

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2508

6 By: Kannady

7 COMMITTEE SUBSTITUTE

8 An Act relating to state military forces;
9 amending 44 O.S. 2011, Sections 24, 25, as
10 amended by Section 153, Chapter 304, O.S.L. 2012
11 and 26, as last amended by Section 1, Chapter
12 142, O.S.L. 2020 (44 O.S. Supp. 2020, Sections 25
13 and 26), which relate to the Adjutant General;
14 modifying eligibility criteria for Adjutant
15 General; authorizing appointment of Assistant
16 Adjutants General; requiring consideration of
17 recommended staffing numbers in appointments;
18 allowing delegation of specific command or
19 supervisory authority; requiring delegation in
20 writing; permitting delegation of authority to
21 staff officers; authorizing temporary delegation
22 of authority in writing; directing development of
23 a chain of command organizational chart;
24 prescribing contents of chart and frequency of
updates; requiring development of a rating scheme
for certain billets; amending 44 O.S. 2011,
Section 72, which relates to state duty orders;
modifying circumstances for Governor to order
state active duty; amending 44 O.S. 2011, Section
208.1, as amended by Section 1, Chapter 70,
O.S.L. 2017 (44 O.S. Supp. 2020, Section 208.1),
which relates to federal law adoption; adopting
certain federal law as state law applicable to
state military forces; amending 44 O.S. 2011,
Section 209, as last amended by Section 1,
Chapter 80, O.S.L. 2017 (44 O.S. Supp. 2020,
Section 209), which relates to leaves of absence;
establishing a leave of absence for certain
employees of the state or a political
subdivision; specifying circumstances and rules

1 for the leave of absence; requiring employer to
2 pay full regular pay for a set amount of time;
3 prescribing payment of difference in pay for
4 remaining time; establishing name for the type of
5 leave category; amending 44 O.S. 2011, Section
6 212, as amended by Section 3, Chapter 408, O.S.L.
7 2019 (44 O.S. Supp. 2020, Section 212), which
8 relates to liability of military members;
9 modifying personal liability for military forces
10 acting in the line of duty; amending 44 O.S.
11 2011, Section 229, which relates to jurisdiction;
12 modifying location where balance of imprisonment
13 occurs; amending Sections 5, 6, 10, 21, 26, 29,
14 32, 53, 55, 66, 81, 82, 90 and 193, Chapter 408,
15 O.S.L. 2019 (44 O.S. Supp. 2020, Sections 801,
16 802, 806, 815, 820, 823, 826, 846, 848, 857, 866,
17 867, 874 and 937), which relate to the Oklahoma
18 Uniform Code of Military Justice; updating terms;
19 adding and deleting definitions; establishing
20 subject matter jurisdiction for military
21 offenses; directing designation of a State Judge
22 Advocate; adding subsection headers; listing
23 duties of judge advocates; providing for
24 assignment of legal personnel; requiring State
Judge Advocate to provide legal counsel;
authorizing Governor or Adjutant General to
delegate certain powers to a senior officer;
allowing officer setting punishment to mitigate
punishment at any time; specifying procedures and
limitations for mitigation; permitting appeals
for nonjudicial punishment; requiring certain
designation to be in writing; providing for
senior officer to oversee specified appeals;
modifying who may convene special courts-martial;
changing title from military judge to military
trial judge for general and special courts-
martial; excluding review by certain military
trial judges; setting compensation for military
trial judges; providing for military magistrates;
specifying qualifications for military
magistrates; barring certain persons from being
military magistrates; permitting military
magistrates to conduct appellate remands; setting
duties for military magistrates; establishing
compensation for military magistrates;
authorizing certain proceedings to be conducted
prior to referral; establishing process and

1 limitations of proceedings; promulgating
2 regulations for military judges and magistrates
3 conducting proceedings; prohibiting military
4 magistrate from issuing certain warrants or court
5 orders; modifying definition of judicial officer
6 to include military magistrate; limiting
7 dismissal approval powers only for the Adjutant
8 General; providing for applicability of the
9 parole system to certain persons confined by
10 state military forces; barring certain persons
11 from nomination to the Military Court of Appeals;
12 excluding record review by certain members of the
13 Military Court of Appeals; declaring
14 inapplicability of certain criminal procedure in
15 court-martial proceedings; providing for
16 conflicting provisions of law; requiring either
17 oral or written explanation of certain sections
18 of the Oklahoma Uniform Code of Military Justice;
19 modifying procedures for explanation; permitting
20 electronic or online access of the Code;
21 prohibiting certain public entities from
22 disclosing information about an investigation;
23 providing an exception; prescribing punishment
24 upon conviction; amending 51 O.S. 2011, Section
6, as last amended by Section 17, Chapter 304,
O.S.L. 2018 (51 O.S. Supp. 2020, Section 6),
which relates to dual officeholding; providing
exception for state employees serving as military
trial judges or appellate military judges;
requiring eligibility for military judicial
leave; amending 51 O.S. 2011, Sections 152, as
last amended by Section 1, Chapter 233, O.S.L.
2018 and 155, as last amended by Section 3,
Chapter 273, O.S.L. 2016 (51 O.S. Supp. 2020,
Sections 152 and 155), which relate to The
Governmental Tort Claims Act; establishing
certain members of the state military forces as
state employees; defining terms; limiting
liability for activities of state military forces
on state active duty; amending 72 O.S. 2011,
Section 48, as last amended by Section 2, Chapter
80, O.S.L. 2017 (72 O.S. Supp. 2020, Section 48),
which relates to leaves of absence; modifying
leave of absence procedures; requiring payment of
difference in full salary pay and military base
pay; excluding untaxed military allowances and
entitlements from computation; defining terms;

1 amending 75 O.S. 2011, Section 251, as last
2 amended by Section 215, Chapter 408, O.S.L. 2019
3 (75 O.S. Supp. 2020, Section 251), which relates
4 to the Administrative Procedures Act; modifying
5 date to commence publication of military
6 publications; providing for codification; and
7 declaring an emergency.

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

9 SECTION 1. AMENDATORY 44 O.S. 2011, Section 24, is
10 amended to read as follows:

11 Section 24. A. The Adjutant General shall be appointed by the
12 Governor, by and with the advice and consent of the Senate, and
13 shall serve ~~during~~ at the pleasure of the Governor. ~~No person shall~~

14 B. ~~To be eligible to hold the office of the Adjutant General of~~
15 this state, ~~unless,~~ at the time of appointment, ~~he or she is the~~
16 appointee:

17 1. Shall be a federally recognized officer of the Oklahoma
18 National Guard ~~of Oklahoma,~~ and of the National Guard of the United
19 States, ~~not below~~ for no less than three (3) years;

20 2. Shall possess at least the rank of Colonel, ~~and that the~~
21 status as a federally recognized officer, ~~both of the National Guard~~
22 ~~of Oklahoma and;~~ and

23 3. If not already a general officer, shall be eligible for a
24 Certificate of Eligibility pursuant to federal law and applicable
regulations issued by the Chief of the National Guard ~~of the United~~
~~States, shall have existed for at least three (3) years prior to the~~

1 ~~time of such appointment; or unless, within two (2) years prior to~~
2 ~~the time of the appointment, he or she has been a federally~~
3 ~~recognized officer of the National Guard of Oklahoma, and of the~~
4 ~~National Guard of the United States, not below the rank of Colonel,~~
5 ~~and that during military service he or she served for a period of~~
6 ~~three (3) years as a federally recognized officer, both of the~~
7 ~~National Guard of Oklahoma and of the National Guard of the United~~
8 ~~States; provided that if Bureau.~~

9 C. If the Oklahoma National Guard ~~of Oklahoma~~ is in active
10 federal service and no persons having the ~~above~~ qualifications
11 required in subsection B of this section are available within the
12 state, then the Governor may appoint, subject to the advice and
13 consent of the Senate, any suitably qualified person who at any time
14 in the preceding ten (10) years would have been qualified, as above,
15 and who has served at least two (2) years in active federal service
16 in the grade of Colonel or higher.

17 SECTION 2. AMENDATORY 44 O.S. 2011, Section 25, as
18 amended by Section 153, Chapter 304, O.S.L. 2012 (44 O.S. Supp.
19 2020, Section 25), is amended to read as follows:

20 Section 25. A. The Adjutant General shall have the rank of
21 Major General and devote full time to the duties of the office.

22 B. The Governor may appoint ~~an Assistant Adjutant~~ Adjutants
23 General for Army and Assistant ~~Adjutant~~ Adjutants General for Air to
24 assist the Adjutant General in the discharge and performance of his

1 or her duties. When appointing Assistant Adjutants General, the
2 Governor shall take into consideration the number of such positions
3 contemplated or recommended by the National Guard Bureau for manning
4 the joint forces headquarters of a state. Such Assistant Adjutants
5 General shall have the qualifications prescribed by law for the
6 Adjutant General and shall have the rank of Brigadier General. The
7 Assistant Adjutants General appointed by the Governor shall be
8 considered staff officers and not commanders except that, in the
9 discretion of the Adjutant General, specific command or supervisory
10 authority may be delegated by the Adjutant General to an Assistant
11 Adjutant General but such delegation shall be accomplished in
12 writing and shall be considered a military publication, as defined
13 in Section 801 of this title (Article 1).

14 C. Other general officers assigned to billets within the state
15 military forces, including certain billets within the joint forces
16 headquarters, shall be considered staff officers and not commanders
17 except that, in the discretion of the Adjutant General, specific
18 command or supervisory authority may be delegated by the Adjutant
19 General to such general officers but such delegation shall be
20 accomplished in writing and shall be considered a military
21 publication, as defined in Section 801 of this title (Article 1).

22 D. The Adjutant General may ~~appoint an~~ employ a state employee
23 ~~to~~ in the position of Executive Assistant and Programs Manager for
24 the Military Department of the state. Said position shall be

1 unclassified and exempt from the Oklahoma Personnel Act and the
2 Merit Rules for Employment, except leave regulations.

3 SECTION 3. AMENDATORY 44 O.S. 2011, Section 26, as last
4 amended by Section 1, Chapter 142, O.S.L. 2020 (44 O.S. Supp. 2020,
5 Section 26), is amended to read as follows:

6 Section 26. A. The Adjutant General shall be in control of the
7 Military Department of the State of Oklahoma, subordinate only to
8 the Governor. Within the limitations and under the provisions of
9 law, he or she shall supervise and direct the National Guard within
10 the service of the state and when under state control in all of its
11 organization, training and other activities; shall receive and give
12 effect to the orders of the Governor; and shall perform such other
13 military and defense duties, not otherwise assigned by law, as the
14 Governor may prescribe.

15 B. The Adjutant General, when absent from the state, may
16 temporarily delegate any authority vested under this title and any
17 such duties as an agency appointing authority to an Assistant
18 Adjutant General, other state officer or employee within the
19 Military Department of the State of Oklahoma. Such temporary
20 delegations of authority pursuant to this subsection shall be
21 accomplished in writing. The Adjutant General ~~is authorized to~~ may
22 also promulgate ~~rules to provide~~ regulations providing for the
23 delegation of any such authority.

24

1 C. The Adjutant General shall develop, publish and maintain an
2 organizational chart depicting the chain of command between the
3 Adjutant General and the major commands of the Oklahoma National
4 Guard. Besides the major commands defined in Section 801 of this
5 title (Article 1), the Adjutant General, in his or her discretion,
6 may designate other military units within the Oklahoma National
7 Guard as major commands.

8 D. The organizational chart required in subsection C of this
9 section shall be updated no less than annually and shall include all
10 enlisted and officer billets assigned to joint forces headquarters
11 and shall depict all existing command relationships established by
12 the Adjutant General within joint forces headquarters. The
13 organizational chart required herein shall not be considered a
14 military publication within the meaning of Section 801 of this title
15 (Article 1).

16 E. In accordance with all relevant requirements of the United
17 States Army, the United States Air Force or the National Guard
18 Bureau, the Adjutant General shall develop, publish and maintain an
19 enlisted and officer rating scheme for all enlisted and officer
20 billets assigned to joint forces headquarters. The rating scheme
21 required herein shall not be considered a military publication
22 within the meaning of Section 801 of this title (Article 1).

23 F. Pursuant to the rules established by the Adjutant General,
24 the Military Department of the State of Oklahoma is authorized to

1 expend appropriated and nonappropriated funds to enhance recruiting
2 and retention efforts for the Oklahoma National Guard.

3 SECTION 4. AMENDATORY 44 O.S. 2011, Section 72, is
4 amended to read as follows:

5 Section 72. It shall be the duty of the Governor, and he or she
6 is authorized and required, in case of war, invasion, insurrection,
7 or breach of the peace or imminent danger thereof or any forcible
8 obstructing of the execution of the laws or reasonable apprehension
9 thereof, or an imminent or existing epidemic or pandemic, and at all
10 other times he or she may deem necessary, to order on state active
11 duty the National Guard or any part thereof. No member thereof who
12 shall be ordered out for such state active duty shall be liable for
13 civil prosecution for any act done by him or her in the discharge of
14 his or her military duty on such ~~occasion, and when the President of~~
15 ~~the United States shall make a call, order, or requisition for~~
16 ~~troops, the Governor shall first order into the service of the~~
17 ~~United States the organizations and arms of the service specified in~~
18 ~~said requisition~~ occasions.

19 SECTION 5. AMENDATORY 44 O.S. 2011, Section 208.1, as
20 amended by Section 1, Chapter 70, O.S.L. 2017 (44 O.S. Supp. 2020,
21 Section 208.1), is amended to read as follows:

22 Section 208.1 ~~The following provisions of federal law, as~~
23 ~~amended,~~ Except where state law may provide additional or superior
24 protections, the civil law protections established in the federal

1 Servicemembers Civil Relief Act, 50 U.S.C., Section 3901 et seq.,
2 shall be adopted as state law and applied to members of the ~~Oklahoma~~
3 ~~National Guard~~ state military forces when such members are ordered
4 to state active duty or ~~full-time National Guard~~ Title 32 active
5 ~~duty under~~ pursuant to Sections 501 through 507 of Title 32 of the
6 United States Code:

7 ~~1. The Servicemembers Civil Relief Act of 2003 (SCRA), codified~~
8 ~~at 50 U.S.C. App., Section 501 et seq., which updates, renames, and~~
9 ~~replaces the Soldiers' and Sailors' Civil Relief Act of 1940; and~~

10 ~~2. The Uniformed Services Employment and Reemployment Rights~~
11 ~~Act (USERRA), Sections 4301 et seq. of Title 38 of the United States~~
12 ~~Code.~~

13 SECTION 6. AMENDATORY 44 O.S. 2011, Section 209, as last
14 amended by Section 1, Chapter 80, O.S.L. 2017 (44 O.S. Supp. 2020,
15 Section 209), is amended to read as follows:

16 Section 209. All officers and employees of the state or a
17 political subdivision thereof who are ~~members of the Oklahoma~~
18 ~~National Guard or any reserve component of any branch of the United~~
19 ~~States military, shall, when ordered by proper authority to active~~
20 ~~or inactive service, be entitled to a leave of absence from civil~~
21 ~~employment for the period of active service, without loss of status~~
22 ~~or efficiency rating. During the first thirty (30) calendar days~~
23 ~~for employees of political subdivisions or the first thirty (30)~~
24 ~~regular scheduled work days for state employees, or not to exceed~~

1 ~~two hundred forty (240) hours, of the leave of absence in any~~
2 ~~federal fiscal year, the officers or employees shall receive their~~
3 ~~full regular pay from the employing state agency or political~~
4 ~~subdivision. During the remainder of the leave of absence in any~~
5 ~~federal fiscal year, the employing state agency or political~~
6 ~~subdivision may elect to pay them an amount equal to the difference~~
7 ~~between the officers' or employees' full regular pay from the~~
8 ~~employing state agency or political subdivision and their Oklahoma~~
9 ~~National Guard or United States military reserve component pay,~~
10 ~~except that state officers and employees shall receive the~~
11 ~~difference between their full regular pay and their Oklahoma~~
12 ~~National Guard or United States military reserve component pay when~~
13 ~~they are ordered by proper authority to active or inactive service~~
14 ~~retroactive to the date that the state officer or employee reported~~
15 ~~to active service on or after September 11, 2001, during the period~~
16 ~~that Operation Enduring Freedom is in effect, or any subsequent~~
17 ~~contingency operation declared by the Secretary of Defense. The~~
18 ~~durational limit of protected military service as provided for in~~
19 ~~this section shall not be less than that provided by federal law.~~
20 ~~If it is necessary in the public interest to provide for the~~
21 ~~performance of the duties of their positions during such absence,~~
22 ~~the authority having power to fill a vacancy in the positions may~~
23 ~~appoint substitutes, to be known as acting incumbents, who shall~~
24 ~~qualify as required for the regular incumbents and shall receive the~~

1 ~~same pay, including benefits and pay adjustments, as fixed by law,~~
2 ~~if any, or otherwise such pay, including benefits and pay~~
3 ~~adjustments, as may be fixed by proper authority~~ not members of the
4 state military forces shall be entitled to a leave of absence from
5 their regular employment with the State of Oklahoma or a political
6 subdivision thereof, without loss of status or efficiency rating,
7 when detailed as a military trial judge pursuant to Section 826 of
8 this title (Article 26) or when serving as an appellate military
9 judge pursuant to Section 866 of this title (Article 66) when the
10 Military Court of Appeals is convened. The rules of procedure
11 prescribed by the State Judge Advocate pursuant to subsection L of
12 Section 866 of this title (Article 66, subsection L) shall define
13 what constitutes the Military Court of Appeals being "convened" for
14 purposes of this section. During the first thirty (30) regularly
15 scheduled work days, not to exceed two hundred forty (240) hours, of
16 the leave of absence in any federal fiscal year, officers and
17 employees of the State of Oklahoma or a political subdivision
18 thereof detailed or serving as military trial judges or military
19 appellate judges shall receive their full regular pay from the
20 employing state agency or political subdivision. During the
21 remainder of the leave of absence in any federal fiscal year, the
22 employing state agency or political subdivision shall pay such
23 officers and employees an amount equal to the difference between the
24 full regular pay of the officers or employees from the employing

1 state agency or political subdivision and the amount of compensation
2 established for military trial judges in subsection H of Section 826
3 of this title (Article 26, subsection H) in the case of a military
4 trial judge or the amount of compensation established for appellate
5 military judges in subsection E of Section 866 of this title
6 (Article 66, subsection E) in the case of a military appellate
7 judge. Leave taken pursuant to this section shall be characterized
8 as military judicial leave.

9 The Office of Management and Enterprise Services shall
10 promulgate rules as necessary to implement the provisions of this
11 section that relate to state employees.

12 SECTION 7. AMENDATORY 44 O.S. 2011, Section 212, as
13 amended by Section 3, Chapter 408, O.S.L. 2019 (44 O.S. Supp. 2020,
14 Section 212), is amended to read as follows:

15 Section 212. ~~A. If a suit or proceeding shall be commenced in~~
16 ~~any court by any person against any member of the military forces~~
17 ~~for any act done by the member in his or her official capacity in~~
18 ~~the discharge of any duty under Sections 1 through 117, 208 through~~
19 ~~237, 241 through 250, or 800 through 946 of this title, or against~~
20 ~~any member of the state military forces as defined in Section 801 of~~
21 ~~this title acting under the authority or order of any such officer,~~
22 ~~or by virtue of any warrant issued by him or her pursuant to law, it~~
23 ~~shall be the duty of the Attorney General or Judge Advocate to~~
24 ~~defend such person.~~

1 ~~The actual court costs of such a defense shall be a legal charge~~
2 ~~against the state and shall be submitted to the Legislature for~~
3 ~~payment. Before any suit or proceeding shall be filed or maintained~~
4 ~~against any member of state military forces as herein provided, the~~
5 ~~plaintiff shall be required to give security, to be approved by the~~
6 ~~court in a sum not less than One Hundred Dollars (\$100.00), to~~
7 ~~secure the costs. If the plaintiff fails to recover judgment such~~
8 ~~costs shall be taxed and judgment rendered therefor against him or~~
9 ~~her and his or her sureties.~~

10 ~~B.~~ Any officer or enlisted person of the state military forces
11 acting in his or her official capacity in the discharge of any duty
12 under Sections 1 through 117, 208 through 235.3, or 241 through 250
13 of this title, or any member of state military forces acting under
14 the authority or order of any such officer, or by virtue of any
15 warrant issued by him or her pursuant to law, the line of duty shall
16 be immune from personal liability for any acts that include the use
17 of deadly force in self-defense or in defense of another person from
18 what the member reasonably believes is the imminent use of unlawful
19 deadly force.

20 SECTION 8. AMENDATORY 44 O.S. 2011, Section 229, is
21 amended to read as follows:

22 Section 229. The Governor is authorized to order the National
23 Guard, or any part thereof, beyond the borders of the state, for the
24 purpose of participating in any encampment, maneuvers or field

1 instruction and for such other training or service as may be
2 required or authorized under state or federal law. Whenever the
3 National Guard, or any part thereof, is so ordered beyond the
4 borders of the state, the members thereof shall remain subject to
5 the military laws and regulations of the state, and the military
6 courts of this state shall have jurisdiction over any offense which
7 is committed against the military laws or regulations of the state
8 by any member of the National Guard while in service beyond the
9 borders of the state, and the military courts of the state are
10 authorized to function beyond the borders of this state, whenever
11 the National Guard is ordered beyond the borders of the state.
12 Provided, that any imprisonment imposed while a unit is out of the
13 State of Oklahoma shall be served under the supervision of said
14 unit. And, provided further, that if said period of imprisonment
15 extends beyond the date of the return of said unit to the State of
16 Oklahoma that the balance of such imprisonment shall be served in
17 ~~the county jail of the county in which said unit is regularly~~
18 ~~stationed~~ accordance with Section 858 of this title.

19 SECTION 9. AMENDATORY Section 5, Chapter 408, O.S.L.
20 2019 (44 O.S. Supp. 2020, Section 801), is amended to read as
21 follows:

22 Section 801. ARTICLE 1. Definitions.

23 A. As used in the Oklahoma Uniform Code of Military Justice,
24 unless the context otherwise requires:

1 1. "Accuser" means a person who signs and swears to charges,
2 any person who directs that charges nominally be signed and sworn to
3 by another, and any other person who has an interest other than an
4 official interest in the prosecution of the accused;

5 2. "Adjutant General" means the commander and most senior
6 military officer of the Oklahoma National Guard appointed by the
7 Governor with the advice and consent of the Senate. The Adjutant
8 General exercises command and control over the Oklahoma National
9 Guard when it is not activated for federal duty under Title 10 of
10 the United States Code. The Adjutant General serves as the
11 executive and administrative head of the Military Department of the
12 State of Oklahoma as provided for in Section 21 of this title;

13 3. "Administrative control (ADCON)" means the control or
14 exercise of authority over subordinate units and other organizations
15 or units with respect to administration and support, including
16 control of resources and equipment, personnel management, unit
17 logistics, individual and unit training, readiness, mobilization,
18 demobilization and other matters not included in the operational
19 missions of the subordinate units or other organizations or units.
20 Lawfully issued orders implementing administrative control may
21 incorporate references to the Oklahoma Uniform Code of Military
22 Justice (OUCMJ) for disciplinary purposes;

23 4. "Allowance" means an amount of money provided to members of
24 the state military forces when adequate services or facilities are

1 not provided by the military. Allowances are usually provided tax-
2 free for basic housing, basic subsistence, cost of living, clothing
3 expenses and separation from family members;

4 5. "Arrest in quarters" means moral restraint, as opposed to
5 physical restraint, limiting the liberty of an officer. The limits
6 of arrest in quarters are set by the authority imposing nonjudicial
7 punishment and may extend beyond the physical quarters of an
8 officer;

9 6. "Assistant Adjutant General" means ~~an officer~~ a brigadier
10 general appointed by the ~~Adjutant General~~ Governor to assist the
11 Adjutant General in the discharge and performance of his or her
12 duties. An Assistant Adjutant General is a staff officer who shall
13 meet the qualifications prescribed by law for the Adjutant General.
14 ~~At least one Assistant Adjutant General for the Army National Guard~~
15 ~~and one Assistant Adjutant General for the Air National Guard are~~
16 ~~customarily appointed to establish lines of command and~~
17 ~~administration into each component of the state military forces.~~
18 ~~Additional assistant adjutants general~~ Multiple Assistant Adjutants
19 General may be appointed pursuant to law, custom or National Guard
20 regulations;

21 7. "Cadet" or "officer candidate" means a person who is
22 enrolled in or attending a state military academy, a regional
23 training institute, or any other formal education program for the
24

1 purpose of becoming a commissioned officer in the state military
2 forces;

3 8. "Classified information" means:

- 4 a. any information or material that has been determined
5 pursuant to federal law, by an Executive Order issued
6 by the President in execution of federal law, or a
7 lawfully promulgated federal regulation, to require
8 protection against unauthorized disclosure for reasons
9 of national security and that is so designated, and
10 b. any restricted data, as defined in Section 11(y) of
11 the Atomic Energy Act of 1954 (42 U.S.C., Section
12 2014(y));

13 9. "Code" means the Oklahoma Uniform Code of Military Justice
14 (OUCMJ);

15 10. "Command authority" means the authority that a commander
16 lawfully exercises over subordinates by virtue of rank or
17 assignment. Disciplinary authority under the OUCMJ is inherent to
18 command authority;

19 11. "Commander" means a designated commissioned officer vested
20 with command authority pursuant to law, regulation, assignment,
21 lawful order or custom;

22 12. "Commanding officer" includes only commissioned officers of
23 the state military forces and shall include officers in charge only
24 when administering nonjudicial punishment under Section 815 ~~(Article~~

1 ~~15)~~ of this title (Article 15). "Commander" has the same meaning as
2 "commanding officer" unless the context otherwise requires;

3 13. "Component" means one of two constituent parts that make up
4 the state military forces, namely the army force responsible for
5 land-based operations and the air force responsible for aerial
6 operations and related support activities;

7 14. "Confidential information" means any information or
8 material that shall be designated as confidential pursuant to
9 Section 24A.27 of Title 51 of the Oklahoma Statutes and any
10 information or material that may be kept confidential pursuant to
11 Section 24A.28 of Title 51 of the Oklahoma Statutes that has not
12 previously been released by an appropriate authority;

13 15. "Convening authority" includes, in addition to the person
14 who convened the court, a commissioned officer commanding for the
15 time being or a successor in command to the convening authority;

16 16. "Day" means calendar day and is not synonymous with the
17 term "unit training assembly". Any punishment authorized by this
18 act which is measured in terms of days shall, when served in a
19 status other than annual field training, be construed to mean
20 succeeding duty days;

21 17. "Court of Criminal Appeals" means the Oklahoma Court of
22 Criminal Appeals, the highest court in the State of Oklahoma with
23 appellate jurisdiction in criminal cases. It is the court of last
24 resort for courts-martial conducted under the Code;

1 18. "Duty status" means duty in the state military forces under
2 an order issued by authority of law, and includes travel to and from
3 such duty;

4 19. "Enlisted member" means a person in an enlisted grade;

5 20. "Fatigue duty" means general labor performed by members of
6 the state military forces when unarmed, including but not limited to
7 cleaning, digging, loading, organizing, etc.;

8 21. "Fine" means a type of punishment that makes a member
9 pecuniarily liable to the State of Oklahoma for the amounts
10 specified by nonjudicial punishment or adjudged by a court-martial.
11 A fine may be paid in cash by a member, collected by deduction from
12 the current pay of a member or collected by deduction on settlement
13 of the pay account of a member upon discharge;

14 22. "Forfeiture" means a loss of monetary compensation provided
15 to members of the Oklahoma National Guard or Oklahoma State Guard
16 for performance of military duties as a result of nonjudicial
17 punishment or as adjudged by a court-martial. A forfeiture is
18 applicable to basic pay and allowances if total forfeitures of pay
19 and allowances are specifically adjudged by a general court-martial;
20 provided, that forfeitures other than total forfeitures shall not
21 apply to special pay, other than hardship duty pay, or proficiency
22 or incentive pay;

1 23. "Grade" means a step or degree in a graduated scale of
2 office or military rank which is established and designated as a
3 grade by law or regulation;

4 24. "Installation commander" means a commissioned officer
5 responsible for the protection of assigned forces and assets,
6 lodging, dining and administrative reporting, regardless of the
7 command relations of the various types of forces present on the
8 installation. For purposes of this definition, an installation is
9 an Armed Forces Reserve Center, air base, armory, camp, post,
10 readiness center, office building, the joint forces headquarters or
11 other facility, location, structure or property so designated as an
12 "installation" by the Adjutant General;

13 25. "Joint forces headquarters" means the joint headquarters
14 provided for and established in Section 21 of this title;

15 26. "Judge advocate" means a commissioned officer of the
16 organized state military forces who is a member in good standing of
17 the bar of the highest court of a state, and is certified or
18 designated as a judge advocate in the Judge Advocate General's Corps
19 of the Army or the Air Force, or a reserve component of the same;

20 27. "Major command" means the 45th Infantry Brigade Combat
21 Team, the 45th Field Artillery Brigade, the 90th Troop Command, the
22 137th Special Operations Wing, the 138th Fighter Wing, the joint
23 forces headquarters and any successor organizations to the major
24 commands named herein. The Adjutant General, in his or her

1 discretion, may designate other military units within the Oklahoma
2 National Guard as major commands;

3 28. "May" is used in a permissive sense. The phrase "no person
4 may" means that no person is required, authorized, or permitted to
5 do the act prescribed;

6 29. "Military appellate judge" means a judicial officer who is
7 a member of the Military Court of Appeals and is nominated and
8 appointed in accordance with Section 866 of this title (Article 66);

9 ~~28.~~ 30. "Military court" means a court-martial or a court of
10 inquiry;

11 ~~29.~~ 31. "Military Court of Appeals" means the intermediate
12 appellate court of record established in Section 866 of this title
13 (Article 66) and charged with conducting an appellate review of
14 questions of law arising from general and special courts-martial
15 proceedings conducted by the state military forces and, when
16 necessary in furtherance of its jurisdiction, reviewing all
17 petitions for extraordinary relief properly brought before it;

18 ~~30.~~ 32. "Military department" means the administrative agency
19 established in Section 21 of this title charged with coordinating
20 and supervising state military forces. The military department
21 consists of a joint forces headquarters, an army component and an
22 air force component under the command and control of the Adjutant
23 General when not activated for federal duty under Title 10 of the
24 United States Code;

1 ~~31.~~ 33. "Military trial judge" means a judicial officer who
2 presides over a general or special court-martial and is detailed or
3 retained in accordance with Section 826 of this title (Article 26);

4 34. "Military magistrate" means a licensed attorney, detailed
5 or retained, who conducts reviews or otherwise acts on pre-referral
6 matters relating to the rights of victims under subsection D of
7 Section 806B of this title (Article 6B, subsection D), investigative
8 subpoenas under subparagraph a of paragraph 1 of subsection A of
9 Section 17 of this act (Article 30A, subsection A, paragraph 1,
10 subparagraph a) or who conducts appellate proceedings on behalf of
11 the Military Court of Appeals under paragraph 3 of subsection J of
12 Section 866 of this title (Article 66, subsection J, paragraph 3);

13 ~~32.~~ 35. "Military offenses" means those offenses designated as
14 punitive articles under Sections 877 (Article 77, Principals), 878
15 (Article 78, Accessory after the fact), 879 (Article 79, Conviction
16 of offense charged, lesser included offenses, and attempts), 880
17 (Article 80, Attempts), 881 (Article 81, Conspiracy), 882 (Article
18 82, Soliciting commission of offenses), 883 (Article 83,
19 Malingering), 884 (Article 84, Breach of medical quarantine), 885
20 (Article 85, Desertion), 886 (Article 86, Absence without leave),
21 887 (Article 87, Missing movement; jumping from vessel), 887A
22 (Article 87A, Resistance, flight, breach of arrest, and escape), 888
23 (Article 88, Contempt toward officials), 889 (Article 89, Disrespect
24 toward superior commissioned officer; assault of superior

1 commissioned officer), 890 (Article 90, Willfully disobeying
2 superior commissioned officer), 891 (Article 91, Insubordinate
3 conduct toward warrant officer, or noncommissioned officer), 892
4 (Article 92, Failure to obey order or regulation), 893 (Article 93,
5 Cruelty and maltreatment), 893A (Article 93A, Prohibited activities
6 with military recruit or trainee by person in position of special
7 trust), 894 (Article 94, Mutiny or sedition), 895 (Article 95,
8 Offenses by sentinel or lookout), 895A (Article 95A, Disrespect
9 toward sentinel or lookout), 896 (Article 96, Release of prisoner
10 without authority; drinking with prisoner), 897 (Article 97,
11 Unlawful detention), 898 (Article 98, Misconduct as prisoner), 899
12 (Article 99, Misbehavior before the enemy), 900 (Article 100,
13 Subordinate compelling surrender), 901 (Article 101, Improper use of
14 countersign), 902 (Article 102, Forcing a safeguard), 903B (Article
15 103B, Aiding the enemy), 903C (Article 103C, Unlawful disclosure of
16 confidential information), 904 (Article 104, Public records
17 offenses), 904A (Article 104A, Fraudulent enlistment, appointment,
18 or separation), 904B (Article 104B, Unlawful enlistment,
19 appointment, or separation), 905A (Article 105A, False or
20 unauthorized pass offenses), 906A (Article 106A, Wearing
21 unauthorized insignia, decoration, badge, ribbon, device, or lapel
22 button), 907 (Article 107, False official statements; false
23 swearing), 908 (Article 108, Military property-loss, damage,
24 destruction, or wrongful disposition), 908A (Article 108A, Captured

1 or abandoned property), 909 (Article 109, Property other than
2 military property-waste, spoilage, or destruction), 910 (Article
3 110, Improper hazarding of vessel or aircraft), 912 (Article 112,
4 Drunkenness and other incapacitation offenses), 912A (Article 112A,
5 Wrongful use, possession, etc., of controlled substances), 914
6 (Article 114, Endangerment offenses), 916 (Article 116, Riot or
7 breach of peace), 917 (Article 117, Provoking speeches or gestures),
8 917A (Article 117A, Wrongful broadcast or distribution of intimate
9 visual images), 920 (Article 120, Sexual assault generally), 920C
10 (Article 120C, Other sexual misconduct), 920D (Article 120D,
11 Fraternalization), 921 (Article 121, Larceny and wrongful
12 appropriation), 924 (Article 124, Frauds against the government),
13 928 (Article 128, Assault), 930 (Article 130, Stalking), 931
14 (Article 131, Perjury), 931A (Article 131A, Subornation of perjury),
15 931B (Article 131B, Obstructing justice), 931C (Article 131C,
16 Misprision of serious offense), 931D (Article 131D, Wrongful refusal
17 to testify), 931F (Article 131F, Noncompliance with procedural
18 rules), 931G (Article 131G, Wrongful interference with adverse
19 administrative proceeding), 932 (Article 132, Retaliation), 933
20 (Article 133, Conduct unbecoming an officer and a gentleman) and 934
21 (Article 134, General article) of this title;

22 ~~33.~~ 36. "Military publication" means a written publication of
23 an administrative nature such as a regulation, instruction,
24 pamphlet, circular, permanent or general order, delegation of

1 authority letter, numbered Adjutant General policy memorandum or
2 blank form promulgated or published by or under the authority of the
3 Adjutant General. An order or directive issued by the Adjutant
4 General that is operational in nature or issued in execution of a
5 military mission shall not be included within the meaning of
6 military publication. Rules of procedure published by the State
7 Judge Advocate for the Military Court of Appeals are included in the
8 meaning of military publication. The organizational chart and
9 rating scheme required in Section 26 of this title shall not be
10 included in the meaning of military publication;

11 ~~34.~~ 37. "Month's pay" means the amount of basic pay that would
12 be paid to a member if that member were serving on active duty;

13 ~~35.~~ 38. "National security" means the national defense and
14 foreign relations of the United States;

15 ~~36.~~ 39. "Nexus" means the appearance of a connection between a
16 military or nonmilitary offense and the state military forces which
17 brings discredit or dishonor to the state military forces due to
18 representations of membership in the state military forces by a
19 member. Such representations may be made directly or indirectly,
20 including but not limited to publication on social media or other
21 electronic communication platforms;

22 ~~37.~~ 40. "Noncommissioned officer" means an enlisted member
23 above the pay grade of E-4 or an enlisted member in the army
24 component of state military forces holding the rank of corporal;

1 ~~38.~~ 41. "Nonjudicial punishment" means punishment imposed
2 administratively by a commander or officer in charge for minor
3 offenses in lieu of a court-martial;

4 42. "Nonmilitary offense" means any criminal offense
5 established in law that is not defined as a military offense in this
6 section;

7 ~~39.~~ 43. "Officer" means a commissioned or warrant officer;

8 ~~40.~~ 44. "Officer in charge" means a commissioned or warrant
9 officer designated as such by appropriate authority;

10 ~~41.~~ 45. "Pay" means monetary compensation provided to members
11 of the state military forces in exchange for performance of military
12 duties carried out pursuant to a lawful order or otherwise under the
13 authority of law, including basic pay, special pay, proficiency pay
14 and incentive pay. "Pay" shall not mean allowances as defined in
15 this section;

16 ~~42.~~ 46. "Rank" means the order of precedence among members of
17 the state military forces;

18 ~~43.~~ 47. "Record", when used in connection with the proceedings
19 of a court-martial, means:

- 20 a. an official written transcript, written summary, or
21 other writing relating to the proceedings, or
22 b. an official audiotape, videotape, digital image or
23 file, or similar material from which sound, or sound
24

1 and visual images, depicting the proceedings may be
2 reproduced;

3 ~~44.~~ 48. "Regulation" means a written, administrative expression
4 of executive authority issued by an executive branch officer which
5 carries with it the force and effect of law due to inherent command
6 authority or express delegation of authority by the legislative
7 branch; regulations provided for in the Code are published and
8 archived by the Secretary of State;

9 ~~45.~~ 49. "Rehearing" means a new trial on the findings, on the
10 sentence, or on both;

11 ~~46.~~ 50. "Restriction" means moral restraint, as opposed to
12 physical restraint, limiting access to physical places or
13 participation in certain activities. In comparison to arrest in
14 quarters, "restriction" is a lesser punishment;

15 ~~47.~~ ~~"Senior Assistant Adjutant General" means an Assistant~~
16 ~~Adjutant General who either possesses the most time in grade or has~~
17 ~~been designated in writing by the Adjutant General as the Senior~~
18 ~~Assistant Adjutant General for his or her force component~~
19 ~~irrespective of time in grade;~~

20 ~~48.~~ 51. "Senior force component judge advocate" means the judge
21 advocate assigned as the chief legal advisor ~~to the Senior Assistant~~
22 ~~Adjutant General of~~ within the same component of the state military
23 forces as the accused. Unless there is a conflict of interest, a
24 senior force component judge advocate may also serve as legal

1 counsel to the Adjutant General and may be designated as the State
2 Judge Advocate. The customary duty station of a senior force
3 component judge advocate is joint forces headquarters;

4 ~~49.~~ 52. "Shall" is used in an imperative sense;

5 ~~50.~~ 53. "State" means one of the several states, the District
6 of Columbia, the Commonwealth of Puerto Rico, Guam and the U.S.
7 Virgin Islands;

8 ~~51.~~ 54. "State active duty" means full-time duty in the state
9 military forces under an order of the Governor or otherwise issued
10 by authority of law, and paid by state funds, and includes travel to
11 and from such duty. State active duty shall not mean military duty
12 performed by the state military forces pursuant to Title 32 of the
13 United States Code;

14 ~~52.~~ 55. "State Judge Advocate" means a member of the Oklahoma
15 National Guard qualified as a judge advocate, as defined in this
16 section, and who is designated in writing by the Adjutant General as
17 the State Judge Advocate;

18 ~~53.~~ 56. "State military forces" means the National Guard of the
19 State of Oklahoma, which includes an army component and an air force
20 component, as defined in Title 32, United States Code, and Section
21 41 of this title; the Oklahoma State Guard, organized pursuant to
22 Section 109 of Title 32, United States Code, and established
23 pursuant to the Oklahoma State Guard Act; and any other military
24 force organized under the Constitution and laws of the State of

1 Oklahoma when not in a status placing them under exclusive federal
2 jurisdiction pursuant to Chapter 47 of Title 10, United States Code.
3 Unless otherwise established by Oklahoma law, the unorganized
4 militia, as provided for in Section 41 of this title, or any other
5 state military force that does not meet this definition shall not be
6 considered part of the "state military forces" under the Code;

7 ~~54.~~ 57. "Superior commissioned officer" means a commissioned
8 officer superior in rank or command;

9 ~~55.~~ 58. "Supplies" means materiel, equipment and stores of all
10 types possessed or lawfully controlled by state military forces; and

11 ~~56.~~ 59. "Title 32 active duty" means training or other duty,
12 other than inactive duty, performed by a member of the Army National
13 Guard of the United States or the Air National Guard of the United
14 States in the member's status as a member of the Oklahoma National
15 Guard pursuant to Section 316, 502, 503, 504 or 505 of Title 32 of
16 the United States Code for which the member is entitled to pay from
17 the United States or for which the member has waived pay from the
18 United States.

19 B. Other terms not specifically defined herein shall be defined
20 by military rules or regulations and customs and usage of the
21 National Guard and the Armed Forces of the United States.

22 C. If a term is not defined in either subsection A of this
23 section nor defined as provided in subsection B of this section, it
24 shall receive the construction and usage customarily accorded by

1 reference to dictionaries of the English language in existence at
2 the time of adoption of this act.

3 SECTION 10. AMENDATORY Section 6, Chapter 408, O.S.L.
4 2019 (44 O.S. Supp. 2020, Section 802), is amended to read as
5 follows:

6 Section 802. ARTICLE 2. Persons subject to the Oklahoma
7 Uniform Code of Military Justice.

8 A. The Oklahoma Uniform Code of Military Justice applies to all
9 members of the state military forces at all times who are not in
10 active federal service, as defined by Title 10 of the United States
11 Code.

12 B. Subject matter jurisdiction is established for military
13 offenses if a member of the state military forces is in a duty
14 status under Title 32 of the United States Code or on state active
15 duty orders. Subject matter jurisdiction is also established for
16 military and nonmilitary offenses if more likely than not, a nexus
17 exists between an offense, ~~either military or nonmilitary,~~ and the
18 state military forces, regardless of a member's duty status.
19 Courts-martial shall have primary jurisdiction over military
20 offenses as defined in the Code.

21 C. The civilian courts shall have primary jurisdiction over
22 nonmilitary offenses when an act or omission violates both the Code
23 and local criminal law. In such a case, a court-martial may be
24 initiated only after the civilian authority has declined to

1 prosecute or has dismissed the charge, provided jeopardy has not
2 attached. When a member is not in a duty status under Title 32 of
3 the United States Code or on state active duty orders, there shall
4 be a rebuttable presumption that subject matter jurisdiction does
5 not exist under the Code. The Governor or Adjutant General may
6 promulgate additional regulations prescribing how a convening
7 authority shall determine the existence of a nexus between a
8 nonmilitary offense and state military forces.

9 D. Jurisdiction over attempted crimes, conspiracy crimes,
10 solicitation and accessory crimes shall be determined by the
11 underlying offense.

12 E. If a commander or officer in charge determines that a nexus
13 exists between a nonmilitary offense and the state military forces,
14 for purposes of administrative action, the commander or officer in
15 charge may impose nonjudicial punishment regardless of whether
16 courts-martial jurisdiction is then possessed or later acquired by
17 the state military forces.

18 SECTION 11. AMENDATORY Section 10, Chapter 408, O.S.L.
19 2019 (44 O.S. Supp. 2020, Section 806), is amended to read as
20 follows:

21 Section 806. ARTICLE 6. Judge advocates.

22 A. Designation of State Judge Advocate and senior force
23 component judge advocate. The Adjutant General shall designate in
24 writing a State Judge Advocate from among the judge advocates duly

1 commissioned in the state military forces. Regardless of rank, the
2 State Judge Advocate shall be considered the senior force component
3 judge advocate in the force component of which he or she is a
4 member. Unless such authority is delegated in accordance with
5 subsection B or C of Section 25 of this title, the Adjutant General
6 shall also designate in writing a senior force component judge
7 advocate in the military force component of which the judge advocate
8 designated as the State Judge Advocate is not a member.

9 B. Inspections. The senior force component judge advocates in
10 each of the state's military force components or those judge
11 advocates' delegates shall make frequent inspections in the field in
12 supervision of the administration of military justice in that force
13 component.

14 ~~B.~~ C. Communication. Convening authorities shall at all times
15 communicate directly with their judge advocates in matters relating
16 to the administration of military justice. The judge advocate of
17 any command is entitled to communicate directly with the judge
18 advocate of a superior or subordinate command, or with the State
19 Judge Advocate.

20 ~~C.~~ D. Limitations due to prior capacity. No person who, with
21 respect to a case, serves in a capacity specified in subsection ~~D~~ E
22 of this section may later serve as a judge advocate to any reviewing
23 or convening authority upon the same case.

24

1 ~~D.~~ E. Conflicts of interest. The capacities referred to in
2 subsection ~~C~~ D of this section are, with respect to the case
3 involved, any of the following:

4 1. Preliminary hearing officer, court member, military trial
5 judge, military magistrate, or appellate military judge; or

6 2. Counsel who have acted in the same case or appeared in any
7 proceeding before a military trial judge, preliminary hearing
8 officer, or appellate court.

9 F. Duties. The senior force component judge advocate of each
10 force component within the state military forces shall oversee the
11 following functions among the judge advocates and paralegals in
12 their respective force components:

13 1. Recruitment and accession of new recruits;

14 2. Retention;

15 3. Education and training;

16 4. Career development and progression; and

17 5. Decoration.

18 G. Assignment of legal personnel. The senior force component
19 judge advocate of each force component within the state military
20 forces shall determine the place of duty and frequency of
21 reassignment among the major commands in their respective force
22 components for each judge advocate and paralegal.

23 H. Legal counsel. The State Judge Advocate shall provide legal
24 counsel to the Adjutant General and, as requested, to the other

1 senior leaders of the state military forces. The State Judge
2 Advocate shall ensure that the Adjutant General receives legal
3 counsel from the senior force component judge advocate of the force
4 component of which the Adjutant General is not a member on matters
5 relevant to that force component.

6 SECTION 12. AMENDATORY Section 21, Chapter 408, O.S.L.
7 2019 (44 O.S. Supp. 2020, Section 815), is amended to read as
8 follows:

9 Section 815. ARTICLE 15. Commanding officer's nonjudicial
10 punishment.

11 A. Except as provided in subsection B of this section, any
12 commanding officer and, for purposes of this section, any officer in
13 charge, may impose disciplinary punishments for minor offenses
14 arising under the punitive articles of the Oklahoma Uniform Code of
15 Military Justice without the intervention of a court-martial.

16 B. Any superior commander may limit or withhold the exercise of
17 nonjudicial punishment authority by subordinate commanders,
18 including limiting authority over certain categories of military
19 personnel or offenses. Likewise, individual cases may be reserved
20 by a superior commander. A superior authority may limit or withhold
21 any power that a subordinate might otherwise exercise under this
22 section.

23 C. Except as provided in subsection ~~¶~~ L of this section, the
24 Governor, ~~the~~ or Adjutant General, ~~or a general officer in command~~

1 may delegate the powers established under this section to a
2 ~~principal assistant~~ senior officer who is a member of the state
3 military forces and is also a member of the same force component as
4 the accused.

5 D. Any commanding officer may impose upon enlisted members of
6 the officer's command:

7 1. An admonition;

8 2. A reprimand;

9 3. The withholding of privileges for not more than six (6)
10 months which need not be consecutive;

11 4. The forfeiture of pay of not more than seven (7) days' pay;

12 5. A fine of not more than seven (7) days' pay;

13 6. A reduction to the next inferior pay grade, if the grade
14 from which demoted is within the promotion authority of the officer
15 imposing the reduction or any officer subordinate to the one who
16 imposes the reduction;

17 7. Extra duties, including fatigue or other duties, for not
18 more than fourteen (14) days, which need not be consecutive; and

19 8. Restriction to certain specified limits, with or without
20 suspension from duty, for not more than fourteen (14) days, which
21 need not be consecutive.

22 E. Any commanding officer of the grade of major or above may
23 impose upon enlisted members of the officer's command:

24 1. An admonition;

1 2. A reprimand;

2 3. The withholding of privileges for not more than six (6)
3 months which need not be consecutive;

4 4. The forfeiture of not more than one-half (1/2) of one (1)
5 month's pay per month for two (2) months;

6 5. A fine of not more than one (1) month's pay;

7 6. A reduction to the lowest or any intermediate pay grade, if
8 the grade from which demoted is within the promotion authority of
9 the officer imposing the reduction or any officer subordinate to the
10 one who imposes the reduction, but an enlisted member in a pay grade
11 above E-4 shall not be reduced more than two pay grades;

12 7. Extra duties, including fatigue or other duties, for not
13 more than forty-five (45) days which need not be consecutive; and

14 8. Restriction to certain specified limits, with or without
15 suspension from duty, for not more than sixty (60) days which need
16 not be consecutive.

17 F. The Governor, the Adjutant General, or an officer exercising
18 general or special court-martial convening authority, ~~or a general~~
19 ~~officer in command~~ may impose:

20 1. Upon officers of the officer's command:

21 a. any punishment authorized in subsection E of this
22 section, except for the punishments provided in
23 paragraphs 6 and 7 of subsection E of this section,
24 and

1 b. arrest in quarters for not more than thirty (30) days
2 which need not be consecutive; and

3 2. Upon enlisted members of the officer's command, any
4 punishment authorized in subsection E of this section.

5 Admonitions or reprimands given as nonjudicial punishment to
6 commissioned officers and warrant officers shall be administered in
7 writing. In all other cases, unless otherwise prescribed by
8 regulations promulgated by the Adjutant General, such punishments
9 may be administered either orally or in writing.

10 G. Whenever any punishments are combined to run consecutively,
11 the total length of the combined punishment shall not exceed the
12 authorized duration of the longest punishment included in the
13 combination, and there shall be an apportionment of punishments so
14 that no single punishment in the combination exceeds its authorized
15 length under this section.

16 H. Once the commander has determined that nonjudicial
17 punishment is appropriate, the commander shall provide reasonable
18 notice to the member of his or her intent to impose nonjudicial
19 punishment. At the time the commander provides notification as
20 required in this subsection, the member shall be entitled to examine
21 all statements and other evidence that the commander has examined
22 and intends to rely upon as the basis for punishment. The member
23 shall be provided a copy of the documentary evidence unless it is
24 privileged, classified, or otherwise restricted by law, regulation,

1 or instruction. At the time the commander provides notification as
2 required in this subsection, the commander shall also inform the
3 member as to the quantum of punishment potentially to be imposed.
4 While a member undergoing nonjudicial punishment is not entitled to
5 representation by a duly appointed defense counsel, the member may
6 seek legal advice from any judge advocate available for this
7 purpose.

8 I. The right to demand trial by court-martial in lieu of
9 nonjudicial punishment shall arise only when arrest in quarters or
10 restriction will be considered as punishments. If the commanding
11 officer determines that arrest in quarters or restriction will be
12 considered as punishments, prior to the offer of nonjudicial
13 punishment the accused shall be notified in writing of the right to
14 demand trial by court-martial. Should the commanding officer
15 determine that the punishment options will not include arrest in
16 quarters or restriction, the accused shall be notified that there is
17 no right to trial by court-martial in lieu of nonjudicial
18 punishment. Upon notification by the commander or officer in charge
19 of his or her intent to impose nonjudicial punishment that includes
20 arrest in quarters or restriction, the accused shall be afforded a
21 reasonable amount of time to confer with legal counsel and to
22 prepare a response.

23 J. The officer who imposes the punishment, or his or her
24 successor in command, may at any time suspend, set aside, mitigate

1 or remit any part or amount of the punishment and restore all
2 rights, privileges and property affected. The officer may also
3 mitigate:

4 1. Reduction in grade to forfeiture of pay;

5 2. Arrest in quarters to restriction; or

6 3. Extra duties to restriction.

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

12 K. A person punished under this section who considers the
13 punishment unjust or disproportionate to the offense may, through
14 his or her chain of command, appeal to ~~the Senior Assistant Adjutant~~
15 ~~General~~ a senior officer designated by the Adjutant General to
16 adjudicate appeals arising from nonjudicial punishment. A senior
17 officer so designated by the Adjutant General shall be a member of
18 the same component of the state military forces as the accused. An
19 appeal made pursuant to this subsection shall be lodged within
20 fifteen (15) days after the punishment is announced to the accused.
21 The officer exercising appellate authority may, at his or her
22 discretion, extend the deadline for an appeal. The appeal shall be
23 promptly forwarded and decided, and the member shall not be punished
24 until the appeal is decided. The ~~Senior Assistant~~ senior officer

1 designated by the Adjutant General as exercising appellate authority
2 may exercise the same powers with respect to the punishment imposed
3 as may be exercised under subsection I of this section by the
4 officer who imposed the punishment. Before acting on an appeal from
5 a punishment, the ~~Senior Assistant Adjutant General~~ senior officer
6 exercising appellate authority shall refer the case to a judge
7 advocate for consideration and advice. When a senior officer is
8 designated by the Adjutant General to adjudicate appeals arising
9 from nonjudicial punishment, such designation shall be accomplished
10 in writing and shall be considered a military publication, as
11 defined in Section 801 of this title (Article 1).

12 ~~K.~~ L. Except for nonjudicial punishment imposed by the Governor
13 or the Adjutant General, the final appellate authority for
14 nonjudicial punishment imposed within state military forces is the
15 Adjutant General. A person punished under this section whose appeal
16 was previously denied by a ~~Senior Assistant Adjutant General~~ senior
17 officer designated to adjudicate appeals may, through his or her
18 chain of command, lodge an additional appeal with the Adjutant
19 General within five (5) days after the appeal is denied. In the
20 event the officer imposing nonjudicial punishment is ~~the Senior~~
21 ~~Assistant Adjutant General~~ a senior officer who is also designated
22 to adjudicate appeals arising from nonjudicial punishment, an appeal
23 thereof shall be addressed directly to the Adjutant General. In the
24 event the officer imposing nonjudicial punishment is the Adjutant

1 General, an appeal thereof shall be addressed directly to the
2 Governor. An appeal offered pursuant to this subsection shall be
3 made only in writing. Neither the Governor nor the Adjutant General
4 shall delegate his or her duties as an appellate authority under
5 this subsection.

6 ~~L.~~ M. Whenever nonjudicial punishment is imposed under this
7 section:

8 1. After adjudication and while the punishment is being carried
9 out or while the adjudged punishment is pending before the appellate
10 authority, the commander or officer in charge who imposed the
11 nonjudicial punishment, upon the request of the accused, may:

- 12 a. excuse the accused from attendance at scheduled unit
13 training assemblies, or
14 b. arrange for the accused to drill on alternate dates
15 and in alternate locations; or

16 2. If necessary to maintain good order and discipline within
17 the unit, the commander or officer in charge who imposed the
18 nonjudicial punishment may order the accused to drill on alternate
19 dates and in alternate locations. The order shall be reduced to
20 writing and shall become part of the record of nonjudicial
21 punishment.

22 ~~M.~~ N. The imposition and enforcement of disciplinary punishment
23 under this section for any act or omission shall not be a bar to
24 trial by court-martial or a civilian court of competent jurisdiction

1 for a crime or offense arising out of the same act or omission; but
2 the fact that a disciplinary punishment has been enforced may be
3 demonstrated by the accused upon trial and, when so demonstrated, it
4 shall be considered in determining the measure of punishment to be
5 adjudged in the event of a finding or verdict of guilty.

6 Nonjudicial punishment shall not be imposed for an offense
7 previously tried by a civilian court unless so authorized by
8 regulations promulgated by the Adjutant General.

9 ~~N.~~ O. When nonjudicial punishment has been imposed for an
10 offense, punishment shall not again be imposed for the same offense
11 under this section. Once nonjudicial punishment has been imposed,
12 it may not be increased, upon appeal or otherwise. When a commander
13 or officer in charge determines that nonjudicial punishment is
14 appropriate for a particular member, all known offenses determined
15 to be appropriate for disposition by nonjudicial punishment and
16 ready to be considered at that time, including all offenses arising
17 from a single incident or course of conduct, shall be considered
18 together and shall not be made the basis for multiple punishments.
19 This subsection shall in no way restrict the right of a commander to
20 prefer court-martial charges for an offense previously punished
21 under the provisions of this section.

22 ~~O.~~ P. In accordance with subsection B of Section 843 of this
23 title (Article 43, subsection B), a person accused of an offense is
24 not liable to be punished under this section if the offense was

1 committed more than two (2) years before the imposition of
2 punishment. Periods in which the accused is absent without
3 authority shall be excluded in computing the period of limitation
4 prescribed in this section.

5 ~~P.~~ Q. Whenever a punishment of forfeiture of pay is imposed
6 under this section, the forfeiture shall not apply to pay accruing
7 before the date that punishment is imposed, but only pay accruing on
8 or after the date that punishment is imposed.

9 ~~Q.~~ R. The Adjutant General may promulgate regulations
10 prescribing the type and form of records to be kept of proceedings
11 conducted pursuant to this section. The Adjutant General may
12 promulgate any other regulations necessary to carry out the
13 provisions of this section.

14 SECTION 13. AMENDATORY Section 26, Chapter 408, O.S.L.
15 2019 (44 O.S. Supp. 2020, Section 820), is amended to read as
16 follows:

17 Section 820. ARTICLE 20. Jurisdiction and appeals of summary
18 courts-martial.

19 A. Subject to Section 817 of this title (Article 17), summary
20 courts-martial have jurisdiction to try persons subject to the
21 Oklahoma Uniform Code of Military Justice, except officers, cadets
22 and officer candidates for any offense made punishable by the Code
23 under such limitations as may be prescribed by regulation
24 promulgated by the Governor or Adjutant General. No person with

1 respect to whom summary courts-martial have jurisdiction shall be
2 brought to trial before a summary court-martial if he or she objects
3 thereto. If objection to trial by summary court-martial is made by
4 an accused, trial may be ordered by special or general court-martial
5 as may be appropriate. Summary courts-martial may, under such
6 limitations as may be prescribed by regulation promulgated by the
7 Governor or Adjutant General, adjudge any punishment not forbidden
8 by the Code except dismissal, dishonorable or bad-conduct discharge,
9 confinement for more than one (1) month, hard labor without
10 confinement for more than forty-five (45) days, restriction to
11 specified limits for more than two (2) months, or forfeiture of more
12 than two-thirds (2/3) of one (1) month's pay.

13 B. A summary court-martial is a noncriminal forum. A finding
14 of guilty at a summary court-martial does not constitute a criminal
15 conviction.

16 C. Regular appeals. A person found guilty at a summary court-
17 martial who considers the punishment unjust or disproportionate to
18 the offense may appeal to a senior officer designated by the ~~Senior~~
19 ~~Assistant~~ Adjutant General to adjudicate appeals. A senior officer
20 designated by the Adjutant General shall be an officer assigned to
21 joint forces headquarters and shall be a member of the same
22 component of the state military forces as the accused. An appeal
23 made pursuant to this subsection shall be lodged within thirty (30)
24 calendar days after the date the accused receives written notice

1 from the convening authority that the convening authority has
2 complied with the requirements of subsection B of Section 860C of
3 this title (Article 860C, subsection B). Before acting on an appeal
4 submitted pursuant to this subsection, the ~~Senior Assistant Adjutant~~
5 ~~General~~ senior officer exercising appellate authority shall refer
6 the case to a judge advocate for consideration and advice. When a
7 senior officer is designated by the Adjutant General to adjudicate
8 appeals pursuant to this subsection, such designation shall be
9 accomplished in writing and shall be considered a military
10 publication, as defined in Section 801 of this title (Article 1).

11 D. Appeals in certain instances. Except for summary courts-
12 martial convened by the Governor or the Adjutant General, the final
13 appellate authority for summary courts-martial convened pursuant to
14 this Code shall be the Adjutant General. A person found guilty at a
15 summary court-martial whose appeal was previously denied by ~~the~~
16 ~~Senior Assistant Adjutant General~~ a senior officer designated to
17 adjudicate appeals may lodge an additional appeal with the Adjutant
18 General within fifteen (15) calendar days after the appeal is
19 denied. In the event the officer who convened the summary court-
20 martial is ~~the Senior Assistant Adjutant General~~ a senior officer
21 who is also designated to adjudicate appeals, an appeal thereof
22 shall be addressed directly to the Adjutant General. In the event
23 the officer who convened the summary court-martial is the Adjutant
24 General, an appeal thereof shall be addressed directly to the

1 Governor. An appeal offered pursuant to this subsection shall be
2 made only in writing. Neither the Governor nor the Adjutant General
3 shall delegate his or her duties as an appellate authority under
4 this subsection.

5 E. The Adjutant General may promulgate regulations prescribing
6 the type and form of records to be kept of appellate proceedings
7 undertaken pursuant to subsections C and D of this section.

8 SECTION 14. AMENDATORY Section 29, Chapter 408, O.S.L.
9 2019 (44 O.S. Supp. 2020, Section 823), is amended to read as
10 follows:

11 Section 823. ARTICLE 23. Who may convene special courts-
12 martial.

13 A. Special courts-martial may be convened by:

14 1. Any person who may convene a general court-martial;

15 2. ~~The Senior Assistant Adjutant General of the same component~~
16 ~~of the state military forces as the accused;~~

17 3. ~~The officer designated as the army land component commander~~
18 ~~when the accused is a member of the army component of state military~~
19 ~~forces;~~

20 4. ~~The officer designated as the air component commander when~~
21 ~~the accused is a member of the air component of state military~~
22 ~~forces;~~

23 5. The commanding officer of a brigade in the army component of
24 state military forces;

1 ~~6.~~ 3. The commanding officer of a wing in the air component of
2 state military forces; or

3 ~~7.~~ 4. Any other commanding officer designated by the Adjutant
4 General.

5 B. If any such officer is an accuser, the court shall be
6 convened by superior competent authority, and may in any case be
7 convened by such authority if considered desirable by that superior
8 authority.

9 SECTION 15. AMENDATORY Section 32, Chapter 408, O.S.L.
10 2019 (44 O.S. Supp. 2020, Section 826), is amended to read as
11 follows:

12 Section 826. ARTICLE 26. Military trial judge of a general or
13 special court-martial.

14 A. A military trial judge shall be detailed to each general and
15 special court-martial. The Adjutant General shall promulgate
16 regulations prescribing the manner of selection, certification and
17 detailing of military trial judges for such general and special
18 courts-martial. The military trial judge shall preside over each
19 open session of the court-martial to which he or she has been
20 detailed.

21 B. A military trial judge shall be a member of the bar of the
22 highest court of a state, or a member of the bar of a federal court.

1 C. A military trial judge shall be qualified, by reason of
2 education, training, experience, and judicial temperament, for duty
3 as a military trial judge and shall be one of the following:

4 1. A commissioned officer of the state military forces who is a
5 member of the bar of the highest court of a state, or a member of
6 the bar of a federal court, and who is certified to be qualified for
7 such duty by the State Judge Advocate;

8 2. A retired commissioned officer of the state military forces
9 who is a member of the bar of the highest court of a state, or a
10 member of the bar of a federal court, and who is certified to be
11 qualified for such duty by the State Judge Advocate;

12 3. A judge advocate in any department of the Armed Forces of
13 the United States serving on active duty within the meaning of Title
14 10 of the United States Code who is certified to be qualified for
15 duty as a military trial judge by the Judge Advocate General of the
16 armed force of which such military trial judge is a member;

17 4. A judge presently serving in any judicial district within
18 the State of Oklahoma who possesses at least one (1) year of trial
19 experience and who currently serves or previously served as a judge
20 advocate in any department of the Armed Forces of the United States,
21 to include reserve components of the same;

22 5. A retired judge or justice who served in any judicial
23 capacity within the judicial department of the State of Oklahoma and
24 who previously served as a judge advocate in any department of the

1 Armed Forces of the United States, to include reserve components of
2 the same;

3 6. A federal district court judge presently serving in any
4 federal judicial district within the State of Oklahoma who possesses
5 at least one (1) year of trial experience and who previously served
6 as a judge advocate in any department of the Armed Forces of the
7 United States, to include reserve components of the same; or

8 7. A retired federal district court judge or retired federal
9 appellate court judge who previously served as a judge advocate in
10 any department of the Armed Forces of the United States, to include
11 reserve components of the same.

12 D. 1. In accordance with regulations prescribed under
13 subsection A of this section, a military trial judge of a general or
14 special court-martial shall be designated for detail by the senior
15 force component judge advocate of the same force component as the
16 accused.

17 2. Neither the convening authority nor any member of the staff
18 of the convening authority shall prepare or review any report
19 concerning the effectiveness, fitness, or efficiency of the military
20 trial judge so detailed, which relates to the military trial judge's
21 performance of duty as a military trial judge.

22 3. A commissioned officer of the state military forces who is
23 certified to be qualified for duty as a military trial judge of a
24 general court-martial:

- 1 a. may perform such duties only when the officer is
2 assigned and directly responsible to the senior force
3 component judge advocate of the force component of
4 which the military trial judge is a member, and
- 5 b. may perform duties of a judicial or nonjudicial nature
6 other than those relating to the officer's primary
7 duty as a military trial judge of a general court-
8 martial only when such duties are assigned to the
9 officer by or with the approval of that senior force
10 component judge advocate.

11 4. A commissioned officer of any department of the Armed Forces
12 of the United States serving on active duty within the meaning of
13 Title 10 of the United States Code who, pursuant to the Oklahoma
14 Uniform Code of Military Justice and the regulations promulgated
15 pursuant to subsection A of this section, is certified to be
16 qualified for duty as a military trial judge of a general court-
17 martial shall not be assigned other duties of a judicial or
18 nonjudicial nature other than those relating to the officer's
19 primary duty as a military trial judge of a general court-martial,
20 except when such duties are assigned to the officer by or with the
21 approval of the Judge Advocate General of the armed force of which
22 the military trial judge is a member.

23 5. In accordance with regulations promulgated by the Adjutant
24 General, assignments of military trial judges under this section who

1 are members of the state military forces shall be for appropriate
2 minimum periods, subject to such exceptions as may be authorized in
3 the regulations.

4 6. No military trial judge shall be eligible to review the
5 record of any trial if such military trial judge served as an
6 assistant attorney general, district attorney, assistant district
7 attorney or municipal prosecutor who determined or participated in
8 the determination of whether to prosecute a nonmilitary offense when
9 the act or omission in question could have violated both the
10 Oklahoma Uniform Code of Military Justice and state or local
11 criminal laws.

12 E. No person is eligible to act as military trial judge in a
13 case if he or she is the accuser, a witness or has acted as
14 preliminary hearing officer or a counsel in the same case.

15 F. The military trial judge of a court-martial may not consult
16 with the members of the court except in the presence of the accused,
17 trial counsel, and defense counsel, nor may he or she vote with the
18 members of the court.

19 G. A military trial judge who is a commissioned officer in the
20 state military forces may be detailed under subsection A of this
21 section to a court-martial or a proceeding under subsection A of
22 Section 830 of this title (Article 30, subsection A) that is
23 convened in a different force component of the state military
24 forces, when so permitted by the senior force component judge

1 advocate of the force component of which the military trial judge is
2 a member.

3 H. A military trial judge detailed pursuant to this section who
4 is not a member of the Oklahoma National Guard shall receive
5 compensation calculated on the basis of the current basic pay
6 received by a member in active federal service at the grade of O-6
7 with twenty (20) years of time in service. The Adjutant General
8 shall promulgate regulations establishing the method of calculating
9 compensation for less than full-time service by a military trial
10 judge retained pursuant to this section who is not a member of the
11 Oklahoma National Guard. A military trial judge may be paid such
12 actual and necessary expenses as may be provided for in regulations
13 promulgated by the Adjutant General.

14 SECTION 16. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 826A of Title 44, unless there
16 is created a duplication in numbering, reads as follows:

17 ARTICLE 26A. Military magistrates.

18 A. Qualifications. A military magistrate:

19 1. Shall be a member of the bar of a federal court or a member
20 of the bar of the highest court of a state and may be a commissioned
21 officer of the state military forces; and

22 2. Shall be certified to be qualified, by reason of education,
23 training, experience and judicial temperament, for duty as a
24 military magistrate by the State Judge Advocate.

1 B. Limitations.

2 1. Neither the State Judge Advocate nor a senior force
3 component judge advocate shall be detailed or appointed as a
4 military magistrate.

5 2. When performing the duties provided for in subsection C of
6 Section 17 of this act (Article 30A, subsection C), no person shall
7 be eligible to act as a military magistrate in a case where such
8 person serves as an assistant attorney general, district attorney,
9 assistant district attorney or municipal prosecutor who could
10 determine or participate in the determination of whether to
11 prosecute a nonmilitary offense when the act or omission in question
12 could have violated both the Oklahoma Uniform Code of Military
13 Justice and state or local criminal laws.

14 3. When performing the duties provided for in subsection C of
15 this section, no person shall be eligible to act as a military
16 magistrate in a case where such person served as an assistant
17 attorney general, district attorney, assistant district attorney or
18 municipal prosecutor who determined or participated in the
19 determination of whether to prosecute a nonmilitary offense when the
20 act or omission in question could have violated both the Oklahoma
21 Uniform Code of Military Justice and state or local criminal laws.

22 4. Neither the convening authority nor any member of the staff
23 of the convening authority shall prepare or review any report
24 concerning the effectiveness, fitness or efficiency of a military

1 magistrate so detailed or retained which relates to the military
2 magistrate's performance of duty as a military magistrate.

3 5. A person shall not act as a military magistrate in any case
4 that he or she is the accuser, a witness or has acted as counsel in
5 the same case.

6 C. Appellate remand. A military magistrate may be detailed or
7 retained pursuant to this section for purposes of conducting an
8 appellate proceeding on behalf of the Military Court of Appeals
9 ordered pursuant to paragraph 3 of subsection J of Section 866 of
10 Title 44 of the Oklahoma Statutes (Article 66, subsection J,
11 paragraph 3).

12 D. Duties. In accordance with regulations promulgated by the
13 Adjutant General, in addition to duties when detailed under Section
14 17 of this act (Article 30A), a military magistrate, who is also a
15 commissioned officer of the state military forces, may be assigned
16 to perform other duties of a nonjudicial nature.

17 E. The compensation of a military magistrate retained pursuant
18 to this section who is not a member of the Oklahoma National Guard
19 shall be established pursuant to regulations promulgated by the
20 Adjutant General. Such regulations may allow for payment of actual
21 and necessary expenses.

22 SECTION 17. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 830A of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 30A. Certain proceedings conducted before referral.

2 A. In general.

3 1. Proceedings may be conducted to review or otherwise act on
4 the following matters before referral of charges and specifications
5 to court-martial for trial in accordance with regulations
6 promulgated by the Adjutant General:

- 7 a. pre-referral investigative subpoenas,
- 8 b. pre-referral warrants or orders for electronic
9 communications, and
- 10 c. pre-referral matters under subsection D of Section
11 806B of Title 44 of the Oklahoma Statutes (Article 6B,
12 subsection D).

13 2. The regulations promulgated under paragraph 1 of subsection
14 A of this section shall:

- 15 a. include procedures for the review of such rulings that
16 may be ordered under this section as the Adjutant
17 General considers appropriate, and
- 18 b. provide such limitations on the relief that may be
19 ordered under this section as the Adjutant General
20 considers appropriate.

21 3. If any matter in a proceeding under this section becomes a
22 subject at issue with respect to charges that have been referred to
23 a general or special court-martial, the matter shall be transferred
24 to the military trial judge detailed to the court-martial.

1 B. Detail of military trial judge. The Adjutant General shall
2 promulgate regulations providing for the manner in which military
3 trial judges are detailed to proceedings under subsection A of this
4 section.

5 C. Detail or employment of military magistrate. The Adjutant
6 General may promulgate regulations providing for the detailing or
7 employment of military magistrates who, other than a proceeding
8 described in subparagraph b of paragraph 1 of subsection A of this
9 section, may preside over the proceedings provided for in
10 subparagraphs b and c of paragraph 1 of subsection A of this
11 section.

12 SECTION 18. AMENDATORY Section 53, Chapter 408, O.S.L.
13 2019 (44 O.S. Supp. 2020, Section 846), is amended to read as
14 follows:

15 Section 846. ARTICLE 46. Opportunity to obtain witnesses and
16 other evidence in trials by court-martial.

17 A. Opportunity to obtain witnesses and other evidence. In a
18 case referred for trial by court-martial, the trial counsel, the
19 defense counsel, and the court-martial shall have equal opportunity
20 to obtain witnesses and other evidence in accordance with such
21 regulations as may be promulgated by the Adjutant General.

22 B. Subpoena and other process generally. Any subpoena or other
23 process issued under this section:

24

1 1. Shall be similar to that which courts of the State of
2 Oklahoma having criminal jurisdiction may issue pursuant to Title 22
3 of the Oklahoma Statutes;

4 2. Shall be executed in accordance with regulations promulgated
5 by the Adjutant General; and

6 3. Shall run to any part of the State of Oklahoma.

7 C. Subpoena and other process for witnesses. A subpoena or
8 other process may be issued to compel a witness to appear and
9 testify:

10 1. Before a court-martial or court of inquiry;

11 2. At a deposition under Section 849 of this title (Article
12 49); or

13 3. As otherwise authorized under the Oklahoma Uniform Code Of
14 Military Justice.

15 D. Subpoena and other process for evidence.

16 1. In general. A subpoena or other process may be issued to
17 compel the production of evidence:

18 a. for a court-martial or court of inquiry,

19 b. for a deposition under Section 849 of this title
20 (Article 49),

21 c. for an investigation of an offense under the Code, or

22 d. as otherwise authorized under the Code.

23 2. Investigative subpoena. An investigative subpoena under
24 subparagraph c of paragraph 1 of this subsection may be issued

1 before referral of charges to a court-martial only if a general
2 court-martial convening authority has authorized counsel for the
3 government to issue such a subpoena, or a military trial judge
4 issues such a subpoena pursuant to subsection A of Section 830 of
5 this title (Article 30, subsection A), or a military magistrate
6 issues such a subpoena pursuant to subparagraph a of paragraph 1 of
7 subsection A of Section 17 of this act (Article 30A, subsection A,
8 paragraph 1, subparagraph a).

9 3. Warrant or order for wire or electronic communications.
10 With respect to an investigation of an offense under the Code, a
11 military trial judge detailed in accordance with Section 826 or
12 subsection A of Section 830 of this title (Article 26 or Article 30,
13 subsection A) may issue warrants or court orders for the contents
14 of, and records concerning, wire or electronic communications in the
15 same manner as such warrants and orders may be issued by a district
16 court of the State of Oklahoma under the provisions of Title 22 of
17 the Oklahoma Statutes, subject to such limitations as may be
18 prescribed by regulations promulgated by the Adjutant General. No
19 military magistrate detailed or retained under Section 17 of this
20 act (Article 30A) shall issue warrants or court orders for the
21 contents of, and records concerning, wire or electronic
22 communications.

23 E. Request for relief from subpoena or other process. If a
24 person requests relief from a subpoena or other process under this

1 section (article) on grounds that compliance is unreasonable or
2 oppressive or is prohibited by law, a military trial judge detailed
3 in accordance with Section 826 or subsection A of Section 830 of
4 this title (Article 26 or Article 30, subsection A) shall review the
5 request and shall:

6 1. Order that the subpoena or other process be modified or
7 withdrawn, as appropriate; or

8 2. Order the person to comply with the subpoena or other
9 process.

10 SECTION 19. AMENDATORY Section 55, Chapter 408, O.S.L.
11 2019 (44 O.S. Supp. 2020, Section 848), is amended to read as
12 follows:

13 Section 848. ARTICLE 48. Contempt.

14 A. Authority to punish.

15 1. With respect to any proceeding under the Oklahoma Uniform
16 Code of Military Justice, a judicial officer specified in paragraph
17 2 of this subsection may punish for contempt any person who:

18 a. uses any menacing word, sign, or gesture in the
19 presence of the judicial officer during the
20 proceeding,

21 b. disturbs the proceeding by any riot or disorder, or

22 c. willfully disobeys a lawful writ, process, order,
23 rule, decree, or command issued with respect to the
24 proceeding.

1 2. A judicial officer referred to in paragraph 1 of this
2 subsection is ~~either~~ any of the following:

3 a. any military trial judge detailed to a court-martial,

4 b. any military magistrate detailed or retained to

5 conduct pre-referral proceedings under subsection D of

6 Section 806B of this title (Article 6B, subsection D)

7 or subparagraph a of paragraph 1 of subsection A of

8 Section 17 of this act (Article 30A, subsection A,

9 paragraph 1, subparagraph a) or appellate proceedings

10 under paragraph 3 of subsection J of Section 866 of

11 this title (Article 66, subsection J, paragraph 3),

12 c. the chief judge of the Military Court of Appeals, or

13 ~~e.~~ d. the president of a court of inquiry.

14 B. Opportunity to be heard and warning. A judicial officer, as
15 specified in paragraph 2 of subsection A of this section, may punish
16 a person cited for contempt after an opportunity to be heard has
17 been given. Censure shall be imposed by the judicial officer only
18 if:

19 1. It is clear from the identity of the offender and the
20 character of his or her acts that disruptive conduct is willfully
21 contemptuous; or

22 2. The conduct warranting the sanction is preceded by a clear
23 warning that the conduct is impermissible and that specified
24 sanctions may be imposed for its repetition.

1 C. Notification of contempt proceedings. The judicial officer,
2 as specified in paragraph 2 of subsection A of this section, as soon
3 as practicable after he or she is satisfied that courtroom
4 misconduct requires contempt proceedings, should inform the alleged
5 offender of his or her intention to institute said proceedings.

6 D. Notice and opportunity to provide evidence or testimony.
7 Before imposing any punishment for contempt, the judicial officer
8 shall give the offender notice of the charges and an opportunity to
9 adduce evidence or argument relevant to guilt or punishment.

10 E. Imposition of sanctions. The judicial officer before whom
11 the misconduct occurs may impose appropriate sanctions including
12 punishment for contempt.

13 F. Punishment. The punishment for contempt under subsection A
14 of this section shall not exceed the punishments provided in
15 subsection A of Section 566 of Title 21 of the Oklahoma Statutes.

16 G. Review. A punishment under this section:

17 1. If imposed by a military trial judge, may be reviewed by the
18 Military Court of Appeals in accordance with the uniform rules of
19 procedure for the Military Court of Appeals under subsection L of
20 Section 866 of this title (Article 66, subsection L);

21 2. If imposed by the chief judge of the Military Court of
22 Appeals, shall constitute a judgment of the court, subject to review
23 under the applicable provisions of Section 867 of this title
24 (Article 67); and

1 3. If imposed by a court of inquiry, shall be subject to review
2 by the convening authority in accordance with regulations
3 promulgated by the Adjutant General.

4 SECTION 20. AMENDATORY Section 66, Chapter 408, O.S.L.
5 2019 (44 O.S. Supp. 2020, Section 857), is amended to read as
6 follows:

7 Section 857. ARTICLE 57. Effective date of sentences.

8 A. Execution of sentences. A court-martial sentence shall be
9 executed and take effect as follows:

10 1. Forfeiture and reduction. A forfeiture of pay or allowances
11 shall be applicable to pay and allowances accruing on and after the
12 date on which the sentence takes effect. Any forfeiture of pay or
13 allowances or reduction in grade that is included in a sentence of a
14 court-martial takes effect on the earlier of:

- 15 a. the date that is fourteen (14) days after the date on
16 which the sentence is adjudged, or
17 b. in the case of a summary court-martial, the date on
18 which the sentence is approved by the convening
19 authority;

20 2. Confinement. Any period of confinement included in a
21 sentence of a court-martial begins to run from the date the sentence
22 is adjudged by the court-martial, but periods during which the
23 sentence to confinement is suspended or deferred shall be excluded
24 in computing the service of the term of confinement;

1 3. Approval of dismissal. If, in the case of a commissioned
2 officer, or cadet, the sentence of a court-martial extends to
3 dismissal, that part of the sentence providing for dismissal may not
4 be executed until approved by the Adjutant General ~~or by the Senior~~
5 ~~Assistant Adjutant General of the same component as the accused if~~
6 ~~such authority is so delegated by the Adjutant General.~~ In such a
7 case, the Adjutant General, ~~or Senior Assistant Adjutant General,~~ as
8 ~~the case may be,~~ may commute, remit, or suspend the sentence, or any
9 part of the sentence, as the Adjutant General ~~or Senior Assistant~~
10 ~~Adjutant General~~ sees fit. In time of war or national emergency he
11 or she may commute a sentence of dismissal to reduction to any
12 enlisted grade. A person so reduced may be required to serve for
13 the duration of the war or emergency and six (6) months thereafter;

14 4. Completion of appellate review. If a sentence extends to
15 dismissal, or a dishonorable or bad-conduct discharge, that part of
16 the sentence extending to dismissal or a dishonorable or bad-conduct
17 discharge may be executed, in accordance with applicable
18 regulations, after completion of appellate review and, with respect
19 to dismissal, approval under paragraph 3 of this subsection, as
20 appropriate; and

21 5. Other sentences. Except as otherwise provided in this
22 subsection, a general or special court-martial sentence is effective
23 upon entry of judgment and a summary court-martial sentence is
24 effective when the convening authority acts on the sentence.

1 B. Deferral of sentences.

2 1. In general. On application by an accused, the convening
3 authority or, if the accused is no longer under his or her
4 jurisdiction, the officer exercising general court-martial
5 jurisdiction over the command to which the accused is currently
6 assigned, may, in his or her sole discretion, defer the effective
7 date of a sentence of confinement, reduction, or forfeiture. The
8 deferment shall terminate upon entry of judgment or, in the case of
9 a summary court-martial, when the convening authority acts on the
10 sentence. The deferment may be rescinded at any time by the officer
11 who granted it or, if the accused is no longer under his or her
12 jurisdiction, by the officer exercising general court-martial
13 jurisdiction over the command to which the accused is currently
14 assigned.

15 2. Deferral of certain persons sentenced to confinement. In
16 any case in which a court-martial sentences a person referred to in
17 paragraph 3 of this subsection to confinement, the convening
18 authority may defer the service of the sentence to confinement,
19 without the consent of that person, until after the person has been
20 permanently released to the state military forces by a state or
21 foreign country referred to in that paragraph.

22 3. Covered persons. Paragraph 2 of this subsection applies to
23 a person subject to this chapter who:
24

1 a. while in the custody of a state or foreign country is
2 temporarily returned by that state or foreign country
3 to the state military forces for trial by court-
4 martial, and

5 b. after the court-martial, is returned to that state or
6 foreign country under the authority of a mutual
7 agreement or treaty, as the case may be.

8 4. State defined. In this subsection, the term "state"
9 includes the District of Columbia and any commonwealth, territory,
10 or possession of the United States.

11 5. Deferral while review pending. In any case in which a
12 court-martial sentences a person to confinement, but in which review
13 of the case under subsection A of Section 867 of this title (Article
14 67, subsection A) is pending, the Adjutant General may defer further
15 service of the sentence to confinement while that review is pending.

16 C. Appellate review.

17 1. Completion of appellate review. Appellate review is
18 complete under this section when:

19 a. a review under Section 865 of this title (Article 65)
20 is completed, or

21 b. a review under Section 866 of this title (Article 66)
22 is completed by the Military Court of Appeals and:

23 (1) the time for the accused to file a Petition for
24 Review by the Court of Criminal Appeals has

1 expired and the accused has not filed a timely
2 petition for such review and the case is not
3 otherwise under review by that Court,

4 (2) such a petition is rejected by the Court of
5 Criminal Appeals, or

6 (3) review is completed in accordance with the
7 judgment of the Court of Criminal Appeals.

8 2. Completion as final judgment of legality of proceedings.

9 The completion of appellate review shall constitute a final judgment
10 as to the legality of the proceedings.

11 SECTION 21. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 858D of Title 44, unless there
13 is created a duplication in numbering, reads as follows:

14 ARTICLE 58D. Parole.

15 The system of parole established pursuant to Section 10 of
16 Article VI of the Oklahoma Constitution and Titles 22 and 57 of the
17 Oklahoma Statutes shall be applicable to any person in any place of
18 confinement under the control of the state military forces or in any
19 penal or correctional institution used or under the control of the
20 Oklahoma Department of Corrections when such person is in
21 confinement as a result of a sentence adjudged by a court-martial
22 conducted by the state military forces.

1 SECTION 22. AMENDATORY Section 81, Chapter 408, O.S.L.
2 2019 (44 O.S. Supp. 2020, Section 866), is amended to read as
3 follows:

4 Section 866. ARTICLE 66. Military Court of Appeals for state
5 military forces.

6 A. Military Court of Appeals. There is hereby established a
7 Military Court of Appeals for the state military forces of the State
8 of Oklahoma. The Military Court of Appeals shall be a court of
9 record and except as provided in Section 867 of this title (Article
10 67), the appellate jurisdiction of the Military Court of Appeals
11 shall be exclusive in all courts-martial cases convened by state
12 military forces regardless of whether a court-martial was conducted
13 within or without the physical boundaries of the State of Oklahoma.

14 B. Composition and method of appointment. The Military Court
15 of Appeals shall be composed of one panel of not less than three
16 appellate military judges. At the time the Military Court of
17 Appeals is initially constituted and each time thereafter when a
18 vacancy shall occur or is certain to occur on the Court, the State
19 Judge Advocate shall choose and submit to the Governor at least one
20 nominee for a vacant seat, certified by the State Judge Advocate as
21 qualified, by reason of education, training, experience, and
22 judicial temperament, for duty as an appellate military judge.
23 Prior to submission of a nominee to the Governor, the nominee shall
24 have previously notified the State Judge Advocate in writing that he

1 or she will serve as an appellate military judge if appointed. The
2 Governor shall appoint one nominee to fill the vacancy, but if the
3 Governor fails to do so within sixty (60) days after the State Judge
4 Advocate submits the nominee to the Governor or the Governor does
5 not affirmatively reject in writing the nominee so submitted, the
6 State Judge Advocate shall appoint one nominee, the appointment to
7 be certified by the Secretary of State. No person so nominated and
8 appointed by the Governor or by the State Judge Advocate shall take
9 his or her seat on the Military Court of Appeals without first
10 receiving the approbation of the Senate through advice and consent;
11 provided that, in the case of any vacancy that occurs while the
12 Legislature is not in regular session within the meaning of Section
13 26 of Article V of the Oklahoma Constitution, the Governor, or the
14 State Judge Advocate as provided in this subsection, shall appoint a
15 person who satisfies the requirements established in subsection C of
16 this section to serve as an appellate military judge. If the
17 interim nomination of the appellate military judge is not approved
18 by the Senate during the first regular session following its
19 submission, it shall be deemed rejected. No person shall be
20 nominated to serve as a member of the Military Court of Appeals who
21 is presently employed by the Oklahoma Military Department, either in
22 a full-time or part-time capacity, nor shall any person employed as
23 a federal technician, as defined in Title 32 of the United States
24

1 Code, be nominated to serve as a member of the Military Court of
2 Appeals.

3 C. Qualifications. An appellate military judge who is
4 appointed to the Military Court of Appeals shall be a licensed
5 practicing attorney or judge of a court of record, or both, in
6 Oklahoma for one (1) year preceding his or her appointment and shall
7 continue to be a duly licensed attorney while in office to be
8 eligible to hold the office. No appellate military judge shall be
9 appointed to the Military Court of Appeals who did not previously
10 serve as a judge advocate in any department of the Armed Forces of
11 the United States, to include reserve components of the same. The
12 Military Court of Appeals shall include at least one appellate
13 military judge who previously served in the United States Army or a
14 reserve component of the same. The Military Court of Appeals shall
15 include at least one appellate military judge who previously served
16 in the United States Air Force or a reserve component of the same.

17 D. Term of office and causes for removal or retirement. Each
18 appellate military judge appointed pursuant to this section shall,
19 unless removed for cause, serve out the term for which he or she is
20 appointed. Appellate military judges appointed pursuant to this
21 section shall serve for fixed terms of office of appropriate minimum
22 periods which shall be prescribed by regulations promulgated by the
23 Adjutant General. The appellate military judges of the Military
24 Court of Appeals, exercising judicial power under the provisions of

1 the Oklahoma Uniform Code of Military Justice, shall be subject to
2 removal from office, or to compulsory retirement from office, by
3 proceedings in the Court on the Judiciary, for:

4 1. Gross neglect of duty, corruption in office, habitual
5 drunkenness, commission while in office of any offense involving
6 moral turpitude, gross partiality in office, oppression in office,
7 mental or physical disability preventing the proper performance of
8 official duty or incompetence to perform the duties of the office;
9 or

10 2. Other reasons arising from military customs and practices
11 defined in regulations promulgated by the Adjutant General.

12 E. Compensation. Appellate military judges shall receive
13 compensation calculated on the basis of the current basic pay
14 received by a member in active federal service at the grade of O-6
15 with twenty (20) years of time in service. The Adjutant General
16 shall promulgate regulations establishing the method of calculating
17 compensation for less than full-time service by members of the
18 Military Court of Appeals. Appellate military judges may be paid
19 such actual and necessary expenses as may be provided for in
20 regulations promulgated by the Adjutant General.

21 F. Review.

22 1. Appeals by accused. The Military Court of Appeals shall
23 have jurisdiction over a timely appeal from the judgment of a court-

24

1 martial, entered into the record under Section 860C of this title
2 (Article 60C), as follows:

- 3 a. on appeal by the accused in a case in which the
4 sentence extends to confinement for more than six (6)
5 months and the case is not subject to automatic review
6 under paragraph 3 of this subsection,
- 7 b. on appeal by the accused in a case in which the
8 government previously filed an appeal under Section
9 862 of this title (Article 62),
- 10 c. on appeal by the accused in a case that the State
11 Judge Advocate has sent to the Military Court of
12 Appeals for review of the sentence under subsection C
13 of Section 856 of this title (Article 56, subsection
14 C),
- 15 d. in a case in which the accused filed an application
16 for review with the Court under subparagraph b of
17 paragraph 1 of subsection D of Section 869 of this
18 title (Article 69, subsection D, paragraph 1,
19 subparagraph b) and the application has been granted
20 by the Court.

21 2. Review of certain sentences. The Military Court of Appeals
22 shall have jurisdiction over all cases that the State Judge Advocate
23 orders sent to the Court for review under subsection C of Section
24 856 of this title (Article 56, subsection C).

1 3. Automatic review. The Military Court of Appeals shall have
2 jurisdiction over a court-martial in which the judgment entered into
3 the record under Section 860C of this title (Article 60C) includes a
4 sentence of dismissal of a commissioned officer, cadet, dishonorable
5 discharge or bad-conduct discharge, or confinement for two (2) years
6 or more.

7 G. Timeliness. An appeal under paragraph 1 of subsection F of
8 this section is timely if it is filed as follows:

9 1. In the case of an appeal by the accused under subparagraph a
10 or b of paragraph 1 of subsection F of this section, if filed before
11 the later of:

12 a. the end of the ninety-day period beginning on the date
13 the accused is provided notice of appellate rights
14 under subsection C of Section 865 of this title
15 (Article 65, subsection C), or

16 b. the date set by the Military Court of Appeals by rule
17 or order; and

18 2. In the case of an appeal by the accused under paragraph 1 of
19 subsection C of Section 865 of this title (Article 65, subsection C,
20 paragraph 1), if filed before the later of:

21 a. the end of the ninety-day period beginning on the date
22 the accused is notified that the application for
23 review has been granted by letter placed in the United
24 States mail for delivery by first-class certified mail

1 to the accused at an address provided by the accused
2 or, if no such address has been provided by the
3 accused, at the latest address listed for the accused
4 in his or her official service record, or

5 b. the date set by the Military Court of Appeals by rule
6 or order.

7 H. Duties.

8 1. Cases appealed by accused. In any case before the Military
9 Court of Appeals under subsection F of this section, the Court may
10 act only with respect to the findings and sentence as entered into
11 the record under Section 860C of this title (Article 60C). The
12 Court may affirm only such findings of guilty, and the sentence or
13 such part or amount of the sentence, as the Court finds correct on
14 the basis of applicable law.

15 2. Error or excessive delay. In any case before the Military
16 Court of Appeals under subsection F of this section, the Court may
17 provide appropriate relief if the accused demonstrates error or
18 excessive delay in the processing of the court-martial after the
19 judgment was entered into the record under Section 860C of this
20 title (Article 60C).

21 I. Consideration of appeal of sentence by the State of
22 Oklahoma.

1 1. In general. In considering a sentence on appeal or review
2 as provided in subsection C of Section 856 of this title (Article
3 56, subsection C), the Military Court of Appeals may consider:

- 4 a. whether the sentence violates the law, and
- 5 b. whether the sentence is plainly unreasonable.

6 2. Record on appeal or review. In an appeal or review under
7 this subsection or subsection C of Section 856 of this title
8 (Article 56, subsection C), the record on appeal or review shall
9 consist of:

- 10 a. any portion of the record in the case that is
- 11 designated as pertinent by either of the parties,
- 12 b. the information submitted during the sentencing
- 13 proceeding, and
- 14 c. any information required by regulations promulgated by
- 15 the Adjutant General or by rule or order of the
- 16 Military Court of Appeals.

17 J. Limits of authority.

18 1. Set aside of findings.

- 19 a. In general. If the Military Court of Appeals sets
- 20 aside the findings, the Court:
 - 21 (1) may affirm any lesser included offense, and
 - 22 (2) may, except when prohibited by Section 844 of
 - 23 this title (Article 44), order a rehearing.

1 b. Dismissal when no rehearing ordered. If the Military
2 Court of Appeals sets aside the findings and does not
3 order a rehearing, the Court shall order that the
4 charges be dismissed.

5 c. Dismissal when rehearing impracticable. If the
6 Military Court of Appeals orders a rehearing on a
7 charge and the convening authority finds a rehearing
8 impracticable, the convening authority may dismiss the
9 charge.

10 2. Set aside of sentence. If the Military Court of Appeals
11 sets aside the sentence, the Court may:

12 a. modify the sentence to a lesser sentence, or

13 b. order a rehearing.

14 3. Additional proceedings. If the Military Court of Appeals
15 determines that additional proceedings are warranted, the Court may
16 order a hearing as may be necessary to address a substantial issue,
17 subject to such limitations as the Court may direct and under such
18 regulations as the Adjutant General may prescribe.

19 K. Action in accordance with decisions of courts. The State
20 Judge Advocate shall, unless there is to be further action by the
21 Governor, the Adjutant General, or the Oklahoma Court of Criminal
22 Appeals, instruct the appropriate authority to take action in
23 accordance with the decision of the Military Court of Appeals.

1 L. Rules of procedure and designation of chief judge. The
2 State Judge Advocate shall prescribe uniform rules of procedure for
3 the Military Court of Appeals which shall be published as a military
4 publication and shall meet periodically to formulate policies and
5 procedure in regard to review of court-martial cases in the office
6 of the State Judge Advocate and by the Military Court of Appeals.
7 The State Judge Advocate shall designate as chief judge one of the
8 appellate military judges of the Military Court of Appeals.

9 M. Prohibition on evaluation of other members of courts. No
10 member of the Military Court of Appeals shall be required, or on his
11 or her own initiative be permitted, to prepare, approve, disapprove,
12 review, or submit, with respect to any other member of the Military
13 Court of Appeals, an effectiveness, fitness, or efficiency report,
14 or any other report or document used in whole or in part for the
15 purpose of determining whether a member of the state military forces
16 is qualified to be advanced in grade, or in determining the
17 assignment or transfer of a member of the state military forces, or
18 in determining whether a member of the state military forces should
19 be retained as a member of the state military forces.

20 N. Ineligibility of members of courts to review records of
21 cases involving certain prior member service. No member of the
22 Military Court of Appeals shall be eligible to review the record of
23 any trial if such member served as investigating officer in the case
24 or served as a member of the court-martial before which such trial

1 was conducted, or served as military trial judge, trial or defense
2 counsel, or reviewing officer of such trial. No member of the
3 Military Court of Appeals shall be eligible to review the record of
4 any trial if such member served as an assistant attorney general,
5 district attorney, assistant district attorney or municipal
6 prosecutor who determined or participated in the determination of
7 whether to prosecute a nonmilitary offense when the act or omission
8 in question could have violated both the Oklahoma Uniform Code of
9 Military Justice and state or local criminal laws.

10 SECTION 23. AMENDATORY Section 82, Chapter 408, O.S.L.
11 2019 (44 O.S. Supp. 2020, Section 867), is amended to read as
12 follows:

13 Section 867. ARTICLE 67. Review by the Oklahoma Court of
14 Criminal Appeals.

15 A. Powers as court of last resort. The Oklahoma Court of
16 Criminal Appeals shall be the court of last resort for all general
17 and special courts-martial convened by the state military forces.
18 In reviewing petitions or appeals granted pursuant to this section,
19 the Oklahoma Court of Criminal Appeals shall have and shall exercise
20 all powers granted to the Court under the Oklahoma Statutes and the
21 Oklahoma Constitution. The provisions of Title 22 of the Oklahoma
22 Statutes establishing criminal procedure in the district courts of
23 the state shall not apply to court-martial proceedings convened
24 pursuant to this Code. Where provisions of Title 22 of the Oklahoma

1 Statutes establishing appellate procedures in the Oklahoma Court of
2 Criminal Appeals conflict with any appellate provisions within this
3 Code, the conflicting provisions in Title 22 of the Oklahoma
4 Statutes shall not apply to appellate proceedings arising from
5 court-martial proceedings convened pursuant to this Code.

6 B. Petition for Review. Except as provided in subsection C of
7 this section for appeals arising from a guilty plea, a decision of
8 the Military Court of Appeals may be reviewed by the Oklahoma Court
9 of Criminal Appeals upon the filing of an appeal in the form of a
10 Petition for Review if a majority of judges on the Oklahoma Court of
11 Criminal Appeals directs that such Petition for Review shall be
12 granted. Decisions of the Military Court of Appeals shall be final
13 unless a Petition for Review is granted by the Oklahoma Court of
14 Criminal Appeals or a writ of certiorari is granted pursuant to
15 subsection C of this section.

16 C. Appeals arising from guilty plea. All appeals taken from
17 any conviction on a plea of guilty shall first be decided by the
18 Military Court of Appeals. In the event the conviction arising from
19 a plea of guilty is upheld by the Court of Military Appeals, an
20 appeal may be taken by petition for writ of certiorari to the
21 Oklahoma Court of Criminal Appeals, as provided in subsection D of
22 this section; provided, such petition must be filed within ninety
23 (90) days from the date of said conviction. The Oklahoma Court of
24 Criminal Appeals may take jurisdiction of any case for the purpose

1 of correcting the appeal records when the same do not disclose
2 judgment and sentence; such jurisdiction shall be for the sole
3 purpose of correcting such defect or defects.

4 D. Procedures established by court rules. The procedures for
5 filing a Petition for Review or appeal made pursuant to subsection B
6 or C of this section shall be as provided in the Rules of the Court
7 of Criminal Appeals; and the Oklahoma Court of Criminal Appeals
8 shall provide by court rules, which shall have the force of statute:

9 1. The procedure to be followed by the courts-martial in the
10 preparation and authentication of transcripts and records in cases
11 appealed under the Oklahoma Uniform Code of Military Justice;

12 2. The procedure to be followed by the Court of Military
13 Appeals in the preparation of the record in cases brought up on
14 appeal to the Oklahoma Court of Criminal Appeals under the Code;

15 3. The procedure to be followed for the completion and
16 submission of the Petition for Review or such other appeals lodged
17 pursuant to the Code; and

18 4. The procedure to be followed for filing a petition for and
19 the issuance of a writ of certiorari.

20 E. Scope of review on certiorari. The scope of review to be
21 afforded on certiorari shall be prescribed by the Oklahoma Court of
22 Criminal Appeals.

23 F. Additional proceedings. If the Oklahoma Court of Criminal
24 Appeals determines that additional proceedings are warranted, the

1 Oklahoma Court of Criminal Appeals may order a hearing, rehearing or
2 other proceedings in accordance with the Rules of the Court of
3 Criminal Appeals.

4 G. Action in accordance with decisions of the Oklahoma Court of
5 Criminal Appeals. The State Judge Advocate shall instruct the
6 appropriate authority to take action in accordance with the decision
7 of the Oklahoma Court of Criminal Appeals.

8 SECTION 24. AMENDATORY Section 90, Chapter 408, O.S.L.
9 2019 (44 O.S. Supp. 2020, Section 874), is amended to read as
10 follows:

11 Section 874. ARTICLE 74. Remission and suspension.

12 A. The Adjutant General ~~and, when designated by him or her, a~~
13 ~~Senior Assistant Adjutant General,~~ the State Judge Advocate, or
14 commanding officer may remit or suspend any part or amount of the
15 unexecuted part of any sentence, including all uncollected
16 forfeitures other than a sentence approved by the Governor.

17 B. The Adjutant General may, for good cause, substitute an
18 administrative form of discharge for a discharge or dismissal
19 executed in accordance with the sentence of a court-martial.

20 SECTION 25. AMENDATORY Section 193, Chapter 408, O.S.L.
21 2019 (44 O.S. Supp. 2020, Section 937), is amended to read as
22 follows:

23 Section 937. ARTICLE 137. Articles to be explained.
24

1 A. 1. The sections of the Oklahoma Uniform Code of Military
2 Justice specified in paragraph 3 of this subsection shall be
3 carefully explained, either orally or in writing, to each officer
4 and enlisted member at the time of, or within ~~thirty (30)~~ one
5 hundred twenty (120) days after, the officer's or enlisted member's
6 initial entrance into a duty status with the state military forces.

7 2. Such articles shall be explained again:

8 a. after the enlisted member has completed basic or
9 recruit training, and

10 b. at the time when the enlisted member reenlists.

11 3. This subsection applies with respect to Sections 802, 803,
12 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this
13 title (Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-
14 139).

15 B. The text of the Code and of the regulations prescribed ~~under~~
16 ~~such~~ pursuant to the Code shall be made available to ~~a~~ an officer or
17 enlisted member of the state military forces, upon request ~~by the~~
18 ~~member,~~ for the officer's or enlisted member's personal examination.
19 Electronic or online availability of the Code and of the regulations
20 prescribed pursuant to the Code shall constitute availability for
21 purposes of personal examination by officers or enlisted members of
22 the state military forces.

23

24

1 SECTION 26. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 465 of Title 21, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Any law enforcement agency or public safety entity,
5 including, but not limited to, the Oklahoma State Bureau of
6 Investigation, Oklahoma State Bureau of Narcotics and Dangerous
7 Drugs Control, Department of Public Safety and Oklahoma Military
8 Department, conducting a criminal investigation shall be prohibited
9 from disclosing information about the investigation unless the
10 disclosure is necessary to gather information and evidence related
11 to the investigation. Disclosures authorized by the Oklahoma Open
12 Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma
13 Statutes, shall not be prohibited under this section.

14 B. Any person who violates the provisions of this section
15 shall, upon conviction, be guilty of a misdemeanor.

16 SECTION 27. AMENDATORY 51 O.S. 2011, Section 6, as last
17 amended by Section 17, Chapter 304, O.S.L. 2018 (51 O.S. Supp. 2020,
18 Section 6), is amended to read as follows:

19 Section 6. A. Except as may be otherwise provided, no person
20 holding an office under the laws of the state and no deputy of any
21 officer so holding any office shall, during the person's term of
22 office, hold any other office or be the deputy of any officer
23 holding any office, under the laws of the state. The provisions of
24 this section shall not apply to:

- 1 1. Notaries public;
- 2 2. Members of the State Textbook Committee;
- 3 3. County free fair board members;
- 4 4. Municipal and county law enforcement officers serving in
5 positions as law enforcement officers of both such governmental
6 entities upon such terms and conditions as are mutually approved by
7 resolutions adopted by the board of county commissioners and
8 governing body of the municipality employing such officers;
- 9 5. Any person holding a county or municipal office or position,
10 or membership on any public trust authority, who is a member of a
11 board or commission that relates to federal, state, county or
12 municipal government and is created by the United States Government,
13 the State of Oklahoma or a political subdivision of the state,
14 except where the duties of the offices or positions conflict;
- 15 6. Any elected municipal officers and school board members who
16 are appointed to a state board, commission, or similar entity if
17 there is no compensation for such services other than reimbursement
18 for necessary travel expenses pursuant to the provisions of the
19 State Travel Reimbursement Act;
- 20 7. Any trustee of a public trust, who is appointed as a trustee
21 of a different public trust or any trustee of the Tulsa County
22 Public Facilities Authority who may also be employed by the
23 Department of Transportation;

24

- 1 8. Law enforcement officers employed by municipal or county law
2 enforcement departments or agencies, other than those law
3 enforcement officers elected or appointed as sheriff, chief of
4 police or some similar position in which they are the head of a
5 county or municipal law enforcement agency, who are elected to local
6 boards of education; provided, the provisions of this paragraph
7 shall not prohibit any law enforcement officer employed by a
8 municipality having a population of ten thousand (10,000) or fewer
9 people from serving as a member of a local board of education;
- 10 9. Any member of the Oklahoma Highway Patrol Division of the
11 Department of Public Safety who is elected to a local board of
12 education;
- 13 10. Any employee of the Oklahoma State Bureau of Investigation
14 who is elected to a local board of education;
- 15 11. Any District Supervisor, Assistant District Supervisor,
16 Team Supervisor, Parole Officer 1 or Parole Officer 2 of the
17 Department of Corrections who is elected or appointed to a city
18 council;
- 19 12. Any trustee or director of a rural electric cooperative, or
20 port authority who is appointed or elected to a state, county or
21 municipal board, commission or similar entity;
- 22 13. County employees who are elected as members of town or city
23 councils;
- 24

1 14. Municipal, county, state or tribal law enforcement or peace
2 officers operating under cross-deputization agreements with an
3 Indian tribe or branch of the federal government;

4 15. Municipal or county law enforcement or peace officers
5 serving in positions as campus police officers or campus public
6 safety officers pursuant to the provisions of the Oklahoma Campus
7 Security Act, upon such terms and conditions as are mutually
8 approved by resolution adopted by the governing body of the
9 municipality or county and the governing board of the institution of
10 higher education;

11 16. State law enforcement or peace officers serving in
12 positions as campus police officers or campus public safety officers
13 pursuant to the provisions of the Oklahoma Campus Security Act, upon
14 such terms and conditions as are mutually approved by written
15 agreement between the Commissioner of Public Safety and the
16 governing board of the institution of higher education;

17 17. Municipal, county and state law enforcement officers
18 serving in positions as part-time or seasonal rangers or peace
19 officers under the Oklahoma Tourism and Recreation Department or the
20 Grand River Dam Authority;

21 18. Members of the University Hospitals Authority;

22 19. Any person holding a state or county office or position who
23 is a reserve force deputy sheriff, or a reserve special agent with
24

1 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
2 or a reserve municipal police officer;

3 20. Any person holding a state office or position who serves as
4 a special assistant district attorney without compensation;

5 21. Any elected or appointed member of a local school board who
6 is a member of a municipal planning commission;

7 22. Any elected or appointed member of a local school board who
8 is a member or an officer of a volunteer fire department;

9 23. Directors or officers of a rural water district and chiefs
10 of municipal fire departments or rural fire districts who are
11 appointed or elected to an unsalaried office in a state, county,
12 municipal, school, or technology center school board, commission, or
13 similar entity, except where the duties of the office would create a
14 conflict of interest;

15 24. Any person who is a dispatcher or confinement officer at a
16 municipal or county jail who is a noncompensated reserve municipal
17 police officer or a reserve deputy sheriff;

18 25. Any person who is an assistant district attorney serving as
19 a municipal judge or prosecutor;

20 26. Any park ranger under the Oklahoma Tourism and Recreation
21 Department or any game warden or reserve game warden employed by the
22 Department of Wildlife Conservation who is elected or appointed to a
23 local board of education or to a municipal governing body, board,
24 commission or similar entity;

1 27. Members of the Oklahoma State University Medical Center
2 Authority, the Oklahoma State University Medical Trust or the State
3 Board of Osteopathic Examiners;

4 28. Any member of the state Legislature or any state officer
5 who serves on the board of trustees of the Oklahoma School for the
6 Visual and Performing Arts; ~~and~~

7 29. Members of the Council on Judicial Complaints; and

8 30. Any person who is a state employee but not a member of the
9 state military forces, including district attorneys, assistant
10 district attorneys, district court judges, associate district court
11 judges and special judges, when detailed as a military trial judge
12 pursuant to Section 826 of Title 44 of the Oklahoma Statutes or when
13 serving as an appellate military judge pursuant to Section 866 of
14 Title 44 of the Oklahoma Statutes when the Military Court of Appeals
15 is convened. The rules of procedure prescribed by the State Judge
16 Advocate pursuant to subsection L of Section 866 of Title 44 of the
17 Oklahoma Statutes shall define what constitutes the Military Court
18 of Appeals being "convened" for purposes of this paragraph.

19 The provisions of this section shall not prohibit any person
20 holding an office under the laws of the state or any deputy of any
21 officer so holding any office from serving upon the board of
22 Oklahoma Futures or upon the board of directors of the Oklahoma
23 Center for the Advancement of Science and Technology. The
24 provisions of this section shall not prohibit a member of the board

1 of directors of the Oklahoma Center for the Advancement of Science
2 and Technology from serving upon the board of Oklahoma Futures.

3 B. Any Except as provided in subsection C of this section,
4 salaries, emoluments or benefits that would otherwise be paid by the
5 agency or political subdivision to a loaned employee or officer
6 shall instead be paid to the regular employer of such employee. The
7 loaned employee shall in turn be paid regular salary and benefits
8 the same as if continuing regular employment with the permanent
9 employer.

10 C. Any person excepted pursuant to paragraph 30 of subsection A
11 of this section, when retained as a military trial judge or when
12 serving as a military appellate judge when the Military Court of
13 Appeals is convened, shall be entitled to military judicial leave in
14 accordance with Section 209 of Title 44 of the Oklahoma Statutes.

15 SECTION 28. AMENDATORY 51 O.S. 2011, Section 152, as
16 last amended by Section 1, Chapter 233, O.S.L. 2018 (51 O.S. Supp.
17 2020, Section 152), is amended to read as follows:

18 Section 152. As used in The Governmental Tort Claims Act:

19 1. "Action" means a proceeding in a court of competent
20 jurisdiction by which one party brings a suit against another;

21 2. "Agency" means any board, commission, committee, department
22 or other instrumentality or entity designated to act in behalf of
23 the state or a political subdivision;

24

1 3. "Charitable health care provider" means a person who is
2 licensed, certified, or otherwise authorized by the laws of this
3 state to administer health care in the ordinary course of business
4 or the practice of a profession and who provides care to a medically
5 indigent person, as defined in paragraph 9 of this section, with no
6 expectation of or acceptance of compensation of any kind;

7 4. "Claim" means any written demand presented by a claimant or
8 the claimant's authorized representative in accordance with this act
9 to recover money from the state or political subdivision as
10 compensation for an act or omission of a political subdivision or
11 the state or an employee;

12 5. "Claimant" means the person or the person's authorized
13 representative who files notice of a claim in accordance with The
14 Governmental Tort Claims Act. Only the following persons and no
15 others may be claimants:

16 a. any person holding an interest in real or personal
17 property which suffers a loss, provided that the claim
18 of the person shall be aggregated with claims of all
19 other persons holding an interest in the property and
20 the claims of all other persons which are derivative
21 of the loss, and that multiple claimants shall be
22 considered a single claimant,

23 b. the individual actually involved in the accident or
24 occurrence who suffers a loss, provided that the

1 individual shall aggregate in the claim the losses of
2 all other persons which are derivative of the loss, or
3 c. in the case of death, an administrator, special
4 administrator or a personal representative who shall
5 aggregate in the claim all losses of all persons which
6 are derivative of the death;

7 6. "Community health care provider" means:

- 8 a. a health care provider who volunteers services at a
9 community health center that has been deemed by the
10 U.S. Department of Health and Human Services as a
11 federally qualified health center as defined by 42
12 U.S.C., Section 1396d(1)(2)(B),
- 13 b. a health provider who provides services to an
14 organization that has been deemed a federally
15 qualified look-alike community health center, and
- 16 c. a health care provider who provides services to a
17 community health center that has made application to
18 the U.S. Department of Health and Human Services for
19 approval and deeming as a federally qualified look-
20 alike community health center in compliance with
21 federal application guidance, and has received
22 comments from the U.S. Department of Health and Human
23 Services as to the status of such application with the
24 established intent of resubmitting a modified

1 application, or, if denied, a new application, no
2 later than six (6) months from the date of the
3 official notification from the U.S. Department of
4 Health and Human Services requiring resubmission of a
5 new application;

6 7. "Employee" means any person who is authorized to act in
7 behalf of a political subdivision or the state whether that person
8 is acting on a permanent or temporary basis, with or without being
9 compensated or on a full-time or part-time basis.

10 a. Employee also includes:

11 (1) all elected or appointed officers, members of
12 governing bodies and other persons designated to
13 act for an agency or political subdivision, but
14 the term does not mean a person or other legal
15 entity while acting in the capacity of an
16 independent contractor or an employee of an
17 independent contractor,

18 (2) from September 1, 1991, through June 30, 1996,
19 licensed physicians, licensed osteopathic
20 physicians and certified nurse-midwives providing
21 prenatal, delivery or infant care services to
22 State Department of Health clients pursuant to a
23 contract entered into with the State Department
24 of Health in accordance with paragraph 3 of

1 subsection B of Section 1-106 of Title 63 of the
2 Oklahoma Statutes but only insofar as services
3 authorized by and in conformity with the terms of
4 the contract and the requirements of Section 1-
5 233 of Title 63 of the Oklahoma Statutes, and

6 (3) any volunteer, full-time or part-time firefighter
7 when performing duties for a fire department
8 provided for in subparagraph j of paragraph 11 of
9 this section.

10 b. For the purpose of The Governmental Tort Claims Act,
11 the following are employees of this state, regardless
12 of the place in this state where duties as employees
13 are performed:

14 (1) physicians acting in an administrative capacity,

15 (2) resident physicians and resident interns
16 participating in a graduate medical education

17 program of the University of Oklahoma Health

18 Sciences Center, the College of Osteopathic

19 Medicine of Oklahoma State University, or the

20 Department of Mental Health and Substance Abuse
21 Services,

22 (3) faculty members and staff of the University of
23 Oklahoma Health Sciences Center and the College
24

1 of Osteopathic Medicine of Oklahoma State
2 University, while engaged in teaching duties,

3 (4) physicians who practice medicine or act in an
4 administrative capacity as an employee of an
5 agency of the State of Oklahoma,

6 (5) physicians who provide medical care to inmates
7 pursuant to a contract with the Department of
8 Corrections,

9 (6) any person who is licensed to practice medicine
10 pursuant to Title 59 of the Oklahoma Statutes,
11 who is under an administrative professional
12 services contract with the Oklahoma Health Care
13 Authority under the auspices of the Oklahoma
14 Health Care Authority Chief Medical Officer, and
15 who is limited to performing administrative
16 duties such as professional guidance for medical
17 reviews, reimbursement rates, service
18 utilization, health care delivery and benefit
19 design for the Oklahoma Health Care Authority,
20 only while acting within the scope of such
21 contract,

22 (7) licensed medical professionals under contract
23 with city, county, or state entities who provide
24

1 medical care to inmates or detainees in the
2 custody or control of law enforcement agencies,
3 (8) licensed mental health professionals as defined
4 in Sections 1-103 and 5-502 of Title 43A of the
5 Oklahoma Statutes, who are conducting initial
6 examinations of individuals for the purpose of
7 determining whether an individual meets the
8 criteria for emergency detention as part of a
9 contract with the Department of Mental Health and
10 Substance Abuse Services, and

11 (9) licensed mental health professionals as defined
12 in Sections 1-103 and 5-502 of Title 43A of the
13 Oklahoma Statutes, who are providing mental
14 health or substance abuse treatment services
15 under a professional services contract with the
16 Department of Mental Health and Substance Abuse
17 Services and are providing such treatment
18 services at a state-operated facility.

19 Physician faculty members and staff of the University
20 of Oklahoma Health Sciences Center and the College of
21 Osteopathic Medicine of Oklahoma State University not
22 acting in an administrative capacity or engaged in
23 teaching duties are not employees or agents of the
24 state.

1 c. Except as provided in subparagraph b of this
2 paragraph, in no event shall the state be held liable
3 for the tortious conduct of any physician, resident
4 physician or intern while practicing medicine or
5 providing medical treatment to patients.

6 d. For purposes of The Governmental Tort Claims Act,
7 members of the state military forces on state active
8 duty orders or on Title 32 active duty orders are
9 employees of this state, regardless of the place,
10 within or outside this state, where their duties as
11 employees are performed;

12 8. "Loss" means death or injury to the body or rights of a
13 person or damage to real or personal property or rights therein;

14 9. "Medically indigent" means a person requiring medically
15 necessary hospital or other health care services for the person or
16 the dependents of the person who has no public or private third-
17 party coverage, and whose personal resources are insufficient to
18 provide for needed health care;

19 10. "Municipality" means any incorporated city or town, and all
20 institutions, agencies or instrumentalities of a municipality;

21 11. "Political subdivision" means:

22 a. a municipality,

23 b. a school district, including, but not limited to, a

24 technology center school district established pursuant

1 to Section 4410, 4411, 4420 or 4420.1 of Title 70 of
2 the Oklahoma Statutes,

3 c. a county,

4 d. a public trust where the sole beneficiary or
5 beneficiaries are a city, town, school district or
6 county. For purposes of The Governmental Tort Claims
7 Act, a public trust shall include:

8 (1) a municipal hospital created pursuant to Sections
9 30-101 through 30-109 of Title 11 of the Oklahoma
10 Statutes, a county hospital created pursuant to
11 Sections 781 through 796 of Title 19 of the
12 Oklahoma Statutes, or is created pursuant to a
13 joint agreement between such governing
14 authorities, that is operated for the public
15 benefit by a public trust created pursuant to
16 Sections 176 through 180.4 of Title 60 of the
17 Oklahoma Statutes and managed by a governing
18 board appointed or elected by the municipality,
19 county, or both, who exercises control of the
20 hospital, subject to the approval of the
21 governing body of the municipality, county, or
22 both,

23 (2) a public trust created pursuant to Sections 176
24 through 180.4 of Title 60 of the Oklahoma

1 Statutes after January 1, 2009, the primary
2 purpose of which is to own, manage, or operate a
3 public acute care hospital in this state that
4 serves as a teaching hospital for a medical
5 residency program provided by a college of
6 osteopathic medicine and provides care to
7 indigent persons, and

8 (3) a corporation in which all of the capital stock
9 is owned, or a limited liability company in which
10 all of the member interest is owned, by a public
11 trust,

12 e. for the purposes of The Governmental Tort Claims Act
13 only, a housing authority created pursuant to the
14 provisions of the Oklahoma Housing Authority Act,

15 f. for the purposes of The Governmental Tort Claims Act
16 only, corporations organized not for profit pursuant
17 to the provisions of the Oklahoma General Corporation
18 Act for the primary purpose of developing and
19 providing rural water supply and sewage disposal
20 facilities to serve rural residents,

21 g. for the purposes of The Governmental Tort Claims Act
22 only, districts formed pursuant to the Rural Water,
23 Sewer, Gas and Solid Waste Management Districts Act,
24

- 1 h. for the purposes of The Governmental Tort Claims Act
2 only, master conservancy districts formed pursuant to
3 the Conservancy Act of Oklahoma,
- 4 i. for the purposes of The Governmental Tort Claims Act
5 only, a fire protection district created pursuant to
6 the provisions of Section 901.1 et seq. of Title 19 of
7 the Oklahoma Statutes,
- 8 j. for the purposes of The Governmental Tort Claims Act
9 only, a benevolent or charitable corporate volunteer
10 or full-time fire department for an unincorporated
11 area created pursuant to the provisions of Section 592
12 et seq. of Title 18 of the Oklahoma Statutes,
- 13 k. for purposes of The Governmental Tort Claims Act only,
14 an Emergency Services Provider rendering services
15 within the boundaries of a Supplemental Emergency
16 Services District pursuant to an existing contract
17 between the Emergency Services Provider and the State
18 Department of Health. Provided, however, that the
19 acquisition of commercial liability insurance covering
20 the activities of such Emergency Services Provider
21 performed within the State of Oklahoma shall not
22 operate as a waiver of any of the limitations,
23 immunities or defenses provided for political
24

1 subdivisions pursuant to the terms of The Governmental
2 Tort Claims Act,

3 l. for purposes of The Governmental Tort Claims Act only,
4 a conservation district created pursuant to the
5 provisions of the Conservation District Act,

6 m. for purposes of The Governmental Tort Claims Act,
7 districts formed pursuant to the Oklahoma Irrigation
8 District Act,

9 n. for purposes of The Governmental Tort Claims Act only,
10 any community action agency established pursuant to
11 Sections 5035 through 5040 of Title 74 of the Oklahoma
12 Statutes,

13 o. for purposes of The Governmental Tort Claims Act only,
14 any organization that is designated as a youth
15 services agency, pursuant to Section 2-7-306 of Title
16 10A of the Oklahoma Statutes,

17 p. for purposes of The Governmental Tort Claims Act only,
18 any judge presiding over a drug court, as defined by
19 Section 471.1 of Title 22 of the Oklahoma Statutes,

20 q. for purposes of The Governmental Tort Claims Act only,
21 any child-placing agency licensed by this state to
22 place children in foster family homes, and

23 r. a circuit engineering district created pursuant to
24 Section 687.1 of Title 69 of the Oklahoma Statutes,

1 and all their institutions, instrumentalities or agencies;

2 12. "Scope of employment" means performance by an employee
3 acting in good faith within the duties of the employee's office or
4 employment or of tasks lawfully assigned by a competent authority
5 including the operation or use of an agency vehicle or equipment
6 with actual or implied consent of the supervisor of the employee,
7 but shall not include corruption or fraud;

8 13. "State" means the State of Oklahoma or any office,
9 department, agency, authority, commission, board, institution,
10 hospital, college, university, public trust created pursuant to
11 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
12 the beneficiary, or other instrumentality thereof; ~~and~~

13 14. "State active duty" shall be defined in accordance with
14 Section 801 of Title 44 of the Oklahoma Statutes;

15 15. "State military forces" shall be defined in accordance with
16 Section 801 of Title 44 of the Oklahoma Statutes;

17 16. "Title 32 active duty" shall be defined in accordance with
18 Section 801 of Title 44 of the Oklahoma Statutes; and

19 17. "Tort" means a legal wrong, independent of contract,
20 involving violation of a duty imposed by general law, statute, the
21 Constitution of the State of Oklahoma, or otherwise, resulting in a
22 loss to any person, association or corporation as the proximate
23 result of an act or omission of a political subdivision or the state
24 or an employee acting within the scope of employment.

1 SECTION 29. AMENDATORY 51 O.S. 2011, Section 155, as
2 last amended by Section 3, Chapter 273, O.S.L. 2016 (51 O.S. Supp.
3 2020, Section 155), is amended to read as follows:

4 Section 155. The state or a political subdivision shall not be
5 liable if a loss or claim results from:

- 6 1. Legislative functions;
- 7 2. Judicial, quasi-judicial, or prosecutorial functions, other
8 than claims for wrongful criminal felony conviction resulting in
9 imprisonment provided for in Section 154 of this title;
- 10 3. Execution or enforcement of the lawful orders of any court;
- 11 4. Adoption or enforcement of or failure to adopt or enforce a
12 law, whether valid or invalid, including, but not limited to, any
13 statute, charter provision, ordinance, resolution, rule, regulation
14 or written policy;
- 15 5. Performance of or the failure to exercise or perform any act
16 or service which is in the discretion of the state or political
17 subdivision or its employees;
- 18 6. Civil disobedience, riot, insurrection or rebellion or the
19 failure to provide, or the method of providing, police, law
20 enforcement or fire protection;
- 21 7. Any claim based on the theory of attractive nuisance;
- 22 8. Snow or ice conditions or temporary or natural conditions on
23 any public way or other public place due to weather conditions,
- 24

1 unless the condition is affirmatively caused by the negligent act of
2 the state or a political subdivision;

3 9. Entry upon any property where that entry is expressly or
4 implied authorized by law;

5 10. Natural conditions of property of the state or political
6 subdivision;

7 11. Assessment or collection of taxes or special assessments,
8 license or registration fees, or other fees or charges imposed by
9 law;

10 12. Licensing powers or functions including, but not limited
11 to, the issuance, denial, suspension or revocation of or failure or
12 refusal to issue, deny, suspend or revoke any permit, license,
13 certificate, approval, order or similar authority;

14 13. Inspection powers or functions, including failure to make
15 an inspection, review or approval, or making an inadequate or
16 negligent inspection, review or approval of any property, real or
17 personal, to determine whether the property complies with or
18 violates any law or contains a hazard to health or safety, or fails
19 to conform to a recognized standard;

20 14. Any loss to any person covered by any workers' compensation
21 act or any employer's liability act;

22 15. Absence, condition, location or malfunction of any traffic
23 or road sign, signal or warning device unless the absence,
24 condition, location or malfunction is not corrected by the state or

1 political subdivision responsible within a reasonable time after
2 actual or constructive notice or the removal or destruction of such
3 signs, signals or warning devices by third parties, action of
4 weather elements or as a result of traffic collision except on
5 failure of the state or political subdivision to correct the same
6 within a reasonable time after actual or constructive notice.
7 Nothing herein shall give rise to liability arising from the failure
8 of the state or any political subdivision to initially place any of
9 the above signs, signals or warning devices. The signs, signals and
10 warning devices referred to herein are those used in connection with
11 hazards normally connected with the use of roadways or public ways
12 and do not apply to the duty to warn of special defects such as
13 excavations or roadway obstructions;

14 16. Any claim which is limited or barred by any other law;

15 17. Misrepresentation, if unintentional;

16 18. An act or omission of an independent contractor or
17 consultant or his or her employees, agents, subcontractors or
18 suppliers or of a person other than an employee of the state or
19 political subdivision at the time the act or omission occurred;

20 19. Theft by a third person of money in the custody of an
21 employee unless the loss was sustained because of the negligence or
22 wrongful act or omission of the employee;

23

24

1 20. Participation in or practice for any interscholastic or
2 other athletic contest sponsored or conducted by or on the property
3 of the state or a political subdivision;

4 21. Participation in any activity approved by a local board of
5 education and held within a building or on the grounds of the school
6 district served by that local board of education before or after
7 normal school hours or on weekends;

8 22. Use of indoor or outdoor school property and facilities
9 made available for public recreation before or after normal school
10 hours or on weekends or school vacations, except those claims
11 resulting from willful and wanton acts of negligence. For purposes
12 of this paragraph:

13 a. "public" includes, but is not limited to, students
14 during nonschool hours and school staff when not
15 working as employees of the school, and

16 b. "recreation" means any indoor or outdoor physical
17 activity, either organized or unorganized, undertaken
18 for exercise, relaxation, diversion, sport or
19 pleasure, and that is not otherwise covered by
20 paragraph 20 or 21 of this section;

21 23. Any court-ordered, Department of Corrections or county
22 approved work release program; provided, however, this provision
23 shall not apply to claims from individuals not in the custody of the
24

1 Department of Corrections based on accidents involving motor
2 vehicles owned or operated by the Department of Corrections;

3 24. The activities of ~~the National Guard, the militia or other~~
4 ~~military organization administered by the Military Department of the~~
5 ~~state~~ military forces when on state active duty ~~pursuant to the~~
6 ~~lawful orders of competent authority~~ or on Title 32 active duty
7 orders;

8 a. ~~in an effort to quell a riot,~~

9 b. ~~in response to a natural disaster or military attack,~~

10 ~~or~~

11 c. ~~if participating in a military mentor program ordered~~
12 ~~by the court;~~

13 25. Provision, equipping, operation or maintenance of any
14 prison, jail or correctional facility, or injuries resulting from
15 the parole or escape of a prisoner or injuries by a prisoner to any
16 other prisoner; provided, however, this provision shall not apply to
17 claims from individuals not in the custody of the Department of
18 Corrections based on accidents involving motor vehicles owned or
19 operated by the Department of Corrections;

20 26. Provision, equipping, operation or maintenance of any
21 juvenile detention facility, or injuries resulting from the escape
22 of a juvenile detainee, or injuries by a juvenile detainee to any
23 other juvenile detainee;

24

1 27. Any claim or action based on the theory of manufacturer's
2 products liability or breach of warranty, either expressed or
3 implied;

4 28. Any claim or action based on the theory of indemnification
5 or subrogation;

6 29. Any claim based upon an act or omission of an employee in
7 the placement of children;

8 30. Acts or omissions done in conformance with then current
9 recognized standards;

10 31. Maintenance of the state highway system or any portion
11 thereof unless the claimant presents evidence which establishes
12 either that the state failed to warn of the unsafe condition or that
13 the loss would not have occurred but for a negligent affirmative act
14 of the state;

15 32. Any confirmation of the existence or nonexistence of any
16 effective financing statement on file in the office of the Secretary
17 of State made in good faith by an employee of the office of the
18 Secretary of State as required by the provisions of Section 1-9-
19 320.6 of Title 12A of the Oklahoma Statutes;

20 33. Any court-ordered community sentence;

21 34. Remedial action and any subsequent related maintenance of
22 property pursuant to and in compliance with an authorized
23 environmental remediation program, order, or requirement of a
24 federal or state environmental agency;

1 35. The use of necessary and reasonable force by a school
2 district employee to control and discipline a student during the
3 time the student is in attendance or in transit to and from the
4 school, or any other function authorized by the school district;

5 36. Actions taken in good faith by a school district employee
6 for the out-of-school suspension of a student pursuant to applicable
7 Oklahoma Statutes; or

8 37. Use of a public facility opened to the general public
9 during an emergency.

10 SECTION 30. AMENDATORY 72 O.S. 2011, Section 48, as last
11 amended by Section 2, Chapter 80, O.S.L. 2017 (72 O.S. Supp. 2020,
12 Section 48), is amended to read as follows:

13 Section 48. A. All officers and employees of the state or a
14 political subdivision thereof who are members, either officers or
15 enlisted, of the ~~National Guard~~ state military forces or any branch
16 of the United States Military or its reserve components, shall, when
17 ordered by the proper authority to active or inactive duty or
18 service, including state active duty, be entitled to a leave of
19 absence from such civilian employment for the period of such service
20 without loss of status or seniority. During the first thirty (30)
21 ~~calendar days for employees of political subdivisions or the first~~
22 ~~thirty (30)~~ regularly scheduled work days for state officers and
23 employees of the State of Oklahoma or a political subdivision
24 thereof, or not to exceed two hundred forty (240) hours, of such

1 leave of absence in any federal fiscal year, the officers or
2 employees shall receive their full regular pay from the employing
3 state agency or political subdivision. During the remainder of such
4 leave of absence in any federal fiscal year, the employing state
5 agency or political subdivision ~~may elect to~~ shall pay the officer
6 or employee an amount equal to the difference between their full
7 regular pay from the employing state agency or political subdivision
8 and their military base pay, ~~except that state officers and~~
9 ~~employees shall receive the difference between their full regular~~
10 ~~pay and their Reserve Components pay when they are ordered by proper~~
11 ~~authority to active or inactive service retroactive to the date that~~
12 ~~the officer or employee reported to active service on or after~~
13 ~~September 11, 2001, during the period that Operation Enduring~~
14 ~~Freedom is in effect, or any subsequent contingency operation~~
15 ~~declared by the Secretary of Defense.~~ Military allowances and
16 entitlements not subject to federal taxation shall not be included
17 in the computation of the difference between the full regular pay of
18 the officers or employees from the employing state agency or
19 political subdivision and their Oklahoma National Guard or United
20 States military reserve component military base pay. The durational
21 limit of protected military service as provided for in this section
22 shall not be less than that provided by federal law. If it is
23 necessary in the public interest to provide for the performance of
24 the duties of their positions during such absence, the authority

1 having power to fill a vacancy in the positions may appoint
2 substitutes, to be known as acting incumbents, who shall qualify as
3 required for the regular incumbents and shall receive the same pay,
4 including benefits and pay adjustments as fixed by law, if any, or
5 otherwise such pay, including benefits and pay adjustments, as may
6 be fixed by proper authority.

7 B. The Office of Management and Enterprise Services shall
8 promulgate rules as necessary to implement the provisions of this
9 section that relate to state employees.

10 C. As used in this section, "state active duty" and "state
11 military forces" shall be defined in accordance with Section 801 of
12 Title 44 of the Oklahoma Statutes.

13 SECTION 31. AMENDATORY 75 O.S. 2011, Section 251, as
14 last amended by Section 215, Chapter 408, O.S.L. 2019 (75 O.S. Supp.
15 2020, Section 251), is amended to read as follows:

16 Section 251. A. 1. Upon the request of the Secretary, each
17 agency shall furnish to the Office a complete set of its permanent
18 rules in such form as is required by the Secretary or as otherwise
19 provided by law.

20 2. The Secretary shall promulgate rules to ensure the effective
21 administration of the provisions of Article I of the Administrative
22 Procedures Act. The rules shall include, but are not limited to,
23 rules prescribing paper size, numbering system, and the format of
24 documents required to be filed pursuant to the provisions of the

1 Administrative Procedures Act or such other requirements as deemed
2 necessary by the Secretary to implement the provisions of the
3 Administrative Procedures Act.

4 B. 1. Each agency shall file the number of copies specified by
5 the Secretary of all new rules, and all amendments, revisions or
6 revocations of existing rules attested to by the agency, pursuant to
7 the provisions of Section 254 of this title, with the Office within
8 thirty (30) calendar days after they become finally adopted.

9 2. An agency filing rules pursuant to the provisions of this
10 subsection:

11 a. shall prepare the rules in plain language which can be
12 easily understood,

13 b. shall not unnecessarily repeat statutory language.
14 Whenever it is necessary to refer to statutory
15 language in order to effectively convey the meaning of
16 a rule interpreting that language, the reference shall
17 clearly indicate the portion of the language which is
18 statutory and the portion which is the agency's
19 amplification or interpretation of that language,

20 c. shall indicate whether a rule is new, amends an
21 existing permanent rule or repeals an existing
22 permanent rule. If a rule amends an existing rule,
23 the rule shall indicate the language to be deleted
24

- 1 typed with a line through the language and language to
2 be inserted typed with the new language underscored,
- 3 d. shall state if the rule supersedes an existing
4 emergency rule,
- 5 e. shall include a reference to any rule requiring a new
6 or revised form in a note to the rule. The Secretary
7 shall insert that reference in "The Oklahoma Register"
8 as a notation to the affected rule,
- 9 f. shall prepare, in plain language, a statement of the
10 gist of the rule and an analysis of new or amended
11 rules. The analysis shall include but not be limited
12 to a reference to any statute that the rule
13 interprets, any related statute or any related rule,
- 14 g. may include with its rules, brief notes,
15 illustrations, findings of facts, and references to
16 digests of Supreme Court cases, other court decisions,
17 or Attorney General's opinions, and other explanatory
18 material. Such material may be included if the
19 material is labeled or set forth in a manner which
20 clearly distinguishes it from the rules,
- 21 h. shall include other information, in such form and in
22 such manner as is required by the Secretary, and
- 23 i. may change the format of existing rules without any
24 rulemaking action by the agency in order to comply

1 with the standard provisions established by the
2 Secretary for "Code" and "The Oklahoma Register"
3 publication so long as there is no substantive change
4 to the rule.

5 C. The Secretary is authorized to determine a numbering system
6 and other standardized format for documents to be filed and may
7 refuse to accept for publication any document that does not
8 substantially conform to the promulgated rules of the Secretary.

9 D. In order to avoid unnecessary expense, an agency may use the
10 published standards established by organizations and technical
11 societies of recognized national standing, other state agencies, or
12 federal agencies by incorporating the standards or rules in its
13 rules or regulations by reference to the specific issue or issues of
14 publications in which the standards are published, without
15 reproducing the standards in full. The standards shall be readily
16 available to the public for examination at the administrative
17 offices of the agency. In addition, a copy of such standards shall
18 be kept and maintained by the agency pursuant to the provisions of
19 the Preservation of Essential Records Act.

20 E. The Secretary shall provide for the publication of all
21 Executive Orders received pursuant to the provisions of Section 664
22 of Title 74 of the Oklahoma Statutes.

23 F. The Secretary may authorize or require the filing of rules
24 or Executive Orders by or through electronic data or machine

1 readable equipment in such form and manner as is required by the
2 Secretary.

3 G. In consultation with the Adjutant General, the Secretary
4 shall establish a method for the publication and archiving of all
5 military publications received by the Secretary of State from the
6 Adjutant General pursuant to the Oklahoma Uniform Code of Military
7 Justice and the Oklahoma State Guard Act. Military publications
8 shall be defined in accordance with Section 801 of Title 44 of the
9 Oklahoma Statutes. The Secretary may also authorize or require the
10 filing of military publications by or through electronic means in
11 such form and manner as is required by the Secretary. This
12 subsection shall only apply to military publications promulgated
13 after October 1, 2019.

14 H. On or before October 1, ~~2021~~ 2022, the Secretary shall
15 commence publication of all military publications provided by the
16 Adjutant General. On a biennial basis thereafter, the Secretary
17 shall cause the military publications received in the course of the
18 previous two (2) years to be published in a printed and bound format
19 suitable for physical archiving in sufficient numbers to satisfy the
20 requirements of the "Publications Clearinghouse" established in
21 Section 3-113.3 of Title 65 of the Oklahoma Statutes.

22 SECTION 32. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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