

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 25-1021.02 Conrad Imel x2313

SENATE BILL 25-279

SENATE SPONSORSHIP

Ball and Pelton B., Roberts

HOUSE SPONSORSHIP

Duran and Hartsook,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING UPDATES TO THE "COLORADO CODE OF MILITARY**
102 **JUSTICE".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill incorporates the federal "Uniform Code of Military Justice" (federal code) into the "Colorado Code of Military Justice" (state code), including specifically the punitive articles and general article of the federal code, which describe punishable offenses, and the statute of limitations that applies to charges brought pursuant to the state code. The bill repeals sections of the state code that are duplicative of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

incorporated federal code.

Additionally, the bill:

- Applies the state code to a member of the state military forces (member) at all times, except when the member is ordered to active federal service pursuant to title 10 of the United States Code;
- Clarifies a commanding officer's authority to impose nonjudicial punishment under the state code;
- Makes changes to the procedures that govern, punitive authority of, and review of the decisions of courts-martial;
- Repeals courts of inquiry from the state code; and
- If concurrent civilian and military jurisdiction exists over the same offense and a district attorney has filed felony charges against a member for the offense, requires the state military forces to defer felony prosecution of the member to the district attorney.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 28-3.1-102, **add**
3 (21.5) as follows:

4 **28-3.1-102. Definitions.** As used in this article 3.1, unless the
5 context otherwise requires:

6 (21.5) "UNIFORM CODE OF MILITARY JUSTICE" MEANS THE
7 FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", 10 U.S.C. SEC. 801 ET
8 SEQ.

9 **SECTION 2.** In Colorado Revised Statutes, **add** 28-3.1-102.5 as
10 follows:

11 **28-3.1-102.5. Construction of code - incorporation of federal**
12 **"Uniform Code of Military Justice" - references to regulations -**
13 **legislative intent.** (1) THE GENERAL ASSEMBLY INTENDS THAT THE STATE
14 MILITARY FORCES BE REGULATED IN A MANNER CONSISTENT WITH THE
15 REGULATION OF THE ARMED FORCES OF THE UNITED STATES AND THAT
16 THE "COLORADO CODE OF MILITARY JUSTICE" ENACTED IN THIS ARTICLE

1 3.1 BE CONSTRUED CONSISTENT WITH THIS PURPOSE.

2 (2) (a) THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE",
3 FEDERAL RULES ADOPTED PURSUANT TO THE FEDERAL "UNIFORM CODE OF
4 MILITARY JUSTICE", AND THE MANUAL FOR COURTS-MARTIAL UNITED
5 STATES PUBLISHED BY THE FEDERAL DEPARTMENT OF DEFENSE ARE
6 INCORPORATED INTO THE "COLORADO CODE OF MILITARY JUSTICE", THIS
7 ARTICLE 3.1, AND GOVERN AND ARE APPLICABLE TO THE STATE MILITARY
8 FORCES, INCLUDING THE COLORADO NATIONAL GUARD, EXCEPT AS
9 OTHERWISE PROVIDED IN THIS ARTICLE 3.1 AND REGULATIONS ADOPTED
10 BY THE GOVERNOR.

11 (b) FOR THE PURPOSES OF THIS ARTICLE 3.1, REFERENCES IN THE
12 FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", FEDERAL RULES
13 ADOPTED PURSUANT TO THE "UNIFORM CODE OF MILITARY JUSTICE", AND
14 THE MANUAL FOR COURTS-MARTIAL UNITED STATES TO:

15 (I) THE PRESIDENT OF THE UNITED STATES MEANS THE GOVERNOR,
16 AND THE DUTIES, FUNCTIONS, AND AUTHORITY OF THE PRESIDENT ARE
17 ATTRIBUTABLE TO THE GOVERNOR;

18 (II) THE SECRETARY OR SECRETARY CONCERNED MEANS THE
19 ADJUTANT GENERAL OF THIS STATE, AND THE DUTIES, FUNCTIONS, AND
20 AUTHORITY OF THE SECRETARY OR SECRETARY CONCERNED ARE
21 ATTRIBUTABLE TO THE ADJUTANT GENERAL; AND

22 (III) THE ARMED FORCES, THE ARMY OF THE UNITED STATES, THE
23 UNITED STATES AIR FORCE, OR SIMILAR MILITARY ORGANIZATIONS
24 INCLUDES MILITARY, MILITARY FORCES, THE MILITARY SERVICES, AND
25 STATE MILITARY FORCES.

26 (3) REFERENCES IN THIS ARTICLE 3.1 TO THE GOVERNOR'S
27 REGULATIONS INCLUDE REGULATIONS PREPARED BY THE ADJUTANT

1 GENERAL AND APPROVED BY THE GOVERNOR PURSUANT TO SECTION
2 28-3-106 (1)(j).

3 **SECTION 3.** In Colorado Revised Statutes, **amend** 28-3.1-103
4 as follows:

5 **28-3.1-103. Persons subject to this code.** This code applies to all
6 members of the state military forces AT ALL TIMES; EXCEPT THAT THIS
7 CODE DOES NOT APPLY TO A MEMBER OF THE STATE MILITARY FORCES
8 WHILE ORDERED TO ACTIVE FEDERAL SERVICE PURSUANT TO TITLE 10 OF
9 THE UNITED STATES CODE.

10 **SECTION 4.** In Colorado Revised Statutes, 28-3.1-114, **amend**
11 (1), (2) introductory portion, (2)(a) introductory portion, (2)(a)(III),
12 (2)(a)(IV), (2)(a)(V), (2)(b) introductory portion, (2)(b)(IV), (2)(b)(V),
13 (4.4), and (4.7); **repeal** (2)(a)(I), (2)(b)(I), and (2.5); and **add** (2)(a)(VI),
14 (2)(b)(VI), and (2)(b)(VII) as follows:

15 **28-3.1-114. Commanding officer's nonjudicial punishment.**
16 (1) (a) Punishment may be imposed for any offense cognizable by a
17 court-martial upon any member of the state military forces under this
18 section. ~~Under such regulations as~~ The governor may, BY REGULATION,
19 prescribe limitations ~~may be placed~~ on the powers granted ~~by~~ IN this
20 section with respect to:

21 (I) The kind and amount of punishment authorized, THE
22 SUSPENSION OF PUNISHMENT, and the levels of commanding officers and
23 warrant officers exercising command authorized to exercise those powers;
24 AND

25 (II) THE KINDS OF COURTS-MARTIAL TO WHICH A CASE MAY BE
26 REFERRED UPON A DEMAND FOR A TRIAL BY COURT-MARTIAL BY THE
27 ACCUSED MEMBER OF THE STATE MILITARY FORCES.

1 (b) EXCEPT IN THE CASE OF THE IMPOSITION OF FINES UPON
2 OFFICERS AND WARRANT OFFICERS, PUNISHMENT MUST NOT BE IMPOSED
3 UPON A MEMBER OF THE STATE MILITARY FORCES PURSUANT TO THIS
4 SECTION IF THE MEMBER HAS, BEFORE THE IMPOSITION OF PUNISHMENT,
5 DEMANDED TRIAL BY COURT-MARTIAL IN LIEU OF PUNISHMENT.

6 (c) If authorized by regulations of the governor, ~~the governor or~~
7 ~~an officer of general rank in command~~ A COMMANDING OFFICER WHO,
8 PURSUANT TO THIS CODE, IS AUTHORIZED TO EXERCISE GENERAL
9 COURT-MARTIAL JURISDICTION OR AN OFFICER OF GENERAL RANK IN
10 COMMAND may delegate ~~his or her~~ THE OFFICER'S powers under
11 PURSUANT TO this section to a principal assistant. ~~If subject to disciplinary~~
12 ~~punishment, the accused must be afforded the opportunity to be~~
13 ~~represented by defense counsel having the qualifications prescribed under~~
14 ~~section 28-3.1-102 (10), if available. Otherwise, the accused must be~~
15 ~~afforded the opportunity to be represented by any available commissioned~~
16 ~~officer of his or her choice. The accused may also employ civilian counsel~~
17 ~~of his or her own choosing at his or her own expense. In all proceedings,~~
18 ~~the accused is allowed three duty days, or longer on written justification,~~
19 ~~to reply to the notification of intent to impose punishment under this~~
20 ~~section.~~

21 (2) Subject to subsection (1) of this section, ~~any~~ A commanding
22 officer may, in addition to or in lieu of admonition or PUNITIVE
23 reprimand, impose one or more of the following disciplinary punishments
24 without the intervention of a court-martial:

25 (a) Upon ~~an~~ A COMMISSIONED OR WARRANT officer of ~~his or her~~
26 THE COMMANDING OFFICER'S command:

27 (I) ~~Withholding of privileges for not more than two weeks, which~~

1 ~~need not be consecutive;~~

2 (III) ~~If imposed by the governor, the adjutant general, or a~~
3 ~~commanding officer of the Army or National Guard, A fine or forfeiture~~
4 ~~of pay and allowance~~ ALLOWANCES of not more than the amount of pay
5 ~~and allowance~~ ALLOWANCES received for ~~two~~ FOUR unit training
6 assemblies or ~~two~~ FOUR days of annual training, whichever is applicable
7 according to duty status;

8 (IV) An admonition; ~~or~~

9 (V) A reprimand; OR

10 (VI) IF IMPOSED BY A COMMANDING OFFICER WHO HAS THE
11 AUTHORITY TO EXERCISE GENERAL COURT-MARTIAL JURISDICTION OR AN
12 OFFICER OF GENERAL OR FLAG RANK IN COMMAND:

13 (A) ARREST IN QUARTERS FOR NOT MORE THAN THIRTY
14 CONSECUTIVE DAYS; OR

15 (B) RESTRICTION TO CERTAIN SPECIFIED LIMITS, WITH OR WITHOUT
16 SUSPENSION FROM DUTY, FOR NOT MORE THAN THIRTY CONSECUTIVE
17 DAYS;

18 (b) Upon other military personnel of ~~his or her~~ THE COMMANDING
19 OFFICER'S command:

20 (I) ~~Withholding of privileges for not more than two weeks, which~~
21 ~~need not be consecutive;~~

22 (IV) ~~Reduction to next inferior grade if the grade from which he~~
23 ~~or she was demoted was established by the command or an equivalent or~~
24 ~~lower command; or~~ IN RANK, AS AUTHORIZED BY REGULATIONS ADOPTED
25 BY THE GOVERNOR;

26 (V) A fine ~~of any amount up to the maximum pay and allowances~~
27 ~~received for two~~ OR FORFEITURE OF PAY AND ALLOWANCES OF NOT MORE

1 THAN FOUR unit training assemblies or ~~two~~ FOUR days of annual training,
2 whichever is applicable according to duty status;

3 (VI) AN ADMONITION; OR

4 (VII) A REPRIMAND.

5 (2.5) ~~If the commanding officer is of field grade, grade of O-4 or~~
6 ~~rank of major or above, he or she may impose on an enlisted member any~~
7 ~~one or a combination of the following disciplinary punishments without~~
8 ~~the intervention of a court-martial:~~

9 (a) ~~Any of the punishments stated in subsections (2)(b)(I) to~~
10 ~~(2)(b)(III) of this section;~~

11 (b) ~~A fine of any amount up to the maximum pay and allowances~~
12 ~~received for two unit training assemblies or two days of annual training,~~
13 ~~whichever is applicable according to duty status;~~

14 (c) ~~Reduction to the lowest or any intermediate pay grade, if the~~
15 ~~current grade from which he or she is demoted is within the promotion~~
16 ~~authority of the officer imposing the reduction or an officer subordinate~~
17 ~~to the one imposing the reduction, but enlisted members in military grades~~
18 ~~above E-4 may not be reduced by more than two military grades.~~

19 (4.4) Maximum allowable punishments, ~~of withholding of~~
20 ~~privileges,~~ restrictions, and extra duties ~~may~~ MUST not be combined to run
21 consecutively.

22 (4.7) The officer who imposes the punishment pursuant to this
23 section, or the successor in command, may, at any time, suspend, set
24 aside, mitigate, or remit any part or amount of the punishment and restore
25 all rights, privileges, and property affected. ~~The officer also may:~~

26 (a) ~~Mitigate reduction in grade to forfeiture of pay;~~

27 (b) ~~Mitigate arrest in quarters to restriction; or~~

1 ~~(c) Mitigate extra duties to restriction.~~

2 **SECTION 5.** In Colorado Revised Statutes, 28-3.1-201, **amend**

3 (2)(b) as follows:

4 **28-3.1-201. Courts-martial - jurisdiction - composition.**

5 (2) The three kinds of courts-martial are:

6 (b) Special courts-martial, WHICH ARE EITHER OF THE FOLLOWING
7 TYPES:

8 (I) A SPECIAL COURT-MARTIAL consisting of a military judge and
9 not less than three members. ~~or A SPECIAL COURT-MARTIAL CONSISTING~~
10 OF A MILITARY JUDGE AND NOT LESS THAN THREE MEMBERS AS DESCRIBED
11 IN THIS SUBSECTION (2)(b)(I) IS SUBJECT TO SECTION 28-3.1-204 (2)(a)(I)
12 AND (2)(b) AND ANY LIMITATIONS PRESCRIBED IN REGULATION.

13 (II) A SPECIAL COURT-MARTIAL consisting of only a military
14 judge, if the accused so requests under the same conditions as those
15 prescribed in ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF
16 THIS SECTION OR IF THE CASE IS SO REFERRED BY THE CONVENING
17 AUTHORITY. A SPECIAL COURT-MARTIAL CONSISTING OF ONLY A MILITARY
18 JUDGE AS DESCRIBED IN THIS SUBSECTION (2)(b)(II) IS SUBJECT TO
19 SECTION 28-3.1-204 (2)(a)(II) AND (2)(b) AND ANY LIMITATIONS
20 PRESCRIBED IN REGULATION.

21 **SECTION 6.** In Colorado Revised Statutes, 28-3.1-203, **amend**

22 (1) introductory portion, (1)(a), (1)(e), and (1)(f) as follows:

23 **28-3.1-203. Jurisdiction of general courts-martial.** (1) General
24 courts-martial have jurisdiction to try persons subject to this code for ~~any~~
25 AN offense punishable under this code and may adjudge any of the
26 following punishments:

27 (a) Confinement for not more than ~~two~~ FIVE years, unless

1 otherwise specified in this code;

2 (e) Dismissal, ~~or~~ dishonorable discharge, OR BAD CONDUCT
3 DISCHARGE;

4 (f) Reduction of ~~a noncommissioned officer~~ ENLISTED PERSONNEL
5 to any inferior grade; or

6 **SECTION 7.** In Colorado Revised Statutes, **amend** 28-3.1-204
7 as follows:

8 **28-3.1-204. Jurisdiction of special courts-martial.**

9 (1) NOTWITHSTANDING SECTION 16-10-101, special courts-martial have
10 jurisdiction to try ~~any~~ A person subject to this code for ~~any~~ AN offense
11 punishable under this code, EXCEPT FOR CONDUCT THAT CONSTITUTES AN
12 OFFENSE DESCRIBED IN ARTICLE 120 (a), 120 (b), 120b (a), OR 120b (b) OF
13 THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", 10 U.S.C. SEC. 920
14 (a) AND (b) AND 10 U.S.C. SEC. 920b (a) AND (b).

15 (2) A special court-martial has the same powers of punishment as
16 a general court-martial, INCLUDING THE AUTHORITY TO ORDER A BAD
17 CONDUCT DISCHARGE; except that:

18 (a) (I) ~~confinement may not be more than ninety days and~~ A
19 SPECIAL COURT-MARTIAL THAT DOES NOT CONSIST OF A MILITARY JUDGE
20 ALONE, AS DESCRIBED IN SECTION 28-3.1-201 (2)(b)(I), SHALL NOT IMPOSE
21 CONFINEMENT FOR MORE THAN ONE HUNDRED EIGHTY DAYS AND SHALL
22 NOT ORDER A DISMISSAL OR DISHONORABLE DISCHARGE; AND

23 (II) A SPECIAL COURT-MARTIAL THAT CONSISTS OF A MILITARY
24 JUDGE ALONE PURSUANT TO SECTION 28-3.1-201 (2)(b)(II) SHALL NOT
25 IMPOSE CONFINEMENT FOR MORE THAN NINETY DAYS AND SHALL NOT
26 ORDER A DISMISSAL OR DISHONORABLE DISCHARGE; AND

27 (b) The fine or forfeiture of pay and allowances imposed by a

1 special court-martial ~~may~~ MUST not be more than the maximum pay and
2 allowances received for six unit training assemblies or six days of annual
3 training, whichever is applicable according to duty status.

4 **SECTION 8.** In Colorado Revised Statutes, 28-3.1-205, **amend**
5 (1) as follows:

6 **28-3.1-205. Jurisdiction of summary courts-martial.**

7 (1) (a) Summary courts-martial have jurisdiction to try ~~any~~ A person
8 subject to this code, except commissioned officers, warrant officers,
9 cadets, ~~and~~ candidates, AND A PERSON WHO OBJECTS TO TRIAL BY
10 SUMMARY COURT-MARTIAL AS DESCRIBED IN SUBSECTION (1)(b) OF THIS
11 SECTION, for any offense made punishable under this code, EXCEPT FOR
12 CONDUCT THAT CONSTITUTES AN OFFENSE DESCRIBED IN ARTICLE 120 (a),
13 120 (b), 120b (a), OR 120b (b) OF THE FEDERAL "UNIFORM CODE OF
14 MILITARY JUSTICE", 10 U.S.C. SEC. 920 (a) AND (b) AND 10 U.S.C. SEC.
15 920b (a) AND (b).

16 (b) AN ACCUSED PERSON MAY OBJECT TO TRIAL BY A SUMMARY
17 COURT-MARTIAL. IF AN ACCUSED PERSON OBJECTS, A SUMMARY
18 COURT-MARTIAL SHALL NOT TRY THE PERSON AND THE CONVENING
19 AUTHORITY, OR OFFICER TO WHOM THE CASE IS REFERRED BY THE
20 CONVENING AUTHORITY, SHALL ORDER THE ACCUSED TRIED BY A GENERAL
21 COURT-MARTIAL OR SPECIAL COURT-MARTIAL, AS APPROPRIATE.

22 **SECTION 9.** In Colorado Revised Statutes, 28-3.1-213, **amend**
23 (3) as follows:

24 **28-3.1-213. Absent and additional members.** (3) EXCEPT FOR
25 A LAWFULLY CONVENED SPECIAL COURT-MARTIAL THAT CONSISTS OF A
26 MILITARY JUDGE ALONE, AS DESCRIBED IN SECTION 28-3.1-201 (2)(b)(II),
27 whenever a special court-martial is reduced ~~below~~ TO FEWER THAN three

1 members, the trial ~~may~~ MUST not proceed unless the convening authority
2 appoints new members sufficient in number to provide ~~not less than~~ AT
3 LEAST three members. When the new members have been sworn, the trial
4 may proceed as if no evidence ~~has~~ WAS previously ~~been~~ introduced,
5 unless a verbatim record of the testimony of previously examined
6 witnesses or a stipulation thereof is read to the court in the presence of the
7 accused and counsel.

8 **SECTION 10.** In Colorado Revised Statutes, **amend** 28-3.1-301
9 as follows:

10 **28-3.1-301. General procedures.** ~~The procedure~~ GOVERNOR MAY
11 PRESCRIBE, BY REGULATION, PRETRIAL, TRIAL, AND POST-TRIAL
12 PROCEDURES, including modes of proof, in cases before military courts
13 and other military tribunals. ~~may be prescribed by the governor by~~
14 ~~regulation and shall~~ THE PROCEDURES, so far as practicable, MUST be the
15 principles of law and the rules of evidence generally recognized in the
16 trial of criminal cases in the courts of Colorado and in the trial of
17 courts-martial of the United States, but ~~such procedure may~~ THE
18 PROCEDURES MUST not be contrary to or inconsistent with this code.

19 **SECTION 11.** In Colorado Revised Statutes, 28-3.1-306, **add** (3)
20 as follows:

21 **28-3.1-306. Challenges.** (3) IF THE EXERCISE OF A PEREMPTORY
22 CHALLENGE OR CHALLENGE FOR CAUSE REDUCES THE NUMBER OF
23 MEMBERS TO FEWER THAN THE REQUIRED NUMBER OF MEMBERS FOR THE
24 COURT-MARTIAL AS DESCRIBED IN SECTION 28-1.3-213, THE CONVENING
25 AUTHORITY SHALL APPOINT NEW MEMBERS TO THE COURT-MARTIAL
26 PURSUANT TO SECTION 28-1.3-213.

27 **SECTION 12.** In Colorado Revised Statutes, **repeal and reenact,**

1 **with amendments**, 28-3.1-308 as follows:

2 **28-3.1-308. Statute of limitations.** THE STATUTE OF LIMITATIONS
3 TO BRING CHARGES FOR AN OFFENSE PURSUANT TO THIS ARTICLE 3.1 IS THE
4 SAME AS IN THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE".

5 **SECTION 13.** In Colorado Revised Statutes, **amend** 28-3.1-407
6 as follows:

7 **28-3.1-407. Initial action on the record by convening authority**
8 **- staff judge advocate review.** (1) After a trial by court-martial, the
9 ~~record shall be forwarded~~ MILITARY JUDGE WHO PRESIDED OVER THE
10 COURT-MARTIAL SHALL FORWARD THE RECORD OF THE COURT-MARTIAL
11 to the convening authority. ~~as reviewing authority, and action thereon~~
12 ~~may be taken by the person who convened the court, a commissioned~~
13 ~~officer commanding for the time being, a successor in command, or the~~
14 ~~governor. The reviewer may approve the sentence or such part, amount,~~
15 ~~or commuted form of the sentence as he or she sees fit and may suspend~~
16 ~~or defer the execution of the sentence.~~ UPON RECEIPT OF THE RECORD OF
17 THE COURT-MARTIAL, THE CONVENING AUTHORITY SHALL FORWARD THE
18 RECORD TO THE STAFF JUDGE ADVOCATE DESIGNATED BY THE STATE
19 JUDGE ADVOCATE GENERAL.

20 (2) THE STAFF JUDGE ADVOCATE SHALL REVIEW THE RECORD AND
21 SUBMIT A WRITTEN OPINION TO THE CONVENING AUTHORITY. THE STAFF
22 JUDGE ADVOCATE'S OPINION MUST INCLUDE:

23 (a) CONCLUSIONS ABOUT WHETHER:

24 (I) THE COURT-MARTIAL HAD JURISDICTION OVER THE ACCUSED;

25 (II) THE CHARGE AND SPECIFICATION STATED AN OFFENSE; AND

26 (III) THE SENTENCE WAS WITHIN THE LIMITS PRESCRIBED AS A
27 MATTER OF LAW;

1 (b) IF THE ACCUSED MAKES ALLEGATIONS IN WRITING, A RESPONSE
2 TO EACH ALLEGATION OF ERROR MADE IN WRITING BY THE ACCUSED; AND

3 (c) IN AN OPINION ABOUT THE FINDINGS OF A SUMMARY
4 COURT-MARTIAL, ADVICE TO THE CONVENING AUTHORITY ON THE
5 SUFFICIENCY OF THE EVIDENCE AS TO EACH FINDING MADE BY THE
6 SUMMARY COURT-MARTIAL.

7 (3) A CONVENING AUTHORITY SHALL NOT ACT ON THE FINDINGS OF
8 OR SENTENCE IMPOSED BY A COURT-MARTIAL BEFORE THE STAFF JUDGE
9 ADVOCATE REVIEW.

10 (4) (a) AFTER RECEIVING THE STAFF JUDGE ADVOCATE'S WRITTEN
11 OPINION DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE CONVENING
12 AUTHORITY OF A GENERAL COURT-MARTIAL OR A SPECIAL
13 COURT-MARTIAL:

14 (I) SHALL NOT ACT ON THE FINDINGS OF THE COURT-MARTIAL; AND

15 (II) MAY ACT AS DESCRIBED IN SUBSECTION (4)(b) OF THIS
16 SECTION ON THE SENTENCE OF THE COURT-MARTIAL IF:

17 (A) THE TOTAL PERIOD OF A SENTENCE TO CONFINEMENT IMPOSED
18 FOR ALL OFFENSES INVOLVED, RUNNING CONSECUTIVELY, IS LESS THAN
19 ONE HUNDRED EIGHTY DAYS; AND

20 (B) THE COURT-MARTIAL DID NOT IMPOSE A SENTENCE OF
21 DISMISSAL OR DISHONORABLE DISCHARGE.

22 (b) A CONVENING AUTHORITY ACTING ON A SENTENCE IMPOSED BY
23 A COURT-MARTIAL PURSUANT TO SUBSECTION (4)(a)(II) OF THIS SECTION
24 MAY:

25 (I) APPROVE THE COURT-MARTIAL'S SENTENCE;

26 (II) DISAPPROVE, COMMUTE, OR SUSPEND THE COURT-MARTIAL'S
27 SENTENCE, IN WHOLE OR IN PART; OR

1 (III) DISAPPROVE THE COURT-MARTIAL'S SENTENCE AND ORDER A
2 REHEARING ON THE SENTENCE.

3 (c) AFTER APPROPRIATE STAFF JUDGE ADVOCATE REVIEW, THE
4 CONVENING AUTHORITY OF A SUMMARY COURT-MARTIAL MAY:

5 (I) APPROVE THE COURT-MARTIAL'S FINDINGS AND SENTENCE;

6 (II) DISMISS ANY CHARGE OR SPECIFICATION BY SETTING ASIDE
7 THE FINDING OF GUILTY;

8 (III) CHANGE THE COURT-MARTIAL'S FINDING OF GUILTY OF THE
9 CHARGE OR SPECIFICATION TO A FINDING OF GUILTY OF A LESSER
10 INCLUDED OFFENSE;

11 (IV) DISAPPROVE THE COURT-MARTIAL'S FINDINGS AND SENTENCE
12 AND DISMISS THE CHARGE AND SPECIFICATION;

13 (V) DISAPPROVE THE COURT-MARTIAL'S FINDINGS AND SENTENCE
14 AND ORDER A REHEARING ON THE FINDINGS AND SENTENCE;

15 (VI) DISAPPROVE, COMMUTE, OR SUSPEND THE COURT-MARTIAL'S
16 SENTENCE, IN WHOLE OR IN PART; OR

17 (VII) DISAPPROVE THE COURT-MARTIAL'S SENTENCE AND ORDER
18 A REHEARING AS TO THE SENTENCE.

19 (5) IF, PURSUANT TO THIS SECTION, THE CONVENING AUTHORITY
20 REDUCES, COMMUTES, OR SUSPENDS THE SENTENCE, THE DECISION OF THE
21 CONVENING AUTHORITY MUST INCLUDE A WRITTEN EXPLANATION OF THE
22 REASONS FOR THE ACTION.

23 (6) THE CONVENING AUTHORITY SHALL FORWARD ITS FINAL
24 DECISION TO THE MILITARY JUDGE WHO PRESIDED OVER THE
25 COURT-MARTIAL AND PROVIDE COPIES OF THE DECISION TO THE ACCUSED
26 AND TO ANY VICTIM OF THE OFFENSE. THE MILITARY JUDGE SHALL
27 INCORPORATE THE CONVENING AUTHORITY'S FINAL DECISION INTO THE

1 RECORD.

2 **SECTION 14.** In Colorado Revised Statutes, 28-3.1-421, **amend**
3 (1) introductory portion as follows:

4 **28-3.1-421. Appeal by the state.** (1) ~~In a trial by court-martial~~
5 ~~or in a trial by military judge only pursuant to section 28-3.1-316 (4) in~~
6 ~~which a punitive discharge may be adjudged;~~ The state ~~may~~ SHALL not
7 appeal a finding of not guilty with respect to ~~the~~ A charge or specification.
8 In a trial by court-martial in which a punitive discharge may be adjudged,
9 the state may appeal the following:

10 **SECTION 15.** In Colorado Revised Statutes, **repeal and reenact,**
11 **with amendments,** part 5 of article 3.1 of title 28 as follows:

12 **PART 5**

13 **PUNITIVE ARTICLES**

14 **28-3.1-501. Punitive articles of the federal "Uniform Code of**
15 **Military Justice" incorporated.** PURSUANT TO SECTION 28-3.1-102.5,
16 THE PUNITIVE ARTICLES, 10 U.S.C. SECS. 877 TO 933, AND THE GENERAL
17 ARTICLE, 10 U.S.C. SEC. 934, OF THE FEDERAL "UNIFORM CODE OF
18 MILITARY JUSTICE" ARE INCORPORATED INTO THE "COLORADO CODE OF
19 MILITARY JUSTICE", THIS ARTICLE 3.1; EXCEPT THAT THE MAXIMUM
20 PUNISHMENTS AND CLASSIFICATIONS OF OFFENSES SET FORTH IN SECTIONS
21 28-3.1-402 AND 28-3.1-402.5 APPLY TO CONVICTIONS PURSUANT TO THIS
22 ARTICLE 3.1.

23 **SECTION 16.** In Colorado Revised Statutes, **add** 28-3.1-606.5
24 as follows:

25 **28-3.1-606.5. Concurrent jurisdiction with civil authorities.** IF
26 CONCURRENT CIVILIAN AND MILITARY JURISDICTION EXISTS TO PROSECUTE
27 THE SAME OFFENSE ALLEGEDLY COMMITTED BY A MEMBER OF THE STATE

1 MILITARY FORCES, AND A DISTRICT ATTORNEY WITH JURISDICTION TO
2 PROSECUTE THE OFFENSE HAS FILED FELONY CHARGES AGAINST THE
3 MEMBER PURSUANT TO STATE LAW, THE STATE MILITARY FORCES SHALL
4 DEFER PROSECUTION OF THE OFFENSE OTHERWISE SUBJECT TO THIS CODE
5 TO THE DISTRICT ATTORNEY. IF A DISTRICT ATTORNEY DECLINES TO
6 PURSUE FELONY CHARGES, DISMISSES CHARGES WITHOUT TRIAL, OR
7 OTHERWISE FAILS TO PROSECUTE, A COURT-MARTIAL MAY BE CONVENED
8 AGAINST THE MEMBER IN ACCORDANCE WITH THIS CODE.

9 **SECTION 17.** In Colorado Revised Statutes, **repeal** 28-3.1-111,
10 28-3.1-112, 28-3.1-113, 28-3.1-214, 28-3.1-215, 28-3.1-216, 28-3.1-217,
11 28-3.1-218, 28-3.1-219, 28-3.1-302, 28-3.1-304, 28-3.1-305, 28-3.1-307,
12 28-3.1-309, 28-3.1-310, 28-3.1-314, 28-3.1-315, 28-3.1-316, 28-3.1-317,
13 28-3.1-318, 28-3.1-319, 28-3.1-408, 28-3.1-409, 28-3.1-410, 28-3.1-411,
14 28-3.1-412, 28-3.1-414, 28-3.1-415, 28-3.1-417, 28-3.1-418, 28-3.1-601,
15 28-3.1-604, and 28-3.1-605.

16 **SECTION 18. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect September 1, 2025; except that,
18 if a referendum petition is filed pursuant to section 1 (3) of article V of
19 the state constitution against this act or an item, section, or part of this act
20 within the ninety-day period after final adjournment of the general
21 assembly, then the act, item, section, or part will not take effect unless
22 approved by the people at the general election to be held in November
23 2026 and, in such case, will take effect on the date of the official
24 declaration of the vote thereon by the governor.

25 (2) This act applies to offenses committed on or after the
26 applicable effective date of this act.