

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 292** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 1, following line 33, by inserting:

"New Sec. 3. No member of the state military forces may be placed in confinement in immediate association with enemy prisoners, both foreign and domestic, or other foreign nationals who are not members of the armed forces.

New Sec. 4. (a) A person punished under K.S.A. 48-2301, and amendments thereto, by a company-grade commanding officer who considers the findings unsupported by the evidence or the punishment unjust or disproportionate to the offense can demand from the commanding officer a de novo review of the findings and punishment.

(1) Upon such demand, any punishment shall be stayed and the hearing record, evidence and supporting documents under K.S.A. 48-2301, and amendments thereto, shall be forwarded to the next superior field-grade commander.

(2) Upon receipt of such evidence, the next superior commander shall obtain a written legal review of the matter and, after providing the accused an opportunity to be heard, make a written decision on:

- (A) Whether to uphold or reverse any finding of guilt; and
- (B) whether to uphold, mitigate or reduce any punishment.

(b) A person punished under K.S.A. 48-2301, and amendments thereto, by a field-grade commanding officer, or an officer of a general or flag rank in command who considers the punishment unjust or disproportionate to the offense can, through the proper channel, appeal to

the next superior commander within 10 days of being informed about the punishment.

(1) The appeal shall be promptly forwarded and decided, but the person punished may be required to undergo the punishment. The superior commander may exercise the same powers with respect to the punishment imposed in K.S.A. 48-2301(f), and amendments thereto.

(2) Before acting on an appeal, the superior commander in charge of the appeal must give the accused the opportunity to be heard and can refer the case to a judge advocate for consideration and advice. The manner in which the opportunity to be heard is exercised at the sole discretion of the superior commander.

(c) A person punished under K.S.A. 48-2201, and amendments thereto, is entitled to one appeal but is not entitled to any appeal under this section.

New Sec. 5. (a) The imposition and enforcement of disciplinary punishment under K.S.A. 48-2301, and amendments thereto, for any act or omission does not bar a trial by a civilian court of competent jurisdiction for a serious crime or offense related to the same act or omission and not properly punishable under this code.

(b) The enforcement of a disciplinary punishment may be shown by the accused during trial proceedings and, when shown, shall be considered in the determination of punishment if the accused is found guilty.

New Sec. 6. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person is:

(1) In a training leadership position with respect to a specially protected junior member of the armed forces; and

(2) engages in prohibited sexual activity with such specially protected junior member of the armed forces.

(b) Any person subject to this code shall be punished at the direction of a commanding officer if they are:

(1) A military recruiter and engage in prohibited sexual activity with an applicant for military service;

(2) a military recruiter and engage in prohibited sexual activity with a specially protected junior member of the armed forces who is enlisted under a delayed entry program; or

(3) a military cadre and engages in prohibited sexual activity with a specially protected junior member of the armed forces who is enlisted under a delayed entry program.

(c) Consent is not a defense for any conduct listed in this section.

(d) As used in this section:

(1) "Applicant for military service" means a person who, under regulations prescribed by the secretary of the military department concerned, is an applicant for original enlistment or appointment in the United States armed forces or state military forces.

(2) "Military recruiter" means a person who, under regulations prescribed by the secretary of the military department concerned, has the primary duty to recruit persons for military service.

(3) "Prohibited sexual activity" means, as specified in military regulations, inappropriate physical intimacy under circumstances described in such regulations.

(4) "Specially protected junior member of the armed forces" means:

(A) A member of the armed forces or state military forces who is assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program;

(B) a member of the armed forces or state military forces who is a cadet, midshipmen,

an officer candidate or a student in any other officer qualification program; and

(C) a member of the armed forces or state military forces in any program that, by regulation prescribed by the secretary of the military department concerned, is identified as a training program for initial career qualification.

(5) "Training leadership position" means any person subject to this code that is assigned or attached to a unit whose primary purpose is the recruitment of members into the United States armed forces or state military forces or who serve as faculty, staff, drill instructor or in other leadership position in:

(A) A basic training program;

(B) a training program for entry into the United States armed forces or state military forces;

(C) a reserve officers' training unit;

(D) an officers' candidate school; or

(E) any program that is identified as a training program or initial career qualification.

New Sec. 7. Any person subject to this code shall be guilty of the offense of sexual harassment and shall be punished at the direction of a commanding officer if such person's conduct meets the following elements:

(a) Such person made sexual advances, demands or requests for sexual favors or knowingly engaged in other conduct of a sexual nature;

(b) such conduct was unwelcome; and

(c) under the circumstances, such conduct:

(1) Would cause a reasonable person to believe, and such person did believe, that submission to such conduct would be made, either explicitly or implicitly, a term or condition of

a person's job, pay, career, benefits or entitlements;

(2) would cause a reasonable person to believe, and such person did believe, that submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting such person's job, pay, career, benefits or entitlements; or

(3) was so severe, repetitive or pervasive that a reasonable person would perceive, and such person did perceive, an intimidating, hostile or offensive work environment.

New Sec. 8. (a) Any sentinel or lookout who is drunk, sleeps or leaves while on post before being regularly relieved shall be punished at the direction of a commanding officer.

(b) Any sentinel or lookout who loiters or wrongfully sits down on post shall be punished at the direction of a commanding officer.

New Sec. 9. (a) Any person subject to this code who, knowing that another person is a sentinel or lookout, uses wrongful and disrespectful language that is directed toward and within the hearing of the sentinel or lookout, who is in execution of duties as a sentinel or lookout, shall be punished at the direction of a commanding officer.

(b) Any person subject to this code who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner that is directed toward and within the sight of the sentinel or lookout, who is in execution of duties as a sentinel or lookout, shall be punished at the direction of a commanding officer.

New Sec. 10. Any person subject to this code shall be punished at the direction of a commanding officer if such person willfully:

(a) Alters, conceals, removes, mutilates, obliterates or destroys a public record; or

(b) takes a public record with the intent to alter, conceal, remove, mutilate, obliterate or destroy such public record.

New Sec. 11. Any person subject to this code shall be punished at the direction of a commanding officer if such person intentionally:

- (a) Falsely makes or alters any signature or any part of any writing that would, if genuine, impose a legal liability on another or change their legal rights or liability; or
- (b) utters, offers, issues or transfers such writing, known by the person to be so made or altered.

New Sec. 12. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person willfully impersonates:

- (1) An officer, noncommissioned officer or petty officer;
 - (2) an agent of superior authority of one of the armed forces or state military forces; or
 - (3) a government official.
- (b) Any person subject to this code shall be punished at the direction of a commanding officer if such person, with intent to defraud, impersonates any person referred to in subsection (a).

(c) Any person subject to this code shall be punished at the direction of a commanding officer if such person, without intent to defraud, impersonates a government official by committing an act that exercises or asserts the authority of the office of the official being impersonated.

New Sec. 13. Any person subject to this code shall be punished at the direction of a commanding officer if such person:

- (a) Is not authorized to wear an insignia, decoration, badge, ribbon, device or lapel button; and
- (b) wrongfully wears such insignia, decoration, badge, ribbon, device or lapel button

upon the person's uniforms or civilian clothing.

New Sec. 14. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person wrongfully takes any mail before such mail is delivered to or received by the addressee, with the intent to obstruct the correspondence, or to pry into the business secrets of any person or organization.

(b) Any person subject to this code shall be punished at the direction of a commanding officer if they wrongfully open, destroy or steal mail before such mail is delivered to or received by the addressee.

New Sec. 15. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person:

(1) Is the driver of a vehicle that is involved in an accident that results in a personal injury or property damage; and

(2) wrongfully leaves the scene of the accident without providing:

(A) Assistance to an injured person; or

(B) personal identification to others involved in the accident or to appropriate authorities.

(b) Any person subject to this code shall be punished at the direction of a commanding officer if such person:

(1) Is a passenger in a vehicle that is involved in an accident that results in personal injury or property damage;

(2) is the superior commissioned or noncommissioned officer of the driver or commander of the vehicle; and

(3) wrongfully and unlawfully orders, causes or permits the driver to leave the scene of

the accident without providing:

(A) Assistance to an injured person; or

(B) personal identification to others involved in the accident or to appropriate authorities.

New Sec. 16. Any person subject to this code shall be punished at the direction of a commanding officer if such person willfully and wrongfully:

(a) Discharges or brandishes a firearm under any circumstances that endanger a human life; or

(b) causes a reasonable person to be apprehensive of the potential endangerment of human life.

New Sec. 17. (a) Any person subject to this code shall be guilty of simple assault and shall be punished at the direction of a commanding officer if such person:

(1) Attempts to do bodily harm to another person;

(2) offers to do bodily harm to another person; or

(3) does bodily harm to another person.

(b) As used in this section, "another person" means a member, cadet, trainee or recruit of the state military forces, the United States armed forces or the state military forces of another state.

New Sec. 18. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person commits a violent offense against a spouse, intimate partner or immediate family member of such person.

(b) Any person subject to this code shall be punished at the direction of a commanding officer if such person, with the intent to threaten or intimidate a spouse, intimate partner or

immediate family member of such person, commits an offense under this code against:

(1) Any person; or

(2) any property, including animals.

(c) Any person subject to this code shall be punished at the direction of a commanding officer if such person, with the intent to threaten or intimidate a spouse, intimate partner or immediate family member of such person, violates a protection order.

(d) Any person subject to this code shall be punished at the direction of a commanding officer if such person, with the intent to commit a violent offense against a spouse, intimate partner or immediate family member of such person, violates a protection order.

New Sec. 19. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person communicates a threat to injure the person, property or reputation of another.

(b) Any person subject to this code shall be punished at the direction of a commanding officer if such person communicates a threat to injure the person or property of another by use of:

(1) An explosive;

(2) a weapon of mass destruction;

(3) a biological or chemical agent, substance or weapon; or

(4) a hazardous material.

(c) Any person subject to this code shall be punished at the direction of a commanding officer if such person maliciously communicates a false threat concerning the person or property of another by use of:

(1) An explosive;

(2) a weapon of mass destruction;

(3) a biological or chemical agent, substance or weapon; or

(4) a hazardous material.

(d) As used in this section, "false threat" means a threat that, at the time it is communicated, is known to be untrue by the person communicating the threat.

New Sec. 20. (a) Any person subject to this code is guilty of wrongful distribution of intimate visual images or visual images of sexually explicit conduct and shall be punished at the direction of a commanding officer if such person:

(1) Knowingly and wrongfully broadcasts or distributes an intimate visual image of another person or a visual image of sexually explicit conduct involving a person who:

(A) Is at least 18 years of age at the time the intimate visual image or visual image of sexually explicit conduct was created;

(B) is identifiable from the intimate visual image or visual image of sexually explicit conduct or from information displayed in connection with the intimate visual image or visual image of sexually explicit conduct; and

(C) does not explicitly consent to the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

(2) knows or reasonably should have known that the intimate visual image or visual image of sexually explicit conduct was made under circumstances in which the person depicted in the intimate visual image or visual image of sexually explicit conduct retained a reasonable expectation of privacy regarding any broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

(3) knows or reasonably should have known that the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct is likely to:

(A) Cause harm, harassment, intimidation, emotional distress or financial loss for the person depicted in the intimate visual image or visual image of sexually explicit conduct; or

(B) harm substantially the depicted person with respect to that person's health, safety, business, calling, career, financial condition, reputation or personal relations; or

(4) engaged in conduct that had a reasonably direct connection to a military mission or military environment.

(b) As used in this section:

(1) "Broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons.

(2) "Distribute" means to deliver to the actual or constructive possession of another person, including transmission by mail or electronic means.

(3) "Intimate visual image" means a visual image that depicts the private area of a person.

(4) "Private area" means the naked or underwear-clad genitalia, anus, buttocks or female areola or nipple.

(5) "Reasonable expectation of privacy" means circumstances in which a reasonable person would believe that a private area of the person, or sexually explicit conduct involving that person, would not be visible to the public.

(6) "Sexually explicit conduct" means actual or simulated genital-to-genital contact, oral-to-genital contact, anal-to-genital contact or oral-to-anal contact, whether between persons of the same or opposite sex, bestiality, masturbation or sadistic or masochistic abuse.

(7) "Visual image" means:

(A) Any developed or undeveloped photograph, picture, film or video;

(B) any digital or computerized image, picture, film or video made by any means, including those transmitted by any means, including streaming media not stored in a permanent format; or

(C) any digital or electronic data capable of conversion into a visual image.

New Sec. 21. (a) Any person subject to this code shall, if the conditions in subsection (b) are satisfied, be punished at the direction of a commanding officer if such person induces another person to:

(1) Take an oath; and

(2) falsely testify, depose or make a statement upon such oath.

(b) The conditions referred to in subsection (a) are the following:

(1) The oath is administered regarding a matter for which such oath is required or authorized by law.

(2) The oath is administered by a person that has the authority to do so.

(3) Upon making such oath, the other person willfully makes or attests to a statement.

(4) The statement is material to the proceedings.

(5) The statement is false.

(6) When the statement is made or attested to, the person subject to this code and the person induced into such conduct do not believe such statement is true.

New Sec. 22. Any person subject to this code shall be punished at the direction of a commanding officer if such person engages in conduct intending to influence, impede or otherwise obstruct the due administration of justice.

New Sec. 23. Any person subject to this code shall be punished at the direction of a commanding officer if such person:

(a) Knows another person has committed a serious offense; and

(b) wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible.

New Sec. 24. Any person subject to this code shall be punished at the direction of a commanding officer if such person, in the presence of a court-martial, a board of officers, a military commission, a court of inquiry, a preliminary hearing or an officer taking a deposition for the state of Kansas or the United States, wrongfully refuses to qualify as a witness or to answer a question after having been directed to do so by the presiding authority.

New Sec. 25. Any person subject to this code shall be punished at the direction of a commanding officer if such person knows that one or more persons authorized to make searches and seizures are seizing, about to seize or are endeavoring to seize property then destroy, remove or otherwise dispose of the property with the intent to prevent the seizure of such property.

New Sec. 26. Any person subject to this code shall be punished at the direction of a commanding officer if such person has reason to believe that an adverse administrative action is pending against any person subject to this code and:

(a) Intentionally acts to influence, impede or obstruct the conduct of the proceeding; or

(b) acts to obstruct the due administration of justice.

New Sec. 27. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person:

(1) Occupies an official position or has official duties; and

(2) wrongfully asks for, accepts or receives something of value with the intent to have the person's decision or action influenced regarding an official matter in which the state of Kansas or the United States is interested.

(b) Any person subject to this code shall be punished at the direction of a commanding officer if such person:

(1) Wrongfully promises, offers or gives something of value to a person who occupies an official position or has official duties; and

(2) intends to influence the decisions or actions of the person regarding an official matter in which the state of Kansas or the United States is interested.

New Sec. 28. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person:

(1) Occupies an official position or has official duties; and

(2) wrongfully asks for, accepts or receives something of value as compensation for or in recognition of services rendered or to be rendered by the person regarding an official matter in which the state of Kansas or the United States is interested.

(b) Any person subject to this code shall be punished at the direction of a commanding officer if such person promises, offers or gives something of value to a person who occupies an official position or who has official duties as compensation for or in recognition of services rendered by such person regarding an official matter in which the state of Kansas or the United States is interested.

New Sec. 29. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person, with the knowing intent to defraud and obtain money, property, services or something of value, uses:

(1) A stolen credit card, debit card or other access device;

(2) a revoked, canceled or otherwise invalid credit card, debit card or other access device; or

(3) a credit card, debit card or other access device without the authorization of a person whose authorization is required for such use.

(b) As used in this section:

(1) "Access device" means the same as defined in 18 U.S.C. § 1029.

(2) "Credit card" and "debit card" mean cards issued on behalf of the United States government or the state of Kansas or because of the member's service in the state military forces.

New Sec. 30. Any person subject to this code shall be guilty of extortion and be punished at the direction of a commanding officer if such person communicates threats to another person with the intention to obtain something of value or any acquittance, advantage or immunity.

New Sec. 31. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person, without legal justification or lawful authorization:

(1) Knowingly and wrongfully views the private area of another person without the other person's consent and when that other person has a reasonable expectation of privacy;

(2) knowingly photographs, videotapes, films or records by any means the private area of another person without that other person's consent and when that other person has a reasonable expectation of privacy; or

(3) knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under the circumstances prescribed in paragraphs (1) and (2).

(b) Any person subject to this code shall be punished at the direction of a commanding officer and is guilty of forcible pandering if such person compels another person to engage in an act of prostitution with any person.

(c) Any person subject to this code shall be punished at the direction of a commanding officer and is guilty of indecent exposure if such person intentionally exposes, in an indecent manner, the genitalia, anus, buttocks or female areola or nipple.

(d) In this section:

(1) "Act of prostitution" means a sexual act or sexual contact as defined in UCMJ article 120 and where the person performing the act receives something of value in return.

(2) "Another person" or "other person" means a member of the state military forces, the United States armed forces, the state military forces from another state, a cadet, a candidate, a trainee or a recruit.

(3) "Broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons.

(4) "Distribute" means to deliver to the actual or constructive possession of another, including transmission by electronic means.

(5) "Indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity that is grossly vulgar, obscene and repugnant to common propriety and tends to excite sexual desire or deprave morals with respect to sexual relations.

(6) "Private area" means the naked or underwear-clad genitalia, anus, buttocks or female areola or nipple.

(7) "Reasonable expectation of privacy" means circumstances in which a reasonable person would believe that:

(A) The person could disrobe in privacy without being concerned that an image of a private area of the person is being captured; or

(B) a private area of the person would not be visible to the public.

New Sec. 32. (a) Any person subject to this code shall be punished at the direction of a commanding officer if such person takes or threatens to take an adverse personnel action or withholds or threatens to withhold a favorable personnel action with the intent to:

(1) Retaliate against any person for reporting or planning to report a criminal or military offense;

(2) retaliate against any person making or planning to make a protected communication; or

(3) discourage any person from reporting or planning to report a criminal or military offense.

(b) As used in this section:

(1) "Covered individual or organization" means any recipient of communication specified in 10 U.S.C. § 1034(b)(1)(B)(i) through (v).

(2) "Inspector general" means the same as defined in 10 U.S.C. § 1034(j).

(3) "Protected communication" means:

(A) A lawful communication to a member of congress or an inspector general; or

(B) a communication to a covered individual or organization in which a member of the armed forces or state military forces complains of or discloses information that the member reasonably believes constitutes evidence of the following:

(i) A violation of law or regulation prohibiting sexual harassment or unlawful discrimination; or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority or a substantial and specific danger to public health or safety.

(4) "Unlawful discrimination" means discrimination on the basis of race, color, religion,

sex or national origin.

New Sec. 33. Army regulation 27-10, military justice, air force instruction 51-201, administration of military justice, and air force instruction 51-202, nonjudicial punishment, may be used to effectuate the purpose and provisions of this code to the extent they are consistent with this code.

New Sec. 34. Nothing in this code precludes administrative action against a person subject to this code for an offense, military or non-military, as allowed by law or regulation.

New Sec. 35. The provisions of this code are severable. If any portion of the code is declared unconstitutional or invalid, or the application of any portion of the code to any person or circumstance is held unconstitutional or invalid, the invalidity shall not affect other portions of the code that can be given effect without the invalid portion or application, and the applicability of such other portions of the code to any person or circumstance shall remain valid and enforceable.

New Sec. 36. Any person subject to this code shall be punished at the direction of a commanding officer if such person willfully disobeys a lawful command of such person's superior commissioned officer.";

On page 12, following line 9, by inserting:

"Sec. 55. K.S.A. 48-2101 is hereby amended to read as follows: 48-2101. In this act, unless the context otherwise requires:

(1) "State military forces" means the national guard of the state, as defined in ~~section 101(3)~~ of title 32, of the United States Code, and any other military force organized under the laws of the state when not in a status subjecting the state military forces to exclusive federal jurisdiction under title 10 of chapter 47 of the United States Code. The unorganized militia, state

defense force, state national guard, home guard or any other name of any state force that does not meet this definition shall be part of the state military forces under this code.

(2) "Officer" means both a commissioned or warrant officer.

(3) "Commanding officer" includes only commissioned officers of the state military forces and shall include officers in charge only when administering nonjudicial punishment under K.S.A. 48-2301, and amendments thereto. The term "commander" has the same meaning as "commanding officer" unless otherwise noted.

(4) "Superior commissioned officer" means a commissioned officer superior in rank or command.

(5) "Enlisted member" means ~~any~~ a person serving in an enlisted grade.

(6) "Grade" means 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.

(7) "Rank" means the order of precedence among members of the state military forces.

(8) "~~Active-State~~ active duty" means full-time duty in the ~~active state~~ military service of the state forces under an order of the governor issued under authority vested in the governor by law, ~~performance of regular duties by technicians, regularly scheduled drills and other legally called assemblies and paid for by state funds,~~ including travel to and from such duty.

(9) "Duty status other than state active duty" ~~includes active state duty and means~~ any other type of ~~state military duty~~ duty not in federal service and not full-time duty in the active service of the state, under an order issued by authority of law, including travel to and from such duty.

(10) ~~"Military court" means a court-martial, a court of inquiry, or a provost court.~~

(11) ~~"Military judge" means an official of a general or special court-martial detailed in~~

~~accordance with this code.~~

~~(12)(10)~~ "State judge advocate-general" means the commissioned officer judge advocate appointed by the adjutant general who is responsible for supervising the administration of the military justice in the state military forces, overseeing and managing all legal personnel and services of the state military forces and military legal matters therein and for the administration of military justice.

~~(13)(11)~~ "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused.

~~(14)(12)~~ "Military" refers to any or all of the armed forces.

~~(15)~~ "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.

~~(16)(13)~~ "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.

~~(17)(14)~~ "Shall" is used in an imperative, mandatory sense.

~~(18)(15)~~ "Code" means this act or the Kansas code of military justice.

~~(19)(16)~~ "Hostile force Enemy" means enemy any hostile force designated as such by the United States, designated terrorist group or organized group designated by the proper civil authority that causes or perpetuates an insurrection against the United States or state of Kansas, rioters, looters, dissidents, and others opposing or interfering with law and order.

~~(20)(17)~~ "Judge advocate" means: a commissioned officer of the organized state military forces who is a member in good standing of the state bar of Kansas and is:

~~(a)~~ An officer of the Certified or designated as a judge advocate in the judge advocate

~~general's corps of the army or the, air force, navy, marine corps or space force, or of the state military forces designated as a law specialist and as an officer of the coast guard or a reserve component of the armed forces; or~~

~~(b) an officer of the air force or the marine corps who is designated as a certified as a non-federally recognized judge advocate under regulations promulgated under this provision by the state judge advocate or a designee as competent to perform such military justice duties required by this code; or~~

~~(c) an officer of the coast guard who is designated as a law specialist.~~

~~(21) "Record," when used in connection with the proceedings of a court-martial, means:~~

~~(a) An official written transcript, written summary or other writing relating to the proceedings; or~~

~~(b) an official audiotape, videotape or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced.~~

~~(22) For further definition of military terms refer to the dictionary of United States army terms (AR 310-25).~~

~~(18) "Cadet" or "candidate" means a person who is enrolled in or attending a state military academy, a regional training institute or any other formal education program for the purpose of becoming a commissioned officer in the state military forces.~~

~~(19) "Classified information" means:~~

~~(a) Any information or material that has been determined by an official of the United States or any state in accordance with law, an executive order or regulation to require protection against unauthorized disclosure for reasons of national or state security; and~~

~~(b) any restricted data, as defined in 42 U.S.C. § 2014(y).~~

(20) "Day" means a calendar day and is not synonymous with the term "unit training assembly." Any punishment authorized by this code that is measured in days shall, when served in a status other than annual training, be construed to mean successive duty days.

(21) "Military offenses" means those offenses punishable under the KCMJ and prescribed under chapter 48 of the Kansas Statutes Annotated, and amendments thereto.

(22) "National security" means the national defense and foreign relations of the United States.

(23) "Commissioned officer" includes a commissioned warrant officer.

(24) "Pay" means the federal active duty base pay in accordance with current United States department of defense military pay tables.

(25) "Open hearing" and "open proceeding" means a hearing or a proceeding that is open to and may be attended by members of the state military forces except for any member who is a witness in such hearing.

(26) "UCMJ" means the uniform code of military justice as defined in title 10 of chapter 47 of the United States Code and put into effect by an executive order of the president of the United States.

Sec. 56. K.S.A. 48-2102 is hereby amended to read as follows: 48-2102. ~~This code applies to all members of the state military forces~~ (a) The following persons who are not in federal service under a call or order of the president of the United States: are subject to this code:

(1) Members of the state military forces; and

(2) all other persons lawfully ordered to duty as part of the state military forces, from the dates they are required by the terms of the ordered or other directive to obey the code.

(b) A person may not be punished for any offense provided in this code unless:

(1) The offense was committed while the person was in a duty status during the time of the offense or was properly ordered to be in a duty status for the duration of the offense; or

(2) the offense charged shares a nexus to the military status, duty or assignment of the person.

(c) For purposes of this section, the required nexus of connection with military status, duty or assignment is conclusively established for offenses for which there is no equivalent offense in the criminal laws of this state and for offenses involving:

(1) Wrongful use, possession, manufacture, distribution or introduction of a controlled substance as described in K.S.A. 48-3035a, and amendments thereto; or

(2) the state military forces.

(d) Subject-matter jurisdiction is established if a nexus exists between an offense, either military or non-military, and the state military forces. State military forces have primary jurisdiction of military offenses, as defined in K.S.A. 48-2101, and amendments thereto, when persons subject to this code are in a duty status or were properly ordered to be in a duty status. A proper civilian court, except as provided in subsection (e), has primary jurisdiction of an offense when an act or omission violates both this code and local criminal law, foreign and domestic, and when a person subject to this code was neither in a duty status nor properly ordered into a duty status. In such a case involving a military offense, nonjudicial punishment may be initiated only after the civilian authority has declined to prosecute or has dismissed the charges, provided that jeopardy has not attached. Jurisdiction over attempted crimes, conspiracy crimes, solicitation and accessory crimes shall be determined by the underlying offense.

(e) State military forces have primary jurisdiction of any offense under this code that involves a person subject to the this code when in a duty status, when properly ordered to be in a

duty status or when a military nexus exists and specifically includes the wrongful use, possession, manufacture or introduction of a controlled substance as defined in Article 112a of the KCMJ.

Sec. 57. K.S.A. 48-2103 is hereby amended to read as follows: 48-2103. (a) ~~Each person discharged from the state military forces who is later charged with having fraudulently obtained a discharge is, subject to K.S.A. 48-2708, subject to trial by court-martial on that charge and is, after apprehension, subject to this code while in the custody of the military for that trial. Upon conviction of that charge such person is subject to trial by court-martial for all offenses under this code committed before the fraudulent discharge.~~

(b) ~~No person who has deserted from the state military forces may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service.~~

(e)(b) The fact that any person charged with an offense under this code is separated from the service while proceedings are pending or while undergoing sentence shall not affect the jurisdiction of any court-martial proceeding.

Sec. 58. K.S.A. 48-2105 is hereby amended to read as follows: 48-2105. (a) This code applies throughout the state to all times and places, provided that the person subject to the code is in a duty status or subject to this code under K.S.A. 48-2102, and amendments thereto. This grant of military jurisdiction shall neither preclude nor limit civilian jurisdiction over an offense, limited only by the prohibition of double jeopardy. ~~It also applies to all persons otherwise subject to this code while they are serving outside the state, and while they are going to and returning from such service outside the state, in the same manner and to the same extent as if they were serving inside the state.~~

~~(b) Courts-martial~~ Nonjudicial punishment may be convened and courts of inquiry may be convened and held in units of the state military forces while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

Sec. 59. K.S.A. 48-2106 is hereby amended to read as follows: 48-2106. (a) ~~The governor, on the recommendation of the adjutant general, shall appoint an officer of the state military forces as~~ staff judge advocate general advocates in each component of the state's military forces or such judge advocate's designee shall make frequent inspections in the field under the supervision of the administration of military justice in that force. ~~To be eligible for appointment, an officer must be a member of the bar of the highest court of the state and must have been a member of the bar of the state for at least five (5) years.~~

~~(b) The adjutant general may appoint as many assistants to the judge advocate general as he or she considers necessary who shall be designated assistant judge advocates. To be eligible for appointment, assistant judge advocates must be officers of the state military forces and members of the bar of the highest court of the state.~~

~~(e) Convening authorities~~ (b) Commanding officers shall at all times communicate directly with their staff judge advocates in matters relating to the administration of military justice; ~~and the staff.~~ The judge advocate of any command is entitled to communicate directly with the staff judge advocate of a superior or subordinate command; or with the state judge advocate ~~general~~.

~~(d)~~ (c) 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~~ a judge advocate to any reviewing authority upon the same case.

Sec. 60. K.S.A. 48-2201 is hereby amended to read as follows: 48-2201. (a) Apprehension is the taking of a person into custody.

(b) Any person authorized by ~~regulations governing the state military forces~~ this code or by title 10 of chapter 47 of the United States Code or by regulations issued under either, to apprehend persons subject to this code, ~~any marshal of a court-martial appointed pursuant to the provisions of this code,~~ and any law enforcement officer having authority to apprehend offenders under the laws of the United States or of a state or municipality, may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

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

(d) ~~Any~~ No person authorized by this article to apprehend persons subject to this code nor the place where such offender is restrained, held or otherwise housed subject to this code ~~who misses a movement to annual training or state active duty or is absent without leave from annual training or state active duty, may be apprehended and delivered to the person's commanding officer pursuant to a warrant issued by a military judge based upon probable cause. Apprehension under this subsection may be made by military police, security police or civilian law enforcement officers~~ may require payment of any fee or charge for receiving, apprehending, confining, restraining, holding or otherwise housing a person except as otherwise provided by law.

Sec. 61. K.S.A. 48-2203 is hereby amended to read as follows: 48-2203. (a) Arrest is

the restraint of a person by an order, not imposed as a punishment for an offense, directing the person to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted member 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 code or through any person authorized by this code to apprehend persons. A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted members of such officers' command or subject to such officers' authority into arrest or confinement.

(c) A commissioned officer, ~~or~~ warrant officer or a civilian subject to this code may be ordered ~~apprehended or~~ into arrest or confinement only by a commanding officer to whose authority such commissioned officer or warrant officer is subject, by an order, oral or written, delivered in person or by a commissioned officer. The authority to order such persons apprehended or into arrest or confinement may not be delegated.

(d) No person may be ordered apprehended or into arrest or confinement except for probable cause.

(e) 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.

Sec. 62. K.S.A. 48-2204 is hereby amended to read as follows: 48-2204. Any person subject to this code charged with an offense under this code may be ordered into arrest or confinement, as circumstances may require; ~~but when charged only with an offense normally tried by a summary court-martial, such person shall not ordinarily be placed in confinement.~~

When any person subject to this code is placed in arrest or confinement prior to trial, immediate

steps shall be taken to inform the person of the specific wrong of which the person is accused and to try the person or to dismiss the charges and release the person, in accordance with regulations promulgated by the governor.

Sec. 63. K.S.A. 2023 Supp. 48-2301 is hereby amended to read as follows: 48-2301. (a)

~~(1)~~ Under such regulations as the governor may prescribe, any commanding officer may impose disciplinary punishments for minor military offenses ~~without the intervention of a court-martial pursuant to this article. For purposes of this article, commanding officer shall include officers-in-charge under this code.~~

~~(2)~~ Only the governor, the adjutant general or an officer of a general or flag rank in command may delegate the powers under this article to a principal assistant who is a member of the state military forces.

(b) Any company-grade commanding officer may in addition to or in lieu of admonition or reprimand, after holding a hearing in which the accused is entitled to be present, impose not more than two of the following disciplinary punishments upon enlisted members of the officer's command:

(1) ~~An admonition;~~

~~(2) a reprimand;~~

~~(3) the Withholding of privileges for not more than six months, which need not be consecutive two consecutive weeks;~~

~~(2)~~ extra duties for not more than two consecutive weeks and not to exceed two hours per day, holidays included;

~~(4)~~(3) the forfeiture of not more than seven days' pay;

~~(5)~~(4) a fine of not more than seven days' pay; or

~~(6)~~(5) a reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction ~~or any officer subordinate to the one who imposes the reduction;~~

~~(7)~~ extra duties, including fatigue or other duties, for not more than 14 days, which need not be consecutive; and

~~(8)~~ restriction to certain specified limits, with or without suspension from duty, for not more than 14 days, which need not be consecutive, but the officer imposing the reduction need not have actual authority to promote the member on whom the reduction is imposed.

(c) Any field-grade commanding officer of the grade of O-4, or above, or an officer of a general or flag rank in command may in addition to or in lieu of admonition or reprimand, after holding a hearing in which the accused is entitled to be present, impose not more than three of the following disciplinary punishments upon enlisted members of the officer's command:

~~(1)~~ Any punishment authorized in subsections (b)(1), (2) and (3) Withholding of privileges for not more than two consecutive weeks;

~~(2)~~ extra duties for not more than two consecutive weeks but not to exceed two hours per day, holidays included;

~~(2)~~(3) the forfeiture of not more than $\frac{1}{2}$ of one month's pay per month for two months 30 days' pay;

~~(3)~~(4) a fine of not more than one month's 30 days' pay; or

~~(4)~~(5) a reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but the officer imposing the reduction need not have actual authority to promote the member on whom the reduction is imposed. An enlisted

member in a pay grade above E-4 may not be reduced more than two pay grades;

~~(5) extra duties, including fatigue or other duties, for not more than 45 days, which need not be consecutive; and~~

~~(6) restriction to certain specified limits, with or without suspension from duty, for not more than 60 days, which need not be consecutive.~~

(d) The governor, the adjutant general, ~~an officer exercising general court-martial convening authority~~ or an officer of a general or flag rank in command may in addition to or in lieu of admonition or reprimand, after a hearing in which the accused is entitled to be present, impose any of the following disciplinary punishments upon officers of the officer's command:

~~(1) Upon officers of the officer's command, any punishment authorized in subsections (e)(1), (2), (3) and (6) and arrest in quarters for not more than 30 days, which need not be consecutive~~ Withholding privileges for not more than two consecutive weeks; and

~~(2) upon enlisted members of the officer's command, any punishment authorized in subsection (e)~~ the forfeiture of not more than 30 days' pay; and

~~(3) a fine of not more than 30 days' pay.~~

(e) Whenever any of those punishments are combined to run consecutively, the total length of the combined punishment cannot exceed the authorized duration of the longest punishment in the combination, and there must be an apportionment of punishments so that no single punishment in the combination exceeds its authorized length under this article.

~~(f) Prior to the offer of non-judicial punishment, the commanding officer shall determine whether arrest in quarters or restriction shall be considered as punishments. If the commanding officer determines that the punishment options may include arrest in quarters or restriction, the accused shall be notified of the right to demand trial by court-martial. If the~~

~~commanding officer determines that the punishment options will not include arrest in quarters or restriction, the accused shall be notified that there is no right to trial by court-martial in lieu of non-judicial punishment.~~

~~(g)(f)~~ The officer who imposes the punishment, or the successor in command, may, at any time, suspend, set aside, mitigate or remit any part or amount of the punishment and restore all rights, privileges and property affected. The officer also may mitigate ~~punishments as follows:~~

- ~~(1) Reduction in grade to forfeiture of pay; or~~
- ~~(2) arrest in quarters to restriction; or~~
- ~~(3) —extra duties to restriction.~~

The mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this article by the officer who imposed the punishment mitigated.

~~(h) A person punished under this article who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority within 15 days after the punishment is either announced or sent to the accused, as the commander may determine. The appeal shall be promptly forwarded and decided, but the punishment shall be stayed until final action is taken on the appeal. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (g) by the officer who imposed the punishment. Before acting on an appeal from a punishment, the authority that is to act on the appeal will refer the case to a judge advocate for consideration and advice.~~

~~(i) The imposition and enforcement of disciplinary punishment under this article for~~

~~any act or omission is not a bar to trial by court-martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial and, when so shown, it shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty~~

(g) The governor or the adjutant general may, by order or rule, place limitations on the powers granted by this code with respect to the kinds and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.

~~(h) Whenever a nonjudicial punishment of forfeiture of an amount of pay is imposed under this article, the forfeiture may apply to base pay accruing before, any deduction, withholding, assignment or forfeiture due on or after the date that punishment is imposed and to any pay accrued before that date.~~

~~(i) Regulations may prescribe the form of records to be kept of proceedings under this article and may prescribe that certain categories of those proceedings shall be in writing.~~

(j) A person subject to punishment under this article has a right to be physically present during any hearing conducted under this article. A person waives the right to be present at a hearing held to adjudicate the charged offenses if the person fails to go to the appointed place of the hearing at the time prescribed after having been properly informed of the charged offenses and scheduled hearing and was given the requisite opportunity to consult with legal counsel. Any hearing conducted under this article by a company-grade commanding officer during which a finding of guilt is made and punishment is adjudged over and above admonition, reprimand or both shall have a written record that includes all real and testimonial evidence and all other supporting documents.

Sec. 64. K.S.A. 48-2602 is hereby amended to read as follows: 48-2602. (a) No person subject to this code shall compel any person to ~~incriminate himself or herself~~ self-incriminate that person or to answer any question, the answer to which may tend to incriminate the person.

(b) No person subject to this code may interrogate or request any statement from an accused or a person suspected of an offense without first informing ~~him or her~~ that person of the nature of the accusation and advising ~~him or her~~ that person that ~~he or she does~~ such person does not have to make any statement regarding the offense of which ~~he or she is~~ such person is accused or suspected, that any statement made by ~~him or her~~ that person may be used as evidence against ~~him or her~~ such person in a trial by ~~court-martial~~ any military or civil proceeding, that ~~he or she has~~ such person has a right to consult with a lawyer, that ~~he or she has~~ such person has a right to have a lawyer present during questioning, that ~~he or she has~~ such person has a right to request a lawyer and that upon request one will be provided without cost or, if ~~he or she~~ that person prefers, ~~he or she~~ such person may retain counsel of ~~his or her~~ choice such person's choosing at ~~his or her~~ such person's own expense.

(c) No person subject to this code may 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 the person.

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

~~(e) The requirements of this section are binding on all persons administering this code but failure to follow them does not divest a military court of jurisdiction.~~

Sec. 65. K.S.A. 48-2605 is hereby amended to read as follows: 48-2605. ~~(a) Before~~

~~directing the trial of any charge by general court-martial proceeding to take action under this code, the convening authority shall refer it to a commanding officer should confer with the convening authority's staff commanding officer's servicing judge advocate for consideration and advice. The convening authority may not refer a specification under a charge to a general court-martial for trial unless the convening authority has been advised in writing by the staff judge advocate that:~~

~~(1) The specification alleges an offense under this code;~~

~~(2) the specification is warranted by the evidence indicated in the report of the investigation under K.S.A. 48-2603 and amendments thereto, if there is such a report; and~~

~~(3) a court-martial would have jurisdiction over the accused and the offense.~~

~~(b) The advice of the staff judge advocate under subsection (a) with respect to a specification under a charge shall include a written and signed statement by the staff judge advocate:~~

~~(1) Expressing the staff judge advocate's conclusions with respect to each matter set forth in subsection (a); and~~

~~(2) recommending action that the convening authority take regarding the specification.~~

~~If the specification is referred for trial, the recommendation of the staff judge advocate shall accompany the specification.~~

~~(c) 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 shall be made.~~

Sec. 66. K.S.A. 48-2708 is hereby amended to read as follows: 48-2708. (a) A person

charged with sedition, mutiny, desertion, missing movement or absence without leave in time of war or aiding a hostile force may be ~~tried and~~ punished at any time without limitation.

~~(b) Except as otherwise provided in this section, a person charged with desertion or with the offense punishable under K.S.A. 48-3040 and amendments thereto is not 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.~~

~~(e)(b)~~ Except as otherwise provided in this section, a person charged with any offense is not liable to be ~~tried by court-martial or~~ punished under K.S.A. 48-2301, and amendments thereto, 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 ~~K.S.A. 48-2301~~ K.S.A. 48-2301, and amendments thereto, unless the commission of the offense was not immediately known and not readily discoverable, in which case the statute of limitations is two years from the discovery.

(c) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this article.

(d) Periods in which the accused was absent from territory in which the state has the authority to apprehend the accused, or in the custody of civil authorities, or in the hands of a hostile force, shall be excluded in computing the period of limitation prescribed in this section.

(e) When the United States is at war or the president of the United States has declared a national emergency, the running of any statute of limitations applicable to any offense under this code is suspended until three years after the termination of hostilities or national emergency as proclaimed by the president of the United States or by the joint resolution of the United States

congress if the offense:

(1) Involves fraud or attempted fraud against the United States, any state or any agency of either in any manner, whether by conspiracy or not;

(2) was committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States or any state; or

(3) was committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation or other termination or settlement of any contract, subcontract or purchase order that is connected with or related to the prosecution of the war or with any disposition of termination inventory by any war contractor or government agency.

(f) (1) Punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph (2) are met and charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations:

(A) Has expired; or

(B) will expire within 180 days after the date of dismissal of the charges and specifications.

(2) The conditions referred to in paragraph (1)(B) are that the new charges must:

(A) Be received by a commanding officer within 180 days after the dismissal of the charges or specifications; and

(B) allege the same acts or omissions that were alleged in the dismissed charges or specifications or allege acts or omissions that were included in the dismissed charges or specifications.

Sec. 67. K.S.A. 48-2709 is hereby amended to read as follows: 48-2709. (a) No person may, without that person's consent, be tried punished a second time ~~in any court of the state~~ for the same offense.

(b) No proceeding in which an accused has been found guilty by a ~~court-martial commanding officer~~ upon any charge or specification under K.S.A. 48-2301, and amendments thereto, is a ~~trial in the sense of punishment under~~ this section until the ~~finding of guilty has become final after review of the case has been fully completed~~ time for appeal has run or a final decision on the appeal is made.

~~(c) 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.~~

Sec. 68. K.S.A. 48-2801 is hereby amended to read as follows: 48-2801. Punishment by flogging, branding, marking or tattooing the body, or any other cruel or unusual punishment may not be adjudged by any ~~court-martial commanding officer~~ or inflicted upon any person subject to this code.

Sec. 69. K.S.A. 48-2802 is hereby amended to read as follows: 48-2802. (a) The punishment ~~which that a court-martial commanding officer~~ may direct for an offense may not exceed limits prescribed by this code.

(b) Notwithstanding the limitations already prescribed, the maximum fine that may be assessed by a commanding officer under K.S.A. 48-2301, and amendments thereto, shall not exceed the amount of \$2,500.

Sec. 70. K.S.A. 48-3003 is hereby amended to read as follows: 48-3003. Any person

subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent the offender's apprehension, trial, or punishment shall be punished as a ~~court-martial~~ commanding officer may direct.

Sec. 71. K.S.A. 48-3005 is hereby amended to read as follows: 48-3005. (a) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

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

(c) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the ~~trial~~ hearing that the offense was consummated.

Sec. 72. K.S.A. 48-3006 is hereby amended to read as follows: 48-3006. Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a ~~court-martial~~ commanding officer may direct.

Sec. 73. K.S.A. 48-3007 is hereby amended to read as follows: 48-3007. (a) Any person subject to this code who solicits or advises another or others to desert in violation of K.S.A. 48-3010, and amendments thereto, or mutiny in violation of K.S.A. 48-3019, and amendments thereto, 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, the person shall be punished as a ~~court-martial~~ commanding officer

may direct.

(b) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before ~~a hostile force~~ the enemy in violation of K.S.A. 48-3024, and amendments thereto, or sedition in violation of K.S.A. 48-3019, and amendments thereto, 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, the person shall be punished as a ~~court-martial~~ commanding officer may direct.

Sec. 74. K.S.A. 48-3008 is hereby amended to read as follows: 48-3008. Any person subject to this code shall be punished at the direction of a commanding officer who:

(1) Procures ~~his or her~~ such person's own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to the person's qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) procures ~~his or her~~ such person's own separation from the state military forces by knowingly false representation or deliberate concealment as to the person's eligibility for that separation; ~~shall be punished as a court-martial may direct.~~

Sec. 75. K.S.A. 48-3009 is hereby amended to read as follows: 48-3009. Any person subject to this code who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to that person 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~~ commanding officer may direct.

Sec. 76. K.S.A. 48-3010 is hereby amended to read as follows: 48-3010. (a) Any member of the state military forces who:

(1) Without authority goes or remains absent from the member's unit, organization; or

place of duty with intent to remain away therefrom permanently;

(2) quits ~~his or her~~ such member's 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 is guilty of desertion.

(b) Any commissioned officer of the state military forces who, after tender of resignation and before notice of its acceptance, quits ~~his or her~~ such commissioned officer's post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished ~~as a court-martial may direct~~ at the direction of a commanding officer.

Sec. 77. K.S.A. 48-3011 is hereby amended to read as follows: 48-3011. Any person subject to this code shall be punished at the direction of a commanding officer who, without authority:

(1)(a) Fails to go to the person's appointed place of duty at the time prescribed;

(2)(b) goes from that place; or

(3)(c) absents ~~himself or herself~~ oneself or remains absent from ~~the~~ such person's unit, organization; or place of duty at which ~~he or she~~ such person is required to be at the time prescribed; ~~shall be punished as a court-martial may direct~~.

Sec. 78. K.S.A. 48-3012 is hereby amended to read as follows: 48-3012. (a) Any person subject to this code who through neglect or design misses the movement of a ship, aircraft; or unit with which the person is required in the course of duty to move shall be punished as a ~~court-~~

~~martial~~ commanding officer may direct.

(b) Any person subject to this code who wrongfully and intentionally jumps into the water from a vessel in use by the United States armed forces or state military forces shall be punished at the direction of a commanding officer.

Sec. 79. K.S.A. 48-3013 is hereby amended to read as follows: 48-3013. Any person subject to this code who uses contemptuous words against the president, the ~~vice-president~~ vice president, congress, the secretary of defense, the secretary of a military department, the secretary of homeland security, the governor or the governor of any other state, the legislature or the legislature of any other state, territory, commonwealth or possession in which that person may be serving, shall be punished as a ~~court-martial~~ commanding officer may direct.

Sec. 80. K.S.A. 48-3014 is hereby amended to read as follows: 48-3014. Any person subject to this code who behaves with disrespect ~~towards his or her~~ toward such person's superior commissioned officer shall be punished as a ~~court-martial~~ commanding officer may direct.

Sec. 81. K.S.A. 48-3015 is hereby amended to read as follows: 48-3015. Any person subject to this code ~~who:~~

~~(1)~~ shall be punished at the direction of a commanding officer if such person strikes the person's superior commissioned officer or draws or lifts up any weapon or offers any violence against the superior commissioned officer while the officer is in the execution of his or her the officer's office; ~~or~~

~~(2)~~ willfully disobeys a lawful command of his or her superior commissioned officer; shall be punished as a ~~court-martial~~ may direct.

Sec. 82. K.S.A. 48-3016 is hereby amended to read as follows: 48-3016. Any warrant officer or enlisted member ~~who~~ shall be punished at the direction of a commanding officer if

such person:

(1)(a) Strikes or assaults a warrant officer, noncommissioned officer or petty officer, while that officer is in the execution of ~~his or her~~ such officer's office;

(2)(b) willfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer; or

(3)(c) treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of ~~his or her~~ such officer's office; ~~shall be punished as a court-martial may direct.~~

Sec. 83. K.S.A. 48-3017 is hereby amended to read as follows: 48-3017. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such~~ person:

(1)(a) Violates or fails to obey any lawful general order or regulation;

(2)(b) having knowledge of any other lawful order issued by a member of the state military forces which it is the person's duty to obey, fails to obey the order; or

(3)(c) is derelict in the performance of ~~his or her~~ such person's duties; ~~shall be punished as a court-martial may direct.~~

Sec. 84. K.S.A. 48-3018 is hereby amended to read as follows: 48-3018. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such~~ person is guilty of cruelty toward, or oppression or maltreatment of, any person subject to ~~his or her~~ such person's orders ~~shall be punished as a court-martial may direct.~~

Sec. 85. K.S.A. 48-3019 is hereby amended to read as follows: 48-3019. (a) Any person subject to this code who:

(1) With intent to usurp or override lawful military authority, refuses, in concert with

any other person, to obey orders or otherwise do ~~his~~ such person's 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~~ such person's utmost to prevent and suppress a mutiny or sedition being committed in ~~his~~ such person's presence, or fails to take all reasonable means to inform ~~his~~ such person's superior commissioned officer or commanding officer of a mutiny or sedition ~~which he~~ that such person knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(b) 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~~ at the direction of a commanding officer.

Sec. 86. K.S.A. 48-3020 is hereby amended to read as follows: 48-3020. Any person subject to this code ~~who~~ shall be punished at the direction of a commanding officer if such person:

(a) Resists apprehension; ~~or~~

(b) breaks arrest; or

(c) who escapes from physical restraint, custody or confinement lawfully imposed ~~shall be punished as a court-martial may direct.~~

Sec. 87. K.S.A. 48-3021 is hereby amended to read as follows: 48-3021. (a) Any person subject to this code ~~who,~~ shall be punished at the direction of a commanding officer, whether or not the prisoner was committed to such person's charge in strict compliance with the law if such

person:

(1) ~~Without proper authority, releases any a prisoner committed to his or her charge, or who;~~

(2) ~~through neglect or by design, suffers allows any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law; or~~

(3) unlawfully drinks any alcoholic beverage with a prisoner.

Sec. 88. K.S.A. 48-3022 is hereby amended to read as follows: 48-3022. Any person subject to this code who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished ~~as a court-martial may direct~~ at the direction of a commanding officer.

Sec. 89. K.S.A. 48-3023 is hereby amended to read as follows: 48-3023. Any person subject to this code ~~who~~ shall be punished at the direction of a commanding officer if such person:

(1)(a) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

(2)(b) knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after ~~trial~~ punishment of an accused; ~~shall be punished as a court-martial may direct.~~

Sec. 90. K.S.A. 48-3024 is hereby amended to read as follows: 48-3024. Any person subject to this code ~~who~~ shall be punished at the direction of a commanding officer if such person, before or in the presence of a hostile force the enemy:

(1)(a) Runs away;

(2)(b) shamefully abandons, surrenders; or delivers up any command, unit, place or military property ~~which it is the person's~~ that such person has a duty to defend;

(3)(c) through disobedience, neglect; or intentional misconduct endangers the safety of any such command, unit, place; or military property;

(4)(d) casts away ~~his or her~~ such person's arms or ammunition;

(5)(e) is guilty of cowardly conduct;

(6)(f) quits ~~his or her~~ such person's place of duty to plunder or pillage;

(7)(g) 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)(h) willfully fails to do ~~his or her~~ such person's utmost to encounter, engage, capture; or destroy any hostile force, combatants, vessels, aircraft; or any other thing; ~~which it is the person's duty so~~ that the person has a duty to encounter, engage, capture; or destroy; or

(9)(i) 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; or to any other state; when engaged in battle; ~~shall be punished as a court-martial may direct.~~

Sec. 91. K.S.A. 48-3025 is hereby amended to read as follows: 48-3025. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such person~~ compels or attempts to compel the commander of any ~~of place, vessel, aircraft or other military property~~ or of any body of members of the state military forces, the United States armed forces or the military forces of the state, or of any other state, to give it up such property or body of members to a hostile force an enemy or to abandon it; such property or body of members or who strikes the colors or flag to a hostile force an enemy without proper authority; ~~shall be punished as a court-martial may direct.~~

Sec. 92. K.S.A. 48-3026 is hereby amended to read as follows: 48-3026. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such person~~, in time of war or civil disturbance, 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 the person's knowledge, ~~he or she that person~~ was authorized and required to give, ~~shall be punished as a court-martial may direct.~~

Sec. 93. K.S.A. 48-3027 is hereby amended to read as follows: 48-3027. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such person~~ forces a safeguard ~~shall be punished as a court-martial may direct.~~

Sec. 94. K.S.A. 48-3028 is hereby amended to read as follows: 48-3028. (a) All persons subject to this code shall secure all public property taken from the hostile force for the service of the United States, or the state of Kansas, 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) Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such person~~:

(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 that person receives or expects any profit, benefit; or advantage to ~~himself or herself~~ such person or another directly or indirectly connected with ~~himself or herself~~ such person; or

(3) engages in looting or pillaging; ~~shall be punished as a court-martial may direct.~~

Sec. 95. K.S.A. 48-3029 is hereby amended to read as follows: 48-3029. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such~~ person:

(1)(a) Aids, or attempts to aid the ~~hostile force~~ enemy with arms, ammunition, supplies, money; or other things; or

(2)(b) without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the ~~hostile force~~ enemy, either directly or indirectly; ~~shall be punished as a court-martial may direct.~~

Sec. 96. K.S.A. 48-3030 is hereby amended to read as follows: 48-3030. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such~~ person, while in the hands of a hostile force in time of war or civil disturbance:

(1)(a) For the purpose of securing favorable treatment by the person's captors, acts without proper authority in a manner contrary to law, custom; or regulation, to the detriment of others of whatever nationality held by a ~~hostile force~~ the enemy as civilian or military prisoners; or

(2)(b) while in a position of authority over such persons, ~~them~~ such persons without justifiable cause; ~~shall be punished as a court-martial may direct.~~

Sec. 97. K.S.A. 48-3031 is hereby amended to read as follows: 48-3031. (a) Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such~~ person, with intent to deceive;:

(1) Signs any false record, return, regulation, order; or other official document, knowing it to be false; or

(2) makes any other false official statement knowing ~~it~~ such statement to be false; ~~shall~~

~~be punished as a court-martial may direct.~~

(b) Any person subject to this code shall be punished at the direction of a commanding officer if such person:

(1) Takes an oath that is administered:

(A) In a matter in which such oath is required to do so; and

(B) by a person with the authority to do so; and

(2) upon taking such oath, makes or subscribes to a statement that, at the time the oath was administered, the person did not believe to be true.

Sec. 98. K.S.A. 48-3032 is hereby amended to read as follows: 48-3032. Any person subject to this code ~~who~~ shall be punished at the direction of a commanding officer if such person, without proper authority:

~~(1)(a)~~ (a) Sells or otherwise disposes of any military property of the United States or of the state;

~~(2)(b)~~ (b) willfully or through neglect damages, destroys; or loses any military property of the United States or of the state; or

~~(3)(c)~~ (c) willfully or through neglect suffers to be 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.~~

Sec. 99. K.S.A. 48-3033 is hereby amended to read as follows: 48-3033. Any person subject to this code ~~who, while in a duty status,~~ shall be punished at the direction of a commanding officer if such person willfully or recklessly wastes, spoils; or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States or of the state ~~shall be punished as a court-martial may direct.~~

Sec. 100. K.S.A. 48-3033a is hereby amended to read as follows: 48-3033a. (a) Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such person~~ willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces ~~shall be punished as a court-martial may direct~~ of the United States or any state military forces.

(b) Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such person~~ negligently hazards or suffers to be hazarded any vessel of the armed forces ~~shall be punished as a court-martial may direct~~ of the United States or any state military forces.

Sec. 101. K.S.A. 48-3034 is hereby amended to read as follows: 48-3034. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such person~~ operates any vehicle in a manner ~~proscribed~~ prohibited by K.S.A. 8-1567, and amendments thereto, in a reckless or wanton manner or while impaired by a substance described in K.S.A. 48-3035a ~~shall be punished as a court-martial may direct,~~ and amendments thereto.

Sec. 102. K.S.A. 48-3035 is hereby amended to read as follows: 48-3035. (a) Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such person~~ is found drunk, ~~under the influence of any intoxicant, narcotic, barbiturate or somnifacient or similar substance,~~ on duty ~~or sleeping upon his or her post,~~ or who leaves that post before he or she is regularly relieved, ~~shall be punished as a court-martial may direct.~~

(b) Any person subject to this code shall be punished at the direction of a commanding officer if such person, as a result of indulgence in any alcoholic beverage or any drug, is incapacitated for the proper performance of duty.

Sec. 103. K.S.A. 48-3035a is hereby amended to read as follows: 48-3035a. (a) Any

person subject to this code ~~who~~ shall be punished at the direction of a commanding officer if such person wrongfully uses, is under the influence of, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States or introduces into an installation, vessel, vehicle or aircraft used by or under the control of the armed forces of the United States or state military forces a substance described in subsection (b) ~~shall be punished as a court-martial may direct.~~

(b) The substances referred to in subsection (a) are the following:

(1) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid and marijuana and any compound or derivative of any such substance.

(2) Any substance not specific in subsection (b)(1) that is listed on a schedule of controlled substances prescribed by the president of the United States or the governor for the purposes of this article.

(3) Any other substance not specified in subsection (b)(1) or contained on a list prescribed by the president of the United States or governor under subsection (b)(2) that is listed in schedules I through V of section 202 of the controlled substances act (21 U.S.C. § 812).

(c) A person subject to this code shall be punished at the direction of a commanding officer if such person wrongfully possesses in such person's blood or urine the metabolites of a controlled substance as identified in subsection (b).

Sec. 104. K.S.A. 48-3036 is hereby amended to read as follows: 48-3036. Any person subject to this code ~~who~~ shall be punished at the direction of a commanding officer if such person:

(a) Fights or promotes, or is concerned in or connives at fighting a duel; ~~or who,~~

having

(b) has knowledge of a challenge sent or about to be sent, and fails to report the fact promptly to the proper authority, ~~shall be punished as a court-martial may direct.~~

Sec. 105. K.S.A. 48-3037 is hereby amended to read as follows: 48-3037. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such~~ person, for the purpose of avoiding work, duty or service in the state military forces:

(1)(a) Feigns illness, physical disablement, mental lapse or derangement; or

(2)(b) intentionally inflicts self-injury; ~~shall be punished as a court-martial may direct.~~

Sec. 106. K.S.A. 48-3038 is hereby amended to read as follows: 48-3038. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such~~ person causes or participates in any riot or breach of the peace ~~shall be punished as a court-martial may direct.~~

Sec. 107. K.S.A. 48-3039 is hereby amended to read as follows: 48-3039. Any person subject to this code ~~who shall be punished at the direction of a commanding officer if such~~ person uses provoking or reproachful words or gestures towards any other person subject to this code ~~shall be punished as a court-martial may direct.~~

Sec. 108. K.S.A. 48-3040 is hereby amended to read as follows: 48-3040. Any person subject to this code ~~who shall be guilty of perjury and shall be punished at the direction of a~~ commanding officer if such person, in a ~~judicial proceeding or in a court of justice~~ proceeding or hearing conducted under this code or in a proceeding or hearing conducted under the auspices of the adjutant general where oaths are administered, willfully and corruptly:

(a) 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; or~~

(b) in any declaration, certificate, verification or statement under penalty of perjury as permitted under law, testifies to any false statement material to the issue or matter of inquiry.

Sec. 109. K.S.A. 48-3041 is hereby amended to read as follows: 48-3041. Any person subject to this code shall, upon conviction, be punished at the direction of a commanding officer if such person:

~~(1)(a)~~ Who, knowing it to be false or fraudulent:

~~(A)(1)~~ Makes any claim against the United States, the state; or any officer thereof; or

~~(B)(2)~~ presents to any person in the civil or military service thereof; for approval or payment any claim against the United States, the state or any officer thereof;

~~(2)(b)~~ who, for the purpose of obtaining the approval, allowance; or payment of any claim against the United States, the state; or any officer thereof:

~~(A)(1)~~ Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;

~~(B)(2)~~ makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

~~(C)(3)~~ forges or counterfeits any signature upon any writing or other paper; or uses any such signature knowing it to be forged or counterfeited;

~~(3)(c)~~ who, having charge, possession, custody; or control of any money, or other property of the United States or the state, 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 it, any amount thereof less than that for which the person receives a certificate or receipt; or

~~(4)(d)~~ who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, 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 state; ~~shall, upon conviction, be punished as a court-martial may direct.~~

Sec. 110. K.S.A. 48-3042 is hereby amended to read as follows: 48-3042. ~~(a)~~ Any person subject to this code ~~who shall be punished at the direction of a commanding officer if~~ such person wrongfully takes, obtains; or withholds, by any means, from the possession of the owner or of any other person any money, personal property; or article of value of any kind with intent to:

~~(1) With intent(a)~~ Permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to ~~his or her~~ such person's own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

~~(2) with intent(b)~~ temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to ~~his or her~~ such person's own use or the use of any person other than the owner, is guilty of wrongful appropriation.

~~(b) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.~~

Sec. 111. K.S.A. 48-3043 is hereby amended to read as follows: 48-3043. Any ~~commissioner~~ commissioned officer or cadet who is convicted of conduct unbecoming of an officer ~~and a gentleman~~ shall be punished as a ~~court-martial~~ commanding officer may direct.

Sec. 112. K.S.A. 48-3044 is hereby amended to read as follows: 48-3044. (a) Though not specifically mentioned in this code, 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 code may be guilty; shall be taken cognizance of by a ~~general, special or summary court-martial,~~ commanding officer according to the nature and degree of the offense; and shall be punished at the discretion of ~~that court~~ such commanding officer.

(b) However, cognizance may not be taken of, and jurisdiction may not be extended to, the crimes of murder, manslaughter, rape, robbery, maiming, sodomy, arson, ~~extortion~~, assault, not including simple assault, burglary or housebreaking, jurisdiction of which is reserved to civil courts.

Sec. 113. K.S.A. 48-3101 is hereby amended to read as follows: 48-3101. (a) 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~~ an officer of a general or flag rank in command, whether or not the persons involved have requested such an inquiry.

(b) 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) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or employed in the division of military affairs, who has a direct interest in the subject of inquiry has 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) Members of a court of inquiry may be challenged by a party, but only for cause

stated to the court.

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

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, ~~as provided for courts-martial.~~

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

(h) 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. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

Sec. 114. K.S.A. 48-3102 is hereby amended to read as follows: 48-3102. (a) The following ~~members of the state military forces, while attending unit training assemblies or annual training or while performing active state duty or otherwise under orders of the governor,~~ persons may administer oaths for the purposes of military administration, including military justice, and have the general powers of a notary public in the performance of all notarial acts to be executed by members of the state military wherever they may be, by persons serving with, employed by or accompanying the state military forces outside the state; and by other persons subject to this code outside of the state:

- (1) ~~The state judge advocate general and~~ All assistant judge advocates;
- (2) ~~all summary courts-martial;~~
- (3) all adjutants, assistant adjutants, acting adjutants and personnel adjutants;

~~(4)~~(3) all commanding officers; and

~~(5)~~(4) ~~all staff judge advocates and legal officers and acting or assistant staff judge advocates and legal officers~~ other persons designated by regulations of the armed forces of the United States or by statute.

(b) The following persons ~~while attending unit training assemblies or annual training, while performing active state duty or otherwise under orders of the governor~~ may administer oaths necessary in the performance of their duties:

(1) The president, ~~military judge~~ legal advisor, trial counsel recorder and assistant ~~trial counsel for all general or special courts-martial~~ recorder for all administrative proceedings;

(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; ~~and~~

(5) all recruiting officers; and

~~(5)~~(6) all other persons designated by regulations of the ~~governor~~ armed forces of the United States or by statute.

(c) No fee may be paid to or received by any person for the performance of any notarial act ~~herein~~ authorized in this section.

(d) The signature without seal of any such person, together with the title of the person's office, is prima facie evidence of ~~his or her~~ such person's authority.

Sec. 115. K.S.A. 48-3103 is hereby amended to read as follows: 48-3103. K.S.A. 48-2102, 48-2103, 48-2201 ~~to through~~ through 48-2208, ~~inclusive,~~ 48-2301, 48-2503, 48-2505, 48-2702, 48-2801, 48-3001 ~~to 48-3042~~ through 48-3044, ~~inclusive,~~ and 48-3103 ~~to through~~ through 48-3105, ~~inclusive,~~ as well as those required sections of the United States code of military justice, shall be

carefully explained to every enlisted member at the time of the member's enlistment or transfer or induction into the state military forces or within ~~thirty (30)~~ days thereafter. ~~They~~ Such provisions shall also be explained annually to each unit of the state military forces. A complete text of this code and of the regulations prescribed by the governor thereunder shall be made available to any member of the state military forces, upon the member's request, for ~~his or her~~ such member's personal examination.

Sec. 116. K.S.A. 48-3104 is hereby amended to read as follows: 48-3104. (a) Any member of the state military forces who believes ~~himself or herself~~ such member was wronged by ~~the member's~~ a commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the ~~governor or adjutant general~~ first general in the member's chain of command. Such general officer shall investigate the complaint and take proper measures for redressing the wrong. The first general in the member's chain of command shall, as soon as possible, send to the adjutant general a true statement of the complaint with an explanation of the proceedings held thereon.

(b) An alleged wrong is inappropriate for redress under this section when other adequate processes exist to address the wrong alleged in the complaint. An action is an inappropriate matter for resolution when:

(1) Review is provided specifically by the code;

(2) such matter is taken under the recommendation of an administrative board authorized by policy, regulation or instruction at which the complainant was afforded substantially the rights of a respondent; or

(3) service policy, regulation or instruction specifically authorizes an administrative

appeal or similar redress for such matter.

Sec. 117. K.S.A. 48-3105 is hereby amended to read as follows: 48-3105. (a) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that the person's property has been wrongfully taken by members of the state military forces, the person 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, for the purpose of that investigation, it has 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 the board is subject to the approval of the commanding officer, and in the amount approved by the commanding officer shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive, ~~except as provided in subsection (e),~~ on any disbursing officer for the payment by ~~him or her~~ such disbursing officers to the injured parties of the damages so assessed and approved.

(b) If the offenders cannot be ascertained, but the organization or detachment to which ~~they~~ such offenders belong is known, charges totaling the amount of damages assessed and approved may be ~~paid to the injured parties from the funds of the units of the state military forces to which the offenders belonged~~ made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted as determined by the findings of the board.

~~(e) Any person subject to this code who is accused of causing willful damage to property has the right to be represented by counsel, to summon witnesses in the person's behalf,~~

~~and to cross-examine those appearing against him or her. The accused has the right of appeal to the next higher commander.~~

Sec. 118. K.S.A. 48-3108 is hereby amended to read as follows: 48-3108. (a) ~~Fines imposed by a military court may be paid to it or to an officer executing its process. All such fines shall be payable at the time of approval of the sentence by the convening authority. Any sum so deducted shall be turned into the military court which imposed the fine. Any officer collecting a fine or penalty imposed by a military court upon an officer or enlisted person shall pay it within 30 days to the judge advocate, who shall transmit the same to the adjutant general. The adjutant general shall remit all fines and penalties so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto through imposition of nonjudicial punishment may be paid to the state and delivered to the imposing officer or to a person executing the process. Fines may be collected in the following manners:~~

~~(1) By cash or money order;~~

~~(2) by retention of any pay or allowances due or to become due the person fined from any state or the United States;~~

~~(3) by garnishment or levy, together with costs, on the wages, goods and chattels of a person delinquent in paying a fine; and~~

~~(4) registered and filed as a foreign judgment.~~

~~(b) Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund to be available for general governmental expenses. The adjutant general shall remit all fines and penalties so received to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto.~~

~~(b) When the sentence of a court-martial adjudges a fine against any person and such~~

~~fine has not been fully paid within 10 days after it is due and payable, the president of the military court or the summary court officer shall issue a warrant of commitment directed to the sheriff or chief law enforcement officer of the county in which the court-martial was held or where the offense was committed, directing such sheriff or law enforcement officer to arrest and confine the person until such fine is paid or until one day shall have been served for each \$1 of the fine which is not paid. The form for order of commitment shall be prescribed by the adjutant general.~~

(c) Damages assessed and approved under K.S.A. 48-3105, and amendments thereto, shall be paid promptly to the owner of the injured property and delivered to the commanding officer who convened the investigating board. Damages may be collected in any of the following manners:

(1) By cash or money order;

(2) by retention of any pay or allowances due or to become due to the person fined from any state or the United States; or

(3) by garnishment or levy, together with costs, on the wages, goods and chattels of a person delinquent in paying a fine.

Sec. 119. K.S.A. 48-3109 is hereby amended to read as follows: 48-3109. ~~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. All persons acting under the provisions of this code, whether a member of the military or a civilian, shall be immune from any personal liability for any of the acts or omissions that such person did or failed to do as part~~

of such person's duties under this code.

Sec. 120. K.S.A. 48-3110 is hereby amended to read as follows: 48-3110. The jurisdiction of the ~~military courts and boards~~ proceedings established by this code shall be presumed and the burden of proof rests on any person seeking to oust those ~~courts or boards of jurisdiction in any action or proceeding~~ proceedings.

Sec. 121. K.S.A. 48-3112 is hereby amended to read as follows: 48-3112. (a) This act shall be so construed as to effectuate its general purpose ~~and to make it uniform~~, so far as practical, to make the law uniform with the law of the United States uniform code of military justice, title 10 of chapter 47 of title 10 of the United States code. The information accompanying each punitive article of the United States uniform code of military justice shall be used in the defining and charging of any offense and the drafting of any charge and specifications to the extent that the United States code of military justice is consistent with this code.

(b) The decisions of the army court of criminal appeals, air force court of criminal appeals, coast guard court of criminal appeals, navy-marine corps court of criminal appeals and the United States court of appeals for the armed forces shall not be binding on proceedings under this code. Such decisions may be used for guidance in determining the guilt or punishment of any member of the state military forces subject to this code."

Also on page 12, in line 13, by striking the first "and" and inserting a comma; also in line 13, after "48-516" by inserting ", 48-2101, 48-2102, 48-2103, 48-2104, 48-2105, 48-2106, 48-2201, 48-2202, 48-2203, 48-2204, 48-2205, 48-2206, 48-2207, 48-2208, 48-2401, 48-2401a, 48-2402, 48-2402a, 48-2403, 48-2404, 48-2405, 48-2406, 48-2501, 48-2501a, 48-2502, 48-2503, 48-2504, 48-2505, 48-2506, 48-2507, 48-2601, 48-2602, 48-2603, 48-2604, 48-2605, 48-2606, 48-2701, 48-2702, 48-2703, 48-2704, 48-2705, 48-2706, 48-2707, 48-2708,

48-2709, 48-2710, 48-2711, 48-2712, 48-2713, 48-2714, 48-2715, 48-2716, 48-2717, 48-2718, 48-2719, 48-2801, 48-2802, 48-2803, 48-2804, 48-2915, 48-2916, 48-2917, 48-2918, 48-2919, 48-2920, 48-2921, 48-2922, 48-2923, 48-2924, 48-2925, 48-2926, 48-2927, 48-2928, 48-2929, 48-2930, 48-2931, 48-2932, 48-3001, 48-3003, 48-3005, 48-3006, 48-3007, 48-3008, 48-3009, 48-3010, 48-3011, 48-3012, 48-3013, 48-3014, 48-3015, 48-3016, 48-3017, 48-3018, 48-3019, 48-3020, 48-3021, 48-3022, 48-3023, 48-3024, 48-3025, 48-3026, 48-3027, 48-3028, 48-3029, 48-3030, 48-3031, 48-3032, 48-3033, 48-3033a, 48-3034, 48-3035, 48-3035a, 48-3036, 48-3037, 48-3038, 48-3039, 48-3040, 48-3041, 48-3042, 48-3043, 48-3044, 48-3101, 48-3102, 48-3103, 48-3104, 48-3105, 48-3106, 48-3107, 48-3108, 48-3109, 48-3110, 48-3112, and 48-3114"; also in line 13, after "48-204" by inserting "and 48-2301";

And by renumbering sections accordingly;

On page 1, in the title, in line 5, by inserting "updating the Kansas code of military justice relating to certain definitions, unlawful acts and punishment requirements thereof;" in line 7, by striking the first "and" and inserting a comma; also in line 7, after "48-516" by inserting ", 48-2101, 48-2102, 48-2103, 48-2105, 48-2106, 48-2201, 48-2203, 48-2204, 48-2602, 48-2605, 48-2708, 48-2709, 48-2801, 48-2802, 48-3003, 48-3005, 48-3006, 48-3007, 48-3008, 48-3009, 48-3010, 48-3011, 48-3012, 48-3013, 48-3014, 48-3015, 48-3016, 48-3017, 48-3018, 48-3019, 48-3020, 48-3021, 48-3022, 48-3023, 48-3024, 48-3025, 48-3026, 48-3027, 48-3028, 48-3029, 48-3030, 48-3031, 48-3032, 48-3033, 48-3033a, 48-3034, 48-3035, 48-3035a, 48-3036, 48-3037, 48-3038, 48-3039, 48-3040, 48-3041, 48-3042, 48-3043, 48-3044, 48-3101, 48-3102, 48-3103, 48-3104, 48-3105, 48-3108, 48-3109, 48-3110 and 48-3112"; in line 8, after "48-204" by inserting "and 48-2301"; in line 9, after "48-252" by inserting ", 48-2104, 48-2202, 48-2205, 48-

2206, 48-2207, 48-2208, 48-2401, 48-2401a, 48-2402, 48-2402a, 48-2403, 48-2404, 48-2405, 48-2406, 48-2501, 48-2501a, 48-2502, 48-2503, 48-2504, 48-2505, 48-2506, 48-2507, 48-2601, 48-2603, 48-2604, 48-2606, 48-2701, 48-2702, 48-2703, 48-2704, 48-2705, 48-2706, 48-2707, 48-2710, 48-2711, 48-2712, 48-2713, 48-2714, 48-2715, 48-2716, 48-2717, 48-2718, 48-2719, 48-2803, 48-2804, 48-2915, 48-2916, 48-2917, 48-2918, 48-2919, 48-2920, 48-2921, 48-2922, 48-2923, 48-2924, 48-2925, 48-2926, 48-2927, 48-2928, 48-2929, 48-2930, 48-2931, 48-2932, 48-3001, 48-3106, 48-3107 and 48-3114.";

And your committee on conference recommends the adoption of this report.

Conferees on part of House

Conferees on part of Senate