

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2261

By: Kirby

AS INTRODUCED

An Act relating to the militia; amending 44 O.S.

1991, Section 2301, as amended by Section 1,

Chapter 40, O.S.L. 1997 (44 O.S. Supp. 1997,

Section 2301), which relates to punishment of the

militia; and clarifying language.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 44 O.S. 1991, Section 2301, as amended by Section 1, Chapter 40, O.S.L. 1997 (44 O.S. Supp. 1997, Section 2301), is amended to read as follows:

Section 2301. A. Any commanding officer ~~may~~ is authorized to, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

1. Upon an officer of his or her command:
 - a. withholding of privileges for not more than two (2) consecutive weeks,
 - b. restriction to certain specified limits, with or without suspension from duty, for not more than two (2) consecutive weeks, or
 - c. if imposed by the Governor, the Adjutant General, the commanding general of a division, or the Commanding

General of the Air National Guard, a fine or a forfeiture of pay and allowances of not more than Seventy-five Dollars (\$75.00); and

2. Upon other military personnel of his or her command:
 - a. withholding of privileges for not more than two (2) consecutive weeks,
 - b. restriction to certain specified limits, with or without suspension from duty, for not more than two (2) consecutive weeks,
 - c. extra duties for not more than fourteen (14) days, which need not be consecutive, and for not more than two hours per day, holidays included,
 - d. reduction to next inferior grade if the grade from which demoted was established by the command or an equivalent or lower command, and
 - e. if imposed by an officer exercising special court-martial jurisdiction over the offender, a fine or a forfeiture of pay and allowances of not more than Ten Dollars (\$10.00).

B. An officer in charge may, for minor offenses, impose on enlisted members assigned to the unit of which he or she is in charge such of the punishments authorized to be imposed by commanding officers.

C. A person punished under this section who considers his or her punishment unjust or disproportionate to the offense may, through the proper channel, appeal in writing to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, his or her successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges, and property affected.

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

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

F. Prior to being informed of the disciplinary action to be taken under this section, the person to be punished shall have the right to demand trial by court-martial for the offense.

G. The punishments provided in subsection A of this section with respect to withholding of privileges, restrictions and extra duties when the offender is performing a unit training assembly or assemblies, as defined by the military regulations, shall not exceed two (2) consecutive days.