

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)
Act 523 of 1980
Article 11

32.1135 Court of inquiry; convening authority; membership; appointment of counsel; rights of person having direct interest in subject of inquiry; challenges for cause; oath or affirmation; witnesses; findings of fact; record of proceedings; authentication.

Sec. 135.

(1) A court of inquiry to investigate any matter may be convened by a person authorized to convene a general court-martial or by any other person designated by the governor for that purpose, whether or not the person involved has requested the inquiry.

(2) A court of inquiry shall consist of 3 or more commissioned officers. For each court of inquiry the convening authority shall appoint counsel for the court.

(3) A person subject to this code or in the status of a civilian employee of the military forces of this state who has a direct interest in the subject of inquiry shall have the right to be designated as a party, shall be given due notice, and shall have the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(4) A member of a court of inquiry may be challenged by a party but only for cause stated to the court.

(5) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(6) A witness may be summoned to appear and testify and be examined before courts of inquiry as provided for courts-martial.

(7) A court of inquiry shall make findings of fact but shall not express opinions or make recommendations unless required to do so by the convening authority.

(8) Each court of inquiry shall keep a record of its proceedings which shall be authenticated by the signatures of the senior officer and counsel of the court of inquiry and forwarded to the convening authority. If the record cannot be authenticated by signatures of the senior officer and counsel, the record shall be signed by a member instead of the senior officer, and if the record cannot be authenticated by the counsel for the court, the record shall be signed by a member instead of the counsel.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1136 Officers having power to administer oaths; affidavits; signature and title of office as prima facie evidence of officer's authority.

Sec. 136.

(1) The following officers of the state military forces shall have the power to administer oaths for the purposes of military administration, including military justice, and affidavits may be taken for those purposes before the officers:

(a) Each judge advocate of the Michigan national guard and state troops.

(b) Each summary court-martial officer.

(c) Each adjutant, assistant adjutant, acting adjutant, and personnel adjutant, including each warrant officer acting in that capacity.

(d) Each staff judge advocate and legal officer and acting or assistant judge advocate and legal officer.

(2) The following officers shall have the power to administer oaths necessary in the performance of their duties and affidavits may be taken for those purposes before the officers:

(a) The president, trial counsel, and assistant trial counsel for all general and special courts-martial.

(b) The president and counsel for a court of inquiry.

(c) Each officer designated to take depositions.

(d) Each officer detailed to conduct investigations.

(3) An officer on the retired list shall not be authorized to administer oaths as provided in this section unless the officer is on actual state duty or on active duty in or with the state military forces under orders of the governor.

(4) The signature without seal of a person described in this section, together with the title of office, shall be prima facie evidence of the officer's authority.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1137 Sections to be explained to enlisted person; availability of code and rules.

Sec. 137.

Sections 3, 4, 7, 8, 9, 10, 11, 15, 28, 30, 31, 37, 38, 55, 58, 77 to 134, 137 to 139, and 145 shall be carefully explained to each enlisted person at the time of enlistment or induction into or when ordered to duty in or with the state military forces or not later than 6 days after enlistment or induction. The sections shall be explained again after the enlisted person has completed 6 months' service and again at the time the enlisted person reenlists. A complete text of this code and rules prescribed by the adjutant general under this code shall be made available to a member of the state military forces, upon request, for personal examination.

History: 1980, Act 523, Eff. Mar. 31, 1981

Admin Rule: R 32.101 et seq. and R 32.171 et seq. of the Michigan Administrative Code.

32.1138 Complaint to superior officer concerning commanding officer; forwarding complaint to officer exercising general court-martial jurisdiction; examination; redress; transmitting true statement of complaint with proceedings, to adjutant general.

Sec. 138.

A member of the state military forces who believes that he or she was wronged by the member's commanding officer, or who, upon due application to the commander, is refused redress, may complain to a superior officer who shall forward the complaint, in writing, to the officer exercising general court-martial jurisdiction over the officer against whom the complaint is made. That officer shall examine the complaint and take proper measures for redressing the wrong complained of, and the officer, as soon as possible, shall transmit to the adjutant general a true statement of the complaint, with the proceedings had on the complaint.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1139 Complaint to commanding officer concerning wilful damage to, or wrongful taking of, property of person; convening board to investigate complaint; membership and powers of board; assessment, approval, and payment of damages.

Sec. 139.

(1) If a complaint is made to a commanding officer that wilful damage has been done to the property of a person subject to this code or that his or her property has been wrongfully taken by 1 or more members of the state military forces, the commanding officer, subject to the rules as may be prescribed pursuant to this code, may convene a board to investigate the complaint. The board shall consist of from 1 to 3 officers and shall have for the purpose of the investigation power to summon witnesses and examine witnesses upon oath or affirmation, 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 shall be subject to the approval of the commanding officer and the amount approved by the commanding officer shall be charged against the pay of the offender. The department of military affairs shall make payment to the injured party of damages assessed and approved.

(2) If the offender cannot be ascertained, but the organization or detachment to which the offender belongs is known, the adjutant general may direct that the amount of damages assessed and approved to be paid to the injured party from the nonappropriated military fund of the unit of the state military forces to which the offender belonged at the time the tort was committed.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1140 Delegation and subdelegation of authority vested in governor.

Sec. 140.

The governor is authorized to delegate the authority vested in the governor under this code and to provide for the subdelegation of that authority.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1141 Determining moral character, capacity, and general fitness of officer or warrant officer; efficiency board; unfavorable findings; demanding court of inquiry; adverse finding; discharge; procedural and other rules; right to counsel.

Sec. 141.

(1) The moral character, capacity, and general fitness for service of an officer or warrant officer of the state military forces not in the service of the United States may be determined by an efficiency board detailed on orders of the governor of 3 commissioned officers, senior in rank to the officer whose fitness for service is under inquiry. If the findings of the board are unfavorable concerning the officer, and if approved by the governor, the officer shall be discharged. However, the officer ordered to appear before an efficiency board as provided in this section, before the day the efficiency board convenes to consider his or her case, may demand that a court of inquiry, as provided by section 135, be substituted for the efficiency board. If pursuant to the demand a court of inquiry makes a finding adverse to the officer whose moral character, capacity, and general fitness for service are under investigation, and the finding is approved by the governor, the officer against whom the adverse finding is made, shall be discharged.

(2) The procedural and other rules applicable to courts of inquiry equally shall apply to efficiency boards. The officer whose moral character, capacity, and general fitness for service are under investigation shall have a right to counsel in the proceedings provided for in this section.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1142 Action or proceeding not to be prosecuted or maintained against convening authority, member of military court, or officer or person acting under convening authority or reviewing proceedings.

Sec. 142.

An action or proceeding shall not be prosecuted or maintained against the convening authority or member of a military court or officer or person acting under the convening authority or reviewing the proceedings on account of the approval, imposition, or execution of a sentence or the imposition or collection of a fine or penalty, or the execution or service of any process or mandate of a military court.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1143 Jurisdiction of military courts and board; presumption; burden of proof.

Sec. 143.

The jurisdiction of the military courts and board established by this code shall be presumed and the burden of proof shall rest on a person seeking to remove a court or board of jurisdiction in an action or proceeding.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1144 Appointing and removing person or persons to execute or serve process, mandate, or order.

Sec. 144.

Each summary court-martial and the president of any other court-martial and of a court of inquiry may appoint and remove 1 or more persons subject to this code to execute or serve a process, mandate, or order issued under authority of this code by the president or court officer.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1145 Issuance of process, mandates, and subpoenas duces tecum; form; enforcement; person to whom directed; execution or service and return; demanding or requiring payment of fee or charge prohibited.

Sec. 145.

(1) A military court is empowered to issue process and mandates necessary and proper to carry into full effect the powers vested in the court. The court shall have the power to issue subpoenas duces tecum and to enforce by attachment attendance of witnesses and production of books and records.

(2) The process and mandates may be issued by a summary court-martial, military judge, trial counsel, and the president of any other military court and may be directed to and executed or served by a person designated in section 144 or a civil law enforcement officer and shall be in a form as may be prescribed by rules promulgated pursuant to this code.

(3) A civil law enforcement officer or a person appointed pursuant to section 144 to whom a process or mandate may be directed shall execute or serve and return the process or mandate pursuant to the requirements of the process or mandate. Except as otherwise specifically provided in this code, the civil law enforcement officer or a person appointed pursuant to section 144 shall not demand or require payment of a fee or charge of any nature for receiving, executing, serving, or returning the process or mandate or for any services in connection with the process or mandate.

History: 1980, Act 523, Eff. Mar. 31, 1981

Admin Rule: R 32.171 et seq. of the Michigan Administrative Code.

32.1146 Fine; payment; delivery; deduction from pay or allowance due delinquent offender; payment of fine or penalty to state treasurer.

Sec. 146.

A fine ordered under this act shall be paid to this state and shall be delivered to the military court or paid to the person appointed by the military court pursuant to section 144 or 145 who executes the court's process. If not paid, the amount of the fine shall be noted upon the state roll or account for pay of the delinquent offender and deducted from pay or allowance due until the fine is liquidated. A fine or penalty imposed by a military court upon an officer or enlisted person shall be paid to the state treasurer by the military court collecting the fine or penalty not later than 30 days after the process for recovery of the fine or penalty is issued.

History: 1980, Act 523, Eff. Mar. 31, 1981

32.1147 Rules.

Sec. 147.

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

History: 1980, Act 523, Eff. Mar. 31, 1981 ;-- Am. 2024, Act 77, Imd. Eff. July 8, 2024

Admin Rule: R 32.101 et seq. and R 32.171 et seq. of the Michigan Administrative Code.

32.1148 Repeal of MCL 32.301 to 32.427.

Sec. 148.

Act No. 297 of the Public Acts of 1957, being sections 32.301 to 32.427 of the Compiled Laws of 1970, is repealed.

History: 1980, Act 523, Eff. Mar. 31, 1981