

## RÉSUMÉ DIGEST

ACT 373 (HB 360)

2019 Regular Session

Jones

Existing 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.

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

Existing 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.

New law retains existing 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.

Existing law outlines who is eligible to serve as a member of a court-martial. New law retains existing law and 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.

New law creates a new military magistrate position who may be assigned to preside over the new special court-martial and pre-referral program proceedings.

New law adds procedures to determine the fitness of a military judge or military magistrate.

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

New 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 may be made. The written recommendation must include specification of alleged offenses, probable cause, and confirmation of jurisdiction.

New law allows for a subpoena or other process to be issued to compel a witness to appear and testify and provides for the manner and circumstances in which a subpoena may be issued.

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

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

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

New law reorganizes and aligns many provisions of existing law with the U.S. Code of Military Justice.

Effective August 1, 2019.

(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, 138, 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)

