

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

**32.1038 Duties of trial counsel; right of accused to representation by civilian counsel, military counsel, or defense counsel; associate counsel; conviction; brief; assistant trial counsel and assistant defense counsel; performance of duties.**

Sec. 38.

(1) The trial counsel of a general or special court-martial shall prosecute in the name of the state, and, under the direction of the court-martial, shall prepare the record of the proceedings.

(2) The accused has the right to be represented before a general or special court-martial by civilian counsel if provided by the accused, at the accused's own expense, or by military counsel of the accused's own selection if reasonably available, or by the defense counsel appointed under section 27. If the accused has counsel of his or her own selection, the defense counsel, and assistant defense counsel, if any, who were appointed, if the accused so desires, shall act as associate counsel. Otherwise, the appointed counsel shall be excused by the military judge or by the president of a court-martial without a military judge.

(3) In each court-martial proceeding resulting in a conviction the defense counsel may forward for attachment to the record of proceedings a brief of those matters the defense counsel feels should be considered in behalf of the accused on review, including an objection to the contents of the record which the defense counsel considers appropriate.

(4) An assistant trial counsel of a general court-martial, under the direction of the trial counsel or if the assistant trial counsel is qualified to be a trial counsel as required by section 27, may perform any duty imposed by law, rule, 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.

(5) An assistant defense counsel of a general or special court-martial, under the direction of the defense counsel or if the assistant defense counsel is qualified to be the defense counsel as required by section 27, may perform any duty imposed by law, rule, or the custom of the service upon counsel for the accused.

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