

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1101

By: Dahm

AS INTRODUCED

An Act relating to the Oklahoma National Guard; establishing the "Defend the Guard Act"; defining terms; requiring an official declaration of war or an action to call forth the state militia by the United States Congress before members of the Oklahoma National Guard may be released from state control to participate in active duty combat; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 72.1 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. This section shall be known and may be cited as the "Defend the Guard Act".

B. For the purposes of this section:

1. "Active duty combat" means performing the following services in the active federal military service of the United States:

a. participation in an armed conflict,

b. performance of a hazardous service in a foreign state,

or

1 c. performance of a duty through an instrumentality of
2 war; and

3 2. "Official declaration of war" means an official declaration
4 of war made by the United States Congress pursuant to Article I,
5 Section 8, Clause 11 of the United States Constitution.

6 C. Notwithstanding any other provision of this code, the
7 Oklahoma National Guard and any member thereof shall not be released
8 from the state into active duty combat unless the United States
9 Congress has passed an official declaration of war or has taken an
10 official action pursuant to Article I, Section 8, Clause 15 of the
11 United States Constitution to explicitly call forth the Oklahoma
12 National Guard and any member thereof for the enumerated purposes to
13 expressly execute the laws of the union, repel an invasion or
14 suppress an insurrection. The Governor shall take all actions
15 necessary to comply with the requirements of this section.

16 SECTION 2. This act shall become effective November 1, 2020.

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