
DIGEST

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HB 360 Original

2019 Regular Session

Jones

Abstract: Provides for a revision of the Code of Military Justice to align with provisions of the U.S. Code of Military Justice.

Present law provides for the Louisiana Code of Military Justice which applies to all members of the state military forces at all times and in all places.

Proposed law retains present law and adds that this Code applies to all persons in custody of federal, state, or local penal institution while serving a sentence imposed by a court-martial.

Present law has three different courts-martial in state military forces; general, special, and summary. A traditional special court-martial requires a military judge and at least six members.

Proposed law retains present law and creates a new special court martial that only requires a judge. The sentence is limited to no punitive discharge and confinement of not more than six months.

Present law outlines who is eligible to serve as a member of a court martial. Proposed law retains present law, however, it allows any enlisted member of a state military force to serve on a general or special court martial for the trial of another enlisted member. The accused also may request orally or in writing for the membership of his court martial to either be comprised of officers entirely or enlisted members which will comprise 1/3 of the membership of the court-martial.

Proposed law creates a new military magistrate position, and provides that this person can be assigned to preside over the proposed special court martial and pre-referral program proceedings.

Proposed law adds procedures by which the fitness of a military judge or military magistrate will be determined.

Present law requires that the advice of a state judge advocate be given before directing the trial of a general court-martial.

Proposed law requires the convening authority to receive a recommendation in writing from the state judge advocate before a referral of charges and specifications to a general court martial can be made. The written recommendation must include specification of alleged offenses, probable cause, and confirmation of jurisdiction.

Proposed law allows for subpoena or other process to be issued to compel a witness to appear and

testify and provides for the manner and circumstances in which those subpoenas may be issued.

Proposed law binds the convening authority, the accused, and the military judge to plea agreements once signed by the accused and provides for the circumstances in which such agreements may be entered into.

Present law requires each general court martial to keep a separate record of the proceedings in each case brought before it.

Proposed law retains present law and requires special court-martial to keep a separate record. Requires for the records to be certified by a court reporter or an official. Also, requires for a copy of all prepared records of the proceedings of a court-martial to be given to the victim if they testified at trial at no cost to the victim.

Proposed law reorganizes many provisions of present law to align it with the U.S. Code of Military Justice.

(Amends R.S. 29:101(A), 103, 106(E), 110, 115(D), 116(A), 118, 119, 120(A) and (B), 125(C) and (D), 126(B),(C), and (D), 127 (A) and (C), 128, 129, 130, 132(A), (B), (C), (D), (E), and (G), 134, 135, 128, 139, 140, 141, 142, 143, 145(B), 146, 147(A), 149, 150, 153, and 154; Adds R.S. 29:102(D), 106a, 125(E) and (F), 126(F), 126a, 130a, 145(C), and 153a)