahoma Uniform Code of Military Justice who, with the intent to avoid work, duty, or service:

1. Feigns illness, physical disablement, mental lapse, or mental derangement; or

2. Intentionally inflicts self-injury,

shall be punished as a court-martial may direct.

SECTION 102. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 884 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 84. Breach of medical quarantine.

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

1. Who is ordered into medical quarantine by a person authorized to issue such order; and

2. Who, with knowledge of the quarantine and the limits of the quarantine, goes beyond those limits before being released from the quarantine by proper authority,

shall be punished as a court-martial may direct.

SECTION 103. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 885 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 85. Desertion.

A. Any member of the state military forces who:

1. Without authority goes or remains absent from his or her unit, organization, or place of duty with intent to remain away therefrom permanently;

2. Quits his or her unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or

3. Without being regularly separated from one of the force components of state military forces enlists or accepts an appointment in the same or another one of the armed forces without fully disclosing the fact that he or she has not been regularly separated, or enters any foreign armed service except when authorized by the United States,

is guilty of desertion.

B. Any commissioned officer of the state military forces who, after tender of his or her resignation and before notice of its acceptance, quits his or her post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

C. Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment as a court-martial may direct.

SECTION 104. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 886 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 86. Absence without leave.

Any member of the state military forces who, without authority:

1. Fails to go to his or her appointed place of duty at the time prescribed;

2. Goes from that place; or

3. Absents himself or herself or remains absent from his or her unit, organization, or place of duty at which he or she is required to be at the time prescribed,

shall be punished as a court-martial may direct.

SECTION 105. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 887 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 87. Missing movement; jumping from vessel.

A. Missing movement. Any person subject to the Oklahoma Uniform Code of Military Justice who, through neglect or design, misses the movement of a ship, aircraft, or unit with which the person is required in the course of duty to move shall be punished as a court-martial may direct.

B. Jumping from vessel into the water. Any person subject to the Code who wrongfully and intentionally jumps into the water from a vessel in use by the armed forces shall be punished as a court-martial may direct.

SECTION 106. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 887A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 87A. Resistance, flight, breach of arrest, and escape.

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

1. Resists apprehension;
2. Flees from apprehension;
3. Breaks arrest; or
4. Escapes from custody or confinement,

shall be punished as a court-martial may direct.

SECTION 107. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 887B of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 108. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 888 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 88. Contempt toward officials.

Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of Homeland Security, the Governor of the State of Oklahoma, or the Oklahoma Legislature shall be punished as a court-martial may direct.

SECTION 109. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 889 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer.

A. Disrespect. Any person subject to the Oklahoma Uniform Code of Military Justice who behaves with disrespect toward that person's superior commissioned officer shall be punished as a court-martial may direct.

B. Assault. Any person subject to the Code who strikes that person's superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer while the officer is in the execution of the officer's office shall be punished, if the offense is committed in time of declared war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment as a court-martial may direct.

SECTION 110. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 890 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 90. Willfully disobeying superior commissioned officer.

Any person subject to the Oklahoma Uniform Code of Military Justice who willfully disobeys a lawful command of that person's superior commissioned officer shall be punished, if the offense is committed in time of declared war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment as a court-martial may direct.

SECTION 111. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 91. Insubordinate conduct toward warrant officer, or noncommissioned officer.

Any warrant officer or enlisted member who:

1. Strikes or assaults a warrant officer, or noncommissioned officer, while that officer is in the execution of his or her office;

2. Willfully disobeys the lawful order of a warrant officer, or noncommissioned officer; or

3. Treats with contempt or is disrespectful in language or deportment toward a warrant officer, or noncommissioned officer, while that officer is in the execution of his or her office, shall be punished as a court-martial may direct.

SECTION 112. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 892 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 92. Failure to obey order or regulation.

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

1. Violates or fails to obey any lawful general order or regulation;

2. Having knowledge of any other lawful order issued by a member of the state military forces, which it is his or her duty to obey, fails to obey the order; or

3. Is derelict in the performance of his or her duties,

shall be punished as a court-martial may direct.

SECTION 113. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 893 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 93. Cruelty and maltreatment.

Any person subject to the Oklahoma Uniform Code of Military Justice who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his or her orders shall be punished as a court-martial may direct.

SECTION 114. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 893A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 93A. Prohibited activities with military recruit or trainee by person in position of special trust.

A. Abuse of training leadership position. Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who is an officer, or a noncommissioned officer;

2. Who is in a training leadership position with respect to a specially protected junior member of the state military forces; and

3. Who engages in prohibited sexual activity with such specially protected junior member of the state military forces,

shall be punished as a court-martial may direct.

B. Abuse of position as military recruiter. Any person subject to the Code:

1. Who is a military recruiter and engages in prohibited sexual activity with an applicant for military service; or

2. Who is a military recruiter and engages in prohibited sexual activity with a specially protected junior member of the state military forces who is enlisted under a delayed entry program,

shall be punished as a court-martial may direct.

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

D. Definitions. In this section (article):

1. Specially protected junior member of the state military forces. The term "specially protected junior member of the state military forces" means:

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

b. a member of the state military forces who is a cadet, an officer candidate, or a student in any other officer qualification program, and

c. a member of the state military forces in any program that, by regulation prescribed by the Secretary of the

Army or the Secretary of the Air Force or the Adjutant General, is identified as a training program for initial career qualification;

2. Training leadership position. The term "training leadership position" means, with respect to a specially protected junior member of the state military forces, any of the following:

- a. any drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers' training corps unit, a training program for entry into the state military forces, or any program that, by regulation prescribed by the Secretary of the Army or the Secretary of the Air Force or the Adjutant General, and
- b. faculty and staff of any officer candidate school organized under the authority of the Adjutant General;

3. Applicant for military service. The term "applicant for military service" means a person who, under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force or the Adjutant General, is an applicant for original enlistment or appointment in the state military forces;

4. Military recruiter. The term "military recruiter" means a person who, under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force or the Adjutant General, has the primary duty to recruit persons for service in the state military forces; and

5. Prohibited sexual activity. The term "prohibited sexual activity" means, as specified in regulations prescribed by the Secretary of the Army or the Secretary of the Air Force or the Adjutant General, inappropriate physical intimacy under circumstances described in such regulations.

SECTION 115. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 894 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 94. Mutiny or sedition.

A. Any person subject to the Oklahoma Uniform Code of Military Justice who:

1. With intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his or her duty or creates any violence or disturbance is guilty of mutiny;

2. With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

3. Fails to do his or her utmost to prevent and suppress a mutiny or sedition being committed in his or her presence, or fails to take all reasonable means to inform his or her superior commissioned officer or commanding officer of a mutiny or sedition which he or she knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

B. A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

SECTION 116. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 895 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 95. Offenses by sentinel or lookout.

A. Drunk or sleeping on post, or leaving post before being relieved. Any sentinel or lookout who is drunk on post, who sleeps on post, or who leaves post before being regularly relieved, shall be punished, if the offense is committed in time of war, by confinement of not more than ten (10) years or other punishment as a court-martial may direct, but if the offense is committed at any other time, by such punishment as a court-martial may direct.

B. Loitering or wrongfully sitting on post. Any sentinel or lookout who loiters or wrongfully sits down on post shall be punished as a court-martial may direct.

SECTION 117. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 895A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 95A. Disrespect toward sentinel or lookout.

A. Disrespectful language toward sentinel or lookout. Any person subject to the Oklahoma Uniform Code of Military Justice who, knowing that another person is a sentinel or lookout, uses wrongful and disrespectful language that is directed toward and within the hearing of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.

B. Disrespectful behavior toward sentinel or lookout. Any person subject to the Code who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner that is directed toward and within the sight of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.

SECTION 118. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 896 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 96. Release of prisoner without authority; drinking with prisoner.

A. Release of prisoner without authority. Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who, without authority to do so, releases a prisoner; or
2. Who, through neglect or design, allows a prisoner to escape,

shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with the law.

B. Drinking with prisoner. Any person subject to the Code who unlawfully drinks any alcoholic beverage with a prisoner shall be punished as a court-martial may direct.

SECTION 119. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 897 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 97. Unlawful detention.

Any person subject to the Oklahoma Uniform Code of Military Justice who, except as provided by law, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

SECTION 120. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 898 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 98. Misconduct as prisoner.

Any person subject to the Oklahoma Uniform Code of Military Justice who, while in the hands of the enemy in time of war:

1. For the purpose of securing favorable treatment by his or her captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

2. While in a position of authority over such persons maltreats them without justifiable cause,

shall be punished as a court-martial may direct.

SECTION 121. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 899 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 99. Misbehavior before the enemy.

Any person subject to the Oklahoma Uniform Code of Military Justice who before or in the presence of the enemy:

1. Runs away;

2. Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his or her duty to defend;

3. Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

4. Casts away his or her arms or ammunition;

5. Is guilty of cowardly conduct;

6. Quits his or her place of duty to plunder or pillage;

7. Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the state military forces;

8. Willfully fails to do his or her utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his or her duty so to encounter, engage, capture, or destroy; or

9. Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the State of Oklahoma, or to any other state, when engaged in battle,

shall be punished as a court-martial may direct.

SECTION 122. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 100. Subordinate compelling surrender.

Any person subject to the Oklahoma Uniform Code of Military Justice who compels or attempts to compel the commander of any place, vessel, aircraft, or other military property, or of any body of members of the state military forces, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct.

SECTION 123. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 101. Improper use of countersign.

Any person subject to the Oklahoma Uniform Code of Military Justice who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his or her knowledge, he

or she was authorized and required to give, shall be punished as a court-martial may direct.

SECTION 124. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 902 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 102. Forcing a safeguard.

Any person subject to the Oklahoma Uniform Code of Military Justice who forces a safeguard shall be punished as a court-martial may direct.

SECTION 125. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 903 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 126. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 903A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 127. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 903B of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 103B. Aiding the enemy.

Any person who:

1. Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

2. Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly,

shall be punished as a court-martial may direct.

SECTION 128. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 903C of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 103C. Unlawful disclosure of confidential information.

Any person subject to the Oklahoma Uniform Code of Military Justice who, with intent or reason to believe that it is to be used in the commission of a crime or act of terrorism under Oklahoma law, communicates, delivers or transmits, or attempts to communicate, deliver or transmit confidential information, directly or indirectly, to any other person shall be punished as a court-martial may direct.

SECTION 129. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 904 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 104. Public records offenses.

Any person subject to the Oklahoma Uniform Code of Military Justice who willfully and unlawfully alters, conceals, removes, mutilates, obliterates, destroys, or takes with the intent to alter, conceal, remove, mutilate, obliterate, or destroy, a certain public record, and whose conduct, under the circumstances, was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces, shall be punished as a court-martial may direct.

SECTION 130. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 904A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 104A. Fraudulent enlistment, appointment, or separation.

Any person who:

1. Procures his or her own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to his or her qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

2. Procures his or her own separation from the state military forces by knowingly false representation or deliberate concealment as to his or her eligibility for that separation,

shall be punished as a court-martial may direct.

SECTION 131. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 904B of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 104B. Unlawful enlistment, appointment, or separation.

Any person subject to the Oklahoma Uniform Code of Military Justice who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to him or her to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

SECTION 132. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 905 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 133. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 905A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 105A. False or unauthorized pass offenses.

A. Wrongful making, altering, etc. Any person subject to the Oklahoma Uniform Code of Military Justice who, wrongfully and falsely, makes, alters, counterfeits, or tampers with a military or official pass, permit, discharge certificate, or identification card shall be punished as a court-martial may direct.

B. Wrongful sale, etc. Any person subject to the Code who wrongfully sells, gives, lends, or disposes of a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

C. Wrongful use or possession. Any person subject to the Code who wrongfully uses or possesses a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or

identification card is false or unauthorized, shall be punished as a court-martial may direct.

SECTION 134. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 906 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 135. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 906A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 106A. Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button.

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

1. Who is not authorized to wear an insignia, decoration, badge, ribbon, device, or lapel button; and
2. Who wrongfully wears such insignia, decoration, badge, ribbon, device, or lapel button upon the person's uniform or civilian clothing,

shall be punished as a court-martial may direct.

SECTION 136. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 907 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 107. False official statements; false swearing.

A. False official statements. Any person subject to the Oklahoma Uniform Code of Military Justice who, with intent to deceive:

1. Signs any false record, return, regulation, order, or other official document, knowing it to be false; or
2. Makes any other false official statement knowing it to be false,

shall be punished as a court-martial may direct.

B. False swearing. Any person subject to the Code:

1. Who takes an oath that:

- a. is administered in a matter in which such oath is required or authorized by law, and
- b. is administered by a person with authority to do so; and

2. Who, upon such oath, makes or subscribes to a statement, if the statement is false and at the time of taking the oath, the person does not believe the statement to be true,

shall be punished as a court-martial may direct.

SECTION 137. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 907A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 138. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 908 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 108. Military property-loss, damage, destruction, or wrongful disposition.

Any person subject to the Oklahoma Uniform Code of Military Justice who, without proper authority:

1. Sells or otherwise disposes of;
2. Willfully or through neglect damages, destroys, or loses; or
3. Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of,

any military property of the United States, the State of Oklahoma, or any other state, shall be punished as a court-martial may direct.

SECTION 139. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 908A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 108A. Captured or abandoned property.

A. All persons subject to the Oklahoma Uniform Code of Military Justice shall secure all public property taken for the service of the United States, or the State of Oklahoma, or another state, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

B. Any person subject to the Code who:

1. Fails to carry out the duties prescribed in subsection A of this section;

2. Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he or she receives or expects any profit, benefit, or advantage to himself or herself or another directly or indirectly connected with himself or herself; or

3. Engages in looting or pillaging,

shall be punished as a court-martial may direct.

SECTION 140. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 909 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 109. Property other than military property-waste, spoilage, or destruction.

Any person subject to the Oklahoma Uniform Code of Military Justice who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States or of the State of Oklahoma or of any other state shall be punished as a court-martial may direct.

SECTION 141. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 909A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 142. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 910 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 110. Improper hazarding of vessel or aircraft.

A. Willful and wrongful hazarding. Any person subject to the Oklahoma Uniform Code of Military Justice who, willfully and wrongfully, hazards or suffers to be hazarded any vessel or aircraft of the armed forces of the United States, the state military forces, or of the military forces of any other state shall be punished as a court-martial may direct.

B. Negligent hazarding. Any person subject to the Code who negligently hazards or suffers to be hazarded any vessel or aircraft of the armed forces of the United States, the state military forces, or of the military forces of any other state shall be punished as a court-martial may direct.

SECTION 143. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 911 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 144. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 912 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 112. Drunkenness and other incapacitation offenses.

A. Drunk on duty. Any person subject to the Oklahoma Uniform Code of Military Justice, other than a sentinel or lookout, who is drunk on duty shall be punished as a court-martial may direct.

B. Incapacitation for duty from drunkenness or drug use. Any person subject to the Code who, as a result of indulgence in any alcoholic beverage or any drug, is incapacitated for the proper performance of duty shall be punished as a court-martial may direct.

C. Drunk prisoner. Any person subject to the Code who is a prisoner and, while in such status, is drunk shall be punished as a court-martial may direct.

SECTION 145. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 912A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 112A. Wrongful use, possession, etc., of controlled substances.

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

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

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

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

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

SECTION 146. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 913 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 147. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 914 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 114. Endangerment offenses.

A. Reckless endangerment. Any person subject to the Oklahoma Uniform Code of Military Justice who engages in conduct that:

1. Is wrongful and reckless or is wanton; and

2. Is likely to produce death or grievous bodily harm to another person,

shall be punished as a court-martial may direct.

B. Dueling. Any person subject to the Code:

1. Who fights or promotes, or is concerned in or connives at fighting, a duel; or

2. Who, having knowledge of a challenge sent or about to be sent, fails to report the facts promptly to the proper authority,

shall be punished as a court-martial may direct.

C. Firearm discharge, endangering human life. Any person subject to the Code who, willfully and wrongly, discharges a firearm, under circumstances such as to endanger human life shall be punished as a court-martial may direct.

D. State active duty, personal firearms. Any person subject to the Code and in a state active duty status who carries a personal firearm openly or concealed on or about his or her person without the authorization of the Adjutant General or pursuant to the state rules for the use of force then in effect shall be punished as a court-martial may direct.

E. Carrying concealed weapon. Any person subject to the Code who unlawfully carries a dangerous weapon concealed on or about his or her person shall be punished as a court-martial may direct.

SECTION 148. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 915 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 149. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 916 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 116. Riot or breach of peace.

Any person subject to the Oklahoma Uniform Code of Military Justice who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

SECTION 150. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 917 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 117. Provoking speeches or gestures.

Any person subject to the Oklahoma Uniform Code of Military Justice who uses provoking or reproachful words or gestures towards any other person subject to the Code shall be punished as a court-martial may direct.

SECTION 151. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 917A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 117A. Wrongful broadcast or distribution of intimate visual images.

A. Prohibition. Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who knowingly and wrongfully broadcasts or distributes an intimate visual image of another person or a visual image of sexually explicit conduct involving a person who:

- a. is at least eighteen (18) years of age at the time the intimate visual image or visual image of sexually explicit conduct was created,
- b. is identifiable from the intimate visual image or visual image of sexually explicit conduct itself, or from information displayed in connection with the intimate visual image or visual image of sexually explicit conduct, and

- c. does not explicitly consent to the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

2. Who knows or reasonably should have known that the intimate visual image or visual image of sexually explicit conduct was made under circumstances in which the person depicted in the intimate visual image or visual image of sexually explicit conduct retained a reasonable expectation of privacy regarding any broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

3. Who knows or reasonably should have known that the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct is likely:

- a. to cause harm, harassment, intimidation, emotional distress, or financial loss for the person depicted in the intimate visual image or visual image of sexually explicit conduct, or
- b. to harm substantially the depicted person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships; and

4. Whose conduct, under the circumstances, had a reasonably direct and palpable connection to a military mission or military environment,

is guilty of wrongful distribution of intimate visual images or visual images of sexually explicit conduct and shall be punished as a court-martial may direct.

B. Definitions. In this section:

1. Broadcast. The term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

2. Distribute. The term "distribute" means to deliver to the actual or constructive possession of another person, including transmission by mail or electronic means;

3. Intimate visual image. The term "intimate visual image" means a visual image that depicts a private area of a person;

4. Private area. The term "private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple;

5. Reasonable expectation of privacy. The term "reasonable expectation of privacy" means circumstances in which a reasonable person would believe that a private area of the person, or sexually explicit conduct involving the person, would not be visible to the public;

6. Sexually explicit conduct. The term "sexually explicit conduct" means actual or simulated genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, bestiality, masturbation, or sadistic or masochistic abuse; and

7. Visual image. The term "visual image" means the following:

- a. any developed or undeveloped photograph, picture, film, or video,
- b. any digital or computer image, picture, film, or video made by any means, including those transmitted by any means, including streaming media, even if not stored in a permanent format, or
- c. any digital or electronic data capable of conversion into a visual image.

SECTION 152. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 918 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 153. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 919 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 154. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 919A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 155. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 919B of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 156. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 920 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 120. Sexual assault generally.

A. Sexual assault. Any person subject to the Oklahoma Uniform Code of Military Justice who:

1. Commits a sexual act upon another person by:

- a. threatening or placing that other person in fear,
- b. making a fraudulent representation that the sexual act serves a professional purpose, or
- c. inducing a belief by any artifice, pretense, or concealment that the person is another person;

2. Commits a sexual act upon another person:

- a. without the consent of the other person, or
- b. when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or

3. Commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to:

- a. impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person, or

- b. a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person,

is guilty of sexual assault and shall be punished as a court-martial may direct.

B. Aggravated sexual contact. Any person subject to the Oklahoma Uniform Code of Military Justice who commits or causes sexual contact upon or by another person, if to do so would violate Section 1111 of Title 21 of the Oklahoma Statutes, had the sexual contact been a sexual act as defined in subsection F of this section, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

C. Abusive sexual contact. Any person subject to the Code who commits or causes sexual contact upon or by another person, if to do so would violate subsection A of this section had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

D. Proof of threat. In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

E. Defenses. An accused may raise any applicable defenses available under the Code or the Rules for Court-Martial contained in the most recent edition of the Manual for Courts-Martial, United States, including all amendments thereto adopted from time to time, except when such rules are contrary to or inconsistent with the Code. Marriage is not a defense for any conduct in issue in any prosecution under this section.

F. Definitions. In this section:

1. Sexual act. The term "sexual act" means:

- a. the penetration, however slight, of the penis into the vulva or anus or mouth,
- b. contact between the mouth and the penis, vulva, scrotum, or anus, or

- c. the penetration, however slight, of the vulva or penis or anus of another by any part of the body or any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person;

2. Sexual contact. The term "sexual contact" means touching, or causing another person to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body or an object;

3. Grievous bodily harm. The term "grievous bodily harm" means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose;

4. Force. The term "force" means:

- a. the use of a weapon,
- b. the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person, or
- c. inflicting physical harm sufficient to coerce or compel submission by the victim;

5. Unlawful force. The term "unlawful force" means an act of force done without legal justification or excuse;

6. Threatening or placing that other person in fear. The term "threatening or placing that other person in fear" means a communication or action that is of sufficient consequence to cause a reasonable fear that noncompliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action;

7. Consent.

- a. the term "consent" means a freely given agreement to the conduct at issue by a competent person. An

expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance does not constitute consent. Submission resulting from the use of force, threat of force, or placing another person in fear also does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent,

- b. a sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or under the circumstances described in subparagraph b or c of paragraph 1 of subsection A of this section,
- c. all the surrounding circumstances are to be considered in determining whether a person gave consent; and

8. Incapable of consenting. The term "incapable of consenting" means the person is:

- a. incapable of appraising the nature of the conduct at issue, or
- b. physically incapable of declining participation in, or communicating unwillingness to engage in, the sexual act at issue.

SECTION 157. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 920A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 158. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 920B of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 159. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 920C of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 120C. Other sexual misconduct.

A. Indecent viewing, visual recording, or broadcasting. Any person subject to the Oklahoma Uniform Code of Military Justice who, without legal justification or lawful authorization:

1. Knowingly and wrongfully views the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy;

2. Knowingly photographs, videotapes, films, or records by any means the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy; or

3. Knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under the circumstances proscribed in paragraphs 1 and 2 of this subsection,

is guilty of an offense under this section and shall be punished as a court-martial may direct.

B. Forcible pandering. Any person subject to the Code who compels another person to engage in an act of prostitution with any person is guilty of forcible pandering and shall be punished as a court-martial may direct.

C. Indecent exposure. Any person subject to the Code who intentionally exposes, in an indecent manner, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall be punished as a court-martial may direct.

D. Definitions. In this section:

1. Act of prostitution. The term "act of prostitution" means a sexual act or sexual contact, as defined in subsection F of Section 920 of this title (Article 120, subsection F), on account of which anything of value is given to, or received by, any person;

2. Private area. The term "private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple;

3. Reasonable expectation of privacy. The term "under circumstances in which that other person has a reasonable expectation of privacy" means:

- a. circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the person was being captured, or
- b. circumstances in which a reasonable person would believe that a private area of the person would not be visible to the public;

4. Broadcast. The term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

5. Distribute. The term "distribute" means delivering to the actual or constructive possession of another, including transmission by electronic means;

6. Indecent manner. The term "indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

SECTION 160. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 920D of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 120D. Fraternalization.

Any person subject to the Oklahoma Uniform Code of Military Justice who is a commissioned officer, warrant officer or noncommissioned officer and:

1. Who fraternizes on terms of military equality with one or more certain enlisted members in a certain manner;

2. Who then knows the person or persons to be an enlisted person or persons;

3. Who, through such fraternization, knowingly violates the customs of the United States Army, if a member of the army component of the state military forces, or the customs of the United States Air Force, if a member of the air force component of the state military forces, that officers shall not fraternize with enlisted members on terms of equality; and

4. Under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the state military forces or was of a nature to bring discredit upon the state military forces,

shall be punished as a court-martial may direct.

SECTION 161. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 921 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 121. Larceny and wrongful appropriation.

A. Any person subject to the Oklahoma Uniform Code of Military Justice who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind:

1. With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

2. With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of any person other than the owner, is guilty of wrongful appropriation.

B. Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

SECTION 162. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 921A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 163. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 921B of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 164. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 922 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 165. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 922A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 166. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 923 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 167. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 923A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 168. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 124. Frauds against the government.

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

1. Who, knowing it to be false or fraudulent:
 - a. makes any claim against the United States, the State of Oklahoma, or any officer thereof, or

- b. presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the State of Oklahoma, or any officer thereof;

2. Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the State of Oklahoma, or any officer thereof:

- a. makes or uses any writing or other paper knowing it to contain any false or fraudulent statements,
- b. makes any oath, affirmation or certification to any fact or to any writing or other paper knowing the oath, affirmation or certification to be false, or
- c. forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

3. Who, having charge, possession, custody, or control of any money, or other property of the United States or the State of Oklahoma, furnished or intended for the Armed Forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he or she receives a certificate or receipt; or

4. Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the State of Oklahoma, furnished or intended for the Armed Forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the State of Oklahoma,

shall be punished as a court-martial may direct.

SECTION 169. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 170. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 924B of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 171. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 925 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 172. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 926 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 173. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 927 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 174. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 928 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 128. Assault.

A. Any person subject to the Oklahoma Uniform Code of Military Justice who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

B. Any person subject to the Code who:

1. Commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or

2. Commits an assault and intentionally inflicts grievous bodily harm with or without a weapon,

is guilty of aggravated assault and shall be punished as a court-martial may direct.

SECTION 175. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 928A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 176. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 928B of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 177. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 929 of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 178. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 929A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 179. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 930 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 130. Stalking.

A. In general. Any person subject to the Oklahoma Uniform Code of Military Justice:

1. Who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner;

2. Who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself, to a member

of his or her immediate family, or to his or her intimate partner;
and

3. Whose conduct induces reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner,

is guilty of stalking and shall be punished as a court-martial may direct.

B. Definitions. In this section:

1. The term "conduct" means conduct of any kind, including use of surveillance, the mails, an interactive computer service, an electronic communication service, or an electronic communication system;

2. The term "course of conduct" means:

- a. a repeated maintenance of visual or physical proximity to a specific person,
- b. a repeated conveyance of verbal threats, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person, or
- c. a pattern of conduct composed of repeated acts evidencing a continuity of purpose;

3. The term "repeated", with respect to conduct, means two or more occasions of such conduct;

4. The term "immediate family", in the case of a specific person, means:

- a. that person's spouse, parent, brother or sister, child, or other person to whom he or she stands in loco parentis, or
- b. any other person living in his or her household and related to him or her by blood or marriage; and

5. The term "intimate partner", in the case of a specific person, means:

- a. a former spouse of the specific person, a person who shares a child in common with the specific person, or a person who cohabits with or has cohabited as a spouse with the specific person, or
- b. a person who has been in a social relationship of a romantic or intimate nature with the specific person, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

SECTION 180. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 931 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 131. Perjury.

Any person subject to the Oklahoma Uniform Code of Military Justice who in a judicial proceeding or court of inquiry or in a course of justice willfully and corruptly:

1. Upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or

2. In any declaration, certificate, verification, or statement under penalty of perjury subscribes any false statement material to the issue or matter of inquiry,

is guilty of perjury and shall be punished as a court-martial may direct.

SECTION 181. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 931A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 131A. Subornation of perjury.

A. In general. Any person subject to the Oklahoma Uniform Code of Military Justice who induces and procures another person:

1. To take an oath; and

2. To falsely testify, depose, or state upon such oath, shall, if the conditions specified in subsection B are satisfied, be punished as a court-martial may direct.

B. Conditions. The conditions referred to in subsection A are the following:

1. The oath is administered with respect to a matter for which such oath is required or authorized by law;

2. The oath is administered by a person having authority to do so;

3. Upon the oath, the other person willfully makes or subscribes a statement;

4. The statement is material;

5. The statement is false; and

6. When the statement is made or subscribed, the person subject to the Code and the other person do not believe that the statement is true.

SECTION 182. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 931B of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 131B. Obstructing justice.

Any person subject to the Oklahoma Uniform Code of Military Justice who engages in conduct in the case of a certain person against whom the accused had reason to believe there were or would be criminal or disciplinary proceedings pending, with intent to influence, impede, or otherwise obstruct the due administration of justice, shall be punished as a court-martial may direct.

SECTION 183. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 931C of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 131C. Misprision of serious offense.

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

1. Who knows that another person has committed a serious offense; and

2. Wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible,

shall be punished as a court-martial may direct.

SECTION 184. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 931D of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 131D. Wrongful refusal to testify.

Any person subject to the Oklahoma Uniform Code of Military Justice who, in the presence of a court-martial, a board of officers, a court of inquiry, a preliminary hearing, or an officer taking a deposition, of or for the State of Oklahoma, wrongfully refuses to qualify as a witness or to answer a question after having been directed to do so by the person presiding shall be punished as a court-martial may direct.

SECTION 185. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 931E of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 186. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 931F of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 131F. Noncompliance with procedural rules.

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

1. Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under the Code; or

2. Knowingly and intentionally fails to enforce or comply with any provision of the Code regulating the proceedings before, during, or after trial of an accused,

shall be punished as a court-martial may direct.

SECTION 187. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 931G of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 131G. Wrongful interference with adverse administrative proceeding.

Any person subject to the Oklahoma Uniform Code of Military Justice who, having reason to believe that an adverse administrative proceeding is pending against any person subject to the Code, wrongfully acts with the intent:

1. To influence, impede, or obstruct the conduct of the proceeding; or

2. Otherwise to obstruct the due administration of justice,

shall be punished as a court-martial may direct.

SECTION 188. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 932 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 132. Retaliation.

A. In general. Any person subject to the Oklahoma Uniform Code of Military Justice who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication:

1. Wrongfully takes or threatens to take an adverse personnel action against any person; or

2. Wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person,

shall be punished as a court-martial may direct.

B. Definitions. In this section:

1. The term "protected communication" means the following:

- a. a lawful communication to a Member of Congress or a Member of the Oklahoma Legislature or an Inspector General, and
- b. a communication to a covered individual or organization in which a member of the state military forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:
 - (1) a violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination, or
 - (2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

2. The term "Inspector General" has the meaning given that term in Section 1034(j) of Title 10 of the United States Code;

3. The term "covered individual or organization" means any recipient of a communication specified in clauses (i) through (v) of Section 1034(b)(1)(B) of Title 10 of the United States Code; and

4. The term "unlawful discrimination" means discrimination on the basis of race, color, religion, sex, or national origin.

SECTION 189. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 933 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 133. Conduct unbecoming an officer and a gentleman.

Any commissioned officer, cadet, or officer candidate who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

SECTION 190. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 934 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 134. General article.

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

PART XI.

MISCELLANEOUS PROVISIONS

SECTION 191. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 135. Courts of inquiry.

A. Courts of inquiry to investigate any matter of concern to the state military forces may be convened by any person authorized to convene a general court-martial or by any other person designated by the Adjutant General for that purpose, whether or not the persons involved have requested such an inquiry.

B. A court of inquiry consists of three or more commissioned officers. For each court of inquiry, the convening authority shall also appoint counsel for the court.

C. 1. Any person subject to the Oklahoma Uniform Code of Military Justice whose conduct is subject to inquiry shall be designated as a party.

2. Any person subject to the Code and employed by the Oklahoma Military Department, and who has a direct interest in the subject of

inquiry, has the right to be designated as a party upon request to the court.

3. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

D. Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

E. The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

F. Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

G. Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

H. Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

SECTION 192. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 936 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 136. Authority to administer oaths.

A. The following persons may administer oaths for the purposes of military administration, including military justice:

1. All judge advocates;

2. All summary courts-martial;

3. All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;

4. All commanding officers of the state military forces;

5. All staff judge advocates, and acting or assistant staff judge advocates; or

6. All other persons designated by regulations of the Armed Forces of the United States or by statute.

B. The following persons on active duty or performing inactive-duty training may administer oaths necessary in the performance of their duties:

1. The military judge, trial counsel, and assistant trial counsel for all general and special courts-martial;

2. The president and the counsel for the court of any court of inquiry;

3. All officers designated to take a deposition;

4. All persons detailed to conduct an investigation;

5. All recruiting officers;

6. All other persons designated by regulations of the Armed Forces of the United States or by statute.

C. Each judge and the senior judge of the Military Court of Appeals shall have the powers relating to oaths, affirmations, and acknowledgments provided to justices and judges of the State of Oklahoma.

D. The signature without seal of any such person, together with the title of his or her office, is prima facie evidence of the authority of that person.

SECTION 193. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 937 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 137. Articles to be explained.

A. 1. The sections of the Oklahoma Uniform Code of Military Justice specified in paragraph 3 of this subsection shall be carefully explained to each enlisted member at the time of, or

within thirty (30) days after, the member's initial entrance into a duty status with the state military forces.

2. Such articles shall be explained again:

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

b. at the time when the member reenlists.

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

B. The text of the code and of the regulations prescribed under such code shall be made available to a member of the state military forces, upon request by the member, for the member's personal examination.

SECTION 194. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 938 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 138. Complaints of wrongs.

Any member of the state military forces who believes himself or herself wronged by a commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising special court-martial jurisdiction over the officer against whom it is made. The officer exercising special court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of; and shall, as soon as possible, send to the Adjutant General a true statement of that complaint, with the proceedings had thereon.

SECTION 195. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 939 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 139. Redress of injuries to property.

A. Whenever a complaint is made to any commanding officer that willful damage has been done to the property of any person or that the person's property has been wrongfully taken by members of the state military forces, the commanding officer, under such regulations promulgated by the Adjutant General, shall convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by that officer shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for payment to the injured parties of the damages so assessed and approved.

B. If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

SECTION 196. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 940 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 140. Delegation by the Governor.

The Governor may delegate any authority vested in the Governor under the Oklahoma Uniform Code of Military Justice, and provide for the subdelegation of any such authority, except the powers given the Governor by Section 822 and subsection K of Section 815 of this title (Article 22 and Article 15, subsection K). Any delegations of authority carried out pursuant to this section shall be published as an executive order which the Adjutant General shall also cause to be published as a military publication.

SECTION 197. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 940A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 140A. Precedence of regulations.

When both the Governor and Adjutant General are authorized under the Oklahoma Uniform Code of Military Justice to promulgate regulations governing the same matter, if such regulations conflict, the regulations promulgated by the Governor shall take precedence.

SECTION 198. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 940B of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 140B. Publication by Secretary of State.

Military publications promulgated or published by or under the authority of the Adjutant General shall be provided to the Secretary of State to be published and archived as official records of the State of Oklahoma. In the event state or federal law restricts access to a military publication, the requirements of this section shall not be applicable. Military publications promulgated or published by a previous Adjutant General shall remain in effect until otherwise modified or rescinded in writing by the next Adjutant General.

SECTION 199. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 942 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 142. Payment and collection of fines.

A. Fines imposed by a military court or through imposition of nonjudicial punishment shall be paid to the State of Oklahoma and delivered to the convening authority or his or her designee or in the case of nonjudicial punishment, the imposing officer. Fines may be collected in the following manner:

1. By cash or money order;
2. By retention of any pay or allowances due or to become due to the person fined from any state or the United States; or
3. By garnishment or levy, together with costs, on the wages, goods, and chattels of a person delinquent in paying a fine, as provided by law.

B. Any sum so received or retained shall be deposited in the Military Justice Fund, except that the court may direct that the sum

so received or retained be provided to a victim or victims as restitution.

SECTION 200. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 943 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 143. Uniformity of interpretation.

The Oklahoma Uniform Code of Military Justice shall be so construed as to effectuate its general purpose to make it uniform, so far as practical, with the Uniform Code of Military Justice, Chapter 47 of Title 10 of the United States Code.

SECTION 201. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 944 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 144. Immunity for duties performed under Code.

Any person acting under the provisions of the Oklahoma Uniform Code of Military Justice, whether as a member of the military or as a civilian, shall be immune from personal liability for any of the acts or omissions which he or she did or failed to do as part of his or her duties under the Code.

SECTION 202. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 945 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 145. Jurisdiction not extended to certain crimes.

Though not specifically mentioned in the Oklahoma Uniform Code of Military Justice, all disorders and neglects to the prejudice of good order and discipline in the state military forces, of which persons subject to the Code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial according to the nature and degree of the offense and shall be punished at the discretion of that court. However, cognizance may not be taken of, and jurisdiction shall not be extended to, the crimes of murder, manslaughter, rape, rape and sexual assault of a child, child endangerment, death or injury of an unborn child, kidnapping, domestic violence, arson, robbery, maiming, arson, extortion, burglary, parole violations or housebreaking, jurisdiction of which is reserved to civil courts.

SECTION 203. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 946 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 146. Continuances for military service.

A. It shall be the duty of any justice, judge, judicial referee, corporation commissioner, administrative law judge or hearing officer presiding over any civil, criminal or administrative proceeding in this state to continue any trial, hearing or other action pending before the court or an administrative forum when a party to the pending action or the primary counsel representing a party to the pending action is not present at the time the case or matter in question is reached on the docket or schedule by reason of participation in:

1. Active federal service, as defined in Title 10 of the United States Code;

2. Title 32 active duty, as defined in Section 801 of this title (Article 1);

3. Service in other reserve components of the Armed Forces of the United States, as defined in Title 10 of the United States Code; or

4. State active duty, as defined in Section 801 of this title (Article 1).

B. The trial, hearing or other pending action may proceed if the party, without the presence of his or her primary counsel, or the primary counsel, without the presence of the party, declares that the case or matter in question is nevertheless ready to proceed at the scheduled time.

C. If the primary counsel of a party to the pending action is not present due to military service pursuant to subsection A of this section, the party so affected shall declare under oath that he or she cannot properly proceed with the trial, hearing or other action pending before the court or administrative forum without the presence of the primary counsel.

D. If a party to the pending action is not present due to military service pursuant to subsection A of this section, his or

her legal counsel shall appear and shall state in his or her place that the case or matter in question cannot properly proceed without the presence of the absent party.

E. Continuances granted pursuant to this section shall remain in effect no longer than ninety (90) calendar days. The justice, judge, judicial referee, corporation commissioner, administrative law judge or hearing officer may, at his or her discretion, continue the proceeding in question in order to carry out the administration of justice. The protections provided to service members in this section shall be available in addition to any protections afforded to service members under Section 208.1 of this title.

SECTION 204. AMENDATORY 44 O.S. 2011, Section 208, is amended to read as follows:

Section 208. No person shall discriminate against any officer or enlisted member of the National Guard or Civil Air Patrol or a judge carrying out his or her duties as a member of the Military Court of Appeals because of his or her membership therein. No person shall prohibit or refuse entrance to any officer or enlisted member of the United States Armed Forces, or of the military forces of this state, into any public entertainment or place of amusement because such officer or enlisted member is wearing a uniform of the organization to which he or she belongs. No employer, officer or agent of any corporation, company, firm or other person, shall discharge any person from employment because of being an officer, warrant officer or enlisted member of the military forces of the state, or hinder or prevent him or her from performing any military service he or she may be called upon to perform by proper authority, in respect to his or her employment, trade or business. Any person violating any of the provisions of this section, shall be punished by a fine of not to exceed One Hundred Dollars (\$100.00), or by imprisonment in the county jail for a period of not to exceed thirty (30) days, or by both such fine and imprisonment.

SECTION 205. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231b of Title 44, unless there is created a duplication in numbering, reads as follows:

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

Department of Defense or the military departments of the United States Department of Defense or as otherwise ordered by the Governor.

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

SECTION 206. AMENDATORY 44 O.S. 2011, Section 241, is amended to read as follows:

Section 241. The Governor, pursuant to the authority granted the states by ~~the Act of Congress of October 21, 1940~~ Section 109 of Title 32 of the United States Code or a successor provision, and under such regulations as the Secretary of Defense may prescribe for discipline in training, is hereby authorized to enlist, organize, maintain, equip and discipline such military forces other than the National Guard as he or she may deem necessary to defend the state. Such forces shall be uniformed and subject to Sections 1 through 117, ~~192 through 195.8,~~ Sections 208 through 235.2 237, and ~~2101 through 3113~~ Sections 800 through 946 of this title ~~unless in conflict with such sections,~~ insofar as such sections do not conflict with Sections 241 through 250 of this title.

SECTION 207. AMENDATORY 44 O.S. 2011, Section 242, is amended to read as follows:

Section 242. Such military forces shall be designated as the "Oklahoma State Guard" and shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the state as shall volunteer for service therein. They shall be additional to and distinct from the National Guard ~~organized under existing law~~ of the State of Oklahoma, as defined in Title 32 of the United States Code. They shall not be required to serve outside the boundaries of ~~this state~~ the State of Oklahoma.

SECTION 208. AMENDATORY 44 O.S. 2011, Section 243, is amended to read as follows:

Section 243. A. The Governor is hereby authorized to prescribe rules and regulations governing the enlistment, organization, administration, equipment, discipline and discharge of the personnel of such military forces; to requisition from the Secretary of Defense such arms and equipment as may be in the possession of and

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

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

C. When prescribing the rules and regulations governing enlistment, organization, administration, equipment, discipline and discharge of the personnel of the Oklahoma State Guard, the Governor shall issue such rules and regulations in the form of an executive order or in a series of such orders. An executive order or a series of such orders prescribing the rules and regulations governing enlistment, organization, administration, equipment, discipline and discharge of the personnel of the Oklahoma State Guard shall also be published by the Adjutant General as a military publication.

SECTION 209. AMENDATORY 44 O.S. 2011, Section 244, is amended to read as follows:

Section 244. Nothing in ~~this act~~ the Oklahoma State Guard Act shall be construed as authorizing such forces, or any part thereof to be called, ordered or in any manner drafted, as such into the military service of the United States, but no person shall by reason of his or her enlistment or commission in any such forces be exempted from military service under any law of the United States.

SECTION 210. AMENDATORY 44 O.S. 2011, Section 247, is amended to read as follows:

Section 247. No person shall be enlisted for more than one (1) year, but such enlistment may be renewed. The oath to be taken upon enlistment in such forces shall be substantially in the form

prescribed for enlisted ~~men~~ members of the National Guard, substituting the words "Oklahoma State Guard" where necessary.

SECTION 211. AMENDATORY 44 O.S. 2011, Section 248, is amended to read as follows:

Section 248. ~~(a) Whenever such forces or any part thereof shall be ordered out for active service the Articles of War of the United States applicable to members of the National Guard of this state in relation to courts-martial, their jurisdiction and the limits of punishment and the rules and regulations prescribed thereunder shall be in full force and effect with respect to "the Oklahoma State Guard."~~

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

SECTION 212. AMENDATORY 44 O.S. 2011, Section 250, is amended to read as follows:

Section 250. This act shall be known and may be cited as the "Oklahoma State Guard Act".

SECTION 213. AMENDATORY 21 O.S. 2011, Section 133, is amended to read as follows:

Section 133. This chapter~~7~~ does not affect any power conferred by law upon any court martial or other military authority or officer to impose or inflict punishment upon offenders; nor any power conferred by law upon any public body, tribunal, or officer, to impose or inflict punishment for a contempt; nor any provisions of the laws relating to apprentices, ~~bastards~~, ~~disorderly persons~~, ~~Indians and vagrants~~ behavior or vagrancy.

SECTION 214. AMENDATORY 75 O.S. 2011, Section 250.4, as last amended by Section 12, Chapter 430, O.S.L. 2014 (75 O.S. Supp. 2018, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Article I of the Administrative Procedures Act.

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and E of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. The Oklahoma Military Department shall be exempt from the provisions of Article I of the Administrative Procedures Act to the extent it exercises its responsibility for military affairs. Military publications, as defined in Section 801 of Title 44 of the Oklahoma Statutes, shall be exempt from the provisions of Article I and Article II of the Administrative Procedures Act, except as provided in Section 251 of this title.

4. The Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Office of Homeland Security and the Board of Trustees of the Oklahoma College Savings Plan shall be exempt from Article I of the Administrative Procedures Act.

5. The Transportation Commission and the Department of Transportation shall be exempt from Article I of the Administrative Procedures Act to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. The Oklahoma State Regents for Higher Education shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,

- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. Institutional governing boards within The Oklahoma State System of Higher Education shall be exempt from Article I of the Administrative Procedures Act.

- 8. a. The Commissioner of Public Safety shall be exempt from Sections 303.1, 304, 307.1, 308 and 308.1 of this title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations, or pursuant to Chapter 6 of Title 47 of the Oklahoma Statutes, to maintain a current incorporation of federal commercial driver license regulations, for which the Commissioner has no discretion when the state is mandated to promulgate rules identical to federal rules and regulations.
- b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma Register". Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference.
- c. Such copies of promulgated rules shall be filed with the Secretary as required by Section 251 of this title.
- d. For any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

9. The Council on Judicial Complaints shall be exempt from Section 306 of Article I of the Administrative Procedures Act, with respect to review of the validity or applicability of a rule by an

action for declaratory judgment, or any other relief based upon the validity or applicability of a rule, in the district court or by an appellate court. A party aggrieved by the validity or applicability of a rule made by the Council on Judicial Complaints may petition the Court on the Judiciary to review the rules and issue opinions based upon them.

10. The Department of Corrections, State Board of Corrections, county sheriffs and managers of city jails shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing internal management procedures for the management of the state prisons, county jails and city jails and for the management, supervision and control of all incarcerated prisoners, and
- b. prescribing internal management procedures for the management of the probation and parole unit of the Department of Corrections and for the supervision of probationers and parolees.

11. The State Board of Education shall be exempt from Article I of the Administrative Procedures Act with respect to prescribing subject matter standards as provided for in Section 11-103.6a of Title 70 of the Oklahoma Statutes.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
3. The Oklahoma Ordnance Works Authority;
4. The Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;
8. The Northeast Oklahoma Public Facilities Authority;

9. The Council on Judicial Complaints;

10. The Board of Trustees of the Oklahoma College Savings Plan;

11. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;

12. The Board of Regents or employees of any university, college, or other institution of higher learning;

13. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules, or
- f. any filing of false information;

14. The Commissioner of Public Safety only with respect to driver license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

15. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

16. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

17. The Oklahoma Military Department;

18. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority;

19. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; and

20. The Oklahoma Office of Homeland Security.

SECTION 215. AMENDATORY 75 O.S. 2011, Section 251, as amended by Section 1, Chapter 252, O.S.L. 2016 (75 O.S. Supp. 2018, Section 251), is amended to read as follows:

Section 251. A. 1. Upon the request of the Secretary, each agency shall furnish to the Office a complete set of its permanent rules in such form as is required by the Secretary or as otherwise provided by law.

2. The Secretary shall promulgate rules to ensure the effective administration of the provisions of Article I of the Administrative Procedures Act. The rules shall include, but are not limited to, rules prescribing paper size, numbering system, and the format of documents required to be filed pursuant to the provisions of the Administrative Procedures Act or such other requirements as deemed necessary by the Secretary to implement the provisions of the Administrative Procedures Act.

B. 1. Each agency shall file the number of copies specified by the Secretary of all new rules, and all amendments, revisions or revocations of existing rules attested to by the agency, pursuant to the provisions of Section 254 of this title, with the Office within thirty (30) calendar days after they become finally adopted.

2. An agency filing rules pursuant to the provisions of this subsection:

a. shall prepare the rules in plain language which can be easily understood,

- b. shall not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to effectively convey the meaning of a rule interpreting that language, the reference shall clearly indicate the portion of the language which is statutory and the portion which is the agency's amplification or interpretation of that language,
- c. shall indicate whether a rule is new, amends an existing permanent rule or repeals an existing permanent rule. If a rule amends an existing rule, the rule shall indicate the language to be deleted typed with a line through the language and language to be inserted typed with the new language underscored,
- d. shall state if the rule supersedes an existing emergency rule,
- e. shall include a reference to any rule requiring a new or revised form in a note to the rule. The Secretary shall insert that reference in "The Oklahoma Register" as a notation to the affected rule,
- f. shall prepare, in plain language, a statement of the gist of the rule and an analysis of new or amended rules. The analysis shall include but not be limited to a reference to any statute that the rule interprets, any related statute or any related rule,
- g. may include with its rules, brief notes, illustrations, findings of facts, and references to digests of Supreme Court cases, other court decisions, or Attorney General's opinions, and other explanatory material. Such material may be included if the material is labeled or set forth in a manner which clearly distinguishes it from the rules,
- h. shall include other information, in such form and in such manner as is required by the Secretary, and
- i. may change the format of existing rules without any rulemaking action by the agency in order to comply with the standard provisions established by the Secretary for "Code" and "The Oklahoma Register"

publication so long as there is no substantive change to the rule.

C. The Secretary is authorized to determine a numbering system and other standardized format for documents to be filed and may refuse to accept for publication any document that does not substantially conform to the promulgated rules of the Secretary.

D. In order to avoid unnecessary expense, an agency may use the published standards established by organizations and technical societies of recognized national standing, other state agencies, or federal agencies by incorporating the standards or rules in its rules or regulations by reference to the specific issue or issues of publications in which the standards are published, without reproducing the standards in full. The standards shall be readily available to the public for examination at the administrative offices of the agency. In addition, a copy of such standards shall be kept and maintained by the agency pursuant to the provisions of the Preservation of Essential Records Act.

E. The Secretary shall provide for the publication of all Executive Orders received pursuant to the provisions of Section 664 of Title 74 of the Oklahoma Statutes.

F. The Secretary may authorize or require the filing of rules or Executive Orders by or through electronic data or machine readable equipment in such form and manner as is required by the Secretary.

G. In consultation with the Adjutant General, the Secretary shall establish a method for the publication and archiving of all military publications received by the Secretary of State from the Adjutant General pursuant to the Oklahoma Uniform Code of Military Justice and the Oklahoma State Guard Act. Military publications shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes. The Secretary may also authorize or require the filing of military publications by or through electronic means in such form and manner as is required by the Secretary. This subsection shall only apply to military publications promulgated after October 1, 2019.

H. On or before October 1, 2021, the Secretary shall commence publication of all military publications provided by the Adjutant General. On a biennial basis thereafter, the Secretary shall cause the military publications received in the course of the previous two

(2) years to be published in a printed and bound format suitable for physical archiving in sufficient numbers to satisfy the requirements of the "Publications Clearinghouse" established in Section 3-113.3 of Title 65 of the Oklahoma Statutes.

SECTION 216. RECODIFICATION 44 O.S. 2011, Section 3398, shall be recodified as Section 941 of Title 44 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 217. REPEALER 44 O.S. 2011, Sections 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218, 3221, 3231, 3232, 3233, 3234, 3235, 3236, 3241, 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3251, 3252, 3253, 3254, 3255, 3256, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279, 3280, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3331, 3332, 3333, 3334, 3335, 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355, 3356, 3357, 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377, 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3399, 4000, 4001 and 4002, are hereby repealed.

SECTION 218. This act shall become effective October 1, 2019.

Passed the House of Representatives the 9th day of May, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____