

192A.03 DISMISSAL OF COMMISSIONED OFFICER.

Subdivision 1. **Application for court-martial.** Any commissioned officer, dismissed by order of the governor, may make a written application for trial by court-martial, setting forth, under oath, that the dismissal was wrongful. The governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which the officer was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and the officer shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which the officer is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

Subd. 2. **Substitution of discharge.** If the governor fails to convene a general court-martial within six months from the presentation of an application for trial under this code, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

Subd. 3. **Reappointment by governor.** If a discharge is substituted for a dismissal under this code, the governor alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the governor, that former officer would have attained had there been no dismissal. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

Subd. 4. **No right to trial.** If an officer is discharged from the organized militia by administrative action or by board proceedings under law, or is dropped from the rolls by order of the governor, the officer has no right to trial under this section.

History: 1963 c 661 s 192A.03; 1986 c 444