

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H1/18/07

A Bill

HOUSE BILL 1140

5 By: Representative Wood
6
7

For An Act To Be Entitled

9 TO AMEND THE MILITARY CODE OF ARKANSAS, § 12-60-
10 101 ET SEQ., TO UPDATE PROVISIONS REGARDING
11 AWARDS, OFFICER TITLES, APPOINTMENT OF DEPUTY
12 ADJUTANTS GENERAL, AND CERTAIN FINES AND
13 FORFEITURES; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO AMEND THE MILITARY CODE OF ARKANSAS,
17 § 12-60-101 ET SEQ.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 12-61-121(a)(2), regarding awards, medals,
23 and honors that the Governor is authorized to award for military service, is
24 amended to read as follows:

25 (2) These include, but are not limited to, the "Arkansas
26 Commendation Medal", the "Arkansas Distinguished Service Medal", and the
27 ~~"Arkansas Medal of Honor"~~ "Arkansas Star of Honor".
28

29 SECTION 2. Arkansas Code § 12-61-105(a), regarding the qualifications
30 of the Adjutant General, is amended to read as follows:

31 (a) There shall be an Adjutant General of the state who shall be
32 appointed by the Governor and shall be a commissioned officer in the Adjutant
33 General's department of the National Guard of this state and shall have rank
34 not higher than ~~major-general~~ lieutenant general.
35

36 SECTION 3. Arkansas Code § 12-61-108(a), regarding deputy adjutants



1 general, is amended to read as follows:

2 (a)(1) The Adjutant General is authorized to appoint, subject to the
3 approval of the Governor, ~~two (2)~~ four (4) deputy adjutants general who will
4 hold rank of not higher than one (1) grade below that held by the Adjutant
5 General up to and including the rank of ~~brigadier general~~ major general.

6 (2) ~~One (1)~~ Two (2) deputy ~~adjutant~~ adjutants general will be
7 Army National Guard and ~~one (1)~~ two (2) deputy ~~adjutant~~ adjutants general
8 will be Air National Guard.

9 (3) However, the foregoing shall not preclude the appointment of
10 federally recognized ~~major~~ lieutenant generals to perform the additional
11 duties of deputy adjutants general.

12
13 SECTION 4. Arkansas Code § 12-61-201(a), regarding the commanding
14 general of the organized militia, is amended to read as follows:

15 (a) The organized militia shall be commanded by a general officer who
16 shall be federally recognized or qualified for federal recognition in a rank
17 not higher than ~~major general~~ lieutenant general.

18
19 SECTION 5. Arkansas Code § 12-64-301 is amended to read as follows:
20 12-64-301. Nonjudicial punishment generally.

21 (a) Under such regulations as the Governor may prescribe, ~~any a~~
22 company grade commanding officer may, in addition to or in lieu of admonition
23 or reprimand, impose not more than two (2) of the following disciplinary
24 punishments for minor offenses without the intervention of a court-martial:

25 (1) Upon officers of his command:

26 (A) Withholding of privileges for not more than two (2)
27 consecutive weeks;

28 (B) Restriction to certain specified limits, with or
29 without suspension from duty, for not more than two (2) consecutive weeks; or

30 (C)(i) ~~If imposed by the Governor, a~~
31 ~~fine or forfeiture of pay and allowances of not more than one hundred fifty~~
32 ~~dollars (\$150)~~ A fine or a forfeiture in an amount that does not exceed ten
33 (10) days of the officer's base pay.

34 (ii) The payment or collection of the fine or the
35 withholding of the forfeiture under this subdivision (a)(1)(C) shall not
36 exceed an amount equal to five (5) days of base pay during any calendar

1 month; or

2 (2) Upon other military personnel of his command:

3 (A) Withholding of privileges for not more than two (2)
4 consecutive weeks;

5 (B) Restriction to certain specified limits, with or
6 without suspension from duty, for not more than two (2) consecutive weeks;

7 (C) Extra duties for not more than two (2) consecutive
8 weeks and not to exceed two (2) hours per day, holidays included;

9 (D) Reduction to next inferior grade if the grade from
10 which demoted was established by the command or an equivalent or lower
11 command;

12 (E) If imposed upon a person attached to or embarked in a
13 vessel, confinement for not more than seven (7) consecutive days; or

14 (F)(i) ~~If imposed by an officer exercising summary court-~~
15 ~~martial jurisdiction over the offender, a fine or forfeiture of pay and~~
16 ~~allowances of not more than fifty dollars (\$50.00)~~ A fine or a forfeiture in
17 an amount that does not exceed ten (10) days of the soldier's or airman's
18 base pay.

19 (ii) The payment or collection of the fine or the
20 withholding of the forfeiture under this subdivision (a)(2)(F) shall not
21 exceed an amount equal to five (5) days of base pay during any calendar
22 month.

23 (b) Under such regulations as the Governor may prescribe, a field
24 grade commanding officer may, in addition to or in lieu of admonition or
25 reprimand, impose not more than two (2) of the following disciplinary
26 punishments for a minor offense without the intervention of a court-martial:

27 (1) Upon officers of his command:

28 (A) Withholding of privileges for not more than two (2)
29 consecutive weeks;

30 (B) Restriction to certain specified limits, with or
31 without suspension from duty, for not more than two (2) consecutive weeks; or

32 (C)(i) A fine or a forfeiture in an amount that does not
33 exceed thirty (30) days of the officer's base pay.

34 (ii) The payment or collection of the fine or the
35 withholding of the forfeiture under this subdivision (b)(1)(C) shall not
36 exceed an amount equal to fifteen (15) days of base pay during any calendar

1 month; or

2 (2) Upon other military personnel of his command:

3 (A) Withholding of privileges for not more than two (2)
4 consecutive weeks;

5 (B) Restriction to certain specified limits, with or
6 without suspension from duty, for not more than two (2) consecutive weeks;

7 (C) Extra duties for not more than two (2) consecutive
8 weeks and not to exceed two (2) hours per day, holidays included;

9 (D) Reduction to next inferior grade if the grade from
10 which demoted was established by the command or an equivalent or lower
11 command;

12 (E) If imposed upon a person attached to or embarked in a
13 vessel, confinement for not more than seven (7) consecutive days; or

14 (F)(i) A fine or a forfeiture in an amount that does not
15 exceed thirty (30) days of the soldier's or airman's base pay.

16 (ii) The payment or collection of the fine or the
17 withholding of the forfeiture under this subdivision (b)(2)(F) shall not
18 exceed an amount equal to fifteen (15) days of base pay during any calendar
19 month.

20 ~~(b)~~(c) However, except in the case of a member attached to or embarked
21 in a vessel, punishment may not be imposed upon any member of the armed
22 forces under this subchapter if the member has, before the imposition of the
23 punishment, demanded trial by court-martial in lieu of the punishment.

24 ~~(e)~~(d) The Governor may, by regulation, place limitations on the
25 powers granted by this subchapter with respect to the kind and amount of
26 punishment authorized and the categories of commanding officers authorized to
27 exercise those powers.

28 ~~(d)~~(e) ~~An~~ A field grade officer in charge or executive officer of a
29 detached unit or section may, for minor offenses, impose on ~~enlisted members~~
30 officers, soldiers, or airmen assigned to the unit of which he is in charge
31 such of the punishment authorized to be imposed by commanding officers as the
32 Governor may by regulation specifically prescribe, as provided in subsections
33 (a), (b), ~~and~~ (c), and (d) of this section.

34 ~~(e)~~(f) Whenever a nonjudicial punishment of forfeiture of an amount of
35 base pay and allowance is imposed under this section, the forfeiture may
36 apply to the base pay only and or allowances before any deduction,

1 withholding, assignment, or forfeiture then due or becoming due on or after
2 the date that punishment is imposed and to any pay ~~and allowances~~ accrued
3 before that date.

4
5 SECTION 6. Arkansas Code § 12-64-609 is amended to read as follows:

6 12-64-609. Fines and forfeitures.

7 (a) Fines may be paid to a military court or to an officer executing
8 its process.

9 (b)(1) The amount of a fine may be noted upon any state roll or
10 account for pay of the delinquent and deducted from any pay or allowance due
11 or thereafter to become due him, until the fine is liquidated.

12 (2) Any sum so deducted shall be turned in to the
13 military court which imposed the fine and shall be paid over by the officer
14 receiving it in like manner as provided for other fines and moneys collected
15 under a sentence of a summary court-martial.

16 (c)(1) Notwithstanding any other law, a fine or penalty imposed by a
17 military court upon an officer or enlistee shall be paid by the officer
18 collecting it within thirty (30) days to the Treasurer of ~~the~~ State of
19 Arkansas and shall become a part of, be credited to, and be spent from, the
20 State Military Department Fund.

21 (2) The Treasurer of ~~the~~ State shall then report the
22 amount thereof to the Adjutant General ~~of the State~~ and shall pay it over in
23 appropriate warrant.

24 (d) If a punishment of fine or forfeiture of an amount of base pay and
25 allowance is imposed by a court-martial, the amount of the fine or forfeiture
26 shall apply to any type or category of pay and allowances then due or
27 becoming due on or after the date that the punishment is imposed before any
28 deduction, withholding, assignment, previous forfeiture, or collection from
29 the pay and allowances, and to any pay and allowances accrued before that
30 date.

31
32 SECTION 7. Arkansas Code § 12-64-844 is amended to read as follows:

33 12-64-844. General article - Offenses cognizable by courts-martial.

34 ~~(a)~~ Though not specifically mentioned in this code, all disorders and
35 neglects to the prejudice of good order and discipline in the organized
36 militia, all conduct of a nature to bring discredit upon the organized

1 militia, and crimes and offenses not capital, of which persons subject to
 2 this code may be guilty, shall be taken cognizance of by a general, special,
 3 or summary court-martial, according to the nature and degree of the offense,
 4 and shall be punished at the discretion of that court.

5 ~~(b) However, cognizance may not be taken and jurisdiction may not be~~
 6 ~~extended to the crimes of murder, manslaughter, rape, larceny and wrongful~~
 7 ~~appropriation for value of over thirty five dollars (\$35.00), robbery,~~
 8 ~~maiming, sodomy, arson, extortion, burglary, or housebreaking, jurisdiction~~
 9 ~~of which is reserved to civil courts.~~

11 SECTION 8. Arkansas Code § 12-64-403 is amended to read as follows:

12 12-64-403. Jurisdiction of general courts-martial.

13 Subject to § 12-64-402, general courts-martial have jurisdiction to try
 14 persons subject to this code for any offense made punishable by this code and
 15 may, under such limitations as the Governor may prescribe, adjudge any of the
 16 following punishments:

17 (1) ~~A fine of not more than five hundred dollars (\$500) or~~
 18 ~~forfeiture of pay and allowances of not more than five hundred dollars~~
 19 ~~(\$500);~~ A fine or forfeiture in an amount that shall not exceed two hundred
 20 (200) days of the service member's base pay and allowances;

21 (2) Confinement with hard labor for not more than two hundred
 22 (200) days;

23 (3) Dishonorable discharge, bad conduct discharge, or dismissal;

24 (4) Reprimand;

25 (5) Reduction of enlisted persons to a lower grade; or

26 (6) Any combination of these punishments.

28 SECTION 9. Arkansas Code § 12-64-404(b), regarding the jurisdiction of
 29 special courts-martial, is amended to read as follows:

30 (b) A special court-martial may adjudge any punishment that a general
 31 court-martial may adjudge, except for the following punishments:

32 (1) ~~dishonorable~~ Dishonorable discharge;

33 (2) ~~dismissal,~~ Dismissal; ~~or~~

34 (3) ~~confinement~~ Confinement with hard labor for more than one
 35 hundred (100) days; or

36 (4) A fine or forfeiture of pay and allowances in an amount that

1 exceeds one hundred (100) days of the service member's base pay and
2 allowances of more than two hundred dollars (\$200), or a fine of more than
3 two hundred dollars (\$200).

4
5 SECTION 10. Arkansas Code § 12-64-405(c), regarding jurisdiction of
6 summary courts-martial, is amended to read as follows:

7 (c) Summary courts-martial may adjudge any of the following
8 punishments:

9 (1) Confinement with hard labor ~~for~~ not exceeding twenty-five
10 days;

11 (2) A fine ~~of not more than one hundred dollars (\$100) or~~
12 forfeiture of pay and allowances in an amount that shall not exceed one
13 hundred (100) days of the service member's base pay and allowances; or

14 ~~(3) Forfeiture of pay and allowances of not more than one~~
15 ~~hundred dollars (\$100);~~

16 ~~(4)~~(3) Reprimand;

17 ~~(5)~~(4) Reduction of enlisted persons to a lower grade; ~~and or~~

18 ~~(6)~~(5) Any combination of these punishments.

19
20 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that there are many members of the
22 Arkansas National Guard and Reserves that are serving in active duty in Iraq
23 and Afghanistan in the war on terror; that it is critical that Arkansas law
24 be updated and be consistent with federal law and rules; and that this act is
25 necessary to eliminate confusion regarding out-dated and inconsistent
26 provisions in the Military Code of Arkansas. Therefore, an emergency is
27 declared to exist and this act being necessary for the preservation of the
28 public peace, health, and safety shall become effective on:

29 (1) The date of its approval by the Governor;

30 (2) If the bill is neither approved nor vetoed by the Governor,
31 the expiration of the period of time during which the Governor may veto the
32 bill; or

33 (3) If the bill is vetoed by the Governor and the veto is
34 overridden, the date the last house overrides the veto.

35
36 /s/ Wood