

MICHIGAN CODE OF MILITARY JUSTICE

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Senate Bill 690 as reported from House committee

Sponsor: Sen. Veronica Klinefelt

House Committee: Military, Veterans and Homeland Security

Senate Committee: Veterans and Emergency Services

Complete to 5-16-24

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 77 of 2024)

SUMMARY:

Senate Bill 690 would amend the Michigan Code of Military Justice, which provides the jurisdiction, powers, and procedures for courts-martial in Michigan.

According to Senate committee testimony, state codes of military justice (for the National Guard) are required by federal law to be consistent with the federal Uniform Code of Military Justice, and Michigan's code, enacted in 1980 and last amended in 2005, has fallen out of sync. The bill would revise the Michigan code to better align its provisions with the federal code. Notably, the bill would add provisions addressing victims' rights, which were added to the federal code in 2019. In addition, according to testimony, the code is now primarily limited to addressing military offenses with no civilian equivalents (e.g., being absent without leave or failing to obey a lawful order). The bill would add provisions to address, among other offenses, assault, sexual assault, sexual harassment, and robbery. The bill also would do all of the following:

- Clarify the scope and application of the code by specifically granting the Army and Air National Guard court-martial jurisdiction and providing that the code applies to all members of the state military forces, except when in federal service, and that the military courts have jurisdiction over an individual subject to the code if they were on any kind of duty status with the state military at the time of the offense or if a connection exists between the offense and the state military forces.
- Rename the state judge advocate general as the state staff judge advocate, and provide for their appointment by the adjutant general instead of the governor.
- Rename what the code now calls legal officers as judge advocates, and remove a requirement that they be appointed by the state judge advocate general.
- No longer allow correctional custody to be imposed for a minor offense by a commanding officer or an officer of the rank of major or above on military personnel under their command, and prohibit the imposition of extra duties for minor offenses that are dangerous, cruel and unusual, unsanctioned by military custom, or demeaning.
- Remove minor offense provisions allowing the mitigation or reduction of pay forfeiture to pay detention.
- Allow a person to demand trial by court-martial only in cases when the punishment for a minor offense might include arrest in quarters or restriction.
- Increase the number of members for general and special courts-martial.
- Change the punishments that a court-martial can impose (for instance, allowing confinement of up to two years, allowing restitution, and increasing the maximum fine for a single offense from \$200 to \$2,500).

- Prohibit certain punishments from being adjudged by specified kinds of courts-martial (for instance, a summary court-martial or a special court-martial consisting of a military judge alone).
- Require a commanding officer to get the written consent of the adjutant general before convening a special or summary court-martial.
- Provide qualifications for military judges and requirements and procedures related to their appointment and performance.
- Allow the accused in a proceeding under the code to request a military defense counsel of choice.
- Increase the statute of limitations (from two years to five years) for individuals to be court-martialed or to be punished for a minor offense, and exclude from that period times when the accused is absent without authority or fleeing from justice.
- Increase the fines for contempt in a summary court-martial and other military courts.
- Revise requirements for conviction and sentencing in a general or special court-martial (for example, if applicable, requiring the concurrence of 3/4 of members rather than the current 2/3).
- Provide that court-martial sentences with a dishonorable or bad conduct discharge or confinement automatically reduce the pay grade of certain enlisted members.
- Provide that certain court-martial sentences that include confinement generally (with exceptions) must result in the forfeiture of pay, or of pay and allowances, during a period of confinement or parole.
- Add or modify definitions for such terms used in the code or the bill as *cadet*, *convening authority*, *defense counsel*, *extra duty*, *fatigue duty*, *judge advocate*, *special victims' counsel*, and *victim of an offense under this code*.

MCL 32.1002 et seq.

FISCAL IMPACT:

The bill would not have a substantial fiscal impact on the Department of Military and Veterans Affairs. Any increase of costs to the state's military courts would likely be supported with ongoing appropriations.

POSITION:

The Department of Military and Veterans Affairs indicated support for the bill. (3-19-24)

Legislative Analyst: E. Best
 Fiscal Analyst: Michael Cnossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.