

Subject Military Justice

Bill H.F. 1442

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Overview

This act revises the Minnesota Code of Military Justice (MCMJ) and related statutes to strengthen the court martial process and align with federal law.

Article 1: Data Access

This article contains a data related policy change.

| Section | Description – Article 1: Data Access |
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| 1 | Offenders; transfer to civil authorities; service member data. |
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| | Requires that law enforcement data on National Guard members must be released to the adjutant general upon request of the Office of the Staff Judge Advocate. |
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Article 2: Bar Admission; Judicial Qualifications

This section authorizes military attorneys who are not members of the Minnesota bar to practice law and serve as military judges in Minnesota under certain circumstances.

| Section | Description – Article 2: Bar Admission; Judicial Qualifications |
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| 1 | Practice of military law. |
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| | Establishes the criteria for a military lawyer who is not a member of the Minnesota bar to practice in the state. |
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| 2 | Establishment. |
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| | Conforming change related to section 3. |
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| 3 | Qualifications of military judge. |
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| | Broadens the group of military attorneys who may serve as military judges in the state. |
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Section Description – Article 2: Bar Admission; Judicial Qualifications

4 Qualifications of counsel.

Broadens the group of military attorneys who may serve as trial and defense counsel in military actions.

Article 3: Jurisdiction Changes

This article broadens personal jurisdiction under the MCMJ and incorporates by reference the United States - Uniform Code of Military Justice (US-UCMJ).

Section Description – Article 3: Jurisdiction Changes

1 Military service in Minnesota.

Expands the application of personal jurisdiction over military members for purpose of the MCMJ.

2 Offenses subject to court-martial.

Specifies that the punitive articles of the United States Code of Military Justice may be prosecuted in courts-martial in this state.

Article 4: Trial Procedure

This article modifies policies related to courts-martial trial procedure.

Section Description – Article 4: Trial Procedure

1 Governor may prescribe rules.

Adds a cross-reference to the US-UCMJ.

2 Three-year limitation.

Amends the military statute of limitation for punitive matters.

Article 5: Sentences

This article contains a variety of changes related to sentencing under the MCMJ.

Section Description – Article 5: Sentences

- 3 **Action on findings.**
Directs the courts-martial convening authority to issue a final order at the end of a courts-martial and promptly serve the order on the accused.
- 4 **Appeal forwarded.**
Clarifies the appeal process in courts-martials.
- 5 **Review by state appellate authority.**
Subd. 1. Certiorari. Dictates that the Minnesota Supreme Court shall hear appeals under the MCMJ.
Subd. 2. Service of writ. Establishes the procedure for service of a writ of certiorari.
- 6 **Certiorari; administrative decisions.**
Contains a conforming change to reflect that the supreme court will hear courts-martial appeals.

Article 6: Punitive Articles Updated

This article contains updates to the punitive articles of the MCMJ.

Section Description – Article 6: Punitive Articles Updated

- 1 **Purely military offenses.**
Details the Bureau of Criminal Apprehension (BCA) to investigate military offenses when the governor or adjutant general so requests. Adds new military specific offenses to the existing list of “purely military offenses.”
- 2 **Maximum limits.**
Subd. 1. Punishment limits. Places limits on sentences for violation of the MCMJ.
Subd. 2. Level of offense. Defines what constitutes a felony under the MCMJ. Specifies the level of offense that attaches to assimilated crimes.
- 3 **Under the influence of alcohol or controlled substance while on duty; sleeping on post; leaving post before relief.**
Authorizes a courts-martial for service members who are determined to be under the influence of a controlled substance while on duty.

Section Description – Article 6: Punitive Articles Updated

- 4 **Search warrants.**
Empowers Minnesota licensed peace officers to enforce a military search warrant for offenses that occurred while a service member is in active service.
- 5 **Sections to be explained.**
Requires that enlisted members for the National Guard receive annual notice of the military’s courts-martial authority over service members.
- 6 **Prohibited activities with military recruit or trainee by person in position of special trust.**
 Subd. 1. Definitions. Defines terms used in this section.
 Subd. 2. Abuse of training leadership position. Adds the new offense of abuse of a training leadership position to the MCMJ.
 Subd. 3. Abuse of position as military recruiter. Adds the new offense of abuse of a military recruiting position to the MCMJ.
 Subd. 4. Consent. Prohibits defendants from raising consent of the victim as a defense to charges under this section.
- 7 **Nonconsensual distribution of intimate images.**
 Subd. 1. Definitions. Defines terms used in this section.
 Subd. 2. Crime defined. Adds the new offense of nonconsensual distribution of intimate images to the MCMJ.
- 8 **Fraudulent use of credit cards, debit cards, and other access devices.**
 Subd. 1. Crime defined. Adds the offense of fraudulent use of credit cards, debit cards, and other access devices to the MCMJ.
 Subd. 2. Access device defined. Defines “access device” for purpose of this section.
- 9 **Unauthorized use of government computer.**
 Subd. 1. Definitions. Defines terms used in this section.
 Subd. 2. Crime defined. Adds the offense of unauthorized use of a government computer to the MCMJ.
- 10 **Retaliation.**
 Subd. 1. Definitions. Defines terms used in this section.

Section Description – Article 6: Punitive Articles Updated

Subd. 2. Crimes defined. Adds the offense of retaliating against a person for: (1) reporting, or planning to report, a criminal offense; or (2) making, or planning to make, a protected communication, to the MCMJ.

11 Revisor instruction.

Directs the revisor to recodify specific sections of law based on changes made to the MCMJ in this act.

12 Repealer.

Repeals a personal jurisdiction statute that is obsolete based on other statutory amendments made in the act.



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