

# PROPOSED MILITARY CODE



# PROPOSED MILITARY CODE

with Source Notes and Comments

General Assembly of the Commonwealth of Pennsylvania  
JOINT STATE GOVERNMENT COMMISSION ★ MAY 1975

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The Joint State Government Commission was created by Act of 1937, July 1, P.L. 2460, as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

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**GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA  
JOINT STATE GOVERNMENT COMMISSION**

ROOM 450 - CAPITOL BUILDING

HARRISBURG 17120

May 16, 1975

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

This report contains the Proposed Military Code formulated by the Joint State Government Commission Task Force and Legislative Advisory Drafting Subcommittee on Military Laws. The code effectuates certain substantive changes in the law as set forth in the Introduction to this report.

The Joint State Government Commission is pleased to present this comprehensive compilation and revision of the laws pertaining to the Pennsylvania military, together with the sources of the provisions and comments where appropriate.

Respectfully submitted,

A handwritten signature in cursive script that reads "Fred J. Shupnik".

Fred J. Shupnik  
Chairman

## MILITARY LAWS

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Command Sergeant Major John S. Phillips  
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\* No longer members of the General Assembly.

## INTRODUCTION

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The statutory law governing Pennsylvania military forces--primarily the Pennsylvania National Guard--consists of the Military Code of 1949,<sup>1</sup> the Pennsylvania Code of Military Justice,<sup>2</sup> and various specific provisions, often conflicting, enacted as early as 1851.

In view of the need to maintain an efficiently administered, well-organized and responsive Pennsylvania military, and in view of its recently expanded duties and responsibilities in times of natural disaster and civil disturbance, a study of the applicable laws for the purpose of modernizing and codifying the statutes was in order. Accordingly, Senator Clarence D. Bell introduced 1970 Senate Resolution Serial No. 71, directing the Joint State Government Commission to undertake a study of the military laws and to report its findings and recommendations, together with drafts of necessary legislation, to the General Assembly.

The task force was organized on January 27, 1972 under the chairmanship of Senator Thomas M. Nolan. Upon recommendation of the task force, the Commission's Executive Committee appointed a legislative advisory drafting subcommittee composed of individuals knowledgeable in military affairs. Representative John B. McCue was designated to chair the subcommittee consisting of Senator Thomas M. Nolan, task force chairman, Judge John G. Brosky, Lieutenant Colonel John S. Fisher, Colonel John E. Fullerton, Representative Samuel E. Hayes, Jr., Lieutenant Colonel Harold S. Irwin, Jr., Colonel William H. McChesney, Command Sergeant Major John S. Phillips, and Chief Master Sergeant Clifford G. Walters.

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1. 1949, May 27, P. L. 1903.

2. 1967, November 24, P. L. 561, last amended 1970, March 24, P. L. 208, No. 85. Pennsylvania's code is substantially the same as the Uniform Code of Military Justice promulgated by the National Conference of Commissioners on Uniform State Laws in 1961, and based directly on the United States Code of Military Justice, enacted in 1961. See 10 U.S.C. 801-940. Also see table, Appendix A, infra.



The drafting subcommittee met on six occasions to review existing Pennsylvania military laws, compare them with the provisions of the military laws of other states and formulate recommendations to the task force. It was decided to codify all of the relevant laws as Title 51 (Military Affairs) of the Consolidated Pennsylvania Statutes.<sup>3</sup>

The recommendations of the subcommittee were incorporated into proposed legislation, reviewed by the task force and--as modified by it--approved for introduction in the form of two bills: (1) A bill incorporating the provisions of the Military Code of 1949 as revised, related statutes and, without substantive change, statutes relating to veterans,<sup>4</sup> and (2) A bill containing, without substantive change, the Pennsylvania Code of Military Justice and two related sections previously added to the Military Code of 1949.<sup>5</sup>

The proposed legislation, if enacted, would make the following substantive changes in Pennsylvania law:

(1) The organization and administration of the Pennsylvania National Guard is consolidated and brought into conformity with current Federal National Guard regulations and procedures.

(2) The organization and administration of the Pennsylvania Guard and Militia is clarified.

(3) The State Armory Board is reorganized to consist of the Adjutant General and five members appointed by the Adjutant General.

(4) The administration of the Pennsylvania Soldiers' and Sailors' Home is placed in the Department of Military Affairs.

(5) The various veterans' compensation acts are not included in the proposed Military Code, but these acts are specifically saved from repeal to protect the accrued rights of bondholders and others.<sup>6</sup>

(6) Specific provisions are included to provide counsel to military personnel sued for acts performed under lawful orders and to pay resulting judgments from Commonwealth funds.

(7) The limitation for payment of claims for damages against the Pennsylvania National Guard is raised from \$500 to \$2,500.

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3. 1970, November 25, P. L. 707, No. 230.

4. Parts I, II, III, V, VI of proposed Title 51.

5. Part IV of proposed Title 51.

6. The time for applying for benefits under these acts has expired in each case.

(8) The expenditure allowable in connection with distinguished guests is increased from \$5,000 to \$10,000.

It would be inappropriate to conclude this introduction without acknowledging the invaluable and tireless participation of the subcommittee and the assistance of Lieutenant Colonel Franklin D. Rubin, who acted as liaison for the Department of Military Affairs, and John C. Schmidt, Jr., Esq., of the Joint State Government Commission staff.

This report, Proposed Military Code with Source Notes and Comments, is submitted for the information of the General Assembly and the public.

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CONSOLIDATED PENNSYLVANIA STATUTES  
PROPOSED TITLE 51  
MILITARY AFFAIRS

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 51, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding a title analysis and parts to read:

TITLE 51

MILITARY AFFAIRS

Part

- I. Preliminary Provisions.
- II. Pennsylvania National Guard, Pennsylvania Guard and Militia.
- III. Interstate Relations.
- IV. Military Justice (Reserved).
- V. Employment Preferences and Pensions.
- VI. Miscellaneous Provisions.

PART I

PRELIMINARY PROVISIONS

Chapter

1. General Provisions

CHAPTER 1

GENERAL PROVISIONS

Sec.

101. Short title of title.

102. Definitions.

103. Conformity with Federal legislation.

§ 101. Short title of title.

This title shall be known and may be cited as the "Military Code."

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Armory." Land, buildings and fixtures used for housing elements of the Pennsylvania military forces.

"Department." The Department of Military Affairs of the Commonwealth.

"National Defense Act." The act of Congress, entitled "An act for making further and more effectual provisions for the National Defense and for other purposes," approved June 3, 1916, its amendments and supplements.

"National Guard of the United States." The Army National Guard of the United States and the Air National Guard of the United States.

"Officer." Commissioned or warrant officer.

"Order." General or special order, oral or written, whether issued pursuant to State or Federal authority.

"Pennsylvania Guard." Those organized units of the Pennsylvania military forces which are not Federally recognized

or which serve under the authority of the Governor when the Pennsylvania National Guard, in whole or in part, is on extended Federal active duty.

"Pennsylvania military forces." The land, air and sea military units organized for the internal security of this Commonwealth.

"Pennsylvania National Guard." The Pennsylvania Army National Guard and the Pennsylvania Air National Guard.

Source: This section is derived from Section 103 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

COMMENT: The following terms have been added: "Order" and "Pennsylvania Military Forces"; "Pennsylvania Guard" has been clarified.

§ 103. Conformity with Federal legislation.

It is the intent of this title that it shall be in conformity with all acts and regulations of the United States affecting the same subjects, and all provisions of this title shall be construed to effectuate this purpose.

Source: This section is derived from Section 102 of the Military Code of 1949, May 27, P.L. 1903.

PART II

PENNSYLVANIA NATIONAL GUARD, PENNSYLVANIA GUARD AND MILITIA

Subpart

- A. Organization
- B. Officers and Enlisted Personnel
- C. Pay, Allowances, Benefits and Medals
- D. Rights and Immunities

SUBPART A

ORGANIZATION



Chapter

3. The Militia
5. The Governor as Commander-in-Chief
7. Department of Military Affairs
9. The Adjutant General
11. Pennsylvania National Guard
13. Pennsylvania Guard
15. State Armory Board

CHAPTER 3

THE MILITIA

Sec.

301. Formation.

§ 301. Formation.

(a) Pennsylvania militia.--The militia of this Commonwealth shall consist of:

(1) all able-bodied citizens of the United States and all other able-bodied persons who have declared their intention to become citizens of the United States, residing within this Commonwealth, who are at least 17 years six months of age and, except as hereinafter provided, not more than 55 years of age; and

(2) such other persons as may, upon their own application, be enlisted or commissioned therein.

(b) Pennsylvania naval militia.--The naval militia of this Commonwealth, when organized pursuant to rules and regulations promulgated by the Governor, shall consist of those persons as may, upon their own application, be enlisted or commissioned therein.

COMMENT: This section is new. It recasts sections of the Military Code of 1949 pertaining to the militia and naval militia, reiterating the authority of the Governor as Commander-in-Chief to enroll said military forces.

## CHAPTER 5

### THE GOVERNOR AS COMMANDER-IN-CHIEF

Sec.

- 501. Powers of Governor.
- 502. Acceptance of Federal allotment for Pennsylvania National Guard.
- 503. Training and Federal property of Pennsylvania National Guard.
- 504. Permanent location of Pennsylvania National Guard units.
- 505. Change in organization of Pennsylvania National Guard.
- 506. Organization of Pennsylvania Guard for emergency.
- 507. Draft from militia for emergency.
- 508. Active State duty for emergency.
- 509. Coordination with adjacent states.
- 510. Promulgation of regulations and rules.
- 511. Issuing flags, standards and guidons.

#### § 501. Powers of Governor.

The Governor of this Commonwealth as Commander-in-Chief shall have the powers enumerated hereafter in this title over the Pennsylvania military forces which includes the Pennsylvania National Guard when not absent from this Commonwealth on the call or order of the United States and the Pennsylvania Guard when formed, organized and equipped under order from the Governor in conformity with this title.

Source: This section is derived from Section 301 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: The term "naval forces" is deleted.

§ 502. Acceptance of Federal allotment for Pennsylvania National Guard.

The Governor shall accept for the Commonwealth allotments of military personnel and equipment and their apportionment to the various arms and services proposed by the Department of Defense for the Pennsylvania National Guard as he may, in his discretion, deem proper for the Commonwealth to accept.

Source: This section is derived from Section 302 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 503. Training and Federal property of Pennsylvania National Guard.

The Governor shall assume the obligation of carrying out the training requirement set forth under the applicable Federal statutes and regulations for the Pennsylvania National Guard. This training function is hereby delegated and becomes the responsibility of the normal channels of command in the Pennsylvania National Guard. The Governor shall furnish suitable shelter for personnel and suitable storage facilities for Federal property, issued for use of the Pennsylvania National Guard.

Source: This section is derived from Section 303 of the Military Code of 1949, May 27, P.L. 1903.

§ 504. Permanent location of Pennsylvania National Guard units.

The Governor shall establish the permanent location, within the boundaries of this Commonwealth, of any assigned, authorized organizations or units of the Pennsylvania National Guard allotted to this Commonwealth by the Department of Defense.

Source: This section is derived from Section 305 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

COMMENT: Reference to the naval militia allotted to the Commonwealth by the Department of the Navy is deleted.

§ 505. Change in organization of Pennsylvania National Guard.

The Governor shall organize or reorganize any organization or unit of the Pennsylvania National Guard so as to conform, so far as practicable, to the structure of the armed forces of the United States.

Source: This section is derived from Section 306 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Reference to the naval militia is deleted.

§ 506. Organization of Pennsylvania Guard for emergency.

Whenever the Pennsylvania National Guard, or any part thereof, shall be called or ordered into the service of the United States, the Governor may organize units of the Pennsylvania Guard for the internal security of this Commonwealth. The Governor shall comply with the laws of the United States for the organization, maintenance and functioning of this force. The Governor is further empowered to organize at any time a nucleus of Pennsylvania Guard personnel for the purpose of planning.

Source: This section is derived from Section 307 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 507. Draft from militia for emergency.

The Governor shall have the power to order out for actual service with the Pennsylvania Guard by draft as many persons from the militia as necessity demands during a war or other emergency. The Governor is hereby authorized to form, adopt and prescribe such rules and regulations, and appoint such officers

and civilian boards and fix their compensation, for the purpose of drafting the militia, when such process may be required, as deemed best and most expedient. Any such rules or regulations shall not conflict with any Federal Selective Service Act or National Draft Act in effect at the time.

Source: This section is derived from Section 310 of the Military Code of 1949, May 27, P.L. 1903.

§ 508. Active State duty for emergency.

The Governor may place the Pennsylvania National Guard, or any part thereof, or when unavailable due to call or order into the service of the United States, the Pennsylvania Guard, or any part thereof, on active duty when an emergency in this Commonwealth occurs or is threatened, or when tumult, riot or disaster shall exist or is imminent.

Source: This section is derived from Section 311 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Reference to the naval militia is deleted. Also, the limiting definition of the term "disaster" is deleted.

§ 509. Coordination with adjacent states.

The Governor shall confer with the Governors or proper authorities of adjacent states for the purpose of coordinating and providing for the mutual defense and the internal security and for the exchange of authority to employ the Pennsylvania military forces in other states, and the employment of their armed forces within the boundaries of this Commonwealth. This power may be delegated to the Adjutant General.

Source: This section is derived from Section 312 of the Military Code of 1949, May 27, P.L. 1903.

§ 510. Promulgation of regulations and rules.

The Governor shall promulgate such rules and regulations as

he may deem expedient for the government of the Pennsylvania military forces. The regulations shall conform to this title and other laws of this Commonwealth applicable to said forces and, as nearly as practicable, to those governing similar Federal armed military forces. They shall have the same force and effect as the provisions of this title and other laws affecting these forces.

Source: This section is derived from Section 313 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Reference to the naval militia is deleted.

§ 511. Issuing flags, standards and guidons.

The Governor as Commander-in-Chief is hereby authorized to procure and issue from time to time to the Pennsylvania National Guard and Pennsylvania Guard such flags, standards and guidons as may be necessary, in conformance with applicable Federal and State statutes and regulations.

Source: This section is derived from Section 314 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

COMMENT: Reference to the naval militia is deleted.

CHAPTER 7

DEPARTMENT OF MILITARY AFFAIRS

Sec.

701. Overall powers of department.

702. Duties of department.

703. Administration, supply and supervision of military forces.

§ 701. Overall powers of department.

The department shall continue to exercise the powers and perform the duties by law vested in and imposed upon the Adjutant General and the department.

Source: This section is derived from Section 401 of the Military Code of 1949, May 27, P.L. 1903.

§ 702. Duties of department.

The department shall have the power and its duty shall be:

(1) To distribute all orders from the Governor as Commander-in-Chief and perform such other duties as the Governor as Commander-in-Chief shall direct.

(2) To perform such duties and employ the power delegated to the department and the Adjutant General by the laws of the United States and the rules and regulations promulgated thereunder.

(3) To be an office of permanent record for all personnel papers, documents and forms pertaining to the Pennsylvania National Guard except where the laws of the United States require certain papers, documents or forms to be kept permanently in the National Guard Bureau or other department or section of the Department of the Army, or Department of the Air Force, as the case may be; to be an office of permanent record for personnel papers, documents and forms pertaining to the Pennsylvania Guard.

(4) To procure from the proper agency of the Department of Defense all authorized equipment, to ensure that such equipment is issued to the Pennsylvania National Guard and to keep all books and records, to account for said property and make those returns and reports concerning it as required by law.

(5) To keep in its custody all books and accounts of military property of the Commonwealth issued to Pennsylvania military forces and to safely and properly store such

property when not issued.

(6) To pay the troops and make all other disbursements by requisition as otherwise provided by law.

(7) To supply to all officers, organizations and units, publications of laws, regulations and rules prescribed for use of Pennsylvania military forces.

(8) With the approval of the Governor as Commander-in-Chief, to sell or exchange, from time to time, such military stores belonging to the Commonwealth as are found to be unserviceable or in state of decay, or which it may be deemed for the best interest of the Commonwealth to sell or exchange, but if the department is unable to obtain a bid for the property, it may be demolished or destroyed. The destruction of the property shall be witnessed by three disinterested officers of the Pennsylvania National Guard or, when organized, Pennsylvania Guard, and their certificate shall constitute proper authority to issue a voucher for marking off the property. All moneys received for stores so sold shall be paid into the State Treasury through the Department of Revenue.

(9) To audit and adjust all claims incident to the organization, training, discipline, maintenance and service of the Pennsylvania National Guard and Pennsylvania Guard, other than fixed allowances, and to pay such claims when audited and adjusted, but all claims paid thereunder shall be subject to audit by the Department of the Auditor General.

(10) To appoint a board of not less than three commissioned officers of the Pennsylvania National Guard for the purpose of investigating claims for damages based on



injuries to persons, or damages to property, arising out of accident or negligence, and incident to the organization, training, discipline, maintenance and service of the Pennsylvania National Guard and, upon the recommendation of the board so appointed, to adjust and pay such claims for damages. Each claim shall be in an amount not exceeding \$2,500. All claims paid hereunder shall be subject to audit by the Department of the Auditor General. No claim shall be paid under the provisions of this paragraph when such claim has arisen from the operation of Commonwealth owned or Federally owned automobiles, when operated by Commonwealth officers or employees or officers and enlisted personnel of the Pennsylvania National Guard.

(11) To investigate the circumstances and to determine the amount of relief or pension payable as a result of the death or disability of a member of the Pennsylvania National Guard; to establish rules governing the filing of claims for pension or relief and to grant such pension or relief, under the laws of this Commonwealth concerning members of the Pennsylvania National Guard.

Source: This section is derived from Section 402 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Reference to the naval militia, naval forces, and the relationships between the Department of Military Affairs and the Department of the Navy are deleted. A subsection dealing with the distribution of flags, standards, and guidons subject to the approval of the Governor is deleted. In subsection (10) the ceiling for claims for damages against the Pennsylvania National Guard is raised from \$500 to \$2500. Reference to the setting aside of a military cemetery is deleted. The authority to loan arms and accoutrements to military schools is also deleted.

§ 703. Administration, supply and supervision of military forces.

The department shall be specifically responsible for the administration and supply of the Pennsylvania military forces and shall have general supervisory function of all matters pertaining thereto. The department shall make periodic reports, as required by law or requested by the Governor or the Department of Defense, concerning the condition and state of the readiness of the Pennsylvania military forces.

Source: This section is derived from Section 403 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

COMMENT: Reference to the naval forces is deleted.

CHAPTER 9

THE ADJUTANT GENERAL

Sec.

901. Appointment of Adjutant General, Deputies and Assistants.

902. General powers and duties of Adjutant General.

903. Providing subsistence, supplies, equipment and expenses.

904. Payment of emergency expenses.

905. Approving appointment of Federal personnel.

906. Delegating responsibility for requisitioning Federal supplies.

907. Augmenting department headquarters staff.

908. Expenditures in connection with distinguished guests.

§ 901. Appointment of Adjutant General, Deputies and Assistants.

(a) Appointment.--The Governor shall appoint the Adjutant General with the advice and consent of the Senate. The Adjutant General may appoint a Deputy Adjutant General for Army and a Deputy Adjutant General for Air, and such other Deputy Adjutants

General and Assistant Adjutants General as in his discretion are needed for the efficient functioning of the department. The positions of Assistant Adjutant General, Army, and Assistant Adjutant General, Air, in the grades of brigadier general, shall be authorized. Deputy Adjutants General and such additional Assistant Adjutants General as may be required may also have at least the rank of brigadier general in the Pennsylvania National Guard or Pennsylvania Guard after appointment.

(b) Qualifications.--No Adjutant General, Deputy Adjutant General or Assistant Adjutant General shall be appointed who shall not have served at least ten years as a commissioned officer in the Pennsylvania National Guard, or any of the Armed Forces of the United States or their reserve components; the aforesaid service may be cumulative.

Source: This section is derived from Section 207 (a) of Article II of The Administrative Code of 1929, April 9, P.L. 177.

COMMENT: The Adjutant General at his discretion may appoint a Deputy Adjutant General for the Army and a Deputy Adjutant General for the Air Force. The Adjutant General may also appoint other Deputy and Assistant Adjutants General; the positions of Assistant Adjutant General, Army, and Assistant Adjutant General, Air, are specifically authorized. The number and compensation of Deputy Adjutants General are subject to the approval of the Executive Board, see The Administrative Code of 1929, Section 213. Existing law does not require Senate confirmation of Deputy Adjutants General and Assistant Adjutants General. For Federal recognition purposes, this section does not preclude a Deputy Adjutant General from also being appointed an Assistant Adjutant General. In subsection (b), "Armed Forces of the United States" includes the Army, Navy, Air Force, Marine Corps and Coast Guard.

§ 902. General powers and duties of Adjutant General.

The Adjutant General as head of the department is responsible to the Commonwealth and to the Governor for the organization and functioning of said department, and the performance and carrying out of all the duties, powers and responsibilities given or delegated. In addition he is hereby authorized and directed to:

(1) Maintain an office through which correspondence on military affairs between the Commonwealth and the Federal Government will be conducted, including that pertaining to funds and property issued by the Federal Government for organization and training of the Pennsylvania military forces.

(2) Maintain all military records until transferred to the Pennsylvania archives or, where so directed, to the proper Federal department.

(3) Maintain historical outlines and permanent historical records of organizations of the Pennsylvania military forces.

(4) Maintain armories, arsenals, military reservations, air bases and all property and equipment intended for the use and training of the Pennsylvania military forces.

(5) Obtain and issue medals in accordance with regulations promulgated under this title.

(6) Prepare all citations, when required, and make arrangements for the proper presentation of the decoration, medal or award.

(7) Convene boards of officers to consider and make recommendations upon such matters as may be referred to them.

(8) Maintain a list of active and retired members of the Pennsylvania National Guard with name, rank, organization, date of appointment, date of retirement and residence.

(9) Execute and enforce the policies of the Commonwealth relative to the Pennsylvania military forces.

(10) Make such bylaws, rules and regulations for the management, general direction and control of the property of

the Pennsylvania Soldiers' and Sailors' Home or homes wherever situate.

(11) Coordinate with other Commonwealth agencies and departments, and the respective agencies of the Federal Government, all matters relating to veterans' affairs within this Commonwealth.

(12) Appoint a Director of the Bureau for Veterans' Affairs.

Source: This section is derived from Section 501 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1479.

COMMENT: Subsection (10) is new and places the duty to administer the Soldiers' and Sailors' Home upon the Adjutant General. Subsections (11) and (12) are new and empower the Adjutant General to coordinate governmental veterans' activities through a Bureau for Veteran Affairs. Reference to the naval militia and Pennsylvania Naval Militia is deleted.

§ 903. Providing subsistence, supplies, equipment and expenses.

The necessary subsistence, supplies, equipment and expenses incident to any active State service, including the transportation of troops, may be contracted for under direction of the Governor as Commander-in-Chief, by the Adjutant General or any other officer designated for that purpose, to be paid for as otherwise provided by law, except when such active service is under the orders of the Department of Defense when subsistence, supplies, equipment and other expenses incident to any active State service, including transportation, is furnished by the Federal Government.

Source: This section is derived from Section 502 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

COMMENT: Reference to the Department of the Navy is deleted.

§ 904. Payment of emergency expenses.

When the Pennsylvania National Guard, or any portion thereof, is ordered on active State duty by the Governor as Commander-in-Chief for the internal security of this Commonwealth or in case of disaster within this Commonwealth, the payment of the troops and all other expenses incident to such services will be made by the Adjutant General from funds obtained in the manner provided by law. If the Pennsylvania National Guard, or any portion thereof, shall be called into the active service of the United States by the President, all necessary expenses incident to the mobilization under such call shall be paid by the Adjutant General from funds as authorized by the Federal Government. The necessary transportation, supplies, equipment and necessary expenses incident to such Federal active duty within this Commonwealth or mobilization under the call of the President may be contracted for under direction of the Governor by the Adjutant General or other officer or officers designated for that purpose. The same shall be paid for by the Adjutant General from funds obtained as provided by law, except when such expenses are paid by the Federal Government.

Source: This section is derived from Section 503. of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Reference to the naval militia is deleted.

§ 905. Approving appointment of Federal personnel.

The Adjutant General shall approve all appointments of personnel authorized by the laws of the United States to care for Federal property and assist in the administration of the Pennsylvania National Guard. The appointment of personnel will

not be made without meeting all the requirements and qualifications imposed by existing laws and regulations.

Source: This section is derived from Section 504 of the Military Code of 1949, amended 1959, November 10, P.L. 1473.

§ 906. Delegating responsibility for requisitioning Federal supplies.

The responsibility of requisitioning, procurement, storage and issue of Federal property, arms and equipment for use of the Pennsylvania National Guard may be delegated to the duly appointed United States Property and Fiscal Officers and the duly appointed Assistant United States Property and Fiscal Officers for Air.

Source: This section is derived from Section 505 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 907. Augmenting department headquarters staff.

(a) General rule.--With the approval of the Governor, the Adjutant General may augment the department headquarters with qualified personnel in the following categories:

Retired Pennsylvania National Guard.

Inactive Pennsylvania National Guard.

Pennsylvania Guard.

Retired Personnel, any Federal armed service.

(b) Status of appointed personnel.--Personnel so appointed shall be assigned by the Governor and shall have all the rights, privileges and responsibilities under this title granted military personnel, and will take rank according to date of commission. Officers, warrant officers and enlisted personnel thus appointed will not be entitled to pay and allowances for drill or instruction periods but will be entitled to regular

expenses as authorized when performing official duties away from home stations unless otherwise prohibited by the Constitution of Pennsylvania.

(c) Absence of headquarters staff.--During the absence of the Federally recognized Headquarters and Headquarters Detachment of the Pennsylvania National Guard under call or order in the service of the United States, the Adjutant General is authorized to form a State Staff and Detachment of the Pennsylvania Guard to carry out the duties and responsibilities of the department in connection with the military forces of this Commonwealth.

Source: This section is derived from Section 506 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Reference to the naval militia is deleted.

§ 908. Expenditures in connection with distinguished guests.

The Adjutant General is authorized to expend, not to exceed \$10,000 annually, for the carrying out of his functions under this title for the entertainment of distinguished guests on official business. Payment shall be made by the State Treasurer in the normal manner upon submission of proper voucher by the Adjutant General.

Source: This section is derived from Section 507 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: The expenditure allowable in this section is increased from \$5,000 to \$10,000.

CHAPTER 11

PENNSYLVANIA NATIONAL GUARD

Sec.

- 1101. Pennsylvania National Guard as organized peacetime force.
- 1102. Composition and organization.



- 1103. General officers.
- 1104. Composition of units.
- 1105. Powers of a commanding general.
- 1106. Disbandment of units.
- 1107. Retention of ancient privileges.
- 1108. Administration of oaths and affirmations.

§ 1101. Pennsylvania National Guard as organized peacetime force.

The organized armed forces of this Commonwealth during time of peace shall be and constitute the Pennsylvania National Guard and shall be subject at all times to the orders of the officers thereof. Nothing in this chapter shall be construed to prevent the Governor as Commander-in-Chief, at his discretion, to form cadres of authorized war time organizations for the purpose of preplanning.

Source: This section is derived from Section 801 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 1102. Composition and organization.

The Pennsylvania National Guard shall consist of such personnel as may, under the act of Congress, be prescribed by the President of the United States as the portion of the National Guard of the United States apportioned and assigned to this Commonwealth. The personnel of the Pennsylvania National Guard shall be organized according to the directives of the Department of the Army and the Department of the Air Force.

Source: This section is derived from Section 803 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 1103. General officers.

(a) General rule.--Persons commissioned to and holding in the Pennsylvania National Guard the rank of general officer shall be known as general officers of the line. The number of general officers of the line of the Pennsylvania National Guard shall conform with the number of such officers allocated to this Commonwealth as authorized by the unit manning documents promulgated in conformity with the National Defense Act. General officers shall be appointed by the Governor with the consent of the Senate.

(b) Qualifications.--Each person appointed as a general officer of the line shall have the qualifications for promotion to general officer rank established by the Department of Defense.

Source: This section is derived from Section 815 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473; amended 1965, May 12, P.L. 59.

COMMENT: The senatorial consent contemplated in this section and Section 1303 would consist of a majority of its members if a proposed constitutional amendment to Article IV is approved by the electorate. Also see Section 1303, *infra*. The Senate confirmed eleven general officers between 1951-1972; see Report of Special (Senate) Committee to Study Confirmation Procedure, (1973), p. 41.

§ 1104. Composition of units.

The composition of all units of the Pennsylvania National Guard, including the commissioned and enlisted personnel thereof other than those specifically provided for in this chapter, shall be fixed from time to time by the Governor and announced in orders, and shall, as far as practicable, be in accordance and in compliance with such regulations as may be promulgated by the Secretary of the Army and Secretary of the Air Force for the composition of the National Guard. Every such order shall have

the same force and effect as if specifically enacted and provided for by statute.

Source: This section is derived from Section 805 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 1105. Powers of a commanding general.

A general officer of the Pennsylvania National Guard commanding a division or non-divisional organizations and units equivalent to a division shall have all the power and authority of a major general under the rules and regulations prescribed, or hereafter to be prescribed, for the government of the armed forces of the United States, subject to the orders and direction of the Governor as Commander-in-Chief. A division commander or commanding general of a non-divisional unit shall be responsible for the training, discipline, administration and efficiency of the division or non-division troops under his command and of any troops attached thereto. He shall be responsible for making recommendations to the Adjutant General concerning appointment and promotion of officers, and shall cause such inspections, investigations and reports to be made for the troops under his command as may be required by higher authority. He shall appoint such boards and courts-martial as may be required and authorized. This section shall also apply to general officers of the Pennsylvania Guard when organized.

Source: This section is derived from Section 806 of the Military Code of 1949, May 27, P.L. 1903.

§ 1106. Disbandment of units.

If it appears to the Governor as Commander-in-Chief that a unit of the Pennsylvania National Guard cannot discharge the duties required of it, such unit may be disbanded by the

Governor, if in his judgment the interests of the service justify it, subject to the restrictions of the National Defense Act.

Source: This section is derived from Section 810 of the Military Code of 1949, May 27, P.L. 1903.

§ 1107. Retention of ancient privileges.

Any unit of artillery, cavalry or infantry existing in this Commonwealth on the passage of the act of Congress of May 8, 1792, which by the laws, customs or usages of this Commonwealth has been in continuous existence since the passage of said act shall be allowed to retain its ancient privileges, subject, nevertheless, to all duties required by this title. Said organizations may be a part of the Pennsylvania National Guard and entitled to all the privileges thereof and shall conform in all respects, except as to cornets, to the organization, discipline and training of the National Guard in time of war. For the purpose of training and when on active duty in the service of the United States, they may be assigned to higher units, as the Governor may direct, and shall be subject to the orders of officers under whom they shall be serving.

Source: This section is derived from Section 811 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Units that qualify under this section must conform with the duties, organization, discipline and training of the National Guard in the time of war except with respect to "cornets" (the lowest commissioned officer in the cavalry).

§ 1108. Administration of oaths and affirmations.

(a) General rule.--General officers, field grade officers, adjutants, administrative officers (Air Force), summary courts and judge advocates are hereby authorized and empowered to

administer oaths and affirmations in all matters pertaining to and concerning the Pennsylvania National Guard, and all commissioned officers are authorized and empowered to administer oaths and affirmations in the enlistment of personnel for the Pennsylvania National Guard.

(b) Penalty for false oath.--Any person who shall falsely swear or affirm to any oath or affirmation before any such officer shall be guilty of a misdemeanor of the third degree.

Source: This section is derived from Section 838 of the Military Code of 1949, May 27, P.L. 1903.

## CHAPTER 13

### PENNSYLVANIA GUARD

Sec.

1301. Composition of Pennsylvania Guard.

1302. Designation and change of location of units.

1303. General officers of Pennsylvania Guard.

#### § 1301. Composition of Pennsylvania Guard.

The Pennsylvania Guard shall consist of such units as may be prescribed by the Governor.

Source: This section is derived from Section 1001 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

COMMENT: The structure of the Pennsylvania Guard shall be as prescribed by the Governor.

#### § 1302. Designation and change of location of units.

The Governor shall designate the location of the several organizations and units and may change the same at his discretion. Organizations and units shall be located wherever practicable in armories owned by the Commonwealth.

Source: This section is derived from Section 1002 of the Military Code of 1949, May 27, P.L. 1903.

§ 1303. General officers of Pennsylvania Guard.

(a) General rule.--Persons commissioned to and holding in the Pennsylvania Guard the rank of general officer shall be known as general officers of the Pennsylvania Guard. The number of general officers shall be determined by the Governor. General officers shall be appointed by the Governor with the consent of the Senate unless previously confirmed as a general officer by the Senate.

(b) Qualifications.--Any person appointed a general officer of the Pennsylvania Guard shall have served at least ten years as a commissioned officer in either the Pennsylvania National Guard, Pennsylvania Guard or any of the Armed Forces of the United States or their reserve components, which service may be cumulative.

Source: This section is partially derived from Section 815 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473; amended 1965, May 12, P.L. 59.

COMMENT: This section details the qualifications of the general officer of the Pennsylvania Guard. An exception to senatorial consent, see comment to Section 1103, was included to preclude reconfirmation when general officers are promoted.

CHAPTER 15

STATE ARMORY BOARD

Sec.

1501. Composition and general functions.

1502. Erection of armories.

1503. Management of armories.

1504. Purchase or lease of ground for armories.

- 1505. Donation of land by political subdivisions.
- 1506. Donation of property and services by political subdivisions.
- 1507. Sale of unusable armories and land.
- 1508. Payment of armory rentals by Commonwealth.
- 1509. Rentals of armories.
- 1510. Property in armories of units in Federal service.
- § 1501. Composition and general functions.

The State Armory Board shall consist of the Adjutant General, who shall act as chairman, and five members appointed by the Adjutant General. Three of the members of the State Armory Board appointed by the Adjutant General shall be members of the Pennsylvania National Guard. The State Armory Board shall exercise the powers, duties and provisions of this chapter. The board shall appoint a secretary who need not be a member of the board. It shall provide, equip, maintain, manage and regulate armories for the use of the Pennsylvania military forces. It may, with the approval of the Governor, accept gifts of land, with or without buildings thereon, to be used for military purposes. The title to all such land shall be taken in the name of the Commonwealth. It may also employ funds appropriated to it to purchase, for armory purposes, any suitable buildings or sites.

Source: This section is partially derived from Section 601 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: The composition of the board is delineated in this section. Reference to Pennsylvania Naval Militia is deleted from this section. The board's power to sell buildings or armory sites pursuant to the Governor's approval is set forth in Section 1508, infra.

§ 1502. Erection of armories.

The Armory Board is hereby empowered and directed to erect or provide anywhere within the limits of this Commonwealth, upon such terms and conditions as shall be decided upon by said Armory Board, armories for the use of the Pennsylvania National Guard. These armories shall be used for training assemblies, meetings and rendezvous purposes by the organizations of the Pennsylvania National Guard and, when organized, the Pennsylvania Guard.

Source: This section is derived from Section 602 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Reference to the Pennsylvania Naval Militia is deleted.

§ 1503. Management of armories.

The Armory Board shall constitute a board for the general management and care of said armories, when established, and shall have the power to adopt and prescribe rules and regulations for their management and government, and formulate such rules for the guidance of the organization occupying them as may be necessary and desirable.

Source: This section is derived from Section 603 of the Military Code of 1949, May 27, P.L. 1903.

§ 1504. Purchase or lease of ground for armories.

The Armory Board shall have full authority to purchase or lease ground in the various localities throughout this Commonwealth where it shall be deemed necessary to provide armories. The ground in each instance shall be purchased or leased in the name and for the use of the Commonwealth of



Pennsylvania, and upon the ground so purchased or leased, the Armory Board is authorized and directed to erect an armory or use said land for the benefit of the Pennsylvania military forces. When such armory or armories are erected or provided, the said Armory Board shall have charge thereof and arrange for its occupancy and use, under the direction and responsibility of the senior officer in command of the using unit or organization.

Source: This section is derived from Section 605 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: This section is revised to include the leasing of ground.

§ 1505. Donation of land by political subdivisions.

It shall be lawful for any county, city, borough, town or township to acquire by purchase or by gift, or by the right of eminent domain, any land for the use of the Pennsylvania National Guard, and to convey such lands so acquired to the Commonwealth of Pennsylvania. The proceedings for the condemnation of lands under the provisions of this chapter and for the assessment of damages for property taken, injured or destroyed shall be taken in the same manner as is now provided by the act of June 22, 1964 (P.L.84, No.6), known as the "Eminent Domain Code."

Source: This section is derived from Section 606 of the Military Code of 1949, May 27, P.L. 1903.

§ 1506. Donation of property and services by political subdivisions.

(a) General rule.--Any political subdivision of this Commonwealth is hereby authorized and empowered, either

independently or in connection with any other political subdivision of this Commonwealth, to provide and appropriate moneys or convey land to the Commonwealth of Pennsylvania to assist the Armory Board in the erection of armories for the use of the Pennsylvania National Guard. Any political subdivision may furnish water, light or fuel, either or all, free of cost to the Commonwealth of Pennsylvania, for use in any armory of the Pennsylvania National Guard, and to do all things necessary to accomplish the purpose of this chapter.

(b) Authority of government units.--The Armory Board shall have power to receive from any political subdivisions or other sources, donations of land, or contributions of money, to aid in providing or erecting armories throughout this Commonwealth for the use of the Pennsylvania National Guard and which shall be held as other property for the use of the Commonwealth of Pennsylvania. Such political subdivisions are hereby authorized to make such donations or contributions for the purpose of this chapter.

Source: Subsection (a) is derived from Section 608 of the Military Code of 1949, May 27, P.L. 1903. Subsection (b) is derived from Section 609 of the Military Code of 1949, May 27, P.L. 1903.

§ 1507. Sale of unusable armories and land.

(a) General rule.--Whenever, in the opinion of the Armory Board, any armory building, armory site, or other real estate owned by the Commonwealth is no longer suitable for military services due to change in population or to the needs of the military service, it may sell it in accordance with law.

(b) Disposition of proceeds.--The money derived from such sale of any armory building, armory site or other real estate

shall be paid into the State Treasury Armory Fund. Funds resultant from the provisions of this section shall be expended solely for the purchase of equipment, furniture and fixtures or for the construction of new armories in the Commonwealth of Pennsylvania and are hereby specifically so appropriated.

Source: Subsection (a) is derived from Section 615 of the Military Code of 1949, May 27, P.L. 1903. Subsection (b) is derived from Section 616 of the Military Code of 1949, May 27, P.L. 1903; amended 1961, September 2, P.L. 1223.

COMMENT: The authority to sell an armory building, an armory site or other real estate is placed in the Armory Board subject to other procedures required by law. See The Administrative Code of 1929, Section 514. Proceeds of such sales are paid into the State Treasury Armory Fund.

§ 1508. Payment of armory rentals by Commonwealth.

The annual rental of all armories and buildings not owned by the Commonwealth and occupied by any organization, shall be paid by the State Treasurer in the manner provided by law. All payments for light, heat, water and janitor services in rented armories and buildings shall be made by the Department of Military Affairs upon properly itemized vouchers, except where such services are furnished by the landlord under the rental contract.

Source: This section is derived from Section 617 of the Military Code of 1949, May 27, P.L. 1903.

§ 1509. Rental of armories.

The State Armory Board may issue such rules and regulations for the rental of armories for non-military purposes to responsible persons or organizations at scheduled rates approved by the State Armory Board. Said rentals shall be payable to the

State Armory Board for the use of the department.

COMMENT: This section is new. It authorizes the State Armory Board to issue rules and regulations concerning rentals of armories for nonmilitary purposes. The rentals are paid to the State Armory Board.

§ 1510. Property in armories of units in Federal service.

(a) Custody and use.--When units of the Pennsylvania National Guard are called or ordered into the service of the United States, all furniture, permanent property and equipment located in their respective armories, purchased from State or municipal funds, or donated to the unit from private sources, will be left in the armory and will be taken into custody by the State Armory Board, to be used by units of Pennsylvania military forces assigned to said armory, until such time as the Pennsylvania National Guard unit or organization returns.

(b) Reassignment and disposition.--If, upon the reorganization of the Pennsylvania National Guard following a war or emergency, the organization is not reorganized or is assigned to another location within this Commonwealth, then the property in question becomes the property of the Commonwealth to assign, reassign and dispose of as the State Armory Board may decide or direct.

Source: This section is derived from Section 618 of the Military Code of 1949, May 27, P.L. 1903.

SUBPART B

OFFICERS AND ENLISTED PERSONNEL

Chapter

21. General Service
23. Pennsylvania National Guard

25. Pennsylvania Guard

CHAPTER 21

GENERAL SERVICE

Sec.

2101. Exemption from militia duty.

§ 2101. Exemption from militia duty.

(a) General rule.--Members of the General Assembly, the judiciary and such other persons as the Governor by executive order may decree shall be exempt from militia duty.

(b) Exemption for religious belief.--All persons who because of religious belief shall claim exemption from militia service, if the conscientious holding of such belief for such person shall be established under the regulations prescribed by the Governor, shall be exempted from militia service in a combatant capacity, but no person so exempted shall be exempt from militia service in any capacity that the Governor shall declare to be noncombatant.

(c) Volunteers.--This section shall not be construed to prevent any person exempted from voluntarily enlisting or accepting a commission in the Pennsylvania military forces.

Source: This section is derived from Section 205 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: The previously enumerated exemptions were, with the exception of the General Assembly and the Judiciary, deleted because of inconsistencies and incompleteness. The Governor is authorized to decree by executive order the positions exempted.

CHAPTER 23

PENNSYLVANIA NATIONAL GUARD

Sec.

- 2301. Appointment of commissioned officers.
- 2302. Appointment of warrant officers.
- 2303. Oath of commissioned and warrant officers.
- 2304. Compensation of division commander or equivalent.
- 2305. Promotion of commissioned and warrant officers.
- 2306. Powers of commissioned, warrant and noncommissioned officers.
- 2307. Uniforms of commissioned officers.
- 2308. Term of commissioned and warrant officers.
- 2309. Discharge and removal of commissioned and warrant officers.
- 2310. Holding officers as supernumerary pending settlement.
- 2311. Enlistment of enlisted personnel.
- 2312. Discharge of enlisted personnel.
- 2313. Retired Pennsylvania National Guard personnel.
- 2314. Status when called into temporary Federal service.
- 2315. Status when ordered into active Federal service.
- 2316. Transfer unaccepted personnel to Pennsylvania Guard.
- 2317. Temporary commander of unit.

§ 2301. Appointment of commissioned officers.

All commissioned officers shall be appointed by the Governor and be commissioned according to the rank in the arm or service in which they are appointed. They shall meet all the requirements and qualifications now or hereafter prescribed by the laws of the United States and the rules and regulations promulgated thereunder for the organization and regulation of the Pennsylvania National Guard. No officer shall be commissioned until he shall have successfully passed such tests as to his physical, moral and professional fitness as shall be

prescribed in relation thereto.

Source: This section is derived from Section 812 of the Military Code of 1949, May 27, P.L. 1903.

§ 2302. Appointment of warrant officers.

All warrant officers shall be appointed by the Governor and the warrant will bear the grade and warrant officer classification. Warrant officers shall meet all the requirements and qualifications now or hereafter prescribed by the laws of the United States and the rules and regulations promulgated thereunder for the organization and regulation of the Pennsylvania National Guard.

Source: This section is derived from Section 813 of the Military Code of 1949, May 27, P.L. 1903.

§ 2303. Oath of commissioned and warrant officers.

All commissioned officers and warrant officers shall take the following oath:

"I,.....do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the Commonwealth of Pennsylvania; that I make this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office of.....in the National Guard of the Commonwealth of Pennsylvania upon which I am about to enter, so help me God."

Source: This section is derived from Section 814 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 2304. Compensation of division commander or equivalent.

When a general officer commanding a division or the commanding officer of nondivisional troops equivalent in size to a separate infantry brigade is permanently employed by the Commonwealth in his command capacity, he shall receive the pay in accordance with the current compensation plan of the Commonwealth.

Source: This section is derived from Section 816 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 2305. Promotion of commissioned and warrant officers.

The Governor has the power to promote officers and warrant officers of the Pennsylvania National Guard in accordance with the laws of the United States and rules and regulations promulgated thereunder.

Source: This section is derived from Section 817 of the Military Code of 1949, May 27, P.L. 1903.

§ 2306. Powers of commissioned, warrant and noncommissioned officers.

Commissioned officers, warrant officers and noncommissioned officers of the Pennsylvania National Guard under their State commissions and warrants shall have all the powers inherent with command and training responsibility as are granted officers, warrant officers and noncommissioned officers of like rank and



grade in the armed forces of the United States by law, policy and customs of the service.

Source: This section is derived from Section 818 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 2307. Uniforms of commissioned officers.

Every commissioned officer and warrant officer shall furnish his own uniforms which shall be as prescribed by the Adjutant General, in accordance with Federal rules and regulations. An allowance for this purpose, not to exceed \$300 for each officer upon commissioning, may be prescribed by the Governor. In addition thereto, the Governor may prescribe a further allowance not to exceed \$50 in any one year for each officer, for the maintenance of such uniforms.

Source: This section is derived from Section 820 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Commissioned officers no longer need furnish their own arms and equipment. The uniform allowance is raised from \$150 to \$300. The \$50 additional allowance is now limited to the maintenance of said uniforms.

§ 2308. Term of commissioned and warrant officers.

The term of every commissioned officer and warrant officer shall be permanent or until terminated by reason of death, retirement, physical disqualification, acceptance by proper authority of resignation, action by a properly constituted board or court martial, or in accordance with Federal regulations governing withdrawal of Federal recognition of a commissioned officer or warrant officer.

Source: This section is derived from Section 821 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 2309. Discharge and removal of commissioned and warrant officers.

(a) Discharge for unfitness.--At any time, the moral character, capacity and general fitness for the service of any Pennsylvania National Guard officer or warrant officer may be determined by a fitness board or court of inquiry of three commissioned officers, senior in rank, if possible, to the officer whose fitness for service shall be under investigation. This board shall be appointed by the Governor, in the case of general officers and officers of the headquarters Pennsylvania National Guard, and by the Adjutant General in all other cases. If the findings of such board be unfavorable to such officer or warrant officer and be approved by the Governor he shall be discharged.

(b) Grounds for vacating commission or warrant.--Commissions of officers or warrants of warrant officers of the Pennsylvania National Guard may be vacated for any of the following reasons:

- (1) Upon the recommendation of a fitness board.
- (2) If recourse occurs on his bond in the settlement of his financial or property accounts.
- (3) If he has been convicted of a felony.
- (4) Upon withdrawal of Federal recognition.

(c) Grounds for vacating office or assignment.--When a commissioned or warrant officer of the Pennsylvania National Guard retires, accepts an appointment to another office therein, is transferred to the Inactive National Guard, resigns, is

relieved from active duty but held as a supernumerary, or dies, the office or assignment previously held shall be deemed to have been vacated.

Source: Subsections (a) and (b) are derived from Section 822 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473. Subsection (c) is derived from Section 823 of the Military Code of 1949, May 27, P.L. 1903.

§ 2310. Holding officers as supernumerary pending settlement.

A commissioned officer responsible for Commonwealth funds or Commonwealth property or property of the United States issued to him by the Adjutant General or United States property and disbursing officer, or acquired by transfer, inventory or purchase from annual allowance of Commonwealth funds, who may tender his resignation or who may be relieved from command by competent orders of the Governor, and whose accounts are not settled, may be held as supernumerary pending settlement of his accounts. A commissioned officer so held as supernumerary shall be amenable to court-martial for military offenses to the same extent and in like manner as if upon the active list.

Source: This section is derived from Section 824 of the Military Code of 1949, May 27, P.L. 1903.

§ 2311. Enlistment of enlisted personnel.

(a) Qualifications.--Every enlisted person shall meet all the qualifications prescribed by the laws of the United States and the rules and regulations promulgated thereunder.

(b) Enlistment contract and oath.--Every person enlisting in the Pennsylvania National Guard shall sign an enlistment contract and take and subscribe to the oath of enlistment

prescribed by the current Federal regulations.

(c) Extending term of enlistment.--The Adjutant General, with the approval of the Governor, may, upon request by appropriate Federal authority, extend the term of enlistment contracted for by a term not exceeding 12 months.

(d) Denial of extension of enlistment or reenlistment.--Upon the expiration of the term of service of an enlisted person, if good and sufficient reasons exist for the unit commander to believe that it would not be in the best interests of the Pennsylvania National Guard to permit this person to reenlist or extend his enlistment contract, such unit commander may deny reenlistment or extension of enlistment.

Source: This section is derived from Section 825 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473; amended 1961, September 2, P.L. 1243.

COMMENT: Subsection (d) is new. It codifies the inherent power of commander to deny an extension for good and sufficient reasons.

#### § 2312. Discharge of enlisted personnel.

(a) General rule.--An enlisted person discharged from service in the Pennsylvania National Guard shall receive a discharge in writing in such form and with such classification as shall be prescribed by the National Guard Bureau, and in time of peace discharges may be given prior to the expiration of terms of enlistment, under such regulations as the Governor may prescribe, subject to the restrictions of the National Defense Act, or amendments thereto.

(b) Termination of Federal service.--On termination of an emergency in which enlisted personnel of the Pennsylvania National Guard shall have been called into the Federal service

by the President of the United States in accordance with the provisions of the National Defense Act, such enlisted personnel shall continue to serve in the National Guard until the dates upon which their enlistment entered into prior to their call into the Federal service would have expired if uninterrupted.

(c) Termination of enlistment.--The term of enlistment of every enlisted person's enlistment contract will be for the period of his enlistment or until terminated by reason of any of the following:

(1) Death.

(2) Reaching the maximum age-in-grade limitations provided in Army and Air National Guard regulations.

(3) Physical disqualification.

(4) Any other reason enumerated in this title or for reasons specified in Army or Air National Guard regulations.

(d) Failure to meet qualifications.--In addition to the provisions of subsection (c), if during the term of enlistment it is determined that an enlisted person does not meet all the prescribed qualifications specified by the Federal regulations and if a waiver is not appropriate or authorized, then the enlisted person shall be discharged.

Source: Subsections (a) and (b) are derived from Section 826 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473. Subsection (c) is derived from Section 821 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 2313. Retired Pennsylvania National Guard personnel.

(a) Promotions.--Every former officer, warrant officer or enlisted person shall, upon application to the Adjutant General

after his or her retirement, be promoted to the next higher grade in the Pennsylvania National Guard retired list above that presently held in a grade Federally recognized if the applicant:

(1) has served a total of 25 years in armed forces of the United States or its components, ten years of which includes service in Pennsylvania National Guard with active Federal service counting as double time. The 25 years service shall be such as would be credited for retirement of National Guard and Reserve personnel; or

(2) has attained the grade of major general in the Pennsylvania National Guard and has been Federally recognized in such grade; or

(3) has served in the Pennsylvania National Guard, Pennsylvania Guard or both for a period of 25 or more years and who has served in his highest grade for at least one year.

Promotion to general officer on the retired list shall not require the consent of the Senate.

(b) Computation of period of service.--In considering the period of service under this section, the military service of personnel in the Pennsylvania National Guard engaged in the service of the United States or active service in the armed forces of the United States shall be included and counted double in calculating the period of service for retirement with increased grade under provisions of this section.

(c) Wearing uniform following retirement.--All retired officers and enlisted personnel shall be entitled to wear the uniform of their grade as retired officers and enlisted personnel of the Pennsylvania National Guard on all proper

military and semi-military occasions within this Commonwealth.

(d) Applicability of section.--The provisions of retirement with increased rank shall be applicable when applied to officers retired prior to the effective date of this section and the provisions of this section shall apply to deceased officers on the retired list upon proper application to the Adjutant General by some duly recognized veterans' organization.

Source: This section is derived from Section 836 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473; amended 1959, December 2, P.L. 1624; and Section 837 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Senate confirmation is not required for promotion.

§ 2314. Status when called into temporary Federal service.

(a) General rule.--When any or all parts of the Pennsylvania National Guard are called as such into the service of the United States, their units and members retain their State status as Federally recognized units and members of the Pennsylvania National Guard in a state of temporary suspension. Under a Presidential call, officers of the Pennsylvania National Guard shall continue to be appointed by the State and neither officers nor enlisted personnel may be held to service beyond the terms of their existing commissions or enlistments while in the service of the United States.

(b) Termination of service.--When the call into the service of the United States has been terminated and organizations, units and personnel are returned to their status as the Pennsylvania National Guard, personnel shall continue to serve in the Pennsylvania National Guard until the date which their commission or enlistment entered into prior to the call or

during the call would have expired if uninterrupted.

Source: This section is derived from Section 828 of the Military Code of 1949, May 27, P.L. 1903.

§ 2315. Status when ordered into active Federal service.

(a) General rule.--When any or all of the units and members of the Pennsylvania National Guard are ordered into the active military service of the United States, they stand relieved from duty in the Pennsylvania National Guard during the period of such active military service, irrespective of the term of their existing commissions or enlistments. Their prior status as units and members of the Pennsylvania National Guard continues to exist as an underlying and temporarily suspended status of origin to which they may and do return upon relief from the active military service of the United States.

(b) Termination of service.--When the duration of their active military service of the United States is of such a duration and units and members so intermingled with other organizations and units of the armed forces of the United States that makes it impracticable for the units and members to return to that prior status as units and members of the Pennsylvania National Guard and it therefore becomes necessary to completely reorganize the Pennsylvania National Guard, former members, who accept a commission or enlist in the reorganized Pennsylvania National Guard under the conditions then applicable and prior to the date of Federal recognition, shall have their service for the purpose of longevity, State retirement, medals and awards count as continuous and uninterrupted.



Source: This section is derived from Section 829 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

COMMENT: Reference to specific service of personnel in World War I and World War II is deleted.

§ 2316. Transfer of unaccepted personnel to Pennsylvania Guard.

When the Pennsylvania National Guard, or any part thereof, is ordered or called into the service of the United States, officers, warrant officers and enlisted personnel of the Pennsylvania National Guard not accepted for Federal service because of physical defects, age or other cause may be immediately transferred to the rolls of the Pennsylvania Guard and assigned to units or organizations of the Pennsylvania Guard by the department. The officer, warrant officer and enlisted personnel so transferred may serve in the Pennsylvania Guard for the duration of the emergency plus six months unless sooner discharged under the terms of their State commission or enlistment contract.

Source: This section is derived from Section 830 of the Military Code of 1949, May 27, P.L. 1903.

§ 2317. Temporary commander of unit.

When a unit is without commissioned officers from any cause, the commanding officer of the next higher unit in the military chain of command of which it is a part shall detail an officer to command said organization until an officer has been appointed or assigned thereto.

Source: This section is derived from Section 831 of the Military Code of 1949, May 27, P.L. 1903.

CHAPTER 25  
PENNSYLVANIA GUARD

Sec.

- 2501. Oath of commissioned officers.
- 2502. Physical qualifications of officers and enlisted personnel.
- 2503. Enlistment contract and oath.
- 2504. Retirement of commissioned officers and enlisted personnel.

§ 2501. Oath of commissioned officers.

Each commissioned officer before entering upon the duties of his appointment shall take and subscribe the following oath: "I, ....., do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania against all enemies; that I will bear true faith and allegiance to the same; that I will obey the orders of the Governor of the Commonwealth of Pennsylvania; that I make this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office ..... in the Pennsylvania Guard upon which I am about to enter."

Source: This section is derived from Section 1003 of the Military Code of 1949, May 27, P.L. 1903.

§ 2502. Physical qualifications of officers and enlisted personnel.

The Governor will, by executive order, prescribe the age limitations and physical qualifications which will govern both officers and enlisted personnel in the Pennsylvania Guard, but

no person shall be refused enlistment or a commission or in any way be discriminated against in the administration of this title by reason of his race, color, sex, creed or national origin.

Source: This section is derived from Section 1004 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: The prohibition against discrimination by reason of sex is added.

§ 2503. Enlistment contract and oath.

Every person enlisting in the Pennsylvania Guard shall sign an enlistment contract and take and subscribe to the following oath of enlistment: "I do hereby acknowledge to have voluntarily enlisted this....., 19...., as a soldier in the Pennsylvania Guard for the period of the emergency plus six months unless sooner discharged by proper authority, and I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the Commonwealth of Pennsylvania, and that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the order of the Governor of the Commonwealth of Pennsylvania and of the officers appointed over me according to law."

Source: This section is derived from Section 1005 of the Military Code of 1949, May 27, P.L. 1903.

§ 2504. Retirement of commissioned officers and enlisted personnel.

Commissioned officers and enlisted personnel of the Pennsylvania Guard shall be controlled by section 2313 (relating to retired Pennsylvania National Guard personnel) for promotion on the Pennsylvania Guard retired list.

COMMENT: This section is new. Retirement of commissioned officers and enlisted personnel of the Pennsylvania Guard is determined by applicable provisions pertaining to the retirement of the Pennsylvania National Guard.

SUBPART C

PAY, ALLOWANCES, BENEFITS AND MEDALS

Chapter

- 31. Pennsylvania National Guard
- 33. Pennsylvania Guard
- 35. Disability Relief and Pensions
- 37. Decorations, Medals, Badges and Awards

CHAPTER 31

PENNSYLVANIA NATIONAL GUARD

Sec.

- 3101. Pay of officers on special duty.
- 3102. Pay of officers and enlisted personnel in active State service.
- 3103. Transportation and expenses of personnel on special duty.
- § 3101. Pay of officers on special duty.

Commissioned officers may be ordered upon special duty at the discretion of the Governor and shall receive the pay and allowances of their respective grades during the time they may continue upon duty under such order.

Source: This section is derived from Section 832 of the Military Code of 1949, May 27, P.L. 1903.

§ 3102. Pay of officers and enlisted personnel in active State service.

(a) General rule.--When the Pennsylvania National Guard or Pennsylvania Guard, or any part thereof, is ordered on active duty for State service by the Governor as Commander-in-Chief and pay is authorized for such duty under the order prescribing the performance thereof, the commissioned officers, warrant officers and enlisted personnel so ordered shall be entitled to the same pay and allowances and transportation in kind provided for in the current Armed Forces Pay and Allowance Act. Notwithstanding any provisions of such act, the pay of any such personnel shall not be less than \$25 per day.

(b) Payments and deductions.--All payments of pay and service shall be made by the Adjutant General in the usual manner. No deductions shall be made from the pay of officers or enlisted personnel in active State service for dues or other financial obligations imposed by any bylaws, rules or regulations of a civil character.

Source: This section is derived from Section 834 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473; amended 1968, December 11, P.L. 1180, No. 372; amended 1972, October 16, P.L. 927, No. 221.

COMMENT: Specific reference to grades of enlisted personnel is deleted.

§ 3103. Transportation and expenses of personnel on special duty.

Personnel in attendance upon court-martial, boards of examination, fitness boards and other necessary duty as prescribed by the Adjutant General shall receive transportation in kind as may be provided for in orders, and the necessary expenses lawfully incurred in the performance of any such duty shall be paid upon proper vouchers duly approved by the officer

under whose orders the duty is performed.

Source: This section is derived from Section 835 of the Military Code of 1949, May 27, P.L. 1903.

### CHAPTER 33

#### PENNSYLVANIA GUARD

Sec.

3301. Pay and expenses of officers and enlisted personnel.

3302. Uniforms, arms and equipment.

3303. Pennsylvania National Guard laws generally to apply.

§ 3301. Pay and expenses of officers and enlisted personnel.

(a) Armory drills.--All officers and enlisted personnel will receive pay for armory assemblies not to exceed 60 assembly days in any one year. The rate of pay shall be in accordance with the corresponding grades and length of service of the current Armed Forces Pay and Allowance Act. An assembly shall consist of at least four hours of training.

(b) Active State service.--In the event of a calling of all or any part of the Pennsylvania Guard into active State service, the pay and transportation of officers and enlisted personnel shall be on the same basis as provided for similar grades under the current Armed Forces Pay and Allowance Act.

(c) Annual training.--The Governor is further authorized to provide an annual training period for the Pennsylvania Guard, not to exceed 30 days in any one year, during which period the pay, allowances and transportation of officers and enlisted men shall be on the same basis as provided for similar grades in the current Armed Forces Pay and Allowance Act.

Source: This section is derived from Section 1006 of the Military Code of 1949, May 27, P.L. 1903.

§ 3302. Uniforms, arms and equipment.

The Governor is authorized to requisition from the Department of Defense such uniforms, arms and equipment as may be available for use of the Pennsylvania Guard as may be authorized by the Congress of the United States to be made available to the Pennsylvania Guard. In the event uniforms and equipment are not available from the Federal Government for the use of the Pennsylvania Guard, the Governor shall cause to be provided such uniforms, arms and equipment as may be necessary for the efficient functioning and operation of the Pennsylvania Guard.

Source: This section is derived from Section 1008 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

§ 3303. Pennsylvania National Guard laws generally to apply.

All laws or sections of laws of this Commonwealth pertaining to the Pennsylvania National Guard shall be applicable and shall govern the Pennsylvania Guard except as modified or changed by the provisions of this chapter.

Source: This section is derived from Section 1009 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473.

CHAPTER 35

DISABILITY RELIEF AND PENSIONS

Sec.

3501. Relief for disability incurred in active State service.

3502. Deceased soldier's dependents' pension.

§ 3501. Relief for disability incurred in active State service.

(a) General rule.--If any officer or enlisted man of the Pennsylvania National Guard is injured or otherwise disabled, or dies as a result of injuries or other disability received or contracted while performing duty in active service of the Commonwealth or in the performance of other State military duty under competent order or authority, or while engaged in volunteer service during a civil emergency at the request of competent military authority, he or his dependents, if not compensated therefor by the government of the United States, shall receive from the Commonwealth just and reasonable relief, the amount of compensation to be determined in accordance with the Workmen's Compensation Law of Pennsylvania. The General Assembly shall appropriate the moneys necessary to provide for such compensation.

(b) Computation of average weekly wage.--In the computation of average weekly wage for purposes of compensating a member of the Pennsylvania National Guard or his beneficiaries, "wages" shall include all earnings during the period used for such computation received from employment in the national guardsman's usual occupation.

Source: This section is derived from Section 844 of the Military Code of 1949, May 27, P.L. 1903; amended 1961, August 8, P.L. 981; amended 1965, July 23, P.L. 249.

COMMENT: For the authority to implement this section see Section 702 (11).

§ 3502. Deceased soldier's dependents' pension.

(a) Amount and persons entitled.--A pension may be paid to



either the widow or widower or minor children or dependent parent of any member of the Pennsylvania National Guard, who may die from injuries received, or who may be killed while in active service, under orders of the Governor, which active service shall include participation in armory assemblies or participation in aerial flights incidental to training. Such pension shall be computed on the following basis and distributed to the following persons monthly:

(1) To each minor child, if there is no widow or widower entitled to compensation, \$50, with \$25 for each child in excess of two, with a maximum of \$150 to be paid to their guardian.

(2) To the widow or widower, if there are no children, \$50.

(3) To the widow or widower, if there is one child, \$75.

(4) To the widow or widower, if there are two children, \$100.

(5) To the widow or widower, if there are three children, \$125.

(6) To the widow or widower, if there are four or more children, \$150.

(7) To the father and mother, if there is no widow, widower, or children, if dependent to any extent upon the member for support at the time of his death, \$50.

(b) Workman's compensation.--Such pension shall be in addition to any relief in the form of compensation determined under the Workmen's Compensation Law of Pennsylvania as authorized by section 3501 (relating to relief for disability incurred in active State service).

(c) Claims.--All claims for pension under this section shall be made to the department, which shall establish rules governing the filing of such claims. The department shall investigate all circumstances connected with the death of the person and make a recommendation to the Adjutant General as to the granting of a pension. If a pension is granted, it shall be paid quarterly in the manner provided by law.

(d) Term and removal.--No pension granted under this section shall be granted for a longer period than five years; but may be renewed, for a further period of five years, upon satisfactory evidence of the dependency of the pensioner being submitted or obtained by the department.

(e) Revocation.--The department shall have power to revoke any pension granted under this section when it shall be shown to the satisfaction of the department that the pensioner is no longer in a state of dependency.

(f) Exemption.--The provisions of this section shall not apply to any member of the Pennsylvania National Guard while in the service of the United States, in case of war, or under the orders of the President of the United States.

(g) Appropriation.--The necessary appropriation to pay any pensions granted under this section shall, at each regular session of the General Assembly, be included in the items pertaining to the department, in the act of Assembly providing for the ordinary expenses of the Executive, Judicial, and Legislative Departments of the Commonwealth.

Source: This section is derived from the act of 1909, April 1, P.L. 95, Sections 1, 2, 3, 4, 5 and 6. Sections 1 and 2 amended 1929, May 8, P.L. 1680 and 1972, December 29, P.L. 1709, No. 365.

COMMENT: Also see Section 702 (11).

## CHAPTER 37

### DECORATIONS, MEDALS, BADGES AND AWARDS

Sec.

3701. Authorized decorations, medals, badges and awards.

3702. Specifications.

3703. Wearing of military insignia by municipal employees.

3704. Saving provision.

§ 3701. Authorized decorations, medals, badges and awards.

(a) General rule.--The following decorations, medals, badges and awards are authorized to be presented by the Governor in the name of the Commonwealth:

- (1) Pennsylvania Cross for Valor.
- (2) Pennsylvania Distinguished Service Medal.
- (3) Pennsylvania Meritorious Service Medal.
- (4) Pennsylvania Commendation Medal.
- (5) State Medal for Federal Service during any war.
- (6) Pennsylvania Service Ribbon or Medal for active State service during an emergency.
- (7) Pennsylvania Twenty Year Service Medal.
- (8) Major General Thomas R. White, Jr. Medal.
- (9) General Thomas J. Stewart Medal.
- (10) Pennsylvania Outstanding Aeronautical Achievement Award.
- (11) Marksmanship Medals or Badges.

(b) Method of award.--The following decorations, medals, badges and awards will be awarded under the following conditions:

(1) The Pennsylvania Cross for Valor shall be awarded by the Governor to members of the Pennsylvania National Guard, Pennsylvania Guard or the armed forces of the United States or their reserve components for acts of bravery or valor above the ordinary gallantry of other members of the services.

(2) The Pennsylvania Distinguished Service Medal shall be awarded by the Governor to members of the Pennsylvania National Guard, Pennsylvania Guard or armed forces of the United States or their reserve components in recognition of meritorious service beyond the normal dictates of duty to this Commonwealth.

(3) The Pennsylvania Meritorious Service Medal shall be awarded by the Governor to civilians and members of the Pennsylvania National Guard, Pennsylvania Guard or the armed forces of the United States or their reserve components in recognition of meritorious service rendered this Commonwealth and while holding a position of great responsibility.

(4) The qualifications for awarding the Pennsylvania Commendation Medal, the State Medal for Federal Service during any war, the Service Ribbon or Medal for active State service during an emergency, the Pennsylvania Twenty Year Service Medal, the Major General Thomas R. White, Jr. Medal, the General Thomas J. Stewart Medal, the Pennsylvania Outstanding Aeronautical Achievement Award, and the Marksmanship Medals or Badges, shall be prescribed by the Adjutant General by regulation.

(5) The Adjutant General is empowered to establish such other decorations, medals, badges and awards as he may

prescribe by regulation.

(c) Recommendations for medals.--All recommendations for decorations, medals, badges and awards, except those of the Governor, must be forwarded to the Governor through the department.

Source: Subsection (a) is derived from Section 1101 of the Military Code of 1949, May 27, P.L. 1903; amended 1965, November 10, P.L. 841. Subsections (b) and (c) are derived from Section 1103 of the Military Code of 1949, May 27, P.L. 1903; amended 1959, November 10, P.L. 1473; amended 1965, November 10, P.L. 841.

COMMENT: Qualifications for the Pennsylvania Cross for Valor, the Pennsylvania Distinguished Service Medal and the Pennsylvania Meritorious Service Medal are specified. The Adjutant General shall prescribe the qualifications for all other decorations, medals, badges and awards. The Adjutant General is also empowered to establish new decorations, medals, badges and awards. References to the naval militia and the Pennsylvania Naval Militia are deleted.

§ 3702. Specifications.

The Adjutant General shall prescribe the detailed specifications and design for said decorations, medals, badges and awards, and is authorized to procure those items in the prescribed manner. The Adjutant General shall issue appropriate rules and regulations for the wearing of said decorations, medals, badges and awards in accordance with the customs and traditions of the Pennsylvania National Guard.

COMMENT: This section is new. It authorizes the Adjutant General to prescribe detailed specifications and design of said decorations, medals, badges and awards. The Adjutant General is authorized to issue rules and regulations for the wearing of decorations.

§ 3703. Wearing of military insignia by municipal employees.

It is unlawful for any official of the Commonwealth or any political subdivision thereof to forbid or prohibit by ordinance, rule, or regulation the wearing, by any of its

employees or agents, of any service bar or insignia provided or authorized by the Federal Government, indicating military service in any war, upon any part of the uniform worn by them as employees or agents of the political subdivision.

Source: This section is derived from the act of 1923, April 23, P.L. 86, No. 60.

§ 3704. Saving provision.

Nothing in this chapter shall be construed as to invalidate or repeal any decorations, medals, badges or awards heretofore presented.

Source: This section is new. It insures that decorations, medals, badges and awards heretofore presented shall in no way be considered invalid.

SUBPART D

RIGHTS AND IMMUNITIES

Chapter

41. Rights and Immunities

CHAPTER 41

RIGHTS AND IMMUNITIES

Sec.

- 4101. Equality of treatment and opportunity for members.
- 4102. Leaves of absence for certain government employees.
- 4103. Exemption of uniforms and equipment.
- 4104. Exemption from arrest.
- 4105. Exemption from civil process.
- 4106. Exemptions from further military service and jury duty.
- 4107. Legal aid.
- 4108. Liability of Commonwealth for judgments against personnel on State duty.

§ 4101. Equality of treatment and opportunity for members.

It is hereby declared to be the policy of this Commonwealth that there shall be equality of treatment and opportunity for all persons in the Pennsylvania National Guard and the Pennsylvania Guard, without regard to race, creed, color, national origin or sex. Such policy shall be put into effect giving due regard to the powers of the Federal Government which are or may be exercised over the Pennsylvania National Guard and to the time required to effectuate changes without impairing the efficiency or morale of the Pennsylvania National Guard.

Source: This section is derived from Section 104 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: Reference to the naval militia and Pennsylvania Naval Militia is deleted. Equality of treatment with regard to sex is added.

§ 4102. Leaves of absence for certain government employees.

All officers and employees of the Commonwealth, or its instrumentalities, or any political subdivision thereof, or its instrumentalities, who are commissioned or enlisted members of the Pennsylvania National Guard, shall be entitled to leave of absence from their respective duties without loss of pay, time or efficiency rating on all days during which they shall, as members of the Pennsylvania National Guard, be engaged in active State duty. All such officers and employees shall be entitled to leave of absence from their respective duties without loss of pay, time or efficiency rating on all days not exceeding 15 days in any one year during which they shall, as members of the Pennsylvania National Guard, be engaged in training under orders authorized by law.

Source: This section is derived from Section 839 of the Military Code of 1949, May 27, P.L. 1903; amended 1970, March 25, P.L. 223, No. 90.

COMMENT: This section is expanded to bring the provisions pertaining to leaves of absence for Pennsylvania National Guardsmen into conformity with similar provisions pertaining to reservists under the act of July 12, 1935, P.L. 677, No. 255. Members of the Pennsylvania National Guard who qualify under this section shall be entitled to a maximum 15-day leave of absence for training, and those days they serve on active state duty, without loss of pay, time or efficiency rating. Also see Attorney General Opinion No. 75-4 and Loomis v. Board of Education of School District of Philadelphia, 376 Pa. 423 (1954).

§ 4103. Exemption of uniforms and equipment.

The uniform and accoutrements of every commissioned officer and enlisted man shall be free from all suits, distresses, executions or sales for debt or payment of taxes.

Source: This section is derived from Section 840 of the Military Code of 1949, May 27, P.L. 1903.

§ 4104. Exemption from arrest.

No officer or enlisted person shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from, a place where he is ordered to attend for military duty.

Source: This section is derived from Section 841 of the Military Code of 1949, May 27, P.L. 1903.

§ 4105. Exemption from civil process.

No civil process shall issue or be enforced against any officer or enlisted person of the Pennsylvania National Guard in the active service of the Commonwealth during so much of the



term as he shall be engaged in active service under orders nor until 30 days after he shall have been relieved therefrom. The operation of all statutes of limitations and presumptions arising from lapse of time shall be suspended upon all claims by or against such officer or enlisted person during the aforesaid period.

Source: This section is derived from Section 842 of the Military Code of 1949, May 27, P.L. 1903.

§ 4106. Exemptions from further military service and jury duty.

In addition to the exemptions now allowed by law, any person who shall have performed duty in the Pennsylvania National Guard for a period of nine years or who served for nine months or a longer period in active service of the United States and was honorably discharged or mustered out, shall be exempt from further military service, except in case of war, invasion or insurrection. Every officer and enlisted person of the Pennsylvania National Guard shall be exempt from jury duty during the period of his active service.

Source: This section is derived from Section 843 of the Military Code of 1949, May 27, P.L. 1903; amended 1961, August 18, P.L. 1007.

COMMENT: The exemption of a person engaged in active service from service in a posse comitatus is deleted.

§ 4107. Legal aid.

Members of the Pennsylvania Military Forces on State duty shall receive legal assistance from the Commonwealth for any charge of criminal or civil liability resulting from their duty. The assistance shall be limited to members acting under lawful

orders or on good faith reliance on an order which a reasonable person would consider to be lawful under the circumstances. No assistance shall be provided by the Commonwealth when the Pennsylvania National Guard is called into the service of the United States.

COMMENT: This section is new. It provides legal assistance from the Commonwealth to certain members of the Pennsylvania National Guard and the Pennsylvania Guard. This section is derived from 1975 House Bill No. 350, Printer's No. 387; also see 1973 House Bill No. 656, Printer's No. 1743.

§ 4108. Liability of Commonwealth for judgments against  
personnel on State duty.

The Commonwealth of Pennsylvania shall be responsible for the payment of all judgments and costs secured against a member of the Pennsylvania Military Forces on State duty who was acting under lawful orders or who in good faith relied on an order which a reasonable person would consider to be lawful under the circumstances.

COMMENT: This section is new. It provides that the Commonwealth shall be responsible for judgments secured against certain members of the Pennsylvania National Guard and the Pennsylvania Guard. This section is derived from 1975 House Bill No. 351, Printer's No. 388; also see 1973 House Bill No. 657, Printer's No. 753.

PART III

INTERSTATE RELATIONS

Chapter

- 45. Interstate Compact
- 47. Fresh Pursuit by Military Forces

CHAPTER 45

INTERSTATE COMPACT

Sec.

4501. Interstate compact for mutual military aid.

§ 4501. Interstate compact for mutual military aid.

The Commonwealth of Pennsylvania does hereby join, approve and become a party to a solemn compact with the State of New Jersey and the State of New York and any other state concurring therein or otherwise approving thereof, in form and terms as heretofore agreed to by the Governor of the State of New Jersey and the Governor of the State of New York and approved by the respective Legislatures thereof, as follows:

An Interstate Compact For Mutual Military Aid In An Emergency.

Article I

(1) The purposes of this compact are:

(a) To provide for mutual military aid and assistance, in an emergency, by the military forces of a signatory state to the military forces of the other signatory states or of the United States, including, among other, military missions, the protection of interstate bridges, tunnels, ferries, pipelines, communications, facilities, and other vital installations, plants and facilities, and the military support of civil defense agencies.

(b) To provide for the fresh pursuit, in case of an emergency, by the military forces or any part or member thereof of a signatory state into another state, of insurrectionists, saboteurs, enemies or enemy forces, or persons seeking or appearing to seek to overthrow the government of the United States or of a signatory state.

(c) To make provision for the powers, duties, rights, privileges and immunities of the members of the military forces of a signatory state while so engaged outside of their own

state.

(2) (a) "Emergency," as used in this compact, shall mean and include invasion or other hostile action, disaster, insurrection, or imminent danger thereof.

(b) "State," as used in this compact, shall include any signatory state.

(c) "Military forces," as used in this compact, shall include the organized militia or any force thereof of a signatory state.

#### Article II

This compact shall become effective as to the signatory states when the Legislatures thereof have approved it and when the Congress has given its consent either before or after the date hereof. Any state not a party to this compact at the date hereof may become a party hereto.

#### Article III

The Governor of each signatory state, or his designated military representative, shall constitute the Committee for Mutual Military Aid for signatory states. It shall be the duty of the Committee for Mutual Military Aid to make joint plans for the employment of the military forces of the signatory states for mutual military aid and assistance in case of emergency.

#### Article IV

(1) It shall be the duty of each signatory state to integrate its plan for the employment of its military forces, in case of emergency, with the joint plans recommended by the Committee for Mutual Military Aid and with the emergency plans of the armed forces of the United States.

(2) In case of emergency, upon request of the Governor

of a signatory state, the Governor of each signatory state, to the extent consistent with the needs of his own state, shall order its military forces, or such part thereof as he in his discretion may find necessary, to assist the military forces of the requesting state, in order to carry out the purposes set forth in this compact. In such case, it shall be the duty of the Governor of each signatory state receiving such a request to issue the necessary orders for such use of the military forces of his state without the borders of his state, and to direct the commander of such forces to place them under the operational control of the commander of the forces of the requesting state or of the United States which may be engaged in meeting the emergency.

(3) The Governor of any signatory state, in his discretion, may recall the military forces of his state serving without its borders or any part of any member of such forces.

#### Article V

In case of an emergency, any unit or member of the military forces of a signatory state which has been ordered into active service by the Governor may, upon order of the officer in immediate command thereof, continue beyond the borders of his own state into another signatory state in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces, or persons seeking or appearing to seek to overthrow the government of the United States or of any one of the signatory states, until they are apprehended by such unit or member. Any such person who shall be apprehended or captured in a signatory state by a unit or member of the military forces of another signatory state

shall, without unnecessary delay, be surrendered to the military or police forces of the state in which he is taken or to the forces of the United States. Such surrender shall not constitute a waiver by the state of the military forces making the capture of its right to extradite or prosecute such persons for any crime committed in that state.

#### Article VI

(1) Whenever the military forces or any part thereof of any signatory state are engaged outside of their own state in carrying out the purposes of the compact, the individual members of such military forces so engaged shall not be liable civilly or criminally for any act or acts done by them in the performance of their duty.

(2) The individual members of such forces shall have the same powers, duties, rights, privileges and immunities as the members of the military forces of the state in which they are engaged, but in any event,

(3) Each signatory state shall save harmless any member of its military forces wherever serving, and any member of the military forces of any other signatory state serving within its borders, for any act or acts done by them in the performance of their duty while engaged in carrying out the purposes of this compact.

#### Article VII

(1) Each signatory state shall provide, in the same amounts and manner as if they were on duty within their own state, for the pay and allowances of the personnel of its military forces, and for the medical and hospital expenses, disability and death benefits, pensions and funeral expenses,

of wounded, injured or sick personnel, and of dependents or representatives of deceased personnel of its military forces, in case such personnel shall suffer wounds, injuries, disease, disability or death while engaged without the state pursuant to this compact and while going to and returning from such other signatory state. Each signatory state shall provide, in the same amounts and manner as if they were on duty within their own state, for the logistical support and for other costs and expenses of its military forces while engaged without the State pursuant to this compact and while going to and returning from such other signatory state.

(2) Any signatory state rendering outside aid in case of insurrection or disaster not the result of invasion or hostile action shall, if it so elects, be reimbursed by the signatory state receiving such aid for the pay and allowances of its personnel, logistical support, and all other costs and expenses referred to in section one of this article and incurred in connection with the request for aid. Such election shall be exercised by the Governor of the aiding state presenting a statement and request for reimbursement of such costs and expenses to the Governor of the requesting State.

#### Article VIII

Nothing in this compact shall be construed to limit or restrict the power of any signatory state, in case of an emergency affecting that state only, to provide for the internal defense of any part of the territory of said state, or for the protection and control of any bridge, tunnel, ferry, installation, plant or facility, or any part thereof, within the

borders of such state, or to prohibit the enforcement of any laws, rules and regulations, or the execution of any plan with regard thereto.

#### Article IX

This compact shall continue in force and remain binding on each signatory state until the Legislature or the Governor of such state gives notice of withdrawal therefrom. Such notice of withdrawal shall not be effective until six months after said notice has been given to the Governor of each of the other signatory states.

Source: This section is derived from the act of 1951, August 24, P.L. 1355.

#### CHAPTER 47

#### FRESH PURSUIT BY MILITARY FORCES

Sec.

4701. Fresh pursuit by Commonwealth forces.

4702. Fresh pursuit by forces of other states.

§ 4701. Fresh pursuit by Commonwealth forces.

(a) General rule.--No military forces of this Commonwealth, other than the Pennsylvania National Guard, shall be required to serve outside the boundaries of this Commonwealth, except that any organization, unit or detachment of such forces, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces beyond the borders of this Commonwealth into another state until they are apprehended or captured by such organization, unit or detachment, or until the military or police forces of the other state or the forces of the United



States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons, provided such other state shall have given authority by law for such pursuit by such forces of the Commonwealth.

(b) Surrender of prisoner by Commonwealth forces.--Any such person who shall be apprehended or captured in such other state by an organization, unit or detachment of the forces of this Commonwealth, shall without unnecessary delay be surrendered to the military or police forces of the state in which he is taken or to the United States, but such surrender shall not constitute a waiver by this State of its right to extradite or prosecute such person for any crime committed in this Commonwealth.

Source: This section is derived from Section 1 of the act of 1943, May 21, P.L. 341.

§ 4702. Fresh pursuit by forces of other states.

(a) General rule.--Any military forces, or organization, unit or detachment thereof, of another state, who are in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces, may continue such pursuit into this Commonwealth until the military or police forces of this Commonwealth or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons, and are hereby authorized to arrest or capture such persons within this Commonwealth while in fresh pursuit.

(b) Surrender of prisoner to Commonwealth forces.--Any such person who shall be captured or arrested by the military forces of such other state while in this Commonwealth, shall, without unnecessary delay, be surrendered to the military or police

forces of this Commonwealth, to be dealt with according to law.

(c) Construction of section.--This section shall not be construed so as to make unlawful any arrest in this Commonwealth which would otherwise be lawful.

Source: This section is derived from Section 2 of the act of 1943, May 21, P.L. 341.

PART IV  
MILITARY JUSTICE

Chapter

51. General Provisions
52. Apprehension and Restraint
53. Non-judicial Punishment
54. Courts-martial Jurisdiction
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CHAPTER 51  
GENERAL PROVISIONS

Sec.

5100. Short title of part.
5101. Definitions.
5102. Persons subject to this part.
5103. Jurisdiction to try certain personnel.
5104. Dismissal of commissioned officer.
5105. Territorial applicability.

5106. Judge advocates and legal officers.

§ 5100. Short title of part.

This part shall be known and may be cited as the  
"Pennsylvania Code of Military Justice."

COMMENT: This section is new. See Appendix A, *infra*, for jurisdictions wherein the Uniform Code of Military Justice has been adopted.

§ 5101. Definitions.

The following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Accuser." A person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, or any person who has an interest other than an official interest in the prosecution of the accused.

"Active State duty." Full-time duty in the active military service of the Commonwealth under an order of the Governor, or by a superior commissioned officer pursuant to law. It includes travel to and from such duty.

"Adjutant General." The Adjutant General of the Commonwealth of Pennsylvania.

"Convening authority." Includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.

"Duty status." Includes any periods of drill, annual field training, active State duty and such other training, and service as may be required under State or Federal laws, regulations or orders, and includes travel to and from such duty.

"Enemy." Includes, for the purposes of the punitive

provisions of this part, not only the organized forces of a hostile nation in time of war but also any hostile body the State military forces may be opposing, such as looters, a riot, a rebellious mob or band of renegades or outlaws. .

"Enlisted person." A person in an enlisted grade.

"Federal service." Periods of active duty other than active State duty, but excludes active duty for training, active duty for periods of less than thirty days, and active duty for the purpose of attending service schools.

"Grade." A step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

"May." Is used in a permissive sense. The words "no person may....." means that no person is required, authorized, or permitted to do the act prescribed.

"Military." Any or all of the armed forces.

"Military court." A court-martial, a court of inquiry, or a provost court.

"Military judge." An official of a general or special court-martial appointed in accordance with section 5505 of this title (relating to military judge of a general or special court-martial).

"Officer." Commissioned or warrant officer.

"Rank." The order of precedence among members of the State military forces.

"State judge advocate." The commissioned officer responsible for supervising the administration of the military justice in the State military forces. He shall be the military staff judge advocate to the Governor.

"Superior commissioned officer." A commissioned officer superior in rank and command.

Source: This section is derived from Section 101 of Article I of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 101 of the Uniform Code of Military Justice.

§ 5102. Persons subject to this part.

This part applies to all members of the State military forces who are not in Federal service.

Source: This section is derived from Section 102 of Article I of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 102 of the Uniform Code of Military Justice.

§ 5103. Jurisdiction to try certain personnel.

(a) Discharge obtained fraudulently.--Each person subject to this part discharged from the State military forces who is later charged with having fraudulently obtained his discharge shall be, subject to section 5708 (relating to statute of limitations), subject to trial by court-martial on said charge and shall after apprehension be subject to this part while in the custody of the military for such trial. Upon conviction of said charge he shall be subject to trial by court-martial for all offenses under this part committed before the fraudulent discharge.

(b) Deserters.--No person subject to this part who has deserted from the State military forces shall be relieved from amenability to the jurisdiction of this part by virtue of a separation from any subsequent period of service.

Source: This section is derived from Section 103 of Article I of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 103 of the Uniform Code of Military Justice.

§ 5104. Dismissal of commissioned officer.

(a) Court-martial proceedings.--Any commissioned officer, subject to this part dismissed by order of the Governor, may make a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully dismissed. In such event, the Governor, as soon as practicable, shall convene a general court-martial to try such officer on the charges on which he was dismissed. A court-martial so convened shall have jurisdiction to try the dismissed officer on such charge, and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the Adjutant General shall substitute for the dismissal ordered by the Governor a form of discharge authorized for administrative issue.

(b) Failure to convene court-martial.--If the Governor fails to convene a general court-martial within six months from the presentation of an application for trial under this section, the Adjutant General shall substitute for the dismissal ordered by the Governor a form of discharge authorized for administrative issue.

Source: This section is derived from Section 104 of Article I of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 104 of the Uniform Code of Military Justice.

§ 5105. Territorial applicability.

(a) General rule.--This part applies throughout this Commonwealth. It also applies to all persons otherwise subject to this part while they are serving outside this Commonwealth, and while they are going to and returning from such service outside this Commonwealth, in the same manner and to the same extent as if they were serving inside this Commonwealth.

(b) Location of proceedings.--Courts-martial and courts of inquiry may be convened and held in units of the State military forces while those units are serving outside this Commonwealth with the same jurisdiction and powers as to persons subject to this part as if the proceedings were held inside this Commonwealth, and persons subject to this part accused of committing offenses outside this Commonwealth shall be subject to trial and punishment either inside or outside this Commonwealth.

Source: This section is derived from Section 105 of Article I of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 105 of the Uniform Code of Military Justice.

§ 5106. Judge advocates and legal officers.

(a) Appointment of State Judge Advocate.--The Governor, on the recommendation of the Adjutant General, shall appoint a judge advocate officer of the State military forces as State Judge Advocate. To be eligible for appointment, such officer shall have been a member of the bar of the Supreme Court of

Pennsylvania for at least five years.

(b) Appointment of assistants.--The Adjutant General may appoint as many assistant State judge advocates as he considers necessary. To be eligible for appointment, assistant State judge advocates must be judge advocate officers of the State military forces and members of the bar of the Supreme Court of Pennsylvania.

(c) Field inspections.--The State Judge Advocate or his assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(d) Direct communications.--Convening authorities shall at all times communicate directly with their staff judge advocates or legal officer in matters relating to the administration of military justice; and the staff judge advocate or legal officer of any command is entitled to communicate directly with the staff judge advocate or legal officer of a superior or subordinate command, or with the State Judge Advocate.

(e) Disqualification in case.--No person who has acted as member, military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, in any case may later act as staff judge advocate or legal officer to any reviewing authority upon the same case.

Source: This section is derived from Section 106 of Article I of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 106 of the Uniform Code of Military Justice.

## CHAPTER 52

### APPREHENSION AND RESTRAINT



Sec.

5201. Apprehension.

5202. Apprehension of persons absent without leave.

5203. Imposition of restraint.

5204. Restraint of persons charged with offenses.

5205. Confinement in jails.

5206. Reports and receiving of prisoners.

5207. Punishment prohibited before trial.

5208. Delivery of offenders to civil authorities.

§ 5201. Apprehension.

(a) Definition.--Apprehension is the taking of a person subject to this part into custody.

(b) Persons authorized to apprehend.--Any person authorized by this part, or by regulations issued under it, and any peace officer authorized by law, may apprehend persons subject to this part upon reasonable belief that an offense under this part has been committed and that the person apprehended committed it.

(c) Authority of officers.--Commissioned officers, warrant officers, petty officers and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this part and to apprehend persons subject to this part who take part therein.

Source: This section is derived from Section 201 of Article I of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 201 of the Uniform Code of Military Justice.

§ 5202. Apprehension of persons absent without leave.

Any civil officer having authority to apprehend offenders under the laws of the United States or of a state, territory, commonwealth or possession, or of the District of Columbia, or

any military officer subject to this part who has been authorized by the Governor by regulation may summarily apprehend any person subject to this part absent without leave from the State military forces and deliver him into the custody of the State military forces.

Source: This section is derived from Section 202 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 202 of the Uniform Code of Military Justice.

§ 5203. Imposition of restraint.

(a) Definitions.--Arrest is the restraint of a person subject to this part by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person subject to this part.

(b) Enlisted personnel.--An enlisted person subject to this part may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this part or through any person authorized by this part to apprehend persons. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(c) Commissioned and warrant officers.--A commissioned officer or a warrant officer subject to this part may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into arrest

or confinement may not be delegated.

(d) Probable cause.--No person subject to this part may be ordered apprehended or into arrest or confinement except for probable cause.

(e) Construction of section.--This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

Source: This section is derived from Section 203 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 203 of the Uniform Code of Military Justice.

§ 5204. Restraint of persons charged with offenses.

(a) General rule.--Any person subject to this part charged with an offense under this part may be ordered into arrest or confinement. When any person subject to this part is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused, to try him, or to dismiss the charges and release him.

(b) Issuing warrants to peace officers.--The convening authority of any court-martial shall have the power to issue warrants of apprehension directed to the sheriff or any constable or peace officer within the proper county to apprehend persons subject to this part charged with an offense under this part and to deliver such persons into the custody of the State military forces.

(c) Admission to bail.--In cases where the unit of which the accused is a member is not in a status of active State duty or engaged in annual field training, such accused, if apprehended ordered into confinement prior to or during trial by a

military court, may be admitted to bail by the officer exercising special court-martial jurisdiction over him or by a superior commanding officer, or the Adjutant General.

Source: This section is derived from Section 204 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 204 of the Uniform Code of Military Justice.

§ 5205. Confinement in jails.

Persons subject to this part confined other than in a military installation, whether before, during or after trial by a military court, shall be confined in municipal, county, or State places of confinement.

Source: This section is derived from Section 205 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 205 of the Uniform Code of Military Justice.

§ 5206. Reports and receiving of prisoners.

(a) Duty to receive prisoner.--No provost marshal, commander of a guard, warden, keeper, or officer of a municipal, county, or State place of confinement may refuse to receive or keep any prisoner subject to this part, committed to his charge, when the committing person furnishes a statement, signed by him of the offense charged against the prisoner.

(b) Report of commitment.--Every commander of a guard, warden, keeper, or officer of a municipal, county, or State place of confinement to whose charge a prisoner subject to this part, is committed shall, within 24 hours after that commitment report to the commanding officer of the prisoner, the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

or confinement may not be delegated.

(d) Probable cause.--No person subject to this part may be ordered apprehended or into arrest or confinement except for probable cause.

(e) Construction of section.--This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

Source: This section is derived from Section 203 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 203 of the Uniform Code of Military Justice.

§ 5204. Restraint of persons charged with offenses.

(a) General rule.--Any person subject to this part charged with an offense under this part may be ordered into arrest or confinement. When any person subject to this part is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused, to try him, or to dismiss the charges and release him.

(b) Issuing warrants to peace officers.--The convening authority of any court-martial shall have the power to issue warrants of apprehension directed to the sheriff or any constable or peace officer within the proper county to apprehend persons subject to this part charged with an offense under this part and to deliver such persons into the custody of the State military forces.

(c) Admission to bail.--In cases where the unit of which the accused is a member is not in a status of active State duty or engaged in annual field training, such accused, if apprehended or ordered into confinement prior to or during trial by a

military court, may be admitted to bail by the officer exercising special court-martial jurisdiction over him or by a superior commanding officer, or the Adjutant General.

Source: This section is derived from Section 204 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 204 of the Uniform Code of Military Justice.

§ 5205. Confinement in jails.

Persons subject to this part confined other than in a military installation, whether before, during or after trial by a military court, shall be confined in municipal, county, or State places of confinement.

Source: This section is derived from Section 205 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 205 of the Uniform Code of Military Justice.

§ 5206. Reports and receiving of prisoners.

(a) Duty to receive prisoner.--No provost marshal, commander of a guard, warden, keeper, or officer of a municipal, county, or State place of confinement may refuse to receive or keep any prisoner subject to this part, committed to his charge, when the committing person furnishes a statement, signed by him of the offense charged against the prisoner.

(b) Report of commitment.--Every commander of a guard, warden, keeper, or officer of a municipal, county, or State place of confinement to whose charge a prisoner subject to this part, is committed shall, within 24 hours after that commitment report to the commanding officer of the prisoner, the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

Source: This section is derived from Section 206 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 206 of the Uniform Code of Military Justice.

§ 5207. Punishment prohibited before trial.

Subject to section 5803 (relating to effective date of sentences), no person subject to this part, while being held for trial or the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence. He may be subjected to minor punishment during that period for other infractions of discipline.

Source: This section is derived from Section 207 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 207 of the Uniform Code of Military Justice.

§ 5208. Delivery of offenders to civil authorities.

(a) General rule.--Under such regulations as may be prescribed under this part, a person subject to this part on active State duty, accused of an offense against civil authority, may be delivered, upon request of such civil authority, to such civil authority for trial.

(b) Effect on sentence of court martial.--When delivery under this section is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial. The offender after having answered to the civil authorities for his offense, shall, upon the request of competent military authority, be

returned to military custody for the completion of such sentence of the court-martial.

Source: This section is derived from Section 208 of Article II of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 208 of the Uniform Code of Military Justice.

## CHAPTER 53

### NON-JUDICIAL PUNISHMENT

Sec.

5301. Commanding officer's non-judicial punishment.

§ 5301. Commanding officer's non-judicial punishment.

(a) General rule.--Under such regulations as the Governor may prescribe, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(1) Upon an officer of his command:

(i) withholding of privileges for not more than two consecutive weeks;

(ii) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks; or

(iii) if imposed by the Governor, the commanding officer of a division or a wing or a separate brigade or a similar organization, a fine or forfeiture of pay and allowances of not more than \$100.

(2) Upon other military personnel of his command:

(i) withholding of privileges for not more than two consecutive weeks;



(ii) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks;

(iii) extra duties for not more than 14 days, which need not be consecutive, and for not more than two hours per day, holidays included;

(iv) reduction to next inferior grade if the grade from which demoted was established by the command or an equivalent or lower command; or

(v) if imposed by an officer exercising special court-martial jurisdiction over the offender, a fine or forfeiture of pay and allowances of not more than \$10.

(b) Limitations imposed by Governor.--The Governor may, by regulation, place limitations on the powers granted by this section with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.

(c) Appeal from punishment.--A person punished under this section who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided. The officer who imposes the punishment, his successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges and property affected.

(d) Additional court-martial proceedings.--The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or

omission, and not properly punishable under this section. The fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(e) Application of forfeiture.--Whenever a punishment of forfeiture of pay and allowances is imposed under this section, the forfeiture may apply to pay or allowances accruing on or after the date that punishment is imposed and to any pay and allowances accrued before that date.

(f) Court-martial in lieu of punishment.--Punishment may not be imposed upon any member of the State military forces under this chapter if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment.

Source: This section is derived from Section 301 of Article III of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 301 of the Uniform Code of Military Justice.

## CHAPTER 54

### COURTS-MARTIAL JURISDICTION

Sec.

5401. Courts-martial classified.

5402. Jurisdiction of courts-martial in general.

5403. Jurisdiction of general courts-martial.

5404. Jurisdiction of special courts-martial.

5405. Jurisdiction of summary courts-martial.

5406. Sentences of dismissal, dishonorable discharge or bad conduct to be approved by the Governor.

5407. Record of bad conduct discharge proceedings.

5408. Confinement instead of fine.

§ 5401. Courts-martial classified.

The three kinds of courts-martial in the State military forces are:

(1) General courts-martial, consisting of:

(i) a military judge and not less than five members;

or

(ii) only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves.

(2) Special courts-martial, consisting of:

(i) not less than three members;

(ii) a military judge and not less than three members; or

(iii) only a military judge, if one has been detailed to the court, and the accused under the same conditions as those prescribed in paragraph (1) (ii) so requests.

(3) Summary courts-martial, consisting of one commissioned officer.

Source: This section is derived from Section 401 of Article IV of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 401 of the Uniform Code of Military Justice.

§ 5402. Jurisdiction of courts-martial in general.

Each force of the State military forces has court-martial jurisdiction over all persons subject to this part. The exercise

of jurisdiction by one force over personnel of another force shall be in accordance with regulations prescribed by the Governor.

Source: This section is derived from Section 402 of Article IV of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 402 of the Uniform Code of Military Justice.

§ 5403. Jurisdiction of general courts-martial.

Subject to section 5402 (relating to jurisdiction of courts-martial in general), general courts-martial have jurisdiction to try persons subject to this part for any offense made punishable by this part and may, under such limitations as the Governor may prescribe, adjudge any of the following punishments:

- (1) A fine of not more than \$200.
- (2) Forfeiture of pay and allowances for a period not exceeding six months.
- (3) A reprimand.
- (4) Dismissal, dishonorable discharge or bad conduct discharge.
- (5) Reduction of a noncommissioned officer to any lower enlisted grade.
- (6) Any combination of these punishments.

Source: This section is derived from Section 403 of Article IV of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 403 of the Uniform Code of Military Justice.

§ 5404. Jurisdiction of special courts-martial.

Subject to section 5402 (relating to jurisdiction of

courts-martial in general), special courts-martial shall have jurisdiction to try persons subject to this part, except commissioned officers for any offense made punishable by this part and may, under such limitations as the Governor may prescribe adjudge any of the following punishments:

- (1) A fine of not more than \$100.
- (2) Forfeiture of pay and allowances for a period not exceeding three months.
- (3) A reprimand.
- (4) Reduction of a noncommissioned officer to any lower enlisted grade.
- (5) A bad conduct discharge.
- (6) Any combination of these punishments.

Source: This section is derived from Section 404 of Article IV of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 404 of the Uniform Code of Military Justice.

§ 5405. Jurisdiction of summary courts-martial.

(a) General rule.--Subject to section 5402 (relating to jurisdiction of courts-martial in general), summary courts-martial shall have jurisdiction to try enlisted persons subject to this part for any offense made punishable by this part and may, under such limitations as the Governor may prescribe, adjudge any of the following punishments:

- (1) A fine of not more than \$25 for a single offense.
- (2) Forfeiture of pay and allowances for a period not exceeding one month.
- (3) Reduction to the next lower grade.

(b) Objection to summary court-martial.--No person with

respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he objects thereto. If objection to trial by summary court-martial is made by an accused, trial shall be ordered by special or general court-martial, as may be appropriate.

Source: This section is derived from Section 405 of Article IV of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 405 of the Uniform Code of Military Justice.

§ 5406. Sentences of dismissal, dishonorable discharge or bad conduct to be approved by the Governor.

In the State military forces, no sentence of dismissal, dishonorable discharge, or bad conduct discharge shall be executed until it is approved by the Governor.

Source: This section is derived from Section 406, Article IV of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 406 of the Uniform Code of Military Justice.

§ 5407. Record of bad conduct discharge proceedings.

A bad conduct discharge may not be adjudged by any special court-martial unless a complete written record of the proceedings and testimony before the court has been made.

Source: This section is derived from Section 407, Article IV of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 407 of the Uniform Code of Military Justice.

§ 5408. Confinement instead of fine.

In the State military forces, a court-martial may sentence to confinement for not more than one day for each dollar of the authorized fine.

Source: This section is derived from Section 408 of Article IV of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 408 of the Uniform Code of Military Justice.

## CHAPTER 55

### APPOINTMENT AND COMPOSITION OF COURTS-MARTIAL

Sec.

- 5501. Who may convene general courts-martial.
- 5502. Who may convene special courts-martial.
- 5503. Who may convene summary courts-martial.
- 5504. Who may serve on courts-martial.
- 5505. Military judge of a general or special court-martial.
- 5506. Appointment of trial counsel and defense counsel.
- 5507. Appointment or employment of reporters and interpreters.
- 5508. Absent and additional members.

§ 5501. Who may convene general courts-martial.

(a) General rule.--General courts-martial may be convened by any of the following:

- (1) The Governor.
- (2) The Adjutant General.
- (3) The commanding officer of a division, a separate brigade, or a separate wing.
- (4) Any other commanding officer in any of the State military forces when empowered by the Governor.

(b) Commanding officer as accuser.--When any such commanding officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority when deemed desirable by such authority.

Source: This section is derived from Section 501 of Article V of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 501 of the Uniform Code of Military Justice.

§ 5502. Who may convene special courts-martial.

In the State military forces any person authorized to convene a general court-martial, the commanding officer of a garrison, fort, post, camp, station, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, separate battalion, separate squadron, or other detached command, may convene special courts-martial. When any such officer is an accuser, the court shall be convened by superior competent authority and may, in any case, be convened by such authority when deemed advisable by him.

Source: This section is derived from Section 502 of Article V of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 502 of the Uniform Code of Military Justice.

§ 5503. Who may convene summary courts-martial.

(a) General rule.--In the State military forces any person authorized to convene a general or special court-martial, the commanding officer of a garrison, fort, post, camp, station, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, separate battalion, separate squadron, or other detached command, may convene a summary court-martial.

(b) Commissioned officer or superior authority.--When only one commissioned officer is present with a command or detachment he shall be the summary court-martial of that command or detachment and shall hear and determine all summary



court-martial cases brought before him. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by him.

Source: This section is derived from Section 503 of Article V of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 503 of the Uniform Code of Military Justice.

§ 5504. Who may serve on courts-martial.

(a) Commissioned officer.--Any commissioned officer of the State military forces is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Warrant officer.--Any warrant officer of the State military forces is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c) Enlisted person.--

(1) Any enlisted person of the State military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted person who may lawfully be brought before such courts for trial. He shall serve as a member of a court only if, before the convening of the court, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial, the membership of which does not include enlisted persons in a number comprising at least one-third of the total membership of the

Court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(2) In this subsection, the word "unit" means any regularly organized body of the State military forces not larger in size than a company, or a corresponding body.

(d) Ineligible persons.--

(1) No person subject to this part may be tried by a court-martial any member of which is junior to him in rank or grade.

(2) When convening a court-martial, the convening authority shall appoint as members thereof such members as, in his opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member is eligible to serve as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

Source: This section is derived from Section 504 of Article V of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 504 of the Uniform Code of Military Justice.

§ 5505. Military judge of a general or special court-martial.

(a) Appointment and eligibility.--The authority convening a general or special court-martial shall appoint as military judge thereof a commissioned officer who is a member of the bar of the

Supreme Court of the Commonwealth of Pennsylvania, and who is certified as qualified for such duty by the State Judge Advocate. No person shall be eligible to act as military judge in a case when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

(b) Limitation on powers.--The military judge may not consult with the members of the court, other than on the form of the findings as provided in section 5704 (relating to sessions), except in the presence of the accused, trial counsel, and defense counsel. He shall not vote with the members of the court.

Source: This section is derived from Section 505 of Article V of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 505 of the Uniform Code of Military Justice.

§ 5506. Appointment of trial counsel and defense counsel.

(a) General rule.--For each general and special court-martial the authority convening the court shall appoint trial counsel and defense counsel, and such assistants as he considers appropriate. No person who has acted as investigating officer, military judge or court member in any case shall act subsequently as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution shall act later in the same case for the defense, nor shall any person who has acted for the defense act later in the same case for the prosecution.

(b) Eligibility.--Any person who is appointed trial counsel

or defense counsel in the case of a general or a special court-martial:

(1) shall be a person who is a member of the bar of the Supreme Court of Pennsylvania; and

(2) shall be certified as competent to perform such duties by the State Judge Advocate.

Source: This section is derived from Section 506 of Article V of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 506 of the Uniform Code of Military Justice.

§ 5507. Appointment or employment of reporters and interpreters.

Under such regulations as the Governor may prescribe, the convening authority of a general or special court-martial or court of inquiry shall appoint or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court. Under like regulations the convening authority of a military court may appoint or employ interpreters who shall interpret for the court.

Source: This section is derived from Section 507 of Article V of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 507 of the Uniform Code of Military Justice.

§ 5508. Absent and additional members.

(a) Authorized absence.--No member of a general or special court-martial shall be absent or excused after the court has been assembled for the trial of the accused, except for physical disability or as the result of a challenge or by order of the convening authority for good cause.

(b) New members of general court-martial.--Whenever a general court-martial is reduced below five members, the trial shall not proceed unless the convening authority appoints new members sufficient in number to provide not less than five members. When such new members have been sworn, the trial may proceed after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides.

(c) New members of special court-martial.--Whenever a special court-martial is reduced below three members, the trial shall not proceed unless the convening authority appoints new members sufficient in number to provide not less than three members. When such new members have been sworn, the trial shall proceed with the new members present as if no evidence has previously been introduced at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation thereof is read to the court in the presence of the military judge, if any, the accused, and counsel for both sides.

Source: This section is derived from Section 508 of Article V of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 508 of the Uniform Code of Military Justice.

## CHAPTER 56

### PRE-TRIAL PROCEDURE

Sec.

5601. Charges and specifications.

5602. Compulsory self-incrimination prohibited.

5603. Investigation.

5604. Forwarding of charges.

5605. Advice of staff judge advocate and reference for trial.

5606. Service of charges.

§ 5601. Charges and specifications.

(a) Execution and contents.--Charges and specifications shall be signed by a person subject to this part under oath before a person authorized by this part to administer oaths and shall state:

(1) That the signer has personal knowledge of, or has investigated, the matters set forth therein.

(2) That they are true in fact to the best of his knowledge and belief.

(b) Disposition.--Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline. The person accused shall be informed of the charges against him as soon as practicable.

Source: This section is derived from Section 601 of Article VI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 601 of the Uniform Code of Military Justice.

§ 5602. Compulsory self-incrimination prohibited.

(a) General rule.--No person subject to this part shall compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

(b) Advising accused of his rights.--No person subject to this part shall interrogate, or request any statement from an

accused or a person suspected of an offense without first informing him of the nature of the accusation and fully advising him of his right to be represented by counsel, that he does not have to make any statement regarding the offense of which he is accused or suspected, and that any statement made by him can and will be used as evidence against him in a trial by court-martial, as well as other constitutional safeguards provided for an accused or a person suspected of an offense.

(c) Immaterial or degrading evidence.--No person subject to this part shall compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(d) Unlawfully obtained statement inadmissible.--No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement shall be received in evidence against him in a trial by court-martial.

Source: This section is derived from Section 602 of Article VI of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 602 of the Uniform Code of Military Justice.

§ 5603. Investigation.

(a) General rule.--No charge or specification shall be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the

disposition which should be made of the case in the interest of justice and discipline.

(b) Rights of accused.--The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel. Upon his own request he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel is reasonably available, or by counsel appointed by the person exercising general court-martial jurisdiction over the command. At such investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after such investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

(c) Further investigation.--If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b), no further investigation of that charge is necessary under this section unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.



(d) Requirements mandatory.--The requirements of this section are binding on all persons administering this part.

Source: This section is derived from Section 603 of Article VI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 603 of the Uniform Code of Military Justice.

§ 5604. Forwarding of charges.

When a person is held for trial by general court-martial the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the person exercising general court-martial jurisdiction. If that is not practicable, he shall report in writing to such officer the reasons for delay.

Source: This section is derived from Section 604 of Article VI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 604 of the Uniform Code of Military Justice.

§ 5605. Advice of staff judge advocate and reference for trial.

(a) General rule.--Before directing the trial of any charge by general court-martial, the convening authority shall refer it to his staff judge advocate for consideration and advice. The convening authority shall not refer a charge to general court-martial for trial unless he has found that the charge alleges an offense under this part and is warranted by evidence indicated in the report of the investigation.

(b) Changes in charges and specifications.--If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the

investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence may be made by the appointing authority.

Source: This section is derived from Section 605 of Article VI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 605 of the Uniform Code of Military Justice.

§ 5606. Service of charges.

The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. In time of peace no person shall, against his objection, be brought to trial, or be required to participate by himself or counsel in a session called by the military judge under section 5704(a) (relating to sessions) in a general court-martial case within a period of five days after the service of the charges upon him, or in a special court-martial within a period of three days after the service of the charges upon him.

Source: This section is derived from Section 606 of Article VI of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 606 of the Uniform Code of Military Justice.

CHAPTER 57

TRIAL PROCEDURE

Sec.

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§ 5701. Governor may prescribe rules.

(a) General rule.--The procedure, including modes of proof, in cases before military courts and other military tribunals may be prescribed by the Governor by regulations, which shall apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the State but which shall not be contrary to or inconsistent with this part.

(b) Uniformity.--All rules and regulations made pursuant to the provisions of this section shall be uniform in so far as practicable among the State military forces.

Source: This section is derived from Section 701 of Article VII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 701 of the Uniform Code of Military Justice.

§ 5702. Unlawfully influencing action of court.

(a) General rule.--No authority convening a general, special, or summary court-martial nor any other commanding officer, or officer serving on the staff thereof, shall censure, reprimand, or admonish the court or any member, military judge or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceedings. No person subject to this part shall attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, reviewing authority with respect to his judicial acts.

(b) Performance reports on members and counsel.--In the preparation of an effectiveness, fitness or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the State military forces is qualified to be advanced, in grade, or in determining the assignment or transfer of a member of the State military forces, no person subject to this part may, in preparing any such report:

(1) consider or evaluate the performance of duty of any such member as a member of a court-martial; or

(2) give a less favorable rating or evaluation of any member of the State military forces because of the zeal with which such member, as counsel, represented any accused before a court-martial.

Source: This section is derived from Section 702 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 702 of the Uniform Code of Military Justice.

§ 5703. Duties of trial counsel and defense counsel.

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

(b) Defense counsel.--The accused has the right to be represented in his defense before a general or special court-martial by civilian counsel if provided by him, or by military counsel of his own selection if reasonably available, or by the defense counsel appointed under section 5506 (relating to appointment of trial counsel and defense counsel). Should the accused have counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were appointed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the military judge or by the president of a court-martial without a military judge.

(c) Brief by defense counsel.--In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he considers appropriate.

(d) Assistant trial counsel.--An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by section 5506, perform any duty imposed by law,

regulation, 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.

(e) Assistant defense counsel.--An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by section 5506, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

Source: This section is derived from Section 703 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 703 of the Uniform Code of Military Justice.

#### § 5704. Sessions.

(a) Proceedings in absence of members.--At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to section 5606 (relating to service of charges) call the court into session without the presence of the members for the purpose of:

(1) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(2) hearing and ruling upon any matter which may be ruled upon by the military judge under this section, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(3) holding the arraignment and receiving the pleas of the accused; and

(4) performing any other procedural function which may be performed by the military judge under this part or under rules prescribed pursuant to section 5701 (relating to Governcr may prescribe rules) and which does not require the presence of the members of the court.

These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record.

(b) Other proceedings.--When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and, in cases in which a military judge has been detailed to the court, the military judge.

Source: This section is derived from Section 704 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 704 of the Uniform Code of Military Justice.

#### § 5705. Continuances.

The military judge or a court-martial without a military judge may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

Source: This section is derived from Section 705 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 705 of the Uniform Code of Military Justice.

#### § 5706. Challenges.

(a) Challenges for cause.--The military judge and members of a general or special court-martial may be challenged by the

accused or the trial counsel for cause stated to the court. The military judge, or if none, the court shall determine the relevancy and validity of challenges for cause, and shall not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) Preemptory challenges.--Each accused and the trial counsel is entitled to one preemptory challenge, but the military judge may not be challenged except for cause.

Source: This section is derived from Section 706 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 706 of the Uniform Code of Military Justice.

#### § 5707. Oaths.

(a) General rule.--Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be in accordance with regulations prescribed by the Governor. These regulations may provide that an oath to perform faithfully duties as a military judge, trial counsel, assistant trial counsel, defense counsel, or assistant defense counsel may be taken at any time by any judge advocate, or other person certified to be qualified or competent for the duty, and if such an oath is taken it need not again be taken at



the time the judge advocate, or other person is detailed to that duty.

(b) Witnesses.--Each witness before a military court shall be examined on oath or affirmation.

Source: This section is derived from Section 707 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 707 of the Uniform Code of Military Justice.

§ 5708. Statute of limitations.

(a) No limitation.--A person subject to this part, charged with desertion or absence without leave in time of war or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

(b) Three-year limitation.--Except as otherwise provided in this section, a person subject to this part charged with desertion in time of peace or with the offense punishable under section 6041 (relating to frauds against the government) shall not be liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(c) Two-year limitation.--Except as otherwise provided in this section, a person subject to this part charged with any offense is not liable to be tried by court-martial or punished under section 5301 (relating to commanding officer's non-judicial punishment) if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section 5301.

(d) Computation of period of limitation.--Periods in which the accused was absent from territory in which the Commonwealth has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

Source: This section is derived from Section 708 of Article VII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 708 of the Uniform Code of Military Justice.

§ 5709. Former jeopardy.

(a) General rule.--No person subject to this part shall, without his consent, be tried a second time for the same offense in a military court convened under this part. Prosecution under this part shall not bar prosecution by civil authorities for a crime or offense growing out of the same act or omission committed in violation of the laws of the civil jurisdiction.

(b) Definition of trial.--No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed. However, a proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority, or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused, is a trial in the sense of this section.

Source: This section is derived from subsection (a) of Section 709 of Article VII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 709 of the Uniform Code of Military Justice.

§ 5710. Pleas of the accused.

(a) Inadequacy or lack of pleading.--A plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty, if after arraignment before a court martial:

(1) an accused makes an irregular pleading;

(2) after a plea of guilty an accused sets up matter inconsistent with the plea;

(3) it appears that an accused has entered a plea of guilty improvidently or through lack of understanding or its meaning and effect; or

(4) an accused fails or refuses to plead.

(b) Plea of guilty.--With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

Source: This section is derived from Section 710 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 710 of the Uniform Code of Military Justice.

§ 5711. Opportunity to obtain witnesses and other evidence.

(a) General rule.--The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the Governor may prescribe.

(b) Issuance of process.--Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall be similar to that which the courts of this Commonwealth having criminal jurisdiction may lawfully issue and shall run to any part of the Commonwealth and to any other state or territory, district or possession in which the court-martial may be sitting.

Source: This section is derived from Section 711 of Article VII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 711 of the Uniform Code of Military Justice.

§ 5712. Refusal to appear or testify.

Any person not subject to this part who has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer designated to take a deposition to be read in evidence before such a court and who wilfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce is guilty of an offense against the Commonwealth and a military court may punish him in the same manner as the civil courts of this Commonwealth.

Source: This section is derived from Section 712 of Article VII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 712 of the Uniform Code of Military Justice.

§ 5713. Contempts.

A military court may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for 30 days or a fine of \$100 or both.

Source: This section is derived from Section 713 of Article VII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 713 of the Uniform Code of Military Justice.

§ 5714. Depositions.

(a) General rule.--At any time after charges have been signed, as provided in section 5601 (relating to charges and specifications) any party may take oral or written depositions unless the military judge or court-martial without a military judge hearing the case, or if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids if for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(b) Notice of taking deposition.--The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Persons authorized to take depositions.--Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of this Commonwealth or by the laws of the place where the deposition is taken to administer oaths.

(d) Admissibility in evidence.--A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence before any military court or in any proceeding before a court of inquiry, if it appears:

(1) that the witness resides or is beyond the state in which the court is ordered to sit, or beyond the distance of one hundred miles from the place of trial or hearing;

(2) that the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, non-amenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) that the present whereabouts of the witness is unknown.

Source: This section is derived from Section 714 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 714 of the Uniform Code of Military Justice.

§ 5715. Admissibility of records of courts of inquiry.

(a) Court-martial.--In any case not extending to dismissal or dishonorable discharge, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(b) Use of testimony by defense.--Such testimony may be read in evidence only by the defense in cases extending to dismissal or dishonorable discharge.

(c) Court of inquiry or military board.--Such testimony may also be read in evidence before a court of inquiry or a military board by either party.

Source: This section is derived from Section 715 of Article VII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 715 of the Uniform Code of Military Justice.

§ 5716. Voting and rulings.

(a) Findings, sentences and challenges.--Voting by members of a general or special court-martial on the findings and on the sentence and by members of a court-martial without a military judge upon questions of challenge shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(b) Questions of law and interlocutory questions.--The military judge and except for questions of challenge, the president of a court-martial without a military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused, or by the president of a court-martial without a military judge upon any question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court. However, the military judge or the president of a court-martial without a military judge may change any such ruling at any time during the trial. Unless such ruling be final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in section 5717 (relating to number of votes required), beginning with the junior in rank.

(c) Instructions to members of court.--Before a vote is taken on the findings, the military judge or the president of a

court-martial without a military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them:

(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt shall be resolved in favor of the accused and he shall be acquitted;

(3) that, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) that the burden of proof of establishing the guilt of the accused beyond reasonable doubt is upon the prosecution.

(d) Proceedings before military judge only.--Subsections (a), (b) and (c) do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

Source: This section is derived from Section 716 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 716 of the Uniform Code of Military Justice.



§ 5717. Number of votes required.

(a) Conviction.--No person subject to this part shall be convicted of any offense, except as provided in section 5710 (b) (relating to pleas of the accused) or by the concurrence of two-thirds of the members present at the time the vote is taken.

(b) Sentence.--All sentences shall be determined by the concurrence of two-thirds of the members present at the time the vote is taken.

(c) Other questions.--All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote but a determination to reconsider a finding of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

Source: This section is derived from Section 717 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 717 of the Uniform Code of Military Justice.

§ 5718. Court to announce action.

Every court-martial shall announce its findings and sentence to the parties as soon as determined.

Source: This section is derived from Section 718 of Article VII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 718 of the Uniform Code of Military Justice.

§ 5719. Record of trial.

(a) General court-martial.--Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signatures of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability or absence, it shall be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. If the proceedings have resulted in an acquittal of all charges and specifications or in a sentence not including discharge and not in excess of that which may otherwise be adjudged by a special court-martial, the record need not contain a verbatim account of the proceedings and testimony before the court, but shall contain such matters as the Governor may by regulation prescribe.

(b) Special and summary courts-martial.--Each special and summary courts-martial shall keep a separate record of the proceedings in each case, which record shall contain such matter and shall be authenticated in such manner as the Governor may by regulation prescribe.

(c) Furnishing record to accused.--A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as authenticated. If a verbatim record of trial by general court-martial is not required by subsection (a), but has been made, the accused may buy such a record under such regulations as the Governor may prescribe.

Source: This section is derived from Section 719 of Article VII of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 719 of the Uniform Code of Military Justice.

CHAPTER 58

SENTENCES

Sec.

5801. Cruel and unusual punishments prohibited.

5802. Maximum limits.

5803. Effective date of sentences.

5804. Execution of confinement.

§ 5801. Cruel and unusual punishments prohibited.

Punishment by flogging, or by branding, marking or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to this part. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

Source: This section is derived from Section 801 of Article VIII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 801 of the Uniform Code of Military Justice.

§ 5802. Maximum limits.

The punishment which a court-martial may direct for an offense may not exceed such limits as the Governor may prescribe for that offense subject to the limits prescribed by this part.

Source: This section is derived from Section 802 of Article VIII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 802 of the Uniform Code of Military Justice.

§ 5803. Effective date of sentences.

(a) Forfeiture of pay and allowances.--Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not

suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. No forfeiture may extend to any pay or allowances accrued before that date.

(b) Confinement.--Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial but periods during which the sentence to confinement is suspended shall be excluded in computing the service of the term of confinement. Regulations prescribed by the Governor may provide that sentences of confinement may not be executed until approved by designated officers.

(c) Other sentences.--All other sentences of courts-martial are effective on the date ordered executed.

Source: This section is derived from Section 803 of Article VIII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 803 of the Uniform Code of Military Justice.

#### § 5804. Execution of confinement.

(a) Place of confinement.--A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the State military forces or in any county or State jail, prison or other place of confinement. Persons so confined in a jail or prison are subject to the same discipline and treatment as persons confined or committed to the jail or prison by the courts of this Commonwealth or of any political subdivision thereof.

(b) Authority to require hard labor.--The omission of the words "hard labor" from any sentence or punishment of a court-martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(c) Duty of county prison officials.--The keepers, officers, and wardens of county jails or prisons under section 5205 (relating to confinement in jails) shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge for so receiving or confining a person.

Source: This section is derived from Section 804 of Article VIII of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 804 of the Uniform Code of Military Justice.

## CHAPTER 59

### REVIEW OF COURTS-MARTIAL

Sec.

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§ 5901. Error of law; lesser included offense.

(a) Error of law.--A finding or sentence of court-martial shall not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Approval of lesser offense.--Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense.

Source: This section is derived from Section 901 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 908 of the Uniform Code of Military Justice.

§ 5902. Initial action on the record.

After a trial by court-martial the record shall be forwarded 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, in the absence of the convening authority, a successor in command, or by any officer exercising general court-martial jurisdiction.

Source: This section is derived from Section 902 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 902 of the Uniform Code of Military Justice.

§ 5903. Action on general court-martial records.

The convening authority shall refer the record of each general court-martial to his staff judge advocate or legal officer who shall submit his written opinion thereon to the convening authority. If there is no qualified staff judge advocate or legal officer available, the State Judge Advocate shall assign a judge advocate officer for such purpose. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

Source: This section is derived from Section 903 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 903 of the Uniform Code of Military Justice.

§ 5904. Reconsideration and revision.

(a) Reconsideration of motion dismissing specification.--If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(b) Record disclosing error or improper action.--Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned:

(1) for reconsideration of a finding of not guilty of any specification or a ruling which amounts to a finding of

not guilty;

(2) for reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this part; or

(3) for increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory.

Source: This section is derived from Section 904 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 904 of the Uniform Code of Military Justice.

§ 5905. Rehearings.

(a) General rule.--If the convening authority disapproves the findings and sentence of a court-martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing, in which case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(b) Rehearing body composition and authority.--Every rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon such rehearing the accused shall not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.



Source: This section is derived from Section 905 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 905 of the Uniform Code of Military Justice.

§ 5906. Approval by the convening authority.

In acting on the findings and sentence of a court-martial, the convening authority shall approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence shall constitute approval of the findings and sentence.

Source: This section is derived from Section 906 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 906 of the Uniform Code of Military Justice.

§ 5907. Disposition of records after review by the convening authority.

(a) Final action by Governor.--When the Governor has taken final action in a court-martial case in which he is the convening authority, there shall be no further review.

(b) Final action by other authority.--When a convening authority other than the Governor has taken final action in a general court-martial case, he shall forward the entire record, including his action thereon and the opinion or opinions of the staff judge advocate or legal officer, to the State Judge Advocate.

(c) Bad conduct discharge.--Where the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, whether or not suspended, the record shall be forwarded to the officer exercising general court-martial jurisdiction over the command to be reviewed in

the same manner as a record of trial by a general court-martial. If the sentence as approved by an officer exercising general court-martial jurisdiction includes a bad-conduct discharge, whether or not suspended, the record shall be forwarded to the State Judge Advocate.

(d) Review and disposition of other records.--All other special and summary court-martial records shall be reviewed by a judge advocate of the Army National Guard or Air National Guard and shall be transmitted and disposed of as the Adjutant General may prescribe by regulations.

Source: This section is derived from Section 907 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to some of the provisions in Section 907 of the Uniform Code of Military Justice.

§ 5908. Review in the office of the State Judge Advocate.

Every record of trial by general court-martial in which there has been a finding of guilty and a sentence, and every record of trial by special court-martial in which the sentence as approved by an officer exercising general court-martial jurisdiction includes a bad-conduct discharge, shall be examined in the office of the State Judge Advocate. If the State Judge Advocate so directs, the record shall be reviewed by a board of review in accordance with section 5909 (relating to review by a board of review).

Source: This section is derived from Section 908 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to some of the provisions in Section 907 of the Uniform Code of Military Justice.

§ 5909. Review by a board of review.

(a) Composition of boards of review.--The State Judge

Advocate may constitute one or more boards of review, each composed of not less than three commissioned officers, each of whom shall be a member of the bar of the Supreme Court of Pennsylvania, and one of whom shall be a judge advocate of the Army or Air National Guard.

(b) Affirming findings and sentence.--In a case referred to it, the board of review may act only with respect to the findings and sentence as approved by the convening authority. It may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record it shall have authority to weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses.

(c) Setting aside findings and sentence.--If the board of review sets aside the findings and sentence, it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

(d) Action by convening authority.--The State Judge Advocate shall, unless there is to be further action by the Governor, instruct the convening authority to take action in accordance with the decision of the board of review. If the board of review has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.

(e) Uniform rules of procedure.--In the event one or more boards of review are constituted in accordance with this

section, the State Judge Advocate shall prescribe uniform rules of procedure for proceedings in and before such board or boards of review.

Source: This section is derived from Section 909 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to some of the provisions in Section 907 of the Uniform Code of Military Justice.

§ 5910. Appellate counsel.

Upon review of the record of trial by general court-martial in which there has been a finding of guilty and a sentence and upon review of the record of trial by special court-martial in which the sentence as approved by an officer exercising general court-martial jurisdiction includes a bad-conduct discharge, the accused shall have the right to be represented before the State Judge Advocate or the board of review, as the case may be, by military counsel if requested by him or by civilian counsel if provided by him. Appellate military counsel shall be a commissioned officer of the State military forces and shall be a member of the bar of the Supreme Court of Pennsylvania.

Source: This section is derived from Section 910 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 909 of the Uniform Code of Military Justice.

§ 5911. Execution of sentence; suspension of sentence.

(a) Approval of certain sentences by Governor.--No sentence extending to the dismissal of a commissioned officer or dishonorable discharge or bad-conduct discharge shall be executed until approved by the Governor. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him.

(b) Authority of convening authority.--All other court-martial sentences, unless suspended, may be ordered executed by the convening authority when approved by him. The convening authority may suspend the execution of any sentence.

Source: This section is derived from Section 911 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 901 of the Uniform Code of Military Justice.

§ 5912. Vacation of suspension.

(a) Bad-conduct discharges and general court-martial sentences.--Prior to the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if he so desires.

(b) Hearing record, recommendation and action.--The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be forwarded for action to the officer exercising general court-martial jurisdiction. If he vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(c) Other sentences.--The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

Source: This section is derived from Section 912 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 910 of the Uniform Code of Military Justice.

§ 5913. Petition for a new trial.

At any time within two years after approval by the convening authority of a court-martial sentence which extends to dismissal, dishonorable discharge or bad-conduct discharge, the accused may petition the Governor for a new trial on ground of newly discovered evidence or fraud on the court-martial.

Source: This section is derived from Section 913 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 911 of the Uniform Code of Military Justice.

§ 5914. Remission and suspension.

(a) General rule.--A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures, other than a sentence approved by the Governor.

(b) Substitution of administrative discharge by Governor.--The Governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

Source: This section is derived from Section 914 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 912 of the Uniform Code of Military Justice.

§ 5915. Restoration.

(a) General rule.--Under such regulations as the Governor may prescribe, all rights, privileges, and property affected by an executed portion of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed portion is included in a sentence imposed upon a new trial or rehearing.

(b) Substitution of administrative discharge for invalid discharge.--When a previously executed sentence of dishonorable discharge or bad-conduct discharge is not sustained on a new trial, the Adjutant General shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(c) Substitution of administrative discharge for invalid dismissal.--When a previously executed sentence of dismissal is not sustained on a new trial, the Adjutant General shall substitute therefor a form of discharge authorized for administrative issue.

Source: This section is derived from Section 915 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 913 of the Uniform Code of Military Justice.

§ 5916. Finality of proceedings, findings and sentences.

The proceedings, findings and sentences of courts-martial as reviewed and approved, as required by this part, and all dismissals and discharges carried into execution under sentences by courts-martial following review and approval, as required by this part, shall be final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the Commonwealth, subject only to action upon a petition for a new trial as provided in section 5913 (relating to petition for a new trial) and to action by the Governor as provided in section 5914 (relating to remission and suspension).

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Source: This section is derived from Section 916 of Article IX of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 914 of the Uniform Code of Military Justice.

CHAPTER 60

PUNITIVE SECTIONS

Sec.

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- § 6001. Principals.

Any person subject to this part who:

(1) commits an offense punishable by this part, or aids, abets, counsels, commands, or procures its commission; or

(2) causes an act to be done which if directly performed by him would be punishable by this part;

is a principal.

Source: This section is derived from Section 1001 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1002 of the Uniform Code of Military Justice.

§ 6002. Accessory after the fact.

Any person subject to this part who, knowing that an offense punishable by this part has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

Source: This section is derived from Section 1002 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1003 of the Uniform Code of Military Justice.

§ 6003. Conviction of lesser included offense.

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

Source: This section is derived from Section 1003 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1004 of the Uniform Code of Military Justice.

§ 6004. Attempts.

(a) Attempt defined.--An act, done with specific intent to commit an offense under this part, amounting to more than mere

preparation and tending, even though failing to effect its commission, is an attempt to commit that offense.

(b) Punishment.--Any person subject to this part who attempts to commit any offense punishable by this part shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Effect of consummation of offense.--Any person subject to this part may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

Source: This section is derived from Section 1004 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1005 of the Uniform Code of Military Justice.

#### § 6005. Conspiracy.

Any person subject to this part who conspires with any other person to commit an offense under this part shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

Source: This section is derived from Section 1005 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1006 of the Uniform Code of Military Justice.

#### § 6006. Solicitation.

(a) Desertion and mutiny.--Any person subject to this part who solicits or advises another or others to desert in violation of section 6009 (relating to desertion) or mutiny in violation of section 6018 (relating to mutiny or sedition) shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not

committed or attempted, he shall be punished as a court-martial may direct.

(b) Misbehavior before enemy and sedition.--Any person subject to this part who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of section 6023 (relating to misbehavior before the enemy) or sedition in violation of section 6018 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court-martial may direct.

Source: This section is derived from Section 1006 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1007 of the Uniform Code of Military Justice.

§ 6C07. Fraudulent enlistment, appointment or separation.

Any person who:

(1) procures his own enlistment or appointment in the State military forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) procures his own separation from the State military forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1007 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1008 of the Uniform Code of Military Justice.

§ 6008. Unlawful enlistment, appointment, or separation.

Any person subject to this part who effects an enlistment or appointment in or a separation from the State military forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

Source: This section is derived from Section 1008 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1009 of the Uniform Code of Military Justice.

§ 6009. Desertion.

(a) Offense defined.--Any member of the State military forces who:

(1) without authority goes or remains absent from his unit, organization or place of duty with intent to remain away therefrom permanently;

(2) quits his unit, organization or place of duty with intent to avoid hazardous duty or to shirk important service;  
or

(3) without being regularly separated from one of the State military forces enlists or accepts an appointment in the same or another one of the State military forces, or in one of the armed forces of the United States, without fully disclosing the fact that he has not been regularly separated; is guilty of desertion.

(b) Commissioned officer tendering resignation.--Any commissioned officer of the State military forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to

remain away therefrom permanently is guilty of desertion.

(c) Punishment.--Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct.

Source: This section is derived from Section 1009 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1010 of the Uniform Code of Military Justice.

§ 6010. Absence without leave.

Any person subject to this part who, without authority:

- (1) fails to go to his appointed place of duty at the time prescribed;
- (2) goes from that place; or
- (3) absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1010 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1011 of the Uniform Code of Military Justice.

§ 6011. Missing movement.

Any person subject to this part who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

Source: This section is derived from Section 1011 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1012 of the Uniform Code of Military Justice.

§ 6012. Contempt towards officials.

Any person subject to this part who uses contemptuous words

against the President of the United States, Vice-President of the United States, Congress, Secretary of Defense, or a secretary of a department, the Governor of the Commonwealth of Pennsylvania, the General Assembly of the Commonwealth of Pennsylvania or the Adjutant General of the Commonwealth of Pennsylvania, the Governor or the legislature of any state, territory or other possession of the United States in which he is on duty or present shall be punished as a court-martial may direct.

Source: This section is derived from Section 1012 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1013 of the Uniform Code of Military Justice.

§ 6013. Disrespect towards superior commissioned officer.

Any person subject to this part who behaves with disrespect towards his superior commissioned officer shall be punished as a court-martial may direct.

Source: This section is derived from Section 1013 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1014 of the Uniform Code of Military Justice.

§ 6014. Assaulting or wilfully disobeying superior  
commissioned officer.

Any person subject to this part who:

(1) strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) wilfully disobeys a lawful command of his superior commissioned officer;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1014 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1015 of the Uniform Code of Military Justice.

§ 6015. Insubordinate conduct toward warrant officer,  
noncommissioned officer.

Any warrant officer or enlisted member who:

- (1) strikes or assaults a warrant officer, noncommissioned officer, while that officer is in the execution of his office;
- (2) wilfully disobeys the lawful order of a warrant officer, noncommissioned officer; or
- (3) treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, while that officer is in the execution of his office;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1015 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1016 of the Uniform Code of Military Justice.

§ 6016. Failure to obey order or regulation.

Any person subject to this part who:

- (1) violates or fails to obey any lawful general order or regulation; or
- (2) having knowledge of any other lawful order issued by a member of the State military forces, which it is his duty to obey, fails to obey the order; or
- (3) is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1016 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1017 of the Uniform Code of Military Justice.



§ 6017. Cruelty and maltreatment.

Any person subject to this part who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct.

Source: This section is derived from Section 1017 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1018 of the Uniform Code of Military Justice.

§ 6018. Mutiny or sedition.

(a) Offenses defined.--Any person subject to this part who:

(1) with intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise to do his duty or creates any violence or disturbance is guilty of mutiny;

(2) with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition; or

(3) fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(b) Punishment.--A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

Source: This section is derived from Section 1018 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1019 of the Uniform Code of Military Justice.

§ 6019. Resistance, breach of arrest, and escape.

Any person subject to this part who resists apprehension or breaks arrest or who escapes from custody, restraint, or confinement imposed under this part shall be punished as a court-martial may direct.

Source: This section is derived from Section 1019 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1020 of the Uniform Code of Military Justice.

§ 6020. Releasing prisoner without proper authority.

Any person subject to this part who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct.

Source: This section is derived from Section 1020 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1021 of the Uniform Code of Military Justice.

§ 6021. Unlawful detention of another.

Any person subject to this part who, except as provided by law or regulation, apprehends, arrests, restrains, or confines any person shall be punished as a court-martial may direct.

Source: This section is derived from Section 1021 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1022 of the Uniform Code of Military Justice.

§ 6022. Noncompliance with procedural rules.

Any person subject to this part who:

- (1) is responsible for unnecessary delay in the disposition of any case of a person accused of an offense

under this part; or

(2) knowingly and intentionally fails to enforce or comply with any provision of this part regulating the proceedings before, during, or after trial of an accused; shall be punished as a court-martial may direct.

Source: This section is derived from Section 1022 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1023 of the Uniform Code of Military Justice.

§ 6023. Misbehavior before the enemy.

Any person subject to this part who before or in the presence of the enemy:

(1) runs away;

(2) shamefully abandons, or surrenders any command, unit, place, or military property which it is his duty to defend;

(3) through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) casts away his arms or ammunition;

(5) is guilty of cowardly conduct;

(6) quits his place of duty to plunder or pillage;

(7) causes false alarms in any command, unit, or place under control of the armed forces of the United States or the State military forces;

(8) wilfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty so to encounter, engage, capture, or destroy; or

(9) does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of

the armed forces belonging to the United States or their allies, to the State when engaged in battle or in suppressing civil disorders;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1023 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1024 of the Uniform Code of Military Justice.

§ 6024. Subordinate compelling surrender.

Any person subject to this part who compels or attempts to compel a commander of any place, vessel, aircraft, or other military property, or of any body of members of the State military forces to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct.

Source: This section is derived from Section 1024 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1025 of the Uniform Code of Military Justice.

§ 6025. Improper use of countersign.

Any person subject to this part who discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished as a court-martial may direct.

Source: This section is derived from Section 1025 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1026 of the Uniform Code of Military Justice.

§ 6026. Forcing a safeguard.

Any person subject to this part who forces a safeguard shall be punished as a court-martial may direct.

Source: This section is derived from Section 1026 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1027 of the Uniform Code of Military Justice.

§ 6027. Captured or abandoned property.

(a) Duty to secure property.--All persons subject to this part shall secure all public property taken from the enemy for the service of the United States or the Commonwealth, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(b) Offenses defined and punishment.--Any person subject to this part who:

(1) fails to carry out the duties prescribed in subsection (a);

(2) buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(3) engages in looting or pillaging;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1027 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1028 of the Uniform Code of Military Justice.

§ 6028. Aiding the enemy.

Any person subject to this part who:

(1) aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or

corresponds with or holds any intercourse with the enemy,  
either directly or indirectly;  
shall be punished as a court-martial may direct.

Source: This section is derived from Section 1028 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1029 of the Uniform Code of Military Justice.

§ 6029. Misconduct of a prisoner.

Any person subject to this part who, while in the hands of the enemy:

(1) for the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others held by the enemy as civilian or military prisoners;  
or

(2) while in a position of authority over such persons maltreats them without justifiable cause;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1029 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1030 of the Uniform Code of Military Justice.

§ 6030. False official statements.

Any person subject to this part who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing the same to be false, or makes any other false official statement knowing the same to be false, shall be punished as a court-martial may direct.

Source: This section is derived from Section 1030 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1031 of the Uniform Code of Military Justice.

§ 6031. Loss, damage, destruction or wrongful disposition of military property.

Any person subject to this part, who without proper authority;

(1) sells or otherwise disposes of;

(2) wilfully or through neglect damages, destroys, or loses; or

(3) wilfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of; any military property of the United States or of the State; shall be punished as a court-martial may direct.

Source: This section is derived from Section 1031 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1032 of the Uniform Code of Military Justice.

§ 6032. Waste, spoilage, or destruction of nonmilitary property.

Any person subject to this part who, while in a duty status, wilfully or recklessly wastes, spoils, or otherwise wilfully and wrongfully destroys or damages any property other than military property belonging to the United States or of the State shall be punished as a court-martial may direct.

Source: This section is derived from Section 1032 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1033 of the Uniform Code of Military Justice.

§ 6033. Improper hazarding of vessel.

(a) Wilful conduct.--Any person subject to this part who wilfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the State military forces shall be punished as a court-martial may direct.

(b) Negligent conduct.--Any person subject to this part who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the State military

forces shall be punished as a court-martial may direct.

Source: This section is derived from Section 1033 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1034 of the Uniform Code of Military Justice.

§ 6034. Drunken or reckless driving.

Any person subject to this part who while in a duty status operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court-martial may direct.

Source: This section is derived from Section 1034 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1035 of the Uniform Code of Military Justice.

§ 6035. Drunk on duty, sleeping on post and leaving post before relief.

Any person subject to this part who is found drunk on duty or sleeping upon his post, or who leaves his post before he is regularly relieved, shall be punished as a court-martial may direct.

Source: This section is derived from Section 1035 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1036 of the Uniform Code of Military Justice.

§ 6036. Dueling.

Any person subject to this part who, while in a duty status, fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court-martial may direct.

Source: This section is derived from Section 1036 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1037 of the Uniform Code of Military Justice.



§ 6037. Malingering.

Any person subject to this part who for the purpose of avoiding work, duty or service in the State military forces:

(1) feigns illness, physical disablement, mental lapse or derangement; or

(2) intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

Source: This section is derived from Section 1037 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1038 of the Uniform Code of Military Justice.

§ 6038. Riot or breach of peace.

Any person subject to this part who while in a duty status causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

Source: This section is derived from Section 1038 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1039 of the Uniform Code of Military Justice.

§ 6039. Provoking speeches or gestures.

Any person subject to this part who while in a duty status uses provoking or reproachful words or gestures towards any other person subject to this part shall be punished as a court-martial may direct.

Source: This section is derived from Section 1039 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1040 of the Uniform Code of Military Justice.

§ 6040. Perjury.

Any person subject to this part who in a judicial proceeding or in a course of justice conducted under this part wilfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall

be punished as a court-martial may direct.

Source: This section is derived from Section 1040 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1041 of the Uniform Code of Military Justice.

§ 6041. Frauds against the government.

Any person subject to this part:

(1) who, knowing it to be false or fraudulent:

(i) makes any claim against the United States, the Commonwealth, or any officer thereof; or

(ii) presents to any person in the civil or military service thereof, for approval or payment any claim against the United States, the Commonwealth, or any officer thereof; or

(2) who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the Commonwealth, or any officer thereof;

(i) makes or uses any writing or other paper knowing the same to contain any false or fraudulent statements;

(ii) makes any oath to any fact or to any writing or other paper knowing such oath to be false; or

(iii) forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing the same to be forged or counterfeited; or

(3) who, having charge, possession, custody, or control of any money, or other property of the United States or the Commonwealth, furnished or intended for the armed forces of the United States or the State military forces, knowingly delivers to any person having authority to receive the same, any amount thereof less than that for which he receives a

certificate or receipt; or

(4) who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the Commonwealth, furnished or intended for the armed forces of the United States or the State military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the Commonwealth;

shall, upon conviction, be punished as a court-martial may direct.

Source: This section is derived from Section 1041 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1042 of the Uniform Code of Military Justice.

§ 6042. Larceny and wrongful appropriation.

(a) Offenses defined.--Any person subject to this part who while on a duty status wrongfully takes, obtains, or withholds, by any means whatever from the possession of the true owner or of any other person any money, personal property, or article of value of any kind:

(1) with intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate the same to his own use or the use of any person other than the true owner, steals such property, is guilty of larceny; or

(2) with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate the same to his own use or the use of any person other than the true owner, is guilty of wrongful

appropriation.

(b) Punishment.--Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

Source: This section is derived from Section 1042 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1043 of the Uniform Code of Military Justice.

§ 6043. Assault.

Any person subject to this part who while in a duty status attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

Source: This section is derived from Section 1043 of Article X of the act of 1967, November 24, P.L. 561, No. 272.

§ 6044. Conduct unbecoming an officer and a gentleman.

Any commissioned officer who is convicted of conduct unbecoming of an officer and a gentleman shall be punished as a court-martial may direct.

Source: This section is derived from Section 1044 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1044 of the Uniform Code of Military Justice.

§ 6045. General article.

Though not specifically mentioned in this part, all disorders and neglects to the prejudice of good order and discipline in the State military forces, and all conduct of a nature to bring discredit upon the State military forces, of which persons subject to this part may be guilty, shall be taken cognizance of by a general, special or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of such court. However, jurisdiction shall not be

extended to crimes not included herein,-and normally within the jurisdiction of the civil courts of this Commonwealth.

Source: This section is derived from Section 1045 of Article X of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1045 of the Uniform Code of Military Justice.

§ 6046. Embezzlement.

Any person subject to this part who shall embezzle, misapply or convert to his own use, without authority, any moneys received by or entrusted to him for disbursement or articles of military equipment shall be punished as a court-martial may direct.

Source: This section is derived from Section 845 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: This section is not part of the Uniform Code of Military Justice but is appropriately incorporated in Chapter 60. Military equipment is added to that which can be embezzled. Embezzlement has been changed from a misdemeanor to a felony.

§ 6047. Purchasing and receiving military property in pawn.

If any person shall knowingly and wilfully purchase, or receive in pawn or pledge any military property of the Commonwealth of Pennsylvania or of the United States in use by the Commonwealth of Pennsylvania, he shall be punished as a court-martial may direct.

Source: This section is derived from Section 846 of the Military Code of 1949, May 27, P.L. 1903.

COMMENT: This section is not part of the Uniform Code of Military Justice but is appropriately incorporated in Chapter 60.

CHAPTER 61

MISCELLANEOUS PROVISIONS

Sec.

6101. Courts of inquiry.

6102. Authority to administer oaths.

- 6103. Text of part to be available.
- 6104. Complaints of wrongs.
- 6105. Redress of injuries to property.
- 6106. Execution of process and sentence.
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- 6108. Liability of public officers for non-execution of process.
- 6109. Compensation of court.
- 6110. Immunity for action of military courts.
- 6111. Delegation of authority by the Governor.
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§ 6101. Courts of inquiry.

(a) Who may convene.--Courts of inquiry to investigate any matter may be convened by any person authorized to convene a general court-martial or by any other person designated by the Governor for that purpose, whether or not the persons involved have requested such an inquiry.

(b) Composition.--A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(c) Parties.--Any person subject to this part whose conduct is subject to inquiry shall be designated as a party. Any person subject to this part or employed in the Department of Military Affairs who has a direct interest in the subject of inquiry shall have the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(d) Challenging members.--Members of a court of inquiry may

be challenged by a party, but only for cause stated to the court.

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

(f) Witnesses.--Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(g) Findings and recommendations.--Courts of inquiry shall make findings of fact but shall not express opinions or make recommendations unless required to do so by the convening authority.

(h) Record.--Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. In case the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. In case the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

Source: This section is derived from Section 1101 of Article XI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1101 of the Uniform Code of Military Justice.

§ 6102. Authority to administer oaths.

(a) Military administration and justice.--The following members of the State military forces may administer oaths for the purposes of military administration, including military justice:

(1) The State Judge Advocate and all assistant State judge advocates.

(2) All law specialists.

(3) All summary courts-martial.

(4) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants.

(5) All staff judge advocates and legal officers and acting or assistant staff judge advocates and legal officers.

(6) All other persons designated by law or regulation.

(b) Performance of particular duties.--The following persons in the State military forces shall have authority to administer oaths necessary in the performance of their duties:

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

(2) The president and the counsel for the court of any court of inquiry.

(3) All officers designated to take a deposition.

(4) All persons detailed to conduct an investigation.

(5) All other persons designated by law or any regulation.

(c) Evidence of authority.--The signature without seal of any such person, together with the title of his office, is prima facie evidence of his authority.

Source: This section is derived from Section 1102 of Article XI of the act of 1967, November 24, P.L. 561, No. 272; amended 1970, March 24, P.L. 208, No. 85, and is similar to Section 1102 of the Uniform Code of Military Justice.

§ 6103. Text of part to be available.

A complete text of this part and of the regulations prescribed by the Governor thereunder shall be made available to any member of the State military forces, upon his request, for his personal examination.



Source: This section is derived from Section 1103 of Article XI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to a portion of Section 1103 of the Uniform Code of Military Justice.

§ 6104. Complaints of wrongs.

Any member of the State military forces who believes himself wronged by his commanding officer, and who, upon due application to such commander, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. That officer shall examine into said complaint and take proper measures for redressing the wrong.

Source: This section is derived from Section 1104 of Article XI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1104 of the Uniform Code of Military Justice.

§ 6105. Redress of injuries to property.

(a) Assessment of damages.--Whenever complaint is made to any commanding officer that wilful damage has been done to the property of any person or that his property has been wrongfully taken by members of the State military forces, he may, subject to such regulations as the Governor may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and shall have for the purpose of such investigation, power to summon witnesses and examine them 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 such board is subject to the approval of the commanding officer, and in the amount approved by him and may be charged against the pay of the offenders. The order of such commanding

officer directing charges herein authorized shall be conclusive, except as provided in subsection (b) on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(b) Rights of accused.--Any person subject to this part who is accused of causing wilful damage to property has the right to be represented by counsel, to summon witnesses in his behalf, and to cross-examine those appearing against him. He has the right of appeal to the next higher commander.

Source: This section is derived from Section 1105 of Article XI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1105 of the Uniform Code of Military Justice.

§ 6106. Execution of process and sentence.

In the State military forces, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of this Commonwealth or by the officers of the State military forces as the circumstances may require. Fees for serving processes provided for in this part shall be the same as prescribed by law for similar processes of a civil nature, and shall upon proper vouchers being filed, be paid by the Adjutant General in the usual manner.

Source: This section is derived from Section 1106 of Article XI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to a portion of Section 1106 of the Uniform Code of Military Justice.

§ 6107. Disposition of fines and penalties.

All fines and penalties imposed and collected through the sentence of courts-martial shall be forwarded to the Adjutant General who shall deposit the same in the State Treasury. It shall be proper for the Department of Military Affairs to request each session of the General Assembly to appropriate such

moneys as have been so deposited for the welfare of the State military forces.

Source: This section is derived from Section 1107 of Article XI of the act of 1967, November 24, P.L. 561, No. 272.

§ 6108. Liability of public officers for non-execution of process.

The neglect or refusal of any sheriff, constable, peace officer or jail warden to execute any process, or to make proper return of all fines and penalties collected, or to receive in custody any prisoner, shall be deemed a misdemeanor and shall subject the offender to a prosecution by the proper district attorney, and to a penalty, upon conviction of each such offense, of \$100 to the use of the Commonwealth.

Source: This section is derived from Section 1108 of Article XI of the act of 1967, November 24, P.L. 561, No. 272.

§ 6109. Compensation of court.

Military judges, military counsel and members of courts-martial and courts of inquiry shall be allowed transportation and per diem pay as per military grade for time actually employed in the duties assigned them. Transportation shall be furnished to all prosecutors, prisoners, witnesses, sheriffs, peace officers and constables to and from the place or places designated for the meetings of said courts. The per diem pay for military and civilian witnesses shall be the same as in civil courts of law. The fees of sheriffs, peace officers and constables for serving the processes provided for in this part shall be the same as prescribed by law for similar processes of a civil nature and shall, upon proper vouchers being filed, be paid by the Adjutant General in the usual manner.

Source: This section is derived from Section 1109 of Article XI of the act of 1967, November 24, P.L. 561, No. 272.

§ 6110. Immunity for action of military courts.

No accused may bring an action or proceeding against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

Source: This section is derived from Section 1110 of Article XI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1109 of the Uniform Code of Military Justice.

§ 6111. Delegation of authority by the Governor.

The Governor may delegate any authority vested in him under this part, and may provide for the subdelegation of any such authority, except the power given him by section 5406 (relating to sentences of dismissal, dishonorable discharge or bad conduct to be approved by the Governor) and section 5501 (relating to who may convene general courts-martial).

Source: This section is derived from Section 1111 of Article XI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1111 of the Uniform Code of Military Justice.

§ 6112. Uniformity of interpretation.

This part shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and, so far as practical, to make that law uniform with the law of the United States, especially as embodied in the Uniform Code of Military Justice.

Source: This section is derived from Section 1112 of Article XI of the act of 1967, November 24, P.L. 561, No. 272, and is similar to Section 1112 of the Uniform Code of Military Justice.

PART V

EMPLOYMENT PREFERENCES AND PENSIONS

Chapter

- 71. Veterans' Preference
- 73. Military Leave of Absence
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CHAPTER 71

VETERANS' PREFERENCE

Sec.

- 7101. Soldier defined.
- 7102. Credits in civil service examinations.
- 7103. Additional points in grading civil service examinations.
- 7104. Preference in appointment or promotion.
- 7105. Lack of training, age or physical impairment.
- 7106. Preferential rating provision in public works specifications.
- 7107. Computation of seniority for reduction in force.
- 7108. Preference of widows and wives.
- 7109. Law exclusive.

§ 7101. Soldier defined.

As used in this chapter, "soldier" means a person who served in the armed forces of the United States, or in any women's organization officially connected therewith, during any war or armed conflict in which the United States engaged, or who so served or hereafter serves in the armed forces of the United States, or in any women's organization officially connected therewith, since July 27, 1953, including service in Vietnam, and who has an honorable discharge from such service.

Source: This section is derived from Section 1 of the act of 1945, May 22, P.L. 837; amended 1955, December 7, P.L. 804; amended 1966, January 25, P.L. (1965) 1545; amended 1972, January 5, P.L. (1971) 662, No. 175.

§ 7102. Credits in civil service examinations.

(a) General rule.--When any soldier shall take any civil service appointment or promotional examination for a public position under the Commonwealth, or under any political subdivision thereof, he shall be given credit in the manner hereinafter provided; for the discipline and experience represented by his military training and for the loyalty and public spirit demonstrated by his service for the preservation of his country, as provided in this chapter.

(b) Disclosure of rank or serial number.--No soldier taking any civil service appointment or promotional examination shall be required to furnish, nor shall he furnish in connection therewith, his former rank or service serial number.

Source: This section is derived from Section 2 of the act of 1945, May 22, P.L. 837; amended 1947, June 14, P.L. 600.

§ 7103. Additional points in grading civil service examinations.

(a) Commonwealth examinations.--Whenever any soldier shall successfully pass a civil service appointment or promotional examination for a public position under this Commonwealth, or any political subdivision thereof, and shall thus establish that he possesses the qualifications required by law for appointment to or promotion in such public position, such soldier's examination shall be marked or graded an additional ten points above the mark or grade credited for the examination, and the total mark or grade thus obtained shall represent the final mark or grade of such soldier, and shall determine his standing on

any eligible or promotional list, certified or furnished to the appointing or promoting power.

(b) Municipal examinations.--When any such person shall take any examination for appointment or promotion in the civil service of any of the various municipal agencies within this Commonwealth, as required by any existing law or any law which may hereafter be enacted, such person's examination shall be marked or graded 15% perfect before the quality or contents of the examination shall be considered. When the examination of any such person is completed and graded, such grading or percentage as the examination merits shall be added to the aforesaid 15%, and such total mark or grade shall represent the final grade or classification of such person and shall determine his or her order of standing on the eligible list.

Source: Subsection (a) of this section is derived from Section 3 of the act of 1945, May 22, P.L. 837. Subsection (b) is derived from Section 2 of the act of 1923, May 11, P.L. 203, No. 150.

§ 7104. Preference in appointment or promotion.

(a) Non-civil service.--Whenever any soldier possesses the requisite qualifications and is eligible to appointment to or promotion in a public position, where no such civil service examination is required, the appointing power in making an appointment or promotion to a public position shall give preference to such soldier.

(b) Name on civil service list.--Whenever any soldier possesses the requisite qualifications, and his name appears on any eligible or promotional list, certified or furnished as the result of any such civil service examination, the appointing or promoting power in making an appointment or promotion to a public position shall give preference to such soldier,

notwithstanding, that his name does not stand highest on the eligible or promotional list.

(c) Name not on civil service list.--In making an appointment or promotion to public office where a civil service examination is required, the appointing or promotional power may give preference to any soldier, who has passed the required examination for appointment or promotion to such position, and possesses the requisite qualifications, although his name does not appear on the eligible or promotional list certified or furnished to the appointing or promoting power.

Source: This section is derived from Section 4 of the act of 1945, May 22, P.L. 837.

§ 7105. Lack of training, age or physical impairment.

The lack of academic or scholastic training or experience, age, loss of limb or other physical impairment which does not in fact incapacitate any such soldier shall not be deemed to disqualify him, provided he possesses the other requisite qualifications to satisfactorily perform all of the duties which the position requires.

Source: This section is derived from Section 5 of the act of 1945, May 22, P.L. 837.

§ 7106. Preferential rating provision in public works specifications.

Whenever the Commonwealth issues specifications for the construction, alteration or repair of any public works, such specifications shall include a provision under which the contractors and subcontractors shall agree to give a preferential rating similar to that given by the Commonwealth to any soldier making application for employment upon such public works.



Source: This section is derived from Section 6 of the act of 1945, May 22, P.L. 837.

§ 7107. Computation of seniority for reduction in force.

Whenever a reduction in force is necessary in any public position, or on public works of the Commonwealth and its political subdivisions, and personnel are discharged according to seniority, the number of years of service of any soldier shall be determined by adding his total years of service in the civil service or on public works to his total years of service as a member of the armed forces of the United States, or in any women's organization officially connected therewith during any war in which the United States engaged.

Source: This section is derived from Section 611 of the act of 1945, May 22, P.L. 837, added 1947, June 25, P.L. 939.

§ 7108. Preference of widows and wives.

The same preferential rating given to soldiers under the provisions of this chapter shall be extended to include the widows and wives of disabled soldiers.

Source: This section is derived from Section 7 of the act of 1945, May 22, P.L. 837.

§ 7109. Law exclusive.

This chapter shall be construed as being the exclusive law applying to the Commonwealth, and its political subdivisions, in giving preference to soldiers in appointment or promotion to, or retention in, public position or on public works.

Source: This section is derived from Section 8 of the act of 1945, May 22, P.L. 837; amended 1947, June 25, P.L. 939.

CHAPTER 73

MILITARY LEAVE OF ABSENCE

Sec.

- 7301. Definitions.
- 7302. Granting military leaves of absence.
- 7303. Expiration of military leaves of absence.
- 7304. Reemployment rights.
- 7305. Seniority rights.
- 7306. Retirement rights.
- 7307. Eligibility.
- 7308. Loss of benefits.
- 7309. Employment discrimination for military membership or duty.
- 7310. Contract by minors for servicemen's readjustment loans.
- 7311. Sale of real property for delinquent taxes and municipal claims.

§ 7301. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Active military service." Active service in any of the armed services or forces of the United States or of this Commonwealth.

"Be drafted." To be drafted, to be ordered into active military service if a member of a reserve component of the armed forces, or in any way to enter involuntarily, or remain in active military service, or to enter voluntarily into active military service for such period as is necessary to satisfy one's draft obligation.

"Employee." Any appointed officer or employee regularly

employed by the Commonwealth, in its civil service or otherwise, or by any department, board, bureau, commission, authority, agency or office thereof, or by any political subdivision or local authority of the Commonwealth, but shall not mean any employee of any school district or vocational school district.

"Enlist." To enlist, enroll, reenlist, or in any way voluntarily to enter or remain in active military service.

"Reserve component of the armed forces." The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, Pennsylvania National Guard and Pennsylvania Air National Guard.

Source: This section is derived from Section 2 of the Veterans Preference Act of 1957, July 8, P.L. 557.

§ 7302. Granting military leaves of absence.

Whenever any employee shall, in time of war or armed conflict, or emergency proclaimed by the Governor or by the President of the United States, enlist or shall, at any time, be drafted into the active military service of the United States, he shall be automatically granted a military leave of absence. So long as an employee is on military leave of absence, he shall not be removed from his employment and his duties shall either be performed by other employees or by a temporary substitute. During such time he shall not receive any remuneration from his civilian employer.

Source: This section is derived from Section 3 of the Veterans Preference Act of 1957, July 8, P.L. 557; amended 1963, June 13, P.L. 142.

§ 7303. Expiration of military leaves of absence.

(a) Employees who enlisted.--Every military leave of absence

granted to an employee by reason of his enlistment in the active military service in time of war or armed conflict, or emergency proclaimed by the Governor or by the President of the United States, shall expire 90 days after the expiration of the first period of his enlistment to expire at a time when the United States is not engaged in a war or armed conflict or emergency proclaimed by the Governor or by the President of the United States.

(b) Employees who were drafted.--Every military leave of absence granted to an employee by reason of his having been drafted shall expire 90 days after the expiration of the period for which he was drafted.

Source: This section is derived from Section 4 of the Veterans Preference Act of 1957, July 8, P.L. 557; amended 1963, June 13, P.L. 142.

§ 7304. Reemployment rights.

Every employee shall have the right to return to his employment at any time prior to the expiration of his military leave of absence upon notifying his employer of his desire and availability so to return.

Source: This section is derived from Section 5 of the Veterans Preference Act of 1957, July 8, P.L. 557.

§ 7305. Seniority rights.

Every employee who returns to his employment at the time of or prior to the expiration of his military leave of absence shall be restored as provided in section 7304 (relating to reemployment rights) in such manner as to give him such status in his employment as he would have enjoyed if he had continued in such employment continuously from the time of his entering the armed forces until the time of his restoration to such employment.

Source: This section is derived from Section 6 of the Veterans Preference Act of 1957, July 8, P.L. 557.

§ 7306. Retirement rights.

(a) Options available to employees.--Any employee who is a member of a retirement system at the time he is granted a military leave of absence shall be entitled to exercise any one of the following options in regard thereto:

(1) He may continue to make regular payments into the fund during the period of his military leave of absence. The amount of such payments shall be the same as they would have been, had he not been granted a military leave of absence, but had instead remained actively in his employment. The time of making such payments shall be mutually agreed upon by the employee and the retirement association of which he is a member, but in no event shall be less frequent than semi-annually. The employer shall make its contributions on the same basis as is used to compute the employee's contributions. In this case, his retirement rights shall be determined on the basis that he was in the active, continuous and uninterrupted employ of his employer for the period during which he was on military leave of absence.

(2) He may discontinue making payments into the fund during the period of his military leave of absence. In such event, the employer shall also discontinue making its contributions during this period. In this case, his retirement rights shall be determined by completely disregarding the period of his military leave of absence for all purposes.

(b) Exercise of options.--Any employee, desiring to exercise option (1) in subsection (a), shall so signify, in writing, to

the retirement association of which he is a member within 60 days after the commencement of his military leave of absence or within 60 days after the effective date of this chapter, whichever shall later occur. Any employee who does not exercise option (1) in this manner will be deemed to have exercised option (2).

(c) Change of option.--Any employee who has exercised option (2) in subsection (a), but who, upon the expiration of his military leave of absence, returns to his employment and desires to receive the benefits of option (1), shall have the right to receive such benefits if he shall comply with the following requirements:

(1) He shall, within six months after he returns to his employment, give written notice to the retirement association of which he is a member of his desire to receive the benefits of option (1).

(2) He shall pay into the retirement fund an amount equal to the total payments he would have made had he exercised option (1). Payment of such amount may be spread over a period of time agreeable to the retirement association and the employee, which in no event shall exceed a period commencing with the date he returned to his employment and equal in duration to the duration of his military leave of absence. Such agreed upon payments shall be made in the same manner as his regular payments into the fund are made. In this case, his employer shall pay into the fund an amount equal to the total payments it would have made had the employee exercised option (1). Payment of such amount by the employer shall be spread over the same time as the employee's payments.

Source: This section is derived from Section 7 of the Veterans Preference Act of 1957, July 8, P.L. 557.

§ 7307. Eligibility.

Every employee otherwise eligible for a military leave of absence shall be granted a military leave of absence commencing upon the date of his eligibility therefor, regardless of whether such date occurred before or after the effective date of this chapter.

Source: This section is derived from Section 8 of the Veterans Preference Act of 1957, July 8, P.L. 557.

§ 7308. Loss of benefits.

Any employee who is separated from the service by an undesirable, bad conduct or dishonorable discharge shall not be entitled to any of the benefits of this chapter, except such vested rights as he may have acquired prior thereto by virtue of payments made pursuant to his exercise of option (1) of section 7306 (relating to retirement rights).

Source: This section is derived from Section 9 of the Veterans Preference Act of 1957, July 8, P.L. 557.

§ 7309. Employment discrimination for military membership or duty.

(a) General rule.--It is unlawful for the Commonwealth or any of its departments, boards, commissions, agencies or any political subdivision, or for any private employer, to refuse to hire or employ any individual not on extended active duty because of his membership in the National Guard or any one of the reserve components of the armed forces of the United States, or because he is called to active State duty by the Governor during an emergency, or to discharge from employment such individual, or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions or

privileges of employment because of such membership, or because he is called to active State duty by the Governor during an emergency.

(b) Reemployment following emergency duty.--Upon the completion of such emergency duty any such member of the Pennsylvania National Guard shall be restored by such private employer or his successor in interest to such position or to a position of like seniority, status and pay which such member held prior to such emergency duty, but if any such member is not qualified to perform the duties of such position by reason of disability sustained during such emergency duty but qualified to perform the duties of any other position in the employ of such private employer or his successor in interest, such member shall be restored to such other position, the duties of which he is qualified to perform, as will provide him like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of the case, unless such private employer's or his successor in interest, circumstances have so changed as to make it impossible or unreasonable to do so.

Source: This section is derived from Section 1 of the act of 1959, September 8, P.L. 838, No. 327; amended 1968, July 12, P.L. 328, No. 160.

§ 7310. Contract by minors for servicemen's readjustment loans.

(a) General rule.--Any minor, who is at least 17 years of age, and who is eligible for guaranty or insurance of a loan pursuant to the act of Congress known as the "Servicemen's Readjustment Act of 1944," as amended and supplemented, is hereby authorized and empowered, notwithstanding such minority, to enter into any contract in this Commonwealth, for any loan, or loans guaranteed by the United States, or any agency thereof,



in accordance with the provisions of said act of Congress, as amended and supplemented, and the rules and regulations promulgated from time to time pursuant thereto; or any agency of the Commonwealth hereafter created; and such minor is also authorized and empowered to execute, and acknowledge, all documents, deeds, mortgages, and other or similar papers, necessary and incident to such contracts.

(b) Joinder by minor spouse.--The minor spouse of any person who is eligible for guaranty or insurance of a loan pursuant to said act of Congress, whether or not such person is a minor and regardless of the age of the spouse, is hereby authorized and empowered, notwithstanding such minority, to join in the execution of any such contract.

(c) Minority no basis for avoidance or defense.--In the event a person who is eligible for guaranty or insurance of a loan pursuant to said act of Congress, and who is a minor or whose spouse is a minor, or both, obtains such a loan, or loans, neither of them, despite any law or decision of any court to the contrary, shall be permitted to avoid the contract of such loan or loans because of the age of either of them, nor shall either of them be permitted to interpose the defense that either of them is a minor in any action or actions based upon such contract, or contracts, or arising out of any loan or loans authorized herein.

(d) Liability of parent or representative.--The parent or parents, or guardian or guardians, or trustee or trustees of any minor shall not be liable in any way whatsoever because of or on account of such contract or contracts, or loan or loans, which may be entered into or joined in by such minor pursuant hereto, unless expressly a party thereto.

Source: This section is derived from Section 1 of the act of 1945, April 6, P.L. 164; amended 1947, June 28, P.L. 1609; amended 1951, May 24, P.L. 395.

§ 7311. Sale of real property for delinquent taxes and municipal claims.

(a) Lien saved on stay of sale.--Whenever, pursuant to the provisions of the Federal Soldiers' and Sailors' Civil Relief Act of 1940 and the amendments thereto, a sale of any real property, owned and occupied for dwelling, professional, business or agricultural purposes by a person in military service, or his dependents, at the commencement of his period of military service and still so occupied by his dependents or employees, to enforce the collection of a delinquent tax or municipal claim, or the commencement of any proceeding or action for such purposes, is stayed by any court of record of this Commonwealth, the lien of the tax or of a tax or municipal claim affected thereby, shall not be lost.

(b) Sale and lien time limitations extended.--In all such cases the time fixed by statute for any such sale, or the commencement of any such proceeding or action, and the lien of the tax or the tax or municipal claim, is hereby extended for a period equal to the time during which the stay of the court was effective.

(c) Redemption period extended.--Whenever the real property, owned and occupied for dwelling, professional, business or agricultural purposes by a person in the military service, or his dependents, at the commencement of his military service and still so occupied by his dependents or employees, has been sold to enforce the collection of any tax or municipal claim, and such person in military service has the right to redeem the

same, and the period of redemption shall expire at any time before the expiration of six months after the termination of the military service of such person, the period of redemption as to such real property shall be extended, and such person in military service shall have the right to redeem such property at any time not later than six months after the termination of the military service of such person.

Source: Subsections (a) and (b) are derived from Section 1 of the act of 1945, May 1, P.L. 369. Subsection (c) is derived from Section 2 of the act of 1945, May 1, P.L. 369.

#### CHAPTER 75

#### PROFESSIONAL AND OCCUPATIONAL LICENSES

Sec.

7501. Definition.

7502. Retention of licenses of persons entering military service.

7503. Applicability of chapter.

§ 7501. Definition.

As used in this chapter, the word "person" means any individual, whether male or female, who may, have been, is now or may hereafter become engaged in the service of the United States of America or its allies as a member of the armed forces, or of the merchant marine thereof, or of any auxiliary thereof subject to military discipline.

Source: This section is derived from Section 1 of the act of 1943, April 13, P.L. 45.

COMMENT: This section previously dealt only with veterans of World War II. It now includes all veterans.

§ 7502. Retention of licenses of persons entering military service.

(a) General rule.--Any person licensed by the Department of State, or to whom a broker's license has been issued by the Department of Insurance, to practice any profession or to work at any trade or occupation, who heretofore has or shall thereafter enlist or be inducted or drafted into the military or naval service of the United States in time of war or preparation for national defense during a national emergency shall not thereby forfeit his or her current license or registration.

(b) Renewal of license following discharge.--Any such person, upon presentation of a discharge from such service within one year from date thereof, and upon payment of the fee prescribed by law for the current renewal period only, shall be entitled to a renewal of his or her license or registration in the same manner as though such renewal had been made prior to the expiration of his or her last preceding renewal, and as though all intermediate renewal fees had been paid.

Source: This section is derived from Section 1 of the act of 1941, July 28, P.L. 563, No. 233.

COMMENT: This section previously dealt only with veterans of World War II. It now includes all veterans.

§ 7503. Applicability of chapter.

This chapter shall apply specifically to any holder of any license or certificate granted or renewed by any professional examining board within the Department of Education. It shall also apply specifically to the holder of any license to act as a real estate or insurance broker, or salesman, and to the holder of a certificate to teach, a certificate as a school nurse, a dental hygienist, or a home and school visitor of this Commonwealth.

Source: This section is derived from Section 3 of the act of 1943, April 13, P.L. 45.

## CHAPTER 77

### BLIND VETERAN'S PENSION

Sec.

7701. Blind veteran's pension.

§ 7701. Blind veteran's pension.

(a) Definition.--As used in this section the term "blind veteran" shall mean any person who served in the military or naval forces of the United States, or any woman's organization officially connected therewith, at any time, and who gave the Commonwealth of Pennsylvania, as his or her place of residence at the time of entering the military or naval forces of the United States, and who while performing duties connected with such service suffered an injury or incurred a disease which resulted in blindness to the extent that he or she has 3/60 or 10/200 or less normal vision. The term "blind veteran" shall not include any person separated from the military or naval forces of the United States, or any woman's organization officially connected therewith, under other than honorable conditions.

(b) Amount and eligibility.--In addition to any other assistance provided by the Commonwealth and in addition to any compensation provided by the Federal Government, every blind veteran shall be paid a pension of \$50 per month. Applications for such pensions shall be made to and in the form prescribed by the department. The adjutant General shall have the power, and it shall be his duty to determine the eligibility of every applicant for a pension, and his decision in the matter shall be final.

Source: This section is derived from the act of 1963, April 23, P.L. 20; amended 1964, June 19, Special Session, P.L. 74.

PART VI

MISCELLANEOUS PROVISIONS

Chapter

- 91. Oaths, Affirmations and Acknowledgments
- 92. Certified Copies of Documents
- 93. Veterans' Organizations
- 94. Missing Persons

CHAPTER 91

OATHS, AFFIRMATIONS AND ACKNOWLEDGMENTS

Sec.

- 9101. Acknowledgments and administering oaths without charge.
- 9102. Affidavits and acknowledgments by designated officers.

§ 9101. Acknowledgments and administering oaths without charge.

It shall be the duty of any magistrate, alderman, justice of the peace, or any other person authorized to take acknowledgments and administer oaths, to perform such service free of charge for any soldier, widow or orphan of a soldier, or soldier's parents, who may apply to them for the purpose of making affidavit to papers for the purpose of obtaining pensions and all other papers connected with and referring to the military service of any ex-service person.

Source: This section is derived from Section 1 of the act of 1879, June 11, P.L. 148; amended 1933, May 25, P.L. 1035; amended 1935, July 15, P.L. 1009.

COMMENT: Penalties for violations of the provisions of this act by those authorized to take acknowledgments and administer oaths are deleted.

§ 9102. Affidavits and acknowledgments by designated officers.

(a) Designation of certain officers authorized.--Each local organization of The American Red Cross, The American Legion,

Veterans of World War I of the U.S.A., Inc., Veterans of Foreign Wars of the United States, Disabled American Veterans, United Spanish War Veterans, Regular Veterans Association, Director of Veterans Affairs, Jewish War Veterans of the United States, the Military Order of the Purple Heart, the Italian American War Veterans of the United States, Incorporated, and such other similar organizations now or hereafter accredited or recognized by the United States Veterans Administration, which supplies such aid and assistance to veterans or their dependents, and which gratuitously prepares forms for veterans and their dependents in connection with their affairs as such before the United States, any agency thereof, or the Commonwealth, any agency or political subdivision thereof, is hereby authorized to designate one of its officers to take affidavits or acknowledgments to such forms, as may be required by rule, regulation or otherwise by the United States, any agency thereof, or the Commonwealth, any agency or political subdivision thereof, in the administration of the affairs of veterans and their dependents. For the same purposes the Adjutant General is authorized to designate one or more persons from the Department of Military Affairs, and the State Director of Selective Service is authorized to designate one or more persons from the Pennsylvania Selective Service System.

(b) Appointment, certification and authority.--When any such officer or person is so designated, his name, address and official position shall be furnished to the Secretary of the Commonwealth, in writing, signed by such designated officer or person, accompanied by a certificate of his designation by the proper authority of such organization, or of the Adjutant

General, or the State Director of Selective Service, as the case may be. Upon receipt of such writing and certificate in form as herein provided the Secretary of the Commonwealth, with the approval of the Governor, shall issue under his hand and seal of his office a certificate of appointment to such designated officer or person which shall authorize him to take affidavits or acknowledgments of veterans and their dependents in connection with their affairs as such before the United States, any agency thereof, or the Commonwealth, any agency or political subdivision thereof. Such authorized officer or person shall exercise the authority conferred under the provisions of this section at the pleasure of the Governor. Each certificate issued as aforesaid by the Secretary of the Commonwealth shall be numbered in the order of date issued, and the Secretary of the Commonwealth is hereby authorized to certify such appointment whenever required.

(c) Record of affidavit or acknowledgment.--Each affidavit or acknowledgment taken as above authorized shall contain the date, signature and title of the officer or person administering the same and the number of the certificate issued to the authorized officer or person.

(d) Charges for certification, acknowledgment or affidavit.--The Secretary of the Commonwealth shall make no charge whatsoever for filing, appointing, or certifying under the provisions of this section, nor shall any officer or person so designated and authorized make any charge for taking such acknowledgments or affidavits.

(e) Penalty.--Any person who shall be convicted of having wilfully and knowingly made or taken a false oath or affirmation



before any officer or person authorized under this section to administer same in any matter within his official duty, shall be guilty of a misdemeanor of the third degree.

Source: This section is derived from Section 1 of the act of 1945, May 5, P.L. 426; amended 1955, May 11, P.L. 49; amended 1961, June 21, P.L. 501; amended 1963, June 6, P.L. 87, with the exception of subsection (e), which is derived from Section 2 of the act of 1945, May 5, P.L. 426.

## CHAPTER 92

### CERTIFIED COPIES OF DOCUMENTS

Sec.

9201. Certified copies of documents furnished without charge.

§ 9201. Certified copies of documents furnished without charge.

(a) General rule.--Whenever application shall be made to the proper county officer by or on behalf of any disabled war veteran, or member of the armed forces, of any war or armed conflict in which the United States has been, is now or shall hereafter be engaged, or by or on behalf of any dependent of any such veteran, or member of the armed forces, for a certified copy of any death certificate, birth certificate, marriage certificate or decree of divorce, for use in connection with any claim for death benefits, compensation allowance, family or dependency allotment, it shall be the duty of such county officer to furnish such certified copy free of any charge therefor provided for by any law of this Commonwealth. No divorce certificate shall be issued under this section unless said divorce action record shows all costs fully paid.

(b) Credit for issuing certificate.--Where any county office issues any certificate under this section, said office shall be given an earned credit for the same by proper authorities as if

the fee for said certificate had been received from person or persons applying therefor.

(c) Compensation of issuing officer.--In counties where the county officer issuing any certificate under this section is compensated on a fee basis, the fee for issuing such certificate shall be paid by the county, upon the presentation to the county commissioners of proper vouchers by the county officer issuing such certificate.

Source: This section is derived from the act of 1943, May 21, P.L. 322; amended 1945, May 16, P.L. 576, No. 235; amended 1955, December 13, P.L. 847.

## CHAPTER 93

### VETERANS' ORGANIZATIONS

Sec.

9301. Reports of annual conventions.

9302. Veterans' associations accompanied by military bands to places of interment or divine services.

#### § 9301. Reports of annual conventions.

(a) Printing and distribution by Commonwealth.--Whenever the department commanders of the Grand Army of the Republic, the United Spanish War Veterans, the Veterans of Foreign Wars of the United States, the American Legion, the Disabled American Veterans of the World War, the Veterans of World War I of the U.S.A., Inc., the American Veterans of World War II (AMVETS), Military Order of the Purple Heart, Jewish War Veterans, Catholic War Veterans, Inc., The Society of the 28th Division, A.E.F., the Marine Corps League and the Italian American War Veterans of the United States, Incorporated, shall report to the Department of Property and Supplies the proceedings of the annual encampment or conventions of their respective

departments, with such general and special orders and circulars and other data which may form a part of said proceedings, then the said proceedings, so reported, shall be considered Commonwealth records, and under the direction of the Department of Property and Supplies, shall be printed and bound, and a printed and bound copy thereof shall be sent to each post or detachment in this Commonwealth of the organization of whose proceedings the same is a report.

(b) Number of copies printed and distributed.--Not more than 1500 copies of each of such annual reports shall be printed and bound, and the balance remaining after the distribution provided for in subsection (a) may be requisitioned as follows:

(1) State Librarian, 300 copies.

(2) Legislative Reference Bureau and Senate Library, ten copies.

(3) Executive head of the organization of whose proceedings it is a report, the remaining copies.

Source: Subsection (a) is derived from the act of 1923, May 3, P.L. 134; amended 1929, May 8, P.L. 1677; amended 1931, June 22, P.L. 680; amended 1947, May 31, P.L. 325; amended 1949, May 20, P.L. 1487; amended 1955, June 30, P.L. 241; amended 1959, September 23, P.L. 942; amended 1961, June 7, P.L. 251; amended 1963, June 6, P.L. 89. Subsection (b) is derived from the act of 1923, May 3, P.L. 134; amended 1947, June 10, P.L. 490.

§ 9302. Veterans' associations accompanied by military bands to places of interment or divine services.

All associations of veteran soldiers, when parading for the purpose of interring any deceased member of such association or other veteran soldier, or for the purpose of attending divine service on Sunday, may be accompanied by the proper military band, from their place of assembly to the place of interment or to the place of holding divine service, and thence to the point.

where they shall disband except that the band shall not play upon the return from such interment, or from such divine service.

Source: This section is derived from Section 1 of the act of 1913, June 12, P.L. 489.

#### CHAPTER 94

#### MISSING PERSONS

Sec.

9401. Federal findings of death or other status as evidence.

9402. Federal reports of persons missing in action or interned as evidence.

9403. Signatures of Federal officers presumed authorized.

§ 9401. Federal findings of death or other status as evidence.

A written finding of missing in action or presumed death made by the Department of Defense, or an officer or employee of the United States authorized to make such finding pursuant to the Federal Missing Persons Act (56 Stat. 143, 1092, and Public Laws, 408, Ch. 371, 2d Sess. 78th Cong. 50 U.S.C.App.Supp. 1001-17), as now or hereafter amended, or a duly certified copy of such finding shall be received in any court, office, or other place in this Commonwealth as prima facie evidence of the death of the person therein found to be missing in action or dead, and the date, circumstances, and place of his disappearance.

Source: This section is derived from Section 1 of the act of 1945, April 10, P.L. 187; amended 1947, May 16, P.L. 267.

§ 9402. Federal reports of persons missing in action or interned as evidence.

An official written report, or record, or duly certified copy thereof, that a person is missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an

enemy, or is dead, or is alive, made by any officer, or employee of the United States authorized by the statute referred to in section 9401 (relating to Federal findings of death or other status as evidence), or by any other law of the United States to make same, shall be received in any court, office, or other place in this Commonwealth as prima facie evidence that such person is missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive, as the case may be.

Source: This section is derived from Section 2 of the act of 1945, April 10, P.L. 187.

§ 9403. Signatures of Federal officers presumed authorized.

For the purposes of section 9401 (relating to Federal findings of death or other status as evidence) and section 9402 (relating to Federal reports of persons missing in action or interned as evidence), any finding, report, or record, or duly certified copy thereof purporting to have been signed by such an officer, or employee of the United States, as is described in sections 9401 and 9402, shall prima facie be deemed to have been signed and issued by such an officer, or employee, pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of his authority so to certify.

Source: This section is derived from Section 3 of the act of 1945, April 10, P.L. 187.

Section 2. Repeals.--The following acts and parts of acts are repealed absolutely:

Act of February 10, 1851 (P.L.53, No.45), entitled "An act providing for the issue of arms to military schools."

Act of April 18, 1861 (P.L.408, No.377), entitled "An act Supplementary to An act, entitled 'An act to consolidate, revise and amend the Penal Laws of this Commonwealth,' approved March thirty-first, one thousand eight hundred and sixty."

Act of May 15, 1861 (P.L.749, No.680), entitled "An act to Create a Loan and to Provide for Arming the State."

Act of April 11, 1862 (P.L.487, No.478), entitled "An act to provide for the proper execution of the sixteenth section of the act, entitled 'An act to create a Loan and provide for Arming the State,' approved May fifteenth, one thousand eight hundred and sixty-one."

Act of May 5, 1864 (P.L.841, No.732), entitled "An act to regulate the storage of gunpowder and fixed ammunition, in the city of Philadelphia."

Act of March 27, 1865 (P.L.52, No.37), entitled "An act to grant pensions to honorably discharged officers, non-commissioned officers, musicians, or privates, including volunteers, militia, or drafted men, who have been, or may be, disabled by reason of any wound, or injury, received, or disease contracted, while in the service of the state, since March fourth, one thousand eight hundred and sixty-one."

Act of March 30, 1866 (P.L.89, No.77), entitled "An act to provide for the payment of gratuities and annuities to the soldiers of the war of one thousand eight hundred and twelve, and to their widows."

Act of March 24, 1868 (P.L.47, No.14), entitled "An act to provide for the payment of gratuities and annuities to the

soldiers of the war of one thousand eight hundred and twelve, and to their widows."

Act of March 23, 1877 (P.L.35, No.28), entitled "An act increasing the amount to be paid to soldiers of the war of eighteen hundred and twelve, or their widows, for annuities, gratuities or pensions on account of services rendered by such soldiers."

Act of June 11, 1879 (P.L.148, No.155), entitled "An act to require all magistrates and other officials in cities of the first, second and third class, authorized to take acknowledgments and administer oaths, to perform such service free of charge for soldiers and widows of soldiers, when making affidavit to papers for the purpose of drawing pensions."

Act of April 12, 1883 (P.L.8, No.8), entitled "A supplement to the several acts of assembly of this Commonwealth, granting gratuities and annuities to the soldiers and widows of soldiers, of the war of one thousand eight hundred and twelve."

Act of June 3, 1885 (P.L.62, No.40), entitled "An act to provide for the establishment and maintenance of a Home for Disabled and Indigent Soldiers and Sailors of Pennsylvania."

Act of June 1, 1887 (P.L.283, No.169), entitled "An act to authorize the Adjutant General to supply the Posts of the Grand Army of the Republic and the Camps of the Sons of Veterans, United States, America, located within the State, with such arms and accoutrements as may belong to the State and not be necessary for the equipment of the National Guard."

Act of May 8, 1889 (P.L.123, No.135), entitled "An act to authorize any veteran soldier or sailor to bring suit against any county, borough or township in this Commonwealth, to recover

the amount of money to which he became entitled by reason of his being accredited to such county, borough or township, on his reenlistment to fill the quota of men then or afterwards called for from such county, borough or township."

Act of April 28, 1899 (P.L.133, No.104), entitled "An act to provide for the organization, discipline and regulation, of the National Guard of Pennsylvania."

Act of April 14, 1903 (P.L.186, No.139), entitled "An act for the loan of arms and accoutrements to the different contingents, within the State of Pennsylvania, of the Society of American Veterans of the Philippine and China Wars."

Act of April 1, 1909 (P.L.95, No.56), entitled "An act providing for payment of pension to either the widow, minor children, or dependent parent of any soldier of the National Guard of Pennsylvania or Naval Force of Pennsylvania, who may die from injuries received, or who may be killed, or who two years prior to the passage of this act may have been killed, in line of duty, in active service, under orders of the Governor; authorizing the State Military Board to grant such pension, and certify same to Auditor General for payment; providing method of payment, fixing the term for which pension may be granted or renewed; authorizing the State Military Board to revoke a pension, and providing method of making appropriation to pay pension."

Act of June 12, 1913 (P.L.489, No.322), entitled "An act regulating parades of associations of veteran soldiers."

Act of May 5, 1921 (P.L.420, No.195), entitled "An act to supplement an act, entitled 'An act authorizing the erection and construction by counties of memorial halls in memory of the



soldiers, sailors, and marines of such counties; providing for an election to determine whether such hall shall be erected; providing for the purchase and condemnation of property for such purposes; regulating the use of such halls; and providing for the maintenance and care of the same, by a board of control, at the expense of the county,' approved the seventeenth day of March, one thousand nine hundred and twenty-one, by providing for the planting of memorial trees, and prescribing penalties."

Act of May 17, 1921 (P.L.897, No.312), entitled "An act providing for placement training in the several departments, bureaus, boards, divisions, and commissions of the State Government of disabled soldiers, sailors, and marines."

Act of May 27, 1921 (P.L.1177, No.434), entitled "An act authorizing the Adjutant General to erect, construct, complete, and equip a building on the arsenal grounds, at Harrisburg, for use as a garage and machine shop, and to grade and terrace the ground in connection therewith; providing for the letting of contracts therefor; and making an appropriation."

Act of April 23, 1923 (P.L.86, No.60), entitled "An act making it unlawful for any county, city, borough, or incorporated town to prohibit the wearing of certain military insignia, by its employes, upon their uniforms."

Act of May 3, 1923 (P.L.134, No.100), entitled, as amended, "An act making the proceedings of the conventions of the Departments of Pennsylvania of the Grand Army of the Republic, the United Spanish War Veterans, and any other organization of war veterans, a part of the public records of the State; and providing for their publication and distribution."

Act of May 11, 1923 (P.L.203, No.150), entitled "An act

providing that any person who was engaged in the military or naval service of the United States during any war in which the United States was engaged, and having an honorable discharge therefrom, shall receive credit for the experience and training derived from such service in civil service examinations."

Act of July 12, 1923 (P.L.1076, No.440), entitled "An act constituting a commission to make an investigation of the condition of disabled World War veterans of Pennsylvania, and to take appropriate action to assure such veterans of relief and full benefits and advantages; and making an appropriation."

Act of May 6, 1925 (P.L.525, No.282), entitled "An act concerning the identification and marking of graves of soldiers and sailors of the Revolutionary War; imposing certain duties on the Adjutant General and on certain municipal officers, and making an appropriation."

Act of May 4, 1927 (P.L.750, No.390), entitled "An act to authorize the Secretary of War of the United States to return to the Governor of the Commonwealth certain funds remaining to the credit of such National Guard units thereof as have not been reconstituted, and providing for the distribution thereof."

The second paragraph of clause (a) of section 207 and section 426, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

Act of May 8, 1929 (P.L.1669, No.529), entitled "An act authorizing the Board of Trustees of the Pennsylvania Soldiers' and Sailors' Home at Erie, Pennsylvania, on behalf of the Commonwealth, to enter into an agreement, subject to approval of the Department of Welfare, with the city of Erie, granting to the city of Erie, Pennsylvania, the right to lay pipes for an

intercepting and outfall sewer on lands of the Commonwealth of Pennsylvania in use for said home; providing the terms, conditions, and for performance of said agreement."

Act of July 1, 1937 (P.L.2650, No.515), entitled "An act providing for the erection, construction and equipment of armories for the use of the Pennsylvania National Guard; designating the manner of acquiring or setting aside of land for the erection and construction of armories thereon by The General State Authority; authorizing the Commonwealth to lease such armories and their grounds from The General State Authority upon their completion, and the Armory Board of the State of Pennsylvania to manage and operate the same; and conferring powers and imposing duties upon certain State departments and boards."

Act of July 28, 1941 (P.L.563, No.233), entitled "An act preserving the rights of persons enlisting or being inducted or drafted into the military or naval service of the United States during a national emergency under licenses or registrations issued by the Department of Public Instruction, and brokers licenses issued by the Department of Insurance, to practice professions or to work at trades or occupations, and providing for renewals after discharge from such service."

Act of April 13, 1943 (P.L.45, No.24), entitled "An act providing that persons in the armed forces and merchant marine of the United States and its allies may renew licenses or certificates to engage in professions and occupations after discharge from military service."

Act of May 21, 1943 (P.L.270, No.123), entitled "An act appropriating moneys received from the Federal Government for

housing and maintaining naval, military or other personnel, at the Soldiers' and Sailors' Home at Erie, to the Department of Military Affairs for the maintenance and operation of said home."

Act of May 21, 1943 (P.L.322, No.149), entitled "An act providing for the issuance of certified copies of death, birth and marriage certificates, and divorce decrees, by county officers, free of charge, to disabled war veterans and their dependents, in death and compensation cases; and prescribing penalties."

Act of May 21, 1943 (P.L.341, No.160), entitled "An act providing for fresh pursuit by military forces, and authorizing this State to cooperate with other states therein."

Act of April 6, 1945 (P.L.164, No.73), entitled, as amended, "An act authorizing and empowering minors seventeen years of age, or older, to contract for and to make loans in accordance with the provisions of the act of Congress, known as the 'Servicemen's Readjustment Act of 1944,' or any agency of the Commonwealth hereafter created, and minor spouses, irrespective of age, to join in the execution of such contracts; prohibiting the disaffirmance of such contracts, whether or not the principal is a minor, on the grounds of minority; and saving and relieving the parents, guardians, and trustees of such minors from any liability therefor, unless joining therein."

Act of April 10, 1945 (P.L.187, No.88), entitled "An act to provide for the receiving, as evidence in any court, office, or other place in this State, official findings, records, reports, or certified copies thereof, of death, presumed death, missing, or other status issued by the Secretaries of War and Navy, and

other Federal officers and employees."

Act of May 1, 1945 (P.L.369, No.156), entitled "An act to extend the lien of taxes and municipal claims and the period for the redemption of real property, where the commencement of proceedings or actions for the collection of taxes or municipal claims, or sales for the collection thereof, are stayed by a court, pursuant to the Soldiers' and Sailors' Civil Relief Act of 1940, or the period for the redemption of real property expires before the end of six months after termination of the military service of a person having the right to redeem such real property."

Act of May 5, 1945 (P.L.426, No.173), entitled "An act to authorize certain persons to take affidavits and acknowledgments in connection with the administration of the affairs of veterans and their dependents; making certain offenses punishable as perjury; and imposing penalties."

Act of May 22, 1945 (P.L.837, No.337), entitled, as amended, "An act providing for and requiring in certain cases preference in appointments to and retention in public position or on public works for honorably discharged persons who served in the military or naval service during any war or armed conflict in which the United States engaged or served therein since July 27, 1953, or hereafter so serves including service in Vietnam; and in certain cases for the widows and wives of such persons."

Act of May 27, 1949 (P.L.1903, No.568), known as "The Military Code of 1949."

Act of August 24, 1951 (P.L.1355, No.330), entitled "An act concerning mutual military aid and assistance by and between the Commonwealth of Pennsylvania and other states, in an emergency;

and agreeing to, approving, and authorizing and empowering the Governor to enter into a compact with the State of New Jersey and the State of New York and any other state concurring therein or otherwise approving thereof, for such purpose."

Act of July 8, 1957 (P.L.557, No.309), known as the "Veterans Preference Act of 1957."

Act of September 8, 1959 (P.L.838, No.327), entitled, as amended, "An act to prohibit discrimination in employment by the Commonwealth, its agencies or any political subdivision, or by private employers, because of membership in the National Guard or a reserve component of the United States in certain cases."

Act of December 21, 1959 (P.L.1965, No.719), entitled "An act authorizing the conferring of the rank of Brigadier General, Retired, in the Pennsylvania National Guard, upon Medical Corps Colonels who have served in World War I. and World War II."

Act of April 23, 1963 (P.L.20, No.17), entitled "An act providing for pensions for war veterans blinded through service connected injuries; conferring powers and imposing duties on the Department of Military Affairs and the Adjutant General; and making an appropriation."

Act of November 24, 1967 (P.L.561, No.272), known as "The Pennsylvania Code of Military Justice."

Section 3. Saved From Repeal.--The following acts and parts of acts are expressly saved from repeal:

Act of January 5, 1934 (1933 Sp.Sess., P.L.219, No.52), entitled "An act authorizing the issue and sale of bonds by the Commonwealth of Pennsylvania for the payment of compensation to certain veterans; creating a special fund in the State Treasury to be known as the Veterans' Compensation Fund; defining the

powers and duties of the Governor, the Auditor General, the State Treasurer and the Board of Finance and Revenue, in relation thereto; and providing for the payment of interest on, and the redemption of, such bonds; and making an appropriation." Act of January 5, 1934 (1933 Sp.Sess., P.L.223, No.53), known as the "Veterans' Compensation Act."

Act of June 11, 1947 (P.L.565, No.248), known as the "World War II Veterans' Compensation Act."

Act of May 18, 1949 (P.L.1451, No.428), entitled "An act authorizing the issue and sale of bonds by the Commonwealth of Pennsylvania for the payment of compensation to certain veterans; creating a special fund in the State Treasury to be known as the World War II Veterans' Compensation Fund; defining the powers and duties of the Governor, the Auditor General, the State Treasurer, and the Board of Finance and Revenue in relation thereto; and providing for the payment of interest on and the redemption and refunding of such bonds; and making an appropriation."

Act of July 8, 1957 (P.L.569, No.317), known as the "Korean Conflict Veterans' Compensation Act."

Act of May 4, 1959 (P.L.285, No.39), known as the "Korean Conflict Veterans' Compensation Bond Act."

Act of June 21, 1961 (P.L.494, No.254), known as the "Supplemental World War II Veterans' Compensation Bond Act."

Act of July 18, 1968 (P.L.405, No.183), known as the "Vietnam Conflict Veterans' Compensation Act."

Act of May 15, 1969 (P.L.40, No.14), entitled "An act authorizing the issue and sale of bonds by the Commonwealth of Pennsylvania for the payment of compensation to certain

Veterans; creating a special fund in the State Treasury to be known as the Vietnam Conflict Veterans' Compensation Fund; defining the powers and duties of the Governor, the Auditor General, the State Treasurer, and the Board of Finance and Revenue in relation thereto; and providing for the payment of interest on and the redemption and refunding of such bonds; and making an appropriation."

Act of December 29, 1972 (P.L.1720, No.370), known as the "Vietnam Conflict Prisoners of War Compensation Act."

Section 4. Effective Date.--This act shall take effect January 1, 1976.



## APPENDIX A: CODES OF OTHER STATES

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### JURISDICTIONS HAVING ADOPTED THE UNIFORM CODE OF MILITARY JUSTICE

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Jurisdiction	Statutory Citation
Arkansas . . . . .	.Ark. Stats. §§ 11-601 to 11-774.
Connecticut . . . . .	.C.G.S.A. §§ 27-141 to 27-274.
Iowa . . . . .	.I.C.A. § 29B.1 et seq.
Kansas . . . . .	.KSA 48-2101 to 48-3115.
Maine . . . . .	.37-A M.R.S.A. §§ 1301 to 1355.
Minnesota . . . . .	.M.S.A. §§ 192A.01 to 192A.675.
Nevada . . . . .	.N.R.S. 412.196 to 412.584.
New Hampshire . . . . .	.RSA 110-A:53 to 110-A:73.
Ohio . . . . .	.R.C. §§ 5924.01 to 5924.148.
Oklahoma . . . . .	.44 Okl. St. Ann. § 2101 et seq.
Puerto Rico . . . . .	.25 L.P.R.A. §§ 2301 to 2788.
Rhode Island . . . . .	.Gen. Laws 1956, §§ 30-13-1 to 30-13-135.
Washington . . . . .	.RCWA 38.38.004 to 38.38.888.
Wisconsin . . . . .	.W.S.A. § 21.37.

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### JURISDICTIONS HAVING ADOPTED ACTS SIMILAR IN PURPOSE TO THE UNIFORM CODE OF MILITARY JUSTICE

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Jurisdiction	Statutory Citation
Georgia . . . . .	.Code §§86-701 to 86-799.29.
Kentucky . . . . .	.ICRS 35.010 to 35.680.
Michigan . . . . .	.M.C.L.A. §§ 32.301 to 32.426.
Mississippi . . . . .	.Code 1972 §§ 33-13-1 to 33-13-631.
New York . . . . .	.McKinney's Military Law §§ 130.1 to 131.12.
Oregon . . . . .	.ORS 398.002 to 398.416.
Pennsylvania . . . . .	.Act of November 24, 1967, P.L. 561, No. 272.

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APPENDIX B: COMPARATIVE STATUTE TABLES

These tables compare sections of selected laws (as last amended) with their disposition in Purdon's Pennsylvania Statutes Annotated and in the proposed Title 51 of the Pennsylvania Consolidated Statutes, the Military Code.

The sections of the acts starred (\*) indicate sections omitted from the Military Code as unnecessary, duplicative, held unconstitutional or covered by rules of court or laws other than the code.

MILITARY CODE OF 1949  
51 PURDON'S STATUTES AND  
PA. CONSOLIDATED STATUTES, TITLE 51

Military Code of 1949	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51	Military Code of 1949	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51
Section	Section	Section	Section	Section	Section
101	1-101	*	311	1-311	508
102	1-102	103	312	1-312	509
103	1-103	102	313	1-313	510
104	1-104	4101	314	1-314	511
			315	1-315	*
201	1-201	*	316	1-316	*
202	1-202	*			
203	1-203	*	401	1-401	701
204	1-204	*	402	1-402	702
205	1-205	2101	403	1-403	703
206	1-206	*			
207	1-207	*	501	1-501	902
208	1-208	*	502	1-502	903
209	1-209	*	503	1-503	904
210	1-210	*	504	1-504	905
			505	1-505	906
301	1-301	501	506	1-506	907
302	1-302	502	507	1-507	908
303	1-303	503			
304	1-304	*	601	1-601	1501
305	1-305	504	602	1-602	1502
306	1-306	505	603	1-603	1503
307	1-307	506	604	1-604	*
308	1-308	*	605	1-605	1504
309	1-309	*	606	1-606	1505
310	1-310	507	607	1-607	*

Military Code of 1949	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51	Military Code of 1949	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51
Section	Section	Section	Section	Section	Section
608	1-608				
609	1-609	1506	838	1-838	1108
610	1-610	1506	839	1-839	4102
611	1-611	*	840	1-840	4103
612	1-612	*	841	1-841	4104
613	1-613	*	842	1-842	4105
614	1-614	*	843	1-843	4106
615	1-615	*	844	1-844	3501
616	1-616	1507	845	1-845	6046
617	1-617	1507	846	1-846	6047
618	1-618	1508	862	1-862	*
		1510			
701	1-701		901	1-901	*
702	1-702	*	902	1-902	*
		*	903	1-903	*
801	1-801		904	1-904	*
802	1-802	1101	905	1-905	*
803	1-803	*	906	1-906	*
804	1-804	1102	907	1-907	*
805	1-805	*	908	1-908	*
806	1-806	1104	909	1-909	*
807	1-807	1105			
808	1-808	*	1001	1-1001	1301
809	1-809	*	1002	1-1002	1302
810	1-810	*	1003	1-1003	2501
811	1-811	1106	1004	1-1004	2502
812	1-812	1107	1005	1-1005	2503
813	1-813	2301	1006	1-1006	3301
814	1-814	2302	1007	1-1007	*
815	1-815	2303	1008	1-1008	3302
816	1-816	1103, 1303	1009	1-1009	3303
817	1-817	2304			
818	1-818	2305	1101	1-1101	3701
819	1-819	2306	1102	1-1102	*
820	1-820	*	1103	1-1103	3701
821	1-821	2307	1104	1-1104	*
822	1-822	2308, 2312			
823	1-823	2309	1201	1-1201	*
824	1-824	2309	1202	1-1202	*
825	1-825	2310			
826	1-826	2311			
827	1-827	2312			
827.1	1-827.1	*			
828	1-828	*			
829	1-829	2314			
830	1-830	2315			
831	1-831	2316			
832	1-832	2317			
833	1-833	3101			
834	1-834	*			
835	1-835	3102			
836	1-836	3103			
837	1-837	2313			
		*			

CODE OF MILITARY JUSTICE  
51 PURDON'S STATUTES AND  
PA. CONSOLIDATED STATUTES, TITLE 51

Code of Military Justice	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51	Code of Military Justice	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51
Section	Section	Section	Section	Section	Section
101	1101	5101	704	1704	5704
102	1102	5102	705	1705	5705
103	1103	5103	706	1706	5706
104	1104	5104	707	1707	5707
105	1105	5105	708	1708	5708
106	1106	5106	709	1709	5709
			710	1710	5710
201	1201	5201	711	1711	5711
202	1202	5202	712	1712	5712
203	1203	5203	713	1713	5713
204	1204	5204	714	1714	5714
205	1205	5205	715	1715	5715
206	1206	5206	716	1716	5716
207	1207	5207	718	1718	5718
208	1208	5208	719	1719	5719
301	1301	5301	801	1801	5801
			802	1802	5802
401	1401	5401	803	1803	5803
402	1402	5402	804	1804	5804
403	1403	5403			
404	1404	5404	901	1901	5901
405	1405	5405	902	1902	5902
406	1406	5406	903	1903	5903
407	1407	5407	904	1904	5904
408	1408	5408	905	1905	5905
			906	1906	5905
501	1501	5501	907	1907	5907
502	1502	5502	908	1908	5908
503	1503	5503	909	1909	5909
504	1504	5504	910	1910	5910
505	1505	5505	911	1911	5911
506	1506	5506	912	1912	5912
507	1507	5507	913	1913	5913
508	1508	5508	914	1914	5914
			915	1915	5915
			916	1916	5916
601	1601	5601	1001	2001	6001
602	1602	5602	1002	2002	6002
603	1603	5603	1003	2003	6003
604	1604	5604	1004	2004	6004
605	1605	5605	1005	2005	6005
606	1606	5606	1006	2006	6006
			1007	2007	6007
701	1701	5701	1008	2008	6008
702	1702	5702			
703	1703	5703			

Code of Military Justice	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51	Code of Military Justice	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51
Section	Section	Section	Section	Section	Section
1009	2009	6009	1036	2036	6036
1010	2010	6010	1037	2037	6037
1011	2011	6011	1038	2038	6038
1012	2012	6012	1039	2039	6039
1013	2013	6013	1040	2040	6040
1014	2014	6014	1041	2041	6041
1015	2015	6015	1042	2042	6042
1016	2016	6016	1043	2043	6043
1017	2017	6017	1044	2044	6044
1018	2018	6018	1045	2045	6045
1019	2019	6019			
1020	2020	6020	1101	2101	6101
1021	2021	6021	1102	2102	6102
1022	2022	6022	1103	2103	6103
1023	2023	6023	1104	2104	6104
1024	2024	6024	1105	2105	6105
1025	2025	6025	1106	2106	6106
1026	2026	6026	1107	2107	6107
1027	2027	6027	1108	2108	6108
1028	2028	6028	1109	2109	6109
1029	2029	6029	1110	2110	6110
1030	2030	6030	1111	2111	6111
1031	2031	6031	1112	2112	6112
1032	2032	6032	1113	2113	*
1033	2033	6033	1114	2114	*
1034	2034	6034	1115	2115	*
1035	2035	6035			

PA. PAMPHLET LAWS  
51 PURDON'S STATUTES AND  
PA. CONSOLIDATED STATUTES, TITLE 51

Pa. Pamphlet Laws	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51	Pa. Pamphlet Laws	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51
	Section	Section		Section	Section
1861, April 18, P.L. 408, §4	21	*	1945, May 5, P.L. 426, §1	314	9102
			§2	315	9102
1937, July 1, P.L. 2650, §1	134	*	1963, April 23, P.L. 20, §1	370	7701
§2	135	*			
§3	136	*	1909, April 1, P.L. 95, §1	381	3502
§4	137	*	§2	382	3502
1899, April 28, P.L. 133, §1	151	*	§3	383	3502
			§4	384	3502
1927, May 4, P.L. 750, §1	152	*	§5	385	3502
			§6	386	3502
1959, Dec. 21, P.L. 1965, §1	250	*	1879, June 11, P.L. 148, §1	401	9101
1864, May 5, P.L. 841, §1	261	*	1885, June 3, P.L. 62, §6	461	*
			§8	462	*
1921, May 27, P.L. 1177, §1	262	*	1929, May 8, P.L. 1669, §1	463	*
§2	263	*			
§3	264	*	1943, May 21, P.L. 270, §1	464	*
§4	265	*			
§5	266	*	1923, May 11, P.L. 203, §1	485	*
1851, Feb. 10, P.L. 53, §1	281	*	§2	486	7103
1887, June 1, P.L. 283, §1	282	*	1921, May 17, P.L. 897, §1	487	*
§2	283	*			
§3	284	*	1923, April 23, P.L. 86, §1	488	3703
§4	285	*			
§5	286	*	1945, May 22, P.L. 837, §1	492.1	7101
§6	287	*	§2	492.2	7102
1903, April 14, P.L. 186, §1	288	*	§3	492.3	7103
§2	289	*	§4	492.4	7104
§3	290	*	§5	492.5	7105
§4	291	*	§6	492.6	7106
§5	292	*	§6.1	492.6A	7107

Pa. Pamphlet Laws	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51	Pa. Pamphlet Laws	51 Purdon's Statutes	Pa. Consolidated Statutes, Title 51
1945, May 22, P.L. 837, \$7	492.7	7108	1943, April 13, P.L. 45, \$1	625	7501
\$8	492.8	7109	\$2	626	*
1957, July 8, P.L. 557, \$1	493.1	*	\$3	627	7503
\$2	493.2	7301	\$5	628	*
\$3	493.3	7302	1943, May 21, P.L. 322, \$1	629	9201
\$4	493.4	7303	\$1.1	629.1	9201
\$5	493.5	7304	1945, April 10, P.L. 187, \$1	630	9401
\$6	493.6	7305	\$2	631	9402
\$7	493.7	7306	\$3	632	9403
\$8	493.8	7307	1945, May 1, P.L. 369, \$1	633.1	7311
\$9	493.9	7308	\$2	633.2	7311
1925, May 6, P.L. 525, \$1	511	*	1951, Aug. 24, P.L. 1355, \$1	634	4501
\$2	512	*	1959, Sept. 8, P.L. 838, \$1	635	7309
1921, May 5, P.L. 420, \$1	513	*	1943, May 21, P.L. 341, \$1	641	4701
\$2	514	*	\$2	642	4702
\$3	515	*	\$3	643	*
1923, May 3, P.L. 134, \$1	601	9301	\$5	644	*
\$2	602	9301	1945, April 6, P.L. 164, \$1	701	7310
1913, June 12, P.L. 489, \$1	623	9302			
1941, July 28, P.L. 563, \$1	624	7502			