

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-1021.02 Conrad Imel x2313

**SENATE BILL 25-279**

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**SENATE SPONSORSHIP**

**Ball and Pelton B., Roberts**

**HOUSE SPONSORSHIP**

**Duran and Hartsook,**

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**Senate Committees**

State, Veterans, & Military Affairs

**House Committees**

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**A BILL FOR AN ACT**

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

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**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.

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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 (14.3) and (21.5) as follows:

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

6 (14.3) "NATIONAL GUARD" MEANS THE ARMY NATIONAL GUARD,  
7 THE AIR NATIONAL GUARD, AND ANY OTHER COMPONENT CREATED OR  
8 AUTHORIZED UNDER THE LAWS OF THE UNITED STATES TO SERVE IN A  
9 SIMILAR MANNER PURSUANT TO TITLE 32 OF THE UNITED STATES CODE.

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

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

15 **28-3.1-102.5. Construction of code - incorporation of federal**  
16 **"Uniform Code of Military Justice" - references to regulations -**

1     **legislative intent.** (1) THE GENERAL ASSEMBLY INTENDS THAT THE STATE  
2     MILITARY FORCES BE REGULATED IN A MANNER CONSISTENT WITH THE  
3     REGULATION OF THE ARMED FORCES OF THE UNITED STATES AND THAT  
4     THE "COLORADO CODE OF MILITARY JUSTICE" ENACTED IN THIS ARTICLE  
5     3.1 BE CONSTRUED CONSISTENT WITH THIS PURPOSE.

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

15            (b) FOR THE PURPOSES OF THIS ARTICLE 3.1, REFERENCES IN THE  
16    FEDERAL "UNIFORM CODE OF MILITARY JUSTICE", FEDERAL RULES  
17    ADOPTED PURSUANT TO THE "UNIFORM CODE OF MILITARY JUSTICE", AND  
18    THE MANUAL FOR COURTS-MARTIAL UNITED STATES TO:

19            (I) THE PRESIDENT OF THE UNITED STATES MEANS THE GOVERNOR,  
20    AND THE DUTIES, FUNCTIONS, AND AUTHORITY OF THE PRESIDENT ARE  
21    ATTRIBUTABLE TO THE GOVERNOR;

22            (II) THE SECRETARY OR SECRETARY CONCERNED MEANS THE  
23    ADJUTANT GENERAL OF THIS STATE, AND THE DUTIES, FUNCTIONS, AND  
24    AUTHORITY OF THE SECRETARY OR SECRETARY CONCERNED ARE  
25    ATTRIBUTABLE TO THE ADJUTANT GENERAL; AND

26            (III) THE ARMED FORCES, THE ARMY OF THE UNITED STATES, THE  
27    UNITED STATES AIR FORCE, OR SIMILAR MILITARY ORGANIZATIONS

1 INCLUDES MILITARY, MILITARY FORCES, THE MILITARY SERVICES, AND  
2 STATE MILITARY FORCES.

3 (3) REFERENCES IN THIS ARTICLE 3.1 TO THE GOVERNOR'S  
4 REGULATIONS INCLUDE REGULATIONS PREPARED BY THE ADJUTANT  
5 GENERAL AND APPROVED BY THE GOVERNOR PURSUANT TO SECTION  
6 28-3-106 (1)(j).

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

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

14 **SECTION 4.** In Colorado Revised Statutes, 28-3.1-114, **amend**  
15 (1), (2) introductory portion, (2)(a) introductory portion, (2)(a)(III),  
16 (2)(a)(IV), (2)(a)(V), (2)(b) introductory portion, (2)(b)(IV), (2)(b)(V),  
17 (4.4), and (4.7); **repeal** (2)(a)(I), (2)(b)(I), and (2.5); and **add** (2)(a)(VI),  
18 (2)(b)(VI), and (2)(b)(VII) as follows:

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

25 (I) The kind and amount of punishment authorized, THE  
26 SUSPENSION OF PUNISHMENT, and the levels of commanding officers and  
27 warrant officers exercising command authorized to exercise those powers;

1 AND

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

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

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

25 (2) Subject to subsection (1) of this section, ~~any~~ A commanding  
26 officer may, in addition to or in lieu of admonition or PUNITIVE  
27 reprimand, impose one or more of the following disciplinary punishments

1 without the intervention of a court-martial:

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

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

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

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

13 (V) A reprimand; OR

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

17 (A) ARREST IN QUARTERS FOR NOT MORE THAN THIRTY  
18 CONSECUTIVE DAYS; OR

19 (B) RESTRICTION TO CERTAIN SPECIFIED LIMITS, WITH OR WITHOUT  
20 SUSPENSION FROM DUTY, FOR NOT MORE THAN THIRTY CONSECUTIVE  
21 DAYS;

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

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

26 (IV) Reduction to ~~next inferior grade if the grade from which he~~  
27 ~~or she was demoted was established by the command or an equivalent or~~

1 ~~lower command, or~~ IN RANK, AS AUTHORIZED BY REGULATIONS ADOPTED  
2 BY THE GOVERNOR;

3 (V) A fine of ~~any amount up to the maximum pay and allowances~~  
4 ~~received for two~~ OR FORFEITURE OF PAY AND ALLOWANCES OF NOT MORE  
5 THAN FOUR unit training assemblies or ~~two~~ FOUR days of annual training,  
6 whichever is applicable according to duty status;

7 (VI) AN ADMONITION; OR

8 (VII) A REPRIMAND.

9 (2.5) ~~If the commanding officer is of field grade, grade of O-4 or~~  
10 ~~rank of major or above, he or she may impose on an enlisted member any~~  
11 ~~one or a combination of the following disciplinary punishments without~~  
12 ~~the intervention of a court-martial:~~

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

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

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

23 (4.4) Maximum allowable punishments, ~~of withholding of~~  
24 ~~privileges,~~ restrictions, and extra duties ~~may~~ MUST not be combined to run  
25 consecutively.

26 (4.7) The officer who imposes the punishment pursuant to this  
27 section, or the successor in command, may, at any time, suspend, set

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

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

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

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

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

7       (2)(b) as follows:

8               **28-3.1-201. Courts-martial - jurisdiction - composition.**

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

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

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

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

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

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

27              **28-3.1-203. Jurisdiction of general courts-martial.** (1) General

1 courts-martial have jurisdiction to try persons subject to this code for ~~any~~  
2 AN offense punishable under this code and may adjudge any of the  
3 following punishments:

4 (a) Confinement for not more than ~~two~~ FIVE years, unless  
5 otherwise specified in this code;

6 (e) Dismissal, ~~or~~ dishonorable discharge, OR BAD CONDUCT  
7 DISCHARGE;

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

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

12 **28-3.1-204. Jurisdiction of special courts-martial.** (1) Special  
13 courts-martial have jurisdiction to try ~~any~~ A person subject to this code for  
14 ~~any~~ AN offense punishable under this code, EXCEPT FOR CONDUCT THAT  
15 CONSTITUTES AN OFFENSE DESCRIBED IN ARTICLE 120 (a), 120 (b), 120b  
16 (a), OR 120b (b) OF THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE",  
17 10 U.S.C. SEC. 920 (a) AND (b) AND 10 U.S.C. SEC. 920b (a) AND (b).

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

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

26 (II) A SPECIAL COURT-MARTIAL THAT CONSISTS OF A MILITARY  
27 JUDGE ALONE PURSUANT TO SECTION 28-3.1-201 (2)(b)(II) SHALL NOT

1 IMPOSE CONFINEMENT FOR MORE THAN NINETY DAYS AND SHALL NOT  
2 ORDER A DISMISSAL OR DISHONORABLE DISCHARGE; AND

3 (b) The fine or forfeiture of pay and allowances imposed by a  
4 special court-martial ~~may~~ MUST not be more than the maximum pay and  
5 allowances received for six unit training assemblies or six days of annual  
6 training, whichever is applicable according to duty status.

7 (3) NOTWITHSTANDING SECTION 16-10-101, A SPECIAL  
8 COURT-MARTIAL CONSISTING OF A JUDGE ALONE HAS THE AUTHORITY TO  
9 TRY CASES AND IMPOSE PUNISHMENTS AS SET FORTH IN THIS SECTION.

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

12 **28-3.1-205. Jurisdiction of summary courts-martial.**

13 (1) (a) Summary courts-martial have jurisdiction to try ~~any~~ A person  
14 subject to this code, except commissioned officers, warrant officers,  
15 cadets, ~~and~~ candidates, AND A PERSON WHO OBJECTS TO TRIAL BY  
16 SUMMARY COURT-MARTIAL AS DESCRIBED IN SUBSECTION (1)(b) OF THIS  
17 SECTION, for any offense made punishable under this code, EXCEPT FOR  
18 CONDUCT THAT CONSTITUTES AN OFFENSE DESCRIBED IN ARTICLE 120 (a),  
19 120 (b), 120b (a), OR 120b (b) OF THE FEDERAL "UNIFORM CODE OF  
20 MILITARY JUSTICE", 10 U.S.C. SEC. 920 (a) AND (b) AND 10 U.S.C. SEC.  
21 920b (a) AND (b).

22 (b) AN ACCUSED PERSON MAY OBJECT TO TRIAL BY A SUMMARY  
23 COURT-MARTIAL. IF AN ACCUSED PERSON OBJECTS, A SUMMARY  
24 COURT-MARTIAL SHALL NOT TRY THE PERSON AND THE CONVENING  
25 AUTHORITY, OR OFFICER TO WHOM THE CASE IS REFERRED BY THE  
26 CONVENING AUTHORITY, SHALL ORDER THE ACCUSED TRIED BY A GENERAL  
27 COURT-MARTIAL OR SPECIAL COURT-MARTIAL, AS APPROPRIATE.

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

3           **28-3.1-213. Absent and additional members.** (3) EXCEPT FOR  
4       A LAWFULLY CONVENED SPECIAL COURT-MARTIAL THAT CONSISTS OF A  
5       MILITARY JUDGE ALONE, AS DESCRIBED IN SECTION 28-3.1-201 (2)(b)(II),  
6       whenever a special court-martial is reduced ~~below~~ TO FEWER THAN three  
7       members, the trial ~~may~~ MUST not proceed unless the convening authority  
8       appoints new members sufficient in number to provide ~~not less than~~ AT  
9       LEAST three members. When the new members have been sworn, the trial  
10      may proceed as if no evidence ~~has~~ WAS previously ~~been~~ introduced,  
11      unless a verbatim record of the testimony of previously examined  
12      witnesses or a stipulation thereof is read to the court in the presence of the  
13      accused and counsel.

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

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

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

27          **28-3.1-306. Challenges.** (3) IF THE EXERCISE OF A PEREMPTORY

1 CHALLENGE OR CHALLENGE FOR CAUSE REDUCES THE NUMBER OF  
2 MEMBERS TO FEWER THAN THE REQUIRED NUMBER OF MEMBERS FOR THE  
3 COURT-MARTIAL AS DESCRIBED IN SECTION 28-1.3-213, THE CONVENING  
4 AUTHORITY SHALL APPOINT NEW MEMBERS TO THE COURT-MARTIAL  
5 PURSUANT TO SECTION 28-1.3-213.

6 **SECTION 12.** In Colorado Revised Statutes, **repeal and reenact,**  
7 **with amendments,** 28-3.1-308 as follows:

8 **28-3.1-308. Statute of limitations.** THE STATUTE OF LIMITATIONS  
9 TO BRING CHARGES FOR AN OFFENSE PURSUANT TO THIS ARTICLE 3.1 IS THE  
10 SAME AS IN THE FEDERAL "UNIFORM CODE OF MILITARY JUSTICE".

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

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

26 (2) THE STAFF JUDGE ADVOCATE SHALL REVIEW THE RECORD AND  
27 SUBMIT A WRITTEN OPINION TO THE CONVENING AUTHORITY. THE STAFF

1 JUDGE ADVOCATE'S OPINION MUST INCLUDE:

2 (a) CONCLUSIONS ABOUT WHETHER:

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

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

5 (III) THE SENTENCE WAS WITHIN THE LIMITS PRESCRIBED AS A

6 MATTER OF LAW;

7 (b) IF THE ACCUSED MAKES ALLEGATIONS IN WRITING, A RESPONSE

8 TO EACH ALLEGATION OF ERROR MADE IN WRITING BY THE ACCUSED; AND

9 (c) IN AN OPINION ABOUT THE FINDINGS OF A SUMMARY

10 COURT-MARTIAL, ADVICE TO THE CONVENING AUTHORITY ON THE

11 SUFFICIENCY OF THE EVIDENCE AS TO EACH FINDING MADE BY THE

12 SUMMARY COURT-MARTIAL.

13 (3) A CONVENING AUTHORITY SHALL NOT ACT ON THE FINDINGS OF

14 OR SENTENCE IMPOSED BY A COURT-MARTIAL BEFORE THE STAFF JUDGE

15 ADVOCATE REVIEW.

16 (4) (a) AFTER RECEIVING THE STAFF JUDGE ADVOCATE'S WRITTEN

17 OPINION DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE CONVENING

18 AUTHORITY OF A GENERAL COURT-MARTIAL OR A SPECIAL

19 COURT-MARTIAL:

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

21 (II) MAY ACT AS DESCRIBED IN SUBSECTION (4)(b) OF THIS

22 SECTION ON THE SENTENCE OF THE COURT-MARTIAL IF:

23 (A) THE TOTAL PERIOD OF A SENTENCE TO CONFINEMENT IMPOSED

24 FOR ALL OFFENSES INVOLVED, RUNNING CONSECUTIVELY, IS LESS THAN

25 ONE HUNDRED EIGHTY DAYS; AND

26 (B) THE COURT-MARTIAL DID NOT IMPOSE A SENTENCE OF

27 DISMISSAL OR DISHONORABLE DISCHARGE.

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

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

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

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

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

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

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

14 (III) CHANGE THE COURT-MARTIAL'S FINDING OF GUILTY OF THE  
15 CHARGE OR SPECIFICATION TO A FINDING OF GUILTY OF A LESSER  
16 INCLUDED OFFENSE;

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

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

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

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

25 (5) IF, PURSUANT TO THIS SECTION, THE CONVENING AUTHORITY  
26 REDUCES, COMMUTES, OR SUSPENDS THE SENTENCE, THE DECISION OF THE  
27 CONVENING AUTHORITY MUST INCLUDE A WRITTEN EXPLANATION OF THE

1 REASONS FOR THE ACTION.

2 (6) THE CONVENING AUTHORITY SHALL FORWARD ITS FINAL  
3 DECISION TO THE MILITARY JUDGE WHO PRESIDED OVER THE  
4 COURT-MARTIAL AND PROVIDE COPIES OF THE DECISION TO THE ACCUSED  
5 AND TO ANY VICTIM OF THE OFFENSE. THE MILITARY JUDGE SHALL  
6 INCORPORATE THE CONVENING AUTHORITY'S FINAL DECISION INTO THE  
7 RECORD.

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

10 **28-3.1-421. Appeal by the state.** (1) ~~In a trial by court-martial~~  
11 ~~or in a trial by military judge only pursuant to section 28-3.1-316 (4) in~~  
12 ~~which a punitive discharge may be adjudged,~~ The state ~~may~~ SHALL not  
13 appeal a finding of not guilty with respect to ~~the~~ A charge or specification.  
14 In a trial by court-martial in which a punitive discharge may be adjudged,  
15 the state may appeal the following:

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

18 **PART 5**

19 **PUNITIVE ARTICLES**

20 **28-3.1-501. Punitive articles of the federal "Uniform Code of**  
21 **Military Justice" incorporated.** PURSUANT TO SECTION 28-3.1-102.5,  
22 THE PUNITIVE ARTICLES, 10 U.S.C. SECS. 877 TO 933, AND THE GENERAL  
23 ARTICLE, 10 U.S.C. SEC. 934, OF THE FEDERAL "UNIFORM CODE OF  
24 MILITARY JUSTICE" ARE INCORPORATED INTO THE "COLORADO CODE OF  
25 MILITARY JUSTICE", THIS ARTICLE 3.1; EXCEPT THAT THE MAXIMUM  
26 PUNISHMENTS AND CLASSIFICATIONS OF OFFENSES SET FORTH IN SECTIONS  
27 28-3.1-402 AND 28-3.1-402.5 APPLY TO CONVICTIONS PURSUANT TO THIS

1 ARTICLE 3.1.

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

4 **28-3.1-606.5. Concurrent jurisdiction with civil authorities.** IF  
5 CONCURRENT CIVILIAN AND MILITARY JURISDICTION EXISTS TO PROSECUTE  
6 THE SAME OFFENSE ALLEGEDLY COMMITTED BY A MEMBER OF THE STATE  
7 MILITARY FORCES, AND A DISTRICT ATTORNEY WITH JURISDICTION TO  
8 PROSECUTE THE OFFENSE HAS FILED FELONY CHARGES AGAINST THE  
9 MEMBER PURSUANT TO STATE LAW, THE STATE MILITARY FORCES SHALL  
10 DEFER PROSECUTION OF THE OFFENSE OTHERWISE SUBJECT TO THIS CODE  
11 TO THE DISTRICT ATTORNEY. IF A DISTRICT ATTORNEY DECLINES TO  
12 PURSUE FELONY CHARGES OR DISMISSES CHARGES WITHOUT TRIAL, == A  
13 COURT-MARTIAL MAY BE CONVENED AGAINST THE MEMBER IN  
14 ACCORDANCE WITH THIS CODE.

15 **SECTION 17.** In Colorado Revised Statutes, **repeal** 28-3.1-111,  
16 28-3.1-112, 28-3.1-113, 28-3.1-214, 28-3.1-215, 28-3.1-216, 28-3.1-217,  
17 28-3.1-218, 28-3.1-219, 28-3.1-302, 28-3.1-304, 28-3.1-305, 28-3.1-307,  
18 28-3.1-309, 28-3.1-310, 28-3.1-314, 28-3.1-315, 28-3.1-316, 28-3.1-317,  
19 28-3.1-318, 28-3.1-319, == == == and 28-3.1-605.

20 **SECTION 18. Act subject to petition - effective date -**  
21 **applicability.** (1) This act takes effect September 1, 2025; except that,  
22 if a referendum petition is filed pursuant to section 1 (3) of article V of  
23 the state constitution against this act or an item, section, or part of this act  
24 within the ninety-day period after final adjournment of the general  
25 assembly, then the act, item, section, or part will not take effect unless  
26 approved by the people at the general election to be held in November  
27 2026 and, in such case, will take effect on the date of the official

- 1 declaration of the vote thereon by the governor.
- 2 (2) This act applies to offenses committed on or after the
- 3 applicable effective date of this act.