

CHAPTER 411

MILITARY AND VETERANS

SENATE BILL 25-279

BY SENATOR(S) Ball and Pelton B., Roberts, Cutter, Exum, Gonzales J., Jodeh, Kipp, Michaelson Jenet, Mullica, Snyder, Wallace, Weissman, Winter F., Coleman;
also REPRESENTATIVE(S) Duran and Hartsook, Armagost, Bird, Boesenecker, Caldwell, Carter, Clifford, Feret, Froelich, Keltie, Paschal, Phillips, Rutinel, Story, McCluskie.

AN ACT

CONCERNING UPDATES TO THE "COLORADO CODE OF MILITARY JUSTICE".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 28-3.1-102, **amend** (20); and **add** (14.3) and (21.5) as follows:

28-3.1-102. Definitions. As used in this article 3.1, unless the context otherwise requires:

(14.3) "NATIONAL GUARD" MEANS THE ARMY NATIONAL GUARD, THE AIR NATIONAL GUARD, AND ANY OTHER COMPONENT CREATED OR AUTHORIZED UNDER THE LAWS OF THE UNITED STATES TO SERVE IN A SIMILAR MANNER PURSUANT TO TITLE 32 OF THE UNITED STATES CODE.

(20) "State military forces" means the National Guard of this state ~~as defined in section 28-3-101 (12)~~; and any other militia or military forces organized under the laws of the state.

(21.5) "UNIFORM CODE OF MILITARY JUSTICE" MEANS THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", 10 U.S.C. SEC. 801 ET SEQ.

SECTION 2. In Colorado Revised Statutes, **add** 28-3.1-102.5 as follows:

28-3.1-102.5. Construction of code - incorporation of federal "Uniform Code of Military Justice" - references to regulations - legislative intent. (1) THE GENERAL ASSEMBLY INTENDS THAT THE STATE MILITARY FORCES BE REGULATED IN

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

A MANNER CONSISTENT WITH THE REGULATION OF THE ARMED FORCES OF THE UNITED STATES AND THAT THE "COLORADO CODE OF MILITARY JUSTICE" ENACTED IN THIS ARTICLE 3.1 BE CONSTRUED CONSISTENT WITH THIS PURPOSE.

(2) (a) THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", FEDERAL RULES ADOPTED PURSUANT TO THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", AND THE MANUAL FOR COURTS-MARTIAL UNITED STATES PUBLISHED BY THE FEDERAL DEPARTMENT OF DEFENSE ARE INCORPORATED INTO THE "COLORADO CODE OF MILITARY JUSTICE", THIS ARTICLE 3.1, AND GOVERN AND ARE APPLICABLE TO THE STATE MILITARY FORCES, INCLUDING THE COLORADO NATIONAL GUARD, EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 3.1 AND REGULATIONS ADOPTED BY THE GOVERNOR.

(b) FOR THE PURPOSES OF THIS ARTICLE 3.1, REFERENCES IN THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", FEDERAL RULES ADOPTED PURSUANT TO THE "UNIFORM CODE OF MILITARY JUSTICE", AND THE MANUAL FOR COURTS-MARTIAL UNITED STATES TO:

(I) THE PRESIDENT OF THE UNITED STATES MEANS THE GOVERNOR, AND THE DUTIES, FUNCTIONS, AND AUTHORITY OF THE PRESIDENT ARE ATTRIBUTABLE TO THE GOVERNOR;

(II) THE SECRETARY OR SECRETARY CONCERNED MEANS THE ADJUTANT GENERAL OF THIS STATE, AND THE DUTIES, FUNCTIONS, AND AUTHORITY OF THE SECRETARY OR SECRETARY CONCERNED ARE ATTRIBUTABLE TO THE ADJUTANT GENERAL; AND

(III) THE ARMED FORCES, THE ARMY OF THE UNITED STATES, THE UNITED STATES AIR FORCE, OR SIMILAR MILITARY ORGANIZATIONS INCLUDES MILITARY, MILITARY FORCES, THE MILITARY SERVICES, AND STATE MILITARY FORCES.

(3) REFERENCES IN THIS ARTICLE 3.1 TO THE GOVERNOR'S REGULATIONS INCLUDE REGULATIONS PREPARED BY THE ADJUTANT GENERAL AND APPROVED BY THE GOVERNOR PURSUANT TO SECTION 28-3-106 (1)(j).

SECTION 3. In Colorado Revised Statutes, **amend** 28-3.1-103 as follows:

28-3.1-103. Persons subject to this code. This code applies to all members of the state military forces AT ALL TIMES; EXCEPT THAT THIS CODE DOES NOT APPLY TO A MEMBER OF THE STATE MILITARY FORCES WHILE ORDERED TO ACTIVE FEDERAL SERVICE PURSUANT TO TITLE 10 OF THE UNITED STATES CODE.

SECTION 4. In Colorado Revised Statutes, 28-3.1-114, **amend** (1), (2) introductory portion, (2)(a) introductory portion, (2)(a)(III), (2)(a)(IV), (2)(a)(V), (2)(b) introductory portion, (2)(b)(IV), (2)(b)(V), (4.4), and (4.7); **repeal** (2)(a)(I), (2)(b)(I), and (2.5); and **add** (2)(a)(VI), (2)(b)(VI), and (2)(b)(VII) as follows:

28-3.1-114. Commanding officer's nonjudicial punishment.
 (1) (a) Punishment may be imposed for any offense cognizable by a court-martial upon any member of the state military forces under this section. ~~Under such regulations as~~ The governor may, BY REGULATION, prescribe limitations ~~may be placed~~ on the powers granted ~~by~~ IN this section with respect to:

(I) The kind and amount of punishment authorized, THE SUSPENSION OF PUNISHMENT, and the levels of commanding officers and warrant officers exercising command authorized to exercise those powers; AND

(II) THE KINDS OF COURTS-MARTIAL TO WHICH A CASE MAY BE REFERRED UPON A DEMAND FOR A TRIAL BY COURT-MARTIAL BY THE ACCUSED MEMBER OF THE STATE MILITARY FORCES.

(b) EXCEPT IN THE CASE OF THE IMPOSITION OF FINES UPON OFFICERS AND WARRANT OFFICERS, PUNISHMENT MUST NOT BE IMPOSED UPON A MEMBER OF THE STATE MILITARY FORCES PURSUANT TO THIS SECTION IF THE MEMBER HAS, BEFORE THE IMPOSITION OF PUNISHMENT, DEMANDED TRIAL BY COURT-MARTIAL IN LIEU OF PUNISHMENT.

(c) If authorized by regulations of the governor, ~~the governor or an officer of general rank in command~~ A COMMANDING OFFICER WHO, PURSUANT TO THIS CODE, IS AUTHORIZED TO EXERCISE GENERAL COURT-MARTIAL JURISDICTION OR AN OFFICER OF GENERAL RANK IN COMMAND may delegate ~~his or her~~ THE OFFICER'S powers ~~under~~ PURSUANT TO this section to a principal assistant. ~~If subject to disciplinary punishment, the accused must be afforded the opportunity to be represented by defense counsel having the qualifications prescribed under section 28-3.1-102 (10), if available. Otherwise, the accused must be afforded the opportunity to be represented by any available commissioned officer of his or her choice. The accused may also employ civilian counsel of his or her own choosing at his or her own expense. In all proceedings, the accused is allowed three duty days, or longer on written justification, to reply to the notification of intent to impose punishment under this section.~~

(2) Subject to subsection (1) of this section, ~~any~~ A commanding officer may, in addition to or in lieu of admonition or PUNITIVE reprimand, impose one or more of the following disciplinary punishments without the intervention of a court-martial:

(a) Upon ~~an~~ A COMMISSIONED OR WARRANT officer of ~~his or her~~ THE COMMANDING OFFICER'S command:

(I) ~~Withholding of privileges for not more than two weeks, which need not be consecutive;~~

(III) ~~If imposed by the governor, the adjutant general, or a commanding officer of the Army or National Guard; A fine or forfeiture of pay and allowance~~ ALLOWANCES of not more than the amount of pay and ~~allowance~~ ALLOWANCES received for ~~two~~ FOUR unit training assemblies or ~~two~~ FOUR days of annual training, whichever is applicable according to duty status;

(IV) An admonition; ~~or~~

(V) A reprimand; OR

(VI) IF IMPOSED BY A COMMANDING OFFICER WHO HAS THE AUTHORITY TO EXERCISE GENERAL COURT-MARTIAL JURISDICTION OR AN OFFICER OF GENERAL OR FLAG RANK IN COMMAND:

(A) ARREST IN QUARTERS FOR NOT MORE THAN THIRTY CONSECUTIVE DAYS; OR

(B) RESTRICTION TO CERTAIN SPECIFIED LIMITS, WITH OR WITHOUT SUSPENSION FROM DUTY, FOR NOT MORE THAN THIRTY CONSECUTIVE DAYS;

(b) Upon other military personnel of ~~his or her~~ THE COMMANDING OFFICER'S command:

(I) ~~Withholding of privileges for not more than two weeks, which need not be consecutive;~~

(IV) ~~Reduction to next inferior grade if the grade from which he or she was demoted was established by the command or an equivalent or lower command; or~~ IN RANK, AS AUTHORIZED BY REGULATIONS ADOPTED BY THE GOVERNOR;

(V) A fine of any amount up to the maximum pay and allowances received for ~~two~~ OR FORFEITURE OF PAY AND ALLOWANCES OF NOT MORE THAN FOUR unit training assemblies or ~~two~~ FOUR days of annual training, whichever is applicable according to duty status;

(VI) AN ADMONITION; OR

(VII) A REPRIMAND.

(2.5) ~~If the commanding officer is of field grade, grade of O-4 or rank of major or above, he or she may impose on an enlisted member any one or a combination of the following disciplinary punishments without the intervention of a court-martial:~~

(a) ~~Any of the punishments stated in subsections (2)(b)(I) to (2)(b)(III) of this section;~~

(b) ~~A fine of any amount up to the maximum pay and allowances received for two unit training assemblies or two days of annual training, whichever is applicable according to duty status;~~

(c) ~~Reduction to the lowest or any intermediate pay grade, if the current grade from which he or she is demoted is within the promotion authority of the officer imposing the reduction or an officer subordinate to the one imposing the reduction, but enlisted members in military grades above E-4 may not be reduced by more than two military grades.~~

(4.4) Maximum allowable punishments, ~~of withholding of privileges, restrictions, and extra duties may~~ MUST not be combined to run consecutively.

(4.7) The officer who imposes the punishment pursuant to this section, or the successor in command, may, at any time, suspend, set aside, mitigate, or remit any part or amount of the punishment and restore all rights, privileges, and property affected. ~~The officer also may:~~

(a) ~~Mitigate reduction in grade to forfeiture of pay;~~

~~(b) Mitigate arrest in quarters to restriction; or~~

~~(c) Mitigate extra duties to restriction.~~

SECTION 5. In Colorado Revised Statutes, 28-3.1-201, **amend** (2)(b) as follows:

28-3.1-201. Courts-martial - jurisdiction - composition. (2) The three kinds of courts-martial are:

(b) Special courts-martial, WHICH ARE EITHER OF THE FOLLOWING TYPES:

(I) A SPECIAL COURT-MARTIAL consisting of a military judge and not less than three members. ~~or A SPECIAL COURT-MARTIAL CONSISTING OF A MILITARY JUDGE AND NOT LESS THAN THREE MEMBERS AS DESCRIBED IN THIS SUBSECTION (2)(b)(I) IS SUBJECT TO SECTION 28-3.1-204 (2)(a)(I) AND (2)(b) AND ANY LIMITATIONS PRESCRIBED IN REGULATION.~~

(II) A SPECIAL COURT-MARTIAL consisting of only a military judge, if the accused so requests under the same conditions as those prescribed in ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION OR IF THE CASE IS SO REFERRED BY THE CONVENING AUTHORITY. A SPECIAL COURT-MARTIAL CONSISTING OF ONLY A MILITARY JUDGE AS DESCRIBED IN THIS SUBSECTION (2)(b)(II) IS SUBJECT TO SECTION 28-3.1-204 (2)(a)(II) AND (2)(b) AND ANY LIMITATIONS PRESCRIBED IN REGULATION.

SECTION 6. In Colorado Revised Statutes, 28-3.1-203, **amend** (1) introductory portion, (1)(a), (1)(e), and (1)(f) as follows:

28-3.1-203. Jurisdiction of general courts-martial. (1) General courts-martial have jurisdiction to try persons subject to this code for ~~any~~ AN offense punishable under this code and may adjudge any of the following punishments:

(a) Confinement for not more than ~~two~~ FIVE years, unless otherwise specified in this code;

(e) Dismissal, ~~or~~ dishonorable discharge, OR BAD CONDUCT DISCHARGE;

(f) Reduction of ~~a noncommissioned officer~~ ENLISTED PERSONNEL to any inferior grade; or

SECTION 7. In Colorado Revised Statutes, **amend** 28-3.1-204 as follows:

28-3.1-204. Jurisdiction of special courts-martial. (1) Special courts-martial have jurisdiction to try ~~any~~ A person subject to this code for ~~any~~ AN offense punishable under this code, EXCEPT FOR CONDUCT THAT CONSTITUTES AN OFFENSE DESCRIBED IN ARTICLE 120 (a), 120 (b), 120b (a), OR 120b (b) OF THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", 10 U.S.C. SEC. 920 (a) AND (b) AND 10 U.S.C. SEC. 920b (a) AND (b).

(2) A special court-martial has the same powers of punishment as a general

court-martial, INCLUDING THE AUTHORITY TO ORDER A BAD CONDUCT DISCHARGE; except that:

(a) (I) ~~confinement may not be more than ninety days and~~ A SPECIAL COURT-MARTIAL THAT DOES NOT CONSIST OF A MILITARY JUDGE ALONE, AS DESCRIBED IN SECTION 28-3.1-201 (2)(b)(I), SHALL NOT IMPOSE CONFINEMENT FOR MORE THAN ONE HUNDRED EIGHTY DAYS AND SHALL NOT ORDER A DISMISSAL OR DISHONORABLE DISCHARGE; AND

(II) A SPECIAL COURT-MARTIAL THAT CONSISTS OF A MILITARY JUDGE ALONE PURSUANT TO SECTION 28-3.1-201 (2)(b)(II) SHALL NOT IMPOSE CONFINEMENT FOR MORE THAN NINETY DAYS AND SHALL NOT ORDER A DISMISSAL OR DISHONORABLE DISCHARGE; AND

(b) The fine or forfeiture of pay and allowances imposed by a special court-martial ~~may~~ MUST not be more than the maximum pay and allowances received for six unit training assemblies or six days of annual training, whichever is applicable according to duty status.

(3) NOTWITHSTANDING SECTION 16-10-101, A SPECIAL COURT-MARTIAL CONSISTING OF A JUDGE ALONE HAS THE AUTHORITY TO TRY CASES AND IMPOSE PUNISHMENTS AS SET FORTH IN THIS SECTION.

SECTION 8. In Colorado Revised Statutes, 28-3.1-205, **amend** (1) as follows:

28-3.1-205. Jurisdiction of summary courts-martial. (1) (a) Summary courts-martial have jurisdiction to try ~~any~~ A person subject to this code, except commissioned officers, warrant officers, cadets, ~~and~~ candidates, AND A PERSON WHO OBJECTS TO TRIAL BY SUMMARY COURT-MARTIAL AS DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION, for any offense made punishable under this code, EXCEPT FOR CONDUCT THAT CONSTITUTES AN OFFENSE DESCRIBED IN ARTICLE 120 (a), 120 (b), 120b (a), OR 120b (b) OF THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", 10 U.S.C. SEC. 920 (a) AND (b) AND 10 U.S.C. SEC. 920b (a) AND (b).

(b) AN ACCUSED PERSON MAY OBJECT TO TRIAL BY A SUMMARY COURT-MARTIAL. IF AN ACCUSED PERSON OBJECTS, A SUMMARY COURT-MARTIAL SHALL NOT TRY THE PERSON AND THE CONVENING AUTHORITY, OR OFFICER TO WHOM THE CASE IS REFERRED BY THE CONVENING AUTHORITY, SHALL ORDER THE ACCUSED TRIED BY A GENERAL COURT-MARTIAL OR SPECIAL COURT-MARTIAL, AS APPROPRIATE.

SECTION 9. In Colorado Revised Statutes, 28-3.1-213, **amend** (3) as follows:

28-3.1-213. Absent and additional members. (3) EXCEPT FOR A LAWFULLY CONVENED SPECIAL COURT-MARTIAL THAT CONSISTS OF A MILITARY JUDGE ALONE, AS DESCRIBED IN SECTION 28-3.1-201 (2)(b)(II), whenever a special court-martial is reduced ~~below~~ TO FEWER THAN three members, the trial ~~may~~ MUST not proceed unless the convening authority appoints new members sufficient in number to provide ~~not less than~~ AT LEAST three members. When the new members have been sworn, the trial may proceed as if no evidence ~~has~~ WAS previously ~~been~~ introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel.

SECTION 10. In Colorado Revised Statutes, **amend** 28-3.1-301 as follows:

28-3.1-301. General procedures. ~~The procedure~~ GOVERNOR MAY PRESCRIBE, BY REGULATION, PRETRIAL, TRIAL, AND POST-TRIAL PROCEDURES, including modes of proof, in cases before military courts and other military tribunals. ~~may be prescribed by the governor by regulation and shall~~ THE PROCEDURES, so far as practicable, MUST be the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of Colorado and in the trial of courts-martial of the United States, but ~~such procedure may~~ THE PROCEDURES MUST not be contrary to or inconsistent with this code.

SECTION 11. In Colorado Revised Statutes, 28-3.1-306, **add** (3) as follows:

28-3.1-306. Challenges. (3) IF THE EXERCISE OF A PEREMPTORY CHALLENGE OR CHALLENGE FOR CAUSE REDUCES THE NUMBER OF MEMBERS TO FEWER THAN THE REQUIRED NUMBER OF MEMBERS FOR THE COURT-MARTIAL AS DESCRIBED IN SECTION 28-1.3-213, THE CONVENING AUTHORITY SHALL APPOINT NEW MEMBERS TO THE COURT-MARTIAL PURSUANT TO SECTION 28-1.3-213.

SECTION 12. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 28-3.1-308 as follows:

28-3.1-308. Statute of limitations. THE STATUTE OF LIMITATIONS TO BRING CHARGES FOR AN OFFENSE PURSUANT TO THIS ARTICLE 3.1 IS THE SAME AS IN THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE".

SECTION 13. In Colorado Revised Statutes, **amend** 28-3.1-407 as follows:

28-3.1-407. Initial action on the record by convening authority - staff judge advocate review. (1) After a trial by court-martial, the ~~record shall be forwarded~~ MILITARY JUDGE WHO PRESIDED OVER THE COURT-MARTIAL SHALL FORWARD THE RECORD OF THE COURT-MARTIAL to the convening authority. ~~as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or the governor. The reviewer may approve the sentence or such part, amount, or commuted form of the sentence as he or she sees fit and may suspend or defer the execution of the sentence.~~ UPON RECEIPT OF THE RECORD OF THE COURT-MARTIAL, THE CONVENING AUTHORITY SHALL FORWARD THE RECORD TO THE STAFF JUDGE ADVOCATE DESIGNATED BY THE STATE JUDGE ADVOCATE GENERAL.

(2) THE STAFF JUDGE ADVOCATE SHALL REVIEW THE RECORD AND SUBMIT A WRITTEN OPINION TO THE CONVENING AUTHORITY. THE STAFF JUDGE ADVOCATE'S OPINION MUST INCLUDE:

(a) CONCLUSIONS ABOUT WHETHER:

(I) THE COURT-MARTIAL HAD JURISDICTION OVER THE ACCUSED;

(II) THE CHARGE AND SPECIFICATION STATED AN OFFENSE; AND

(III) THE SENTENCE WAS WITHIN THE LIMITS PRESCRIBED AS A MATTER OF LAW;

(b) IF THE ACCUSED MAKES ALLEGATIONS IN WRITING, A RESPONSE TO EACH ALLEGATION OF ERROR MADE IN WRITING BY THE ACCUSED; AND

(c) IN AN OPINION ABOUT THE FINDINGS OF A SUMMARY COURT-MARTIAL, ADVICE TO THE CONVENING AUTHORITY ON THE SUFFICIENCY OF THE EVIDENCE AS TO EACH FINDING MADE BY THE SUMMARY COURT-MARTIAL.

(3) A CONVENING AUTHORITY SHALL NOT ACT ON THE FINDINGS OF OR SENTENCE IMPOSED BY A COURT-MARTIAL BEFORE THE STAFF JUDGE ADVOCATE REVIEW.

(4) (a) AFTER RECEIVING THE STAFF JUDGE ADVOCATE'S WRITTEN OPINION DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE CONVENING AUTHORITY OF A GENERAL COURT-MARTIAL OR A SPECIAL COURT-MARTIAL:

(I) SHALL NOT ACT ON THE FINDINGS OF THE COURT-MARTIAL; AND

(II) MAY ACT AS DESCRIBED IN SUBSECTION (4)(b) OF THIS SECTION ON THE SENTENCE OF THE COURT-MARTIAL IF:

(A) THE TOTAL PERIOD OF A SENTENCE TO CONFINEMENT IMPOSED FOR ALL OFFENSES INVOLVED, RUNNING CONSECUTIVELY, IS LESS THAN ONE HUNDRED EIGHTY DAYS; AND

(B) THE COURT-MARTIAL DID NOT IMPOSE A SENTENCE OF DISMISSAL OR DISHONORABLE DISCHARGE.

(b) A CONVENING AUTHORITY ACTING ON A SENTENCE IMPOSED BY A COURT-MARTIAL PURSUANT TO SUBSECTION (4)(a)(II) OF THIS SECTION MAY:

(I) APPROVE THE COURT-MARTIAL'S SENTENCE;

(II) DISAPPROVE, COMMUTE, OR SUSPEND THE COURT-MARTIAL'S SENTENCE, IN WHOLE OR IN PART; OR

(III) DISAPPROVE THE COURT-MARTIAL'S SENTENCE AND ORDER A REHEARING ON THE SENTENCE.

(c) AFTER APPROPRIATE STAFF JUDGE ADVOCATE REVIEW, THE CONVENING AUTHORITY OF A SUMMARY COURT-MARTIAL MAY:

(I) APPROVE THE COURT-MARTIAL'S FINDINGS AND SENTENCE;

(II) DISMISS ANY CHARGE OR SPECIFICATION BY SETTING ASIDE THE FINDING OF GUILTY;

(III) CHANGE THE COURT-MARTIAL'S FINDING OF GUILTY OF THE CHARGE OR SPECIFICATION TO A FINDING OF GUILTY OF A LESSER INCLUDED OFFENSE;

(IV) DISAPPROVE THE COURT-MARTIAL'S FINDINGS AND SENTENCE AND DISMISS THE CHARGE AND SPECIFICATION;

(V) DISAPPROVE THE COURT-MARTIAL'S FINDINGS AND SENTENCE AND ORDER A REHEARING ON THE FINDINGS AND SENTENCE;

(VI) DISAPPROVE, COMMUTE, OR SUSPEND THE COURT-MARTIAL'S SENTENCE, IN WHOLE OR IN PART; OR

(VII) DISAPPROVE THE COURT-MARTIAL'S SENTENCE AND ORDER A REHEARING AS TO THE SENTENCE.

(5) IF, PURSUANT TO THIS SECTION, THE CONVENING AUTHORITY REDUCES, COMMUTES, OR SUSPENDS THE SENTENCE, THE DECISION OF THE CONVENING AUTHORITY MUST INCLUDE A WRITTEN EXPLANATION OF THE REASONS FOR THE ACTION.

(6) THE CONVENING AUTHORITY SHALL FORWARD ITS FINAL DECISION TO THE MILITARY JUDGE WHO PRESIDED OVER THE COURT-MARTIAL AND PROVIDE COPIES OF THE DECISION TO THE ACCUSED AND TO ANY VICTIM OF THE OFFENSE. THE MILITARY JUDGE SHALL INCORPORATE THE CONVENING AUTHORITY'S FINAL DECISION INTO THE RECORD.

SECTION 14. In Colorado Revised Statutes, 28-3.1-421, **amend** (1) introductory portion as follows:

28-3.1-421. Appeal by the state. (1) ~~In a trial by court-martial or in a trial by military judge only pursuant to section 28-3.1-316 (4) in which a punitive discharge may be adjudged,~~ The state ~~may~~ SHALL not appeal a finding of not guilty with respect to ~~the~~ A charge or specification. In a trial by court-martial in which a punitive discharge may be adjudged, the state may appeal the following:

SECTION 15. In Colorado Revised Statutes, **repeal and reenact, with amendments**, part 5 of article 3.1 of title 28 as follows:

PART 5 PUNITIVE ARTICLES

28-3.1-501. Punitive articles of the federal "Uniform Code of Military Justice" incorporated. PURSUANT TO SECTION 28-3.1-102.5, THE PUNITIVE ARTICLES, 10 U.S.C. SECS. 877 TO 933, AND THE GENERAL ARTICLE, 10 U.S.C. SEC. 934, OF THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE" ARE INCORPORATED INTO THE "COLORADO CODE OF MILITARY JUSTICE", THIS ARTICLE 3.1; EXCEPT THAT THE MAXIMUM PUNISHMENTS AND CLASSIFICATIONS OF OFFENSES SET FORTH IN SECTIONS 28-3.1-402 AND 28-3.1-402.5 APPLY TO CONVICTIONS PURSUANT TO THIS ARTICLE 3.1.

SECTION 16. In Colorado Revised Statutes, **add** 28-3.1-606.5 as follows:

28-3.1-606.5. Concurrent jurisdiction with civil authorities. IF CONCURRENT CIVILIAN AND MILITARY JURISDICTION EXISTS TO PROSECUTE THE SAME OFFENSE ALLEGEDLY COMMITTED BY A MEMBER OF THE STATE MILITARY FORCES, AND A DISTRICT ATTORNEY WITH JURISDICTION TO PROSECUTE THE OFFENSE HAS FILED FELONY CHARGES AGAINST THE MEMBER PURSUANT TO STATE LAW, THE STATE

MILITARY FORCES SHALL DEFER PROSECUTION OF THE OFFENSE OTHERWISE SUBJECT TO THIS CODE TO THE DISTRICT ATTORNEY. IF A DISTRICT ATTORNEY DECLINES TO PURSUE FELONY CHARGES OR DISMISSES CHARGES WITHOUT TRIAL, A COURT-MARTIAL MAY BE CONVENED AGAINST THE MEMBER IN ACCORDANCE WITH THIS CODE.

SECTION 17. In Colorado Revised Statutes, **repeal** 28-3.1-111, 28-3.1-112, 28-3.1-113, 28-3.1-214, 28-3.1-215, 28-3.1-216, 28-3.1-217, 28-3.1-218, 28-3.1-219, 28-3.1-302, 28-3.1-304, 28-3.1-305, 28-3.1-307, 28-3.1-309, 28-3.1-310, 28-3.1-314, 28-3.1-315, 28-3.1-316, 28-3.1-317, 28-3.1-318, 28-3.1-319, and 28-3.1-605.

SECTION 18. Act subject to petition - effective date - applicability. (1) This act takes effect September 1, 2025; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to offenses committed on or after the applicable effective date of this act.

Approved: June 3, 2025