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**SENATE FLOOR AMENDMENTS**

2017 Regular Session

Amendments proposed by Senator Milkovich to Engrossed Senate Bill No. 147 by Senator Riser

AMENDMENT NO. 1

On page 3, delete lines 22 through 29, and delete pages 4 through 6 in their entirety and on page 7, delete lines 1 through 11, and insert the following:

"(1) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline **completion of a preliminary hearing, unless such hearing is waived by the accused.**

B. The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel. Upon his own request he shall be represented by civilian counsel if provided by him at his own expense or military counsel of his own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation , they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused. **Hearing officer. (1) A preliminary hearing conducted pursuant to Subsection A of this Section shall be conducted by an impartial judge advocate certified under Article 27(B) of this code whenever practicable or, in exceptional circumstances in which the interests of justice warrant, by an impartial hearing officer who is not a judge advocate. If the hearing officer is not a judge advocate, a judge advocate certified under Article 27(B) shall be available to provide legal advice to the hearing officer.**

**(2) Whenever practicable, the judge advocate or other hearing officer detailed to conduct a preliminary hearing shall be equal to or senior in grade to the military counsel detailed to represent the accused or the government at a preliminary hearing.**

C. If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross examination, and presentation prescribed in Subsection (B), no further investigation of that charge is necessary under this Section unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross examination and to offer any new evidence in his own behalf. **Report of results. At the conclusion of a preliminary hearing conducted pursuant to Subsection A of this Section, the judge advocate or other officer that conducted the preliminary hearing shall prepare a report that addresses the matters specified in Paragraph (2) of Subsection A and Subsection F of this Section.**

D. 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. **Rights of accused and victim. (1)The accused shall be advised of the charges against him and of his right to be represented by counsel at a preliminary hearing conducted pursuant to Subsection A of this Section. The accused has the right to be represented at the preliminary hearing as provided in Article 38 of this Code and in regulations prescribed under that Article.**

