CHAPTER 192A

UNIFORM CODE OF MILITARY JUSTICE

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GENERAL PROVISIONS

192A.01 SHORT TITLE.

Subdivision 1. **Citation.** This chapter may be cited as the Minnesota Code of Military Justice.

Subd. 2. MS 1976 [Repealed, 1978 c 552 s 48]

History: *1963 c 661 s 192A.01*

192A.015 DEFINITIONS.

In this chapter, unless the context otherwise requires:

(1) "Accuser" means a person who signs and swears to charges, any person who directs that charges be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused;

(2) "Active state duty" means the same as state active service defined in section 190.05, subdivision 5a;

(3) "Code" means this chapter;

(4) "Commanding officer" means a commissioned officer who is in command of any unit;

(5) "Commissioned officer" includes a commissioned warrant officer;

(6) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding or temporarily commanding, or a successor in command;

(7) "Enlisted member" means a person in an enlisted grade;

(8) "Federal active service" has the meaning given in section 190.05, subdivision 5c;

(9) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or rule;

(10) "In federal service" and "not in federal service" mean the same as those terms are used and construed in federal laws and regulations;

(11) "May" is used in a permissive sense. The words "no person may" mean that no person is required, authorized, or permitted to do the act prescribed;

(12) "Military" refers to any or all of the armed forces of the United States or any state;

(13) "Military court" means a court-martial, a court of inquiry;

(14) "Officer" means commissioned or warrant officer;

(15) "Rank" means the order of precedence among members of the state military forces;

(16) "Shall" is used in a mandatory sense;

(17) "State judge advocate" means the commissioned officer responsible for supervising the administration of the military justice in the state military forces and appointed pursuant to section 192A.04;

(18) "State military forces" means the National Guard of the state, as defined in United States Code, title 32, section 101(3) and any other military force organized under the laws of the state;

(19) "Superior commissioned officer" means a commissioned officer superior in rank and command.

History: *1963 c 661 s 192A.015; 1978 c 552 s 1; 1983 c 193 s 8; 1985 c 248 s 70; 2002 c 308 s 1*

192A.02 PERSONS SUBJECT TO THIS CODE; JURISDICTION.

Subdivision 1. **Applicability.** (a) This code applies to all members of the state military forces as defined by section 190.05.

(b) Subject matter jurisdiction is established if a nexus exists between an offense, either military or nonmilitary, and the state military force.

Subd. 2. **Military service.** This code applies to a member of the military when the member is in a status provided for by United States Code, title 32, a regulation adopted pursuant to United States Code, title 32, or in state active service. This military service includes:

(1) travel to and from the inactive duty training site of the member, pursuant to orders or regulations;

(2) intervals between consecutive periods of inactive duty training on the same day, pursuant to orders or regulations; and

(3) intervals between inactive duty training on consecutive days, pursuant to orders or regulations.

Subd. 3. **Primary and concurrent military jurisdiction.** (a) Courts-martial have primary jurisdiction of purely military offenses listed in section 192A.021. Except for crimes designated as purely military offenses in section 192A.021, a proper civilian tribunal has primary jurisdiction over an act or omission that violates both this code and local criminal law, foreign or domestic. In such cases a court-martial may be initiated only after the civilian authority has declined or dismissed charges, provided jeopardy has not attached. Jurisdiction over attempted crimes, conspiracy crimes, and accessory crimes must be determined by the underlying offense pursuant to section 192A.021.

(b) If an act or omission is subject to trial by court-martial and prosecution by one or more civil tribunals, foreign or domestic, the determination of which nation, state, or agency will exercise jurisdiction is a matter for the nations, states, and agencies concerned, and is not a right of the suspect or accused.

(c) The provisions of this chapter conferring jurisdiction over persons shall not be construed as depriving military commissions or other military tribunals of concurrent jurisdiction in respect to offenders or offenses that by statute or by law of war may be tried by such military commissions or other military tribunals.

Subd. 4. **Presumption of jurisdiction.** The jurisdiction of the military courts and boards established by this code are presumed and the burden of proof rests on any person seeking to challenge those courts or boards of jurisdiction in any action or proceeding.

History: *1963 c 661 s 192A.02; 1978 c 552 s 2; 1983 c 193 s 9; 2002 c 308 s 2,3; 2013 c 78 s 1; 2022 c 89 art 3 s 1*

192A.021 PURELY MILITARY OFFENSES.

(a) Purely military offenses include the offenses contained in the following sections: 192A.39 (Principles), 192A.395 (Accessory after the fact), 192A.405 (Attempts), 192A.41 (Conspiracy), 192A.415 (Solicitation), 192A.42 (Fraudulent enlistment, appointment, or separation), 192A.425 (Unlawful enlistment, appointment, or separation), 192A.43 (Desertion), 192A.435 (Absent without leave), 192A.44 (Missing movement), 192A.445 (Contempt towards officials), 192A.45 (Disrespect towards superior commissioned officer), 192A.455 (Assaulting or willfully disobeying superior commissioned officer), 192A.46 (Insubordinate conduct toward warrant officer or noncommissioned officer), 192A.465 (Failure to obey order or rule), 192A.47 (Cruelty and maltreatment), 192A.475 (Mutiny or sedition), 192A.48 (Resistance, breach of arrest, and escape), 192A.495 (Noncompliance with procedural rules), 192A.50 (Misbehavior before the enemy), 192A.51 (Improper use of countersign), 192A.515 (Forcing a safeguard), 192A.525 (Aiding the enemy), 192A.54 (Military property; loss, damage, destruction, or wrongful disposition), 192A.55 (Improper hazarding of vessel), 192A.56 (Drunk on duty; sleeping on post; leaving post before relief), 192A.566 (Illegal presence of controlled substance while in duty status), 192A.57 (Malingering), 192A.60 (Conduct unbecoming an officer), 192A.605 (General article), 192A.6011 (Prohibited activities with military recruit or trainee by person in a position of special trust), 192A.6012 (Nonconsensual distribution of intimate images), 192A.6014 (Unauthorized use of government computer), and 192A.6015 (Retaliation).

(b) Upon request of the governor or the adjutant general, the superintendent of the Bureau of Criminal Apprehension shall investigate military offenses or any other act or omission under this code within the jurisdiction of the military courts and tribunals.

History: *2002 c 308 s 4; 2022 c 89 art 6 s 1,11*

192A.025 JURISDICTION TO TRY CERTAIN PERSONNEL.

Subdivision 1. **Fraudulent discharge.** Each person discharged from the state military forces not in federal active service who is later charged with having fraudulently obtained the discharge is, subject to

section 192A.235, subject to trial by court-martial on that charge and is after apprehension subject to this code while in the custody of the military for that trial. Upon conviction of that charge the person is subject to trial by court-martial for all offenses under this code committed before the fraudulent discharge.

Subd. 2. **Deserters.** No person who has deserted from the state military forces not in federal active service may be relieved from the jurisdiction of this code by virtue of a separation from any later period of service.

History: *1963 c 661 s 192A.025; 1986 c 444; 2002 c 308 s 5*

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*

192A.035 TERRITORIAL APPLICABILITY OF CODE.

Subdivision 1. **Code.** This code applies throughout the state. It also applies to all persons otherwise subject to this code while they are serving outside the state, and while they are going to and returning from such service outside the state, in the same manner and to the same extent as if they were serving inside the state.

Subd. 2. **Courts-martial and courts of inquiry.** Courts-martial and courts of inquiry may be convened and held in units of the state military forces while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

History: *1963 c 661 s 192A.035*

192A.04 JUDGE ADVOCATES AND LEGAL OFFICERS.

Subdivision 1. **State judge advocate.** The governor, on the recommendation of the adjutant general, shall appoint an officer of the state military forces as state judge advocate. To be eligible for appointment, an officer must be a member of the bar of the highest court of the state and must have been a member of the bar of the state for at least five years.

Subd. 2. **Assistants.** The adjutant general may appoint as many assistant state judge advocates as the adjutant general considers necessary. To be eligible for appointment, assistant state judge advocates must be officers of the state military forces and members of the bar of the highest court of the state.

Subd. 3. **Field inspections.** The state judge advocate or assistant state judge advocates shall make frequent inspections in the field in supervision of the administration of military justice.

Subd. 4. MS 1976 [Repealed, 1978 c 552 s 48]

Subd. 5. MS 1976 [Repealed, 1978 c 552 s 48]

History: *1963 c 661 s 192A.04; 1986 c 444*

192A.041 PRACTICE OF MILITARY LAW.

Any commissioned officer of a United States state or territory military force who meets the following qualifications may be accepted by the state judge advocate to conduct any and all administrative or Minnesota Code of Military Justice activities under this code and is exempt from section 481.02:

(1) has served as a member of the Judge Advocate Generals Corps for not less than two years;

(2) is currently certified as competent for such duty by the Judge Advocate General of the military force of which the individual is a member; and

(3) is a member of good standing of the bar of the highest court of any state.

History: *2022 c 89 art 2 s 1*

APPREHENSION AND RESTRAINT

192A.045 APPREHENSION.

Subdivision 1. MS 2001 Supp [Repealed, 2002 c 308 s 71]

Subd. 2. **Who may act; probable cause.** Any person authorized by this code, or by rules issued under it, or any licensed peace officer, may apprehend persons subject to this code upon probable cause to believe that an offense has been committed and that the person apprehended committed it.

Subd. 3. **Absence without leave.** If any person subject to this code misses a movement to, or is absent without official leave from, any military duty defined under section 190.05, subdivisions 5a and 5b, the person may be apprehended and delivered to the person's commanding officer or the officer in charge. Apprehension may be made by military police personnel or by any licensed peace officer pursuant to a warrant issued by a military judge upon a finding of probable cause.

Subd. 4. **Quarrels, frays, and disorders.** Commissioned officers, warrant officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein.

History: *1963 c 661 s 192A.045; 1978 c 552 s 3; 1985 c 248 s 70; 1986 c 444; 2002 c 308 s 6,7; 2013 c 78 s 2*

192A.05 APPREHENSION OF DESERTERS.

Any licensed peace officer having authority to apprehend offenders under the laws of the United States or of a state, territory, commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the state military forces and deliver the deserter into the custody of the state military forces. If an offender is apprehended outside the state, the offender's return to the area must be in accordance with normal extradition procedures or reciprocal agreement.

History: *1963 c 661 s 192A.05; 1986 c 444; 2002 c 308 s 8*

192A.055 IMPOSITION OF PRETRIAL RESTRAINT.

Subdivision 1. **Definition.** "Pretrial restraint" means any restraint on a person's liberty which is imposed before and during disposition of offenses and may consist of conditions on liberty, restriction, or confinement.

For the purposes of this section:

(1) "conditions on liberty" are imposed by orders directing a person to do or refrain from doing specified acts;

(2) "restriction" is the restraint of a person by oral or written orders directing the person to remain within specified limits; and

(3) "confinement" is physical restraint, imposed by order of competent authority, depriving a person of freedom pending disposition of offenses.

Subd. 2. **Enlisted members.** An enlisted member may be ordered into pretrial restraint by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code or through any person authorized by this code to apprehend persons. A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted members of the authorizing officer's command or subject to the authorizing officer's authority into pretrial restraint.

Subd. 3. **Commissioned officers or warrant officers.** A commissioned officer or a warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority the commissioned officer or warrant officer is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into pretrial restraint may not be delegated.

Subd. 4. **Probable cause.** No person may be ordered apprehended or into pretrial restraint except for probable cause.

Subd. 5. **Authority to secure alleged offenders.** This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

History: *1963 c 661 s 192A.055; 1986 c 444; 2002 c 308 s 9*

192A.06 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.065 CONFINEMENT IN JAILS.

Persons confined other than in a guardhouse, whether before, during, or after trial by a military court, shall be confined in civil jails, penitentiaries, or prisons designated by the governor or by such person as the governor may authorize to act.

History: *1963 c 661 s 192A.065; 1986 c 444*

192A.07 RECEIVING PRISONERS.

Subdivision 1. **Requirement.** No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or any other jail, penitentiary, or prison designated under section 192A.065 may refuse to receive or keep any prisoner committed to the charge of that official or facility.

Subd. 2. MS 2001 Supp [Repealed by amendment, 2002 c 308 s 10]

History: *1963 c 661 s 192A.07; 1986 c 444; 2002 c 308 s 10*

192A.075 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.08 DELIVERY OF OFFENDERS TO CIVIL AUTHORITIES.

Subdivision 1. **Authority.** Under such rules as may be prescribed under this code a person subject to this code who is accused of a criminal offense against civil authority may be delivered, upon request, to the civil authority for trial.

Subd. 2. **Sequence of sentences.** When delivery under this section is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for the offense shall, upon the request of competent military authority, be returned to military custody for the completion of the sentence.

History: *1963 c 661 s 192A.08; 1985 c 248 s 70; 1986 c 444; 2002 c 308 s 11*

NONJUDICIAL PUNISHMENT

192A.085 MS 2012 [Repealed, 2013 c 78 s 25]

192A.0851 COMMANDING OFFICER'S NONJUDICIAL PUNISHMENT.

(a) Any commander may impose disciplinary punishments for minor offenses without the intervention of a court-martial pursuant to this section. The governor, the adjutant general, or a general officer in command may delegate the powers under this section to a deputy commanding general or assistant adjutant general who is a member of the state military forces.

(b) Any commanding officer may impose upon enlisted members of the officer's command:

(1) an admonition;

(2) a reprimand;

(3) the withholding of privileges for not more than six months;

(4) the forfeiture of not more than seven days' pay;

(5) a reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(6) extra duties for not more than 14 days, which need not be consecutive; and

(7) restriction to certain specified limits, with or without suspension from duty, for not more than 14 days, which need not be consecutive.

(c) Any commanding officer of the grade of major or lieutenant colonel or above may impose upon enlisted members of the officer's command:

(1) any punishment authorized in paragraph (b), clauses (1), (2), and (3);

(2) the forfeiture of not more than one-half of one month's pay per month for two months;

(3) a reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than one pay grade;

(4) extra duties for not more than 45 days, which need not be consecutive; and

(5) restriction to certain specified limits, with or without suspension from duty, for not more than 60 days, which need not be consecutive.

(d) The governor, the adjutant general, an officer exercising general court-martial convening authority, or a general officer in command may impose:

(1) upon officers of the officer's command:

(i) any punishment authorized in paragraph (c), clauses (1), (2), and (5); and

(ii) arrest in quarters for not more than 30 days, which need not be consecutive; and

(2) upon enlisted members of the officer's command, any punishment authorized in paragraph (c).

(e) Whenever any of those punishments are combined to run consecutively, the total length of the combined punishment cannot exceed the authorized duration of the longest punishment in the combination, and there must be an apportionment of punishments so that no single punishment in the combination exceeds its authorized length under this section.

(f) Prior to the offer of nonjudicial punishment, the commanding officer shall determine whether arrest in quarters or restriction shall be considered as punishments. Should the commanding officer determine that the punishment options may include arrest in quarters or restriction, the accused shall be notified of the right to demand trial by court-martial. Should the commanding officer determine that the punishment options will not include arrest in quarters or restriction, the accused shall be notified that there is no right to trial by court-martial in lieu of nonjudicial punishment.

(g) The officer who imposes the punishment, or the successor in command, may, at any time, suspend, set aside, mitigate, or remit any part or amount of the punishment and restore all rights, privileges, and property affected. The officer also may:

(1) mitigate reduction in grade to forfeiture of pay;

(2) mitigate arrest in quarters to restriction; or

(3) mitigate extra duties to restriction.

The mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(h) A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority within 15 days after the punishment is either announced or sent to the accused, as the commander may determine. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under paragraph (g) by the officer who imposed the punishment. Before acting on an appeal from a punishment, the authority that is to act on the appeal may refer the case to a judge advocate for consideration and advice.

(i) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this section. The fact that a disciplinary punishment has been enforced may be shown by the accused upon trial and, when so shown, it shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(j) Whenever a punishment of forfeiture of pay is imposed under this section, the forfeiture may apply to pay accruing before, on, or after the date that punishment is imposed.

Regulations may prescribe the form of records to be kept of proceedings under this section and may prescribe that certain categories of those proceedings shall be in writing.

History: *2013 c 78 s 3*

COURTS-MARTIAL JURISDICTION

192A.09 MEMBERS OF STATE MILITARY FORCES NOT IN FEDERAL ACTIVE SERVICE.

In the state military forces not in federal active service, there shall be the following three types of courts-martial:

(1) general courts-martial, consisting of:

(i) a military judge and not less than five members; or

(ii) only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves;

(2) special courts-martial, consisting of:

(i) a military judge and not less than three members; or

(ii) only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves; and

(3) summary courts-martial, consisting of a military judge.

History: *1963 c 661 s 192A.09; 1978 c 552 s 6; 2002 c 308 s 16*

192A.095 JURISDICTION OF COURTS-MARTIAL IN GENERAL.

Each force of the state military forces not in federal active service has court-martial jurisdiction over all persons subject to this code. The exercise of jurisdiction by one force over personnel of another force shall be in accordance with rules prescribed by the governor or the adjutant general.

History: *1963 c 661 s 192A.095; 1985 c 248 s 70; 2002 c 308 s 17; 2013 c 78 s 4*

192A.10 JURISDICTION OF GENERAL COURTS-MARTIAL.

Subject to section 192A.095 general courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code and may, under such limitations as the governor or the adjutant general may prescribe, adjudge any punishment not forbidden by this code.

History: *1963 c 661 s 192A.10; 1978 c 552 s 7; 1986 c 444; 2002 c 308 s 18; 2013 c 78 s 5*

192A.105 JURISDICTION OF SPECIAL COURTS-MARTIAL.

Subject to section 192A.095 special courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code, and may, under such limitations as the governor or the adjutant general may prescribe, adjudge any punishment not forbidden by this code except dishonorable discharge, dismissal, confinement for more than 90 days, forfeiture of pay exceeding two-thirds pay per month, or forfeiture of pay for more than one year.

History: *1963 c 661 s 192A.105; 1978 c 552 s 8; 1986 c 444; 2002 c 308 s 19; 2013 c 78 s 6*

192A.11 JURISDICTION OF SUMMARY COURTS-MARTIAL.

Subdivision 1. **Jurisdiction of summary courts-martial.** (a) Subject to section 192A.095 of this code, summary courts-martial have jurisdiction to try persons subject to this code, except for officers, cadets, candidates, and midshipmen, for any offense made punishable by this code under such limitations as the governor or the adjutant general may prescribe.

(b) No person with respect to whom summary courts-martial have jurisdiction may object thereto. Summary courts-martial may, under such limitations as the governor or the adjutant general may prescribe, adjudge any punishment not forbidden by this code except dismissal, dishonorable or bad-conduct discharge, confinement, restriction to specified limits for more than two months, or forfeiture of more than two-thirds of one month's pay.

(c) Procedure for summary courts-martial shall conform to the procedure of Department of the Army Pamphlet 27-7 except for authorized punishments which shall conform to the limits prescribed by this code.

Subd. 2. MS 2012 [Repealed, 2013 c 78 s 25]

Subd. 3. MS 2012 [Repealed, 2013 c 78 s 25]

History: *1963 c 661 s 192A.11; 1978 c 552 s 9; 1986 c 444; 2002 c 308 s 20,21; 2013 c 78 s 7*

192A.111 MAXIMUM LIMITS.

Subdivision 1. **Punishment limits.** The punishment for a violation of this code is limited to the lesser of the sentence prescribed by the manual for courts-martial of the United States in effect at the time of the offense or the state manual for courts-martial, but in no instance shall any punishment exceed that authorized by this code. A court-martial sentence must not (1) exceed more than ten years for a military offense, or (2) adjudge a sentence of death.

Subd. 2. **Level of offense.** (a) A conviction by general court-martial of any military offense for which an accused may receive a sentence of confinement for more than 364 days is a felony offense. All other military offenses are misdemeanors.

(b) In cases where the civilian authorities decline to prosecute and court-martial jurisdiction is taken pursuant to sections 192A.02, subdivision 3, and 192A.605, the level of offense and punishment that a court-martial is authorized is defined by the level of offense and punishments authorized under any Minnesota state law or the manual for courts-martial of the United States for the assimilated crime.

(c) For crimes under sections 192A.54, 192A.545, 192A.59, and 192A.595 with monetary loss of less than $1,000, confinement shall be limited to that prescribed by a special court-martial.

(d) Any conviction by a summary courts-martial is not a criminal conviction.

History: *1963 c 661 s 192A.30; 2002 c 308 s 70; 2013 c 78 s 8; 2022 c 89 art 6 s 2; 2023 c 52 art 6 s 16*

192A.115 GOVERNOR'S APPROVAL OF DISMISSAL OR DISHONORABLE DISCHARGE.

In the state military forces not in federal active service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the governor.

History: *1963 c 661 s 192A.115; 2002 c 308 s 22*

192A.12 PROCEDURAL REQUIREMENTS FOR DISHONORABLE DISCHARGE, BAD CONDUCT DISCHARGE, OR DISMISSAL.

A dishonorable discharge, bad conduct discharge, or dismissal may not be adjudged by any court-martial unless a complete record of the proceedings and testimony before the court has been made, qualified counsel has been detailed to represent the accused, and a military judge has presided over the trial.

History: *1963 c 661 s 192A.12; 1978 c 552 s 10*

192A.125 MS 1976 [Repealed, 1978 c 552 s 48]

APPOINTMENT AND COMPOSITION OF COURTS-MARTIAL

192A.13 WHO MAY CONVENE GENERAL COURTS-MARTIAL.

(a) In the state military forces not in federal active service, general courts-martial may be convened by:

(1) the governor; or

(2) the adjutant general.

(b) The governor or the adjutant general may authorize in writing other general officers in command as additional general courts-martial convening authorities. The authorization terminates no later than the term of the adjutant general or governor making the authorization.

(c) If a commanding officer or the adjutant general is an accuser, the court shall be convened by superior competent authority and may in any case be convened by a superior authority if considered desirable by that authority.

History: *1963 c 661 s 192A.13; 1978 c 552 s 11; 2002 c 308 s 23; 2013 c 78 s 9*

192A.135 WHO MAY CONVENE SPECIAL COURTS-MARTIAL.

In the state military forces not in federal active service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. Special courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

History: *1963 c 661 s 192A.135; 2002 c 308 s 24*

192A.14 WHO MAY CONVENE SUMMARY COURTS-MARTIAL.

In the state military forces not in federal active service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a battalion, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of a military judge. Summary courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

History: *1963 c 661 s 192A.14; 1978 c 552 s 12; 2002 c 308 s 25*

192A.145 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.15 MILITARY JUDGE SYSTEM.

Subdivision 1. **Establishment.** There is hereby established a military judge system for the military forces. The military judge system shall be in the Military Department under the command of the adjutant general. It shall consist of at least two military judges, a number of legal clerks equal to the number of judges and such additional military staff as is necessary.

Subd. 2. **Qualifications of military judge.** A military judge shall be a commissioned officer of the state military forces who has been a member of the bar of any state for at least six years, who has served as a member of the Judge Advocate Generals Corps for not less than three years, who is certified to be qualified for such duty by the Judge Advocate General of the armed force of which the officer is a member, and who is accepted by the state judge advocate to conduct any and all administrative or Minnesota Code of Military Justice activities under this code.

Subd. 3. **Detail.** A military judge must be detailed to all courts-martial and be designated by the adjutant general, or the adjutant general's designee, for detail by the convening authority.

Subd. 4. **Conflicts of interest.** No person is eligible to act as a military judge in a case if that person is the accuser or a witness for the prosecution or has acted as investigating officer or counsel in the same case.

Subd. 5. **Limitations.** The military judge of a general or special court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, if any, nor may the military judge vote with the members of the court.

History: *1963 c 661 s 192A.15; 1978 c 552 s 15; 1986 c 444; 2002 c 308 s 26,27; 2022 c 89 art 2 s 2,3*

192A.155 DETAIL OF TRIAL COUNSEL AND DEFENSE COUNSEL.

Subdivision 1. **Who may be detailed.** For each general, special, or summary court-martial or posttrial review the authority convening the court shall detail trial counsel and defense counsel, and such assistants as considered appropriate. No person who has acted as investigating officer, military judge, or court member may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

Subd. 1a. **Right to counsel.** The accused has the right to be represented before a general, special, and summary court-martial by military defense counsel or by civilian counsel if provided by the accused at the accused's own expense. Should the accused have personally selected civilian counsel, the military defense counsel, and assistant defense counsel, if any, who were detailed shall, if the accused so desires, act as associate defense counsel; otherwise they shall be excused by the military judge.

Subd. 2. **Qualifications of counsel.** Trial counsel or defense counsel detailed for a general, special, or summary court-martial:

(1) must be a person who is a member of the bar of the highest court of any state, or a member of the bar of a federal court; and

(2) must be certified as competent to perform such duties by the Judge Advocate General of the armed force of which the individual is a member.

History: *1963 c 661 s 192A.155; 1978 c 552 s 16; 1986 c 444; 2002 c 308 s 28; 2022 c 89 art 2 s 4*

192A.16 DETAIL OR EMPLOYMENT OF REPORTERS AND INTERPRETERS.

The convening authority of a general, special, or summary court-martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court. The convening authority of a military court shall detail or employ certified interpreters, as necessary, who shall interpret for the court.

History: *1963 c 661 s 192A.16; 1978 c 552 s 17; 2002 c 308 s 29*

192A.165 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.17 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.175 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.18 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.185 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.19 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.195 MS 2001 Supp [Repealed, 2002 c 308 s 71]

TRIAL PROCEDURE

192A.20 GOVERNOR MAY PRESCRIBE RULES.

The procedure, including modes of proof, in cases before military courts and other military tribunals organized under this code may be prescribed by the governor or the adjutant general by rules, which shall, so far as the governor or the adjutant general considers practicable, apply the principles of law and the rules of evidence generally recognized in the manual for courts-martial of the United States, but which may not be contrary to or inconsistent with this code.

History: *1963 c 661 s 192A.20; 1985 c 248 s 70; 1986 c 444; 2013 c 78 s 10; 2022 c 89 art 4 s 1*

192A.205 UNLAWFUL COMMAND INFLUENCE.

Subdivision 1. **General prohibitions.** (a) No convening authority or commander may censure, reprimand, admonish, or otherwise retaliate against any member, military judge, counsel, or witness involved in the investigation, prosecution, or defense of military actions, punitive or administrative.

(b) No person subject to the code may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member of a court-martial or other military tribunal, in reaching the findings or sentence in any case or the action of any convening, approving, or reviewing authority with respect to that authority's judicial acts.

(c) This subdivision does not prohibit general instructional or informational courses in military justice if the courses are designed solely for the purpose of instructing personnel of a command in the substantive and procedural aspects of courts-martial.

(d) This subdivision does not prohibit statements and instructions given in open session by the military judge or counsel.

(e) This subdivision does not prohibit professional supervision by senior judge advocates regarding adherence to local and military standards of professional conduct and responsibility.

(f) This subdivision does not prohibit appropriate action against a person for an offense committed while detailed as a military judge, counsel, or member of a court-martial, or while serving as individual counsel.

Subd. 2. **Prohibitions concerning evaluations.** (a) In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced in grade, in determining the assignment or transfer of a member of the armed forces, or in determining whether a member of the armed forces should be retained on active duty, no person subject to the code may:

(1) consider or evaluate the performance of duty of the person as a member of a court-martial or administrative hearing; or

(2) give a less favorable rating or evaluation of a defense counsel because of the zeal with which the counsel represented an accused.

(b) For general, special, and summary courts-martial, neither the convening authority nor any member of the convening authority's staff may prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge, which relates to the performance of duty as a military judge. When the military judge is normally rated or the military judge's report is reviewed by the convening authority, the manner in which the military judge will be rated or evaluated upon the performance of duty as a military

judge may be as prescribed in regulations of the National Guard concerned which must ensure the absence of any command influence in the rating or evaluation of the military judge's judicial performance.

History: *1963 c 661 s 192A.205; 1978 c 552 s 22; 1986 c 444; 2002 c 308 s 30*

192A.21 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.215 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.22 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.225 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.23 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.235 STATUTE OF LIMITATIONS.

Subdivision 1. **No limitation.** A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

Subd. 2. MS 2001 Supp [Repealed, 2002 c 308 s 71]

Subd. 3. **Three-year limitation.** Except as otherwise provided in subdivision 1, and section 628.26, a person charged with any offense is not liable to be tried by court-martial or punished under section 192A.0851 if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction over the command or before the imposition of punishment under section 192A.0851. The limitation for violations of any offense prescribed under this section shall be the lesser of the limitation prescribed by the manual for courts-martial of the United States, Minnesota state law, or the Minnesota Code of Military Justice, but in no instance shall any limitation exceed that authorized by this code.

Subd. 4. **Excluded periods.** Periods in which the accused was absent from territory in which the state has the authority to apprehend the accused, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

History: *1963 c 661 s 192A.235; 1986 c 444; 2002 c 308 s 31; 2013 c 78 s 11; 2022 c 89 art 4 s 2*

192A.24 FORMER JEOPARDY.

Subdivision 1. **General principle.** No person may, without that person's consent, be tried a second time in any military court of the state for the same offense.

Subd. 2. **Finality of conviction.** No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

Subd. 3. **Trial defined.** A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this section.

History: *1963 c 661 s 192A.24; 1986 c 444*

192A.245 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.25 OPPORTUNITY TO OBTAIN WITNESSES AND OTHER EVIDENCE.

Subdivision 1. **Equal opportunity.** The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such rules as the governor may prescribe.

Subd. 2. **Powers of military judge.** The military judge of a court-martial may:

(1) issue a warrant for the arrest of any accused person who having been served with a warrant and a copy of the charges disobeys a written order by the convening authority to appear before the court;

(2) issue subpoenas duces tecum and other subpoenas;

(3) enforce by attachment the attendance of witnesses and the production of books and papers; and

(4) sentence for refusal to be sworn or to answer, as provided in actions before civil courts of the state.

Subd. 3. **Service of process.** Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence may be executed and served in any part of the state as prescribed by law.

History: *1963 c 661 s 192A.25; 1978 c 552 s 29; 1979 c 50 s 21; 1985 c 248 s 70; 2002 c 308 s 32*

192A.255 REFUSAL TO APPEAR OR TESTIFY.

Any person not subject to this code who:

(1) has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer designated to take a deposition to be read in evidence before a court;

(2) has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the district court of the state; and

(3) willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person has been legally subpoenaed to produce;

is guilty of an offense against the state and a military court may punish that person in the same manner as the civil courts of the state.

History: *1963 c 661 s 192A.255; 1983 c 247 s 81; 1986 c 444*

192A.26 CONTEMPTS.

A military court may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for 30 days or a fine of $100 or both.

History: *1963 c 661 s 192A.26*

192A.265 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.27 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.275 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.28 GROUNDS FOR CONVICTION.

Subdivision 1. **Requirement.** No person may be convicted of an offense except:

(1) pursuant to a proper plea which has been duly accepted by the court;

(2) pursuant to a finding of guilty by the trial judge in a summary court-martial or where the defense has properly waived a trial by members; or

(3) by the concurrence of two-thirds of the members present at the time the vote is taken.

Subd. 2. MS 2001 Supp [Repealed by amendment, 2002 c 308 s 33]

Subd. 3. MS 2001 Supp [Repealed by amendment, 2002 c 308 s 33]

History: *1963 c 661 s 192A.28; 1978 c 552 s 32; 2002 c 308 s 33*

192A.285 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.29 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.295 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.30 [Renumbered 192A.111]

192A.305 MS 2001 Supp [Repealed, 2002 c 308 s 71]

SENTENCES

192A.31 EXECUTION OF CONFINEMENT.

Subdivision 1. **Location; conditions.** A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the state military forces or in any jail, penitentiary, or prison designated for that purpose. Persons so confined in a jail, penitentiary, or prison are subject to the same discipline and treatment as persons confined or committed to the jail, penitentiary, or prison by the courts of the state.

Subd. 2. MS 2001 Supp [Repealed, 2002 c 308 s 71]

Subd. 3. **Receiving and confining persons.** The keepers, officers, and wardens of city or county jails and of other jails, penitentiaries, or prisons designated by the governor, or by such persons as the governor may authorize to act under section 192A.065, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge for so receiving or confining a person, except as provided by law.

History: *1963 c 661 s 192A.31; 1986 c 444; 2002 c 308 s 34*

192A.315 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.32 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.325 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.33 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.335 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.34 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.341 ERROR OF LAW; LESSER INCLUDED OFFENSES.

Subdivision 1. **Error of law.** A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

Subd. 2. **Lesser offense.** Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

History: *2013 c 78 s 12*

192A.343 ACTION BY CONVENING AUTHORITY.

Subdivision 1. **Reporting findings and sentence.** The findings and sentence of a court-martial shall be reported promptly to the convening authority after the announcement of the sentence.

Subd. 2. **Submissions of the accused.** (a) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Any such submission shall be in writing. Except in a summary courts-martial case, such a submission shall be made within 21 days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of a judge advocate under subdivision 4. In a summary courts-martial case, a submission shall be made within 14 days after the sentence is announced.

(b) If the accused shows that additional time is required for the accused to submit the matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period under paragraph (a).

(c) In a summary courts-martial case, the accused shall be promptly provided a copy of the record of trial for use in preparing a submission authorized by paragraph (a).

(d) The accused may waive the right to make a submission to the convening authority under paragraph (a). A waiver must be made in writing and may not be revoked. For the purposes of subdivision 3, paragraph (b), the time within which the accused may make a submission under this subdivision shall be deemed to have expired upon the submission of a waiver to the convening authority.

Subd. 3. **Action on findings.** (a) The authority under this section to modify the findings and sentence of a court-martial is a matter of command prerogative involving the sole discretion of the convening authority. If it is impractical for the convening authority to act, the convening authority shall forward the case to a person exercising general court-martial jurisdiction who may take action under this section.

(b) Action on the sentence of a court-martial shall be taken by the convening authority. The action may be taken only after the consideration of any matters submitted by the accused under subdivision 2 or after the time for submitting the matter expires, whichever is earlier. The convening authority, in that person's sole discretion, may approve, disapprove, commute, or suspend the sentence in whole or in part.

(c) Action on the findings of a court-martial by the convening authority or other person acting on the sentence is not required. However, such person, in the person's sole discretion, may:

(1) dismiss any charge or specification by setting aside a finding of guilty; or

(2) change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

(d) The convening authority or other person acting under this section shall issue a final order at the conclusion of the court-martial proceeding, including any proceeding in revision, rehearing, and reconsideration under subdivision 5. The final order shall be promptly served on the accused.

Subd. 4. **Judge advocate recommendation.** Before acting under this section on any general or special court-martial case in which there is a finding of guilt, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of a judge advocate. The convening authority shall refer the record of trial to the judge advocate, and the judge advocate shall use such record in the preparation of the recommendation. The recommendation of the judge advocate shall include those matters as may be prescribed by regulation and shall be served on the accused, who may submit any matter in response under subdivision 2. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object to the recommendation.

Subd. 5. **Proceedings in revision, rehearing, and reconsideration.** (a) The convening authority or other person taking action under this section, in the person's sole discretion, may order a proceeding in revision or a rehearing.

(b) A proceeding in revision may be ordered if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court-martial with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision:

(1) reconsider a finding of not guilty of any specification or a ruling that amounts to a finding of not guilty;

(2) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of this code; or

(3) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

(c) A rehearing may be ordered by the convening authority or other person taking action under this section if that person disapproves the findings and sentence and states the reasons for disapproval of the findings. If a person disapproves of the findings and sentence and does not order a rehearing, that person shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taking action under this subdivision disapproves the sentence.

History: *2013 c 78 s 13; 2022 c 89 art 5 s 1*

192A.345 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.35 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.351 WITHDRAWAL OF APPEAL.

(a) In each case subject to appellate review under this code, the accused may file with the convening authority a statement expressly withdrawing the right of the accused to an appeal. A withdrawal shall be signed by both the accused and defense counsel and must be filed in accordance with appellate procedures as provided by law.

(b) The accused may withdraw an appeal at any time in accordance with appellate procedures as provided by law.

History: *2013 c 78 s 14*

192A.353 APPEAL BY STATE.

Subdivision 1. **Appeal.** (a) In a trial by court-martial in which a punitive discharge may be adjudged, the state may appeal the following, other than a finding of not guilty with respect to the charge or specification by the members of the court-martial, or by a judge in a bench trial so long as it is not made in reconsideration:

(1) an order or ruling of the military judge that terminates the proceedings with respect to a charge or specification;

(2) an order or ruling that excludes evidence that is substantial proof of a fact material in the proceeding;

(3) an order or ruling that directs the disclosure of classified information;

(4) an order or ruling that imposes sanctions for nondisclosure of classified information;

(5) a refusal of the military judge to issue a protective order sought by the state to prevent the disclosure of classified information; and

(6) a refusal by the military judge to enforce an order described in clause (5) that has previously been issued by the appropriate authority.

(b) An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours of the order or ruling. The notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one which excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.

(c) An appeal under this section shall be diligently prosecuted as provided by law.

Subd. 2. **Appeal forwarded.** An appeal under this section shall proceed as prescribed in section 192A.371. In ruling on an appeal under this section, that court may act only with respect to matters of law.

Subd. 3. **Delay of appeal.** Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

History: *2013 c 78 s 15; 2022 c 89 art 5 s 2*

192A.355 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.36 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.361 REHEARINGS.

A rehearing under this code shall take place before a court-martial composed of members who were not members of the court-martial that first heard the case. Upon a rehearing, the accused may not be tried for any offense of which the accused was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be approved, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence

prescribed for the offense is mandatory. If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes a plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.

History: *2013 c 78 s 16*

192A.363 REVIEW BY SENIOR FORCE JUDGE ADVOCATE.

Subdivision 1. **Review of findings of guilt.** (a) A general and special court-martial case in which there has been a finding of guilty shall be reviewed by the senior force judge advocate, or a designee. The senior force judge advocate, or designee, may not review a case under this subdivision if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense.

(b) The senior force judge advocate's review shall be in writing and shall contain the following:

(1) conclusions as to whether:

(i) the court had jurisdiction over the accused and the offense;

(ii) the charge and specification stated an offense; and

(iii) the sentence was within the limits prescribed as a matter of law;

(2) a response to each allegation of error made in writing by the accused; and

(3) if the case is sent for action under subdivision 2, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

Subd. 2. **Action by adjutant general; authorization.** The record of trial and related documents in each case reviewed under subdivision 1 shall be sent for action to the adjutant general if:

(1) the judge advocate who reviewed the case recommends corrective action;

(2) the sentence approved under section 192A.343, subdivision 3, extends to dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six months; or

(3) the action is otherwise required by regulations of the adjutant general.

Subd. 3. **Adjutant general action.** (a) The adjutant general may:

(1) disapprove or approve the findings or sentence, in whole or in part;

(2) remit, commute, or suspend the sentence, in whole or in part;

(3) except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both; or

(4) dismiss the charges.

(b) If a rehearing is ordered but the convening authority finds a rehearing impracticable, the convening authority shall dismiss the charges.

History: *2013 c 78 s 17*

192A.365 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.37 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.371 REVIEW BY STATE APPELLATE AUTHORITY.

Subdivision 1. **Certiorari.** (a) A review of any final order of a special or general court-martial proceeding may be had upon certiorari by the supreme court upon petition of any party to the proceeding. The review may be had on the ground that: (1) the court-martial was without jurisdiction; or (2) the findings of the court-martial and the final order of the convening authority: (i) were not justified by the evidence; (ii) were not in conformity with this code, military law or other law applicable to the proceedings, or the Classified Information Procedures Act; or (iii) were affected by any other error of law.

(b) A writ of certiorari for review under this section is a matter of right.

Subd. 2. **Service of writ.** (a) Within 60 days after notice of the final order of a court-martial proceeding, the petitioner for review shall obtain from the supreme court a writ of certiorari, shall serve the same upon all other parties appearing in the court-martial proceeding, and shall file the original writ of certiorari and proof of service with the court administrator of the court-martial. No fee or bond is required for either obtaining a writ of certiorari or the associated filings required under this paragraph.

(b) Return upon the writ shall be made to the supreme court and the matter shall be heard and determined by the court in accordance with the rules of civil appellate procedure applicable to decisions reviewable by certiorari directly in the supreme court.

History: *2013 c 78 s 18; 2022 c 89 art 5 s 3*

192A.373 APPELLATE COUNSEL.

Subdivision 1. **Appellate government counsel.** The senior force judge advocate shall detail a judge advocate as appellate government counsel to represent the state in the review or appeal of cases specified in section 192A.371, and before any federal court when requested to do so by the state attorney general. Appellate government counsel must be a member in good standing of the bar of the highest court of the state.

Subd. 2. **Right to be represented; appeal by state.** Upon an appeal by the state, an accused has the right to be represented by detailed military counsel before any reviewing authority and before any appellate court.

Subd. 3. **Right to be represented; appeal by accused.** (a) Upon the appeal by an accused, the accused has the right to be represented by military counsel before any reviewing authority.

(b) Upon the request of an accused entitled to be represented, the senior force judge advocate shall appoint a judge advocate to represent the accused in the review or appeal of cases specified in this subdivision and subdivision 2.

(c) An accused may be represented by civilian appellate counsel at no expense to the state.

History: *2013 c 78 s 19*

192A.375 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.38 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.381 FINALITY OF PROCEEDINGS, FINDINGS, AND SENTENCES.

The appellate review of records of trial provided by this code; the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by this code; and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by this code, are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the United States and the several states, subject only to action upon a petition for a new trial and to action for remission and suspension.

History: *2013 c 78 s 20*

JURISDICTION OF COURTS-MARTIAL

192A.384 OFFENSES SUBJECT TO COURT-MARTIAL.

The jurisdiction of courts-martial under this code is limited to violations of the punitive articles prescribed by the manual for courts-martial of the United States, assimilated under any Minnesota state law as referenced under section 192A.605, or by the Minnesota Code of Military Justice. Any person subject to this code who is charged with the commission of an offense which is not an offense under this code or the manual for courts-martial of the United States may be surrendered to civil authorities for process in accordance with civil law.

History: *1978 c 552 s 45; 2002 c 308 s 35; 2022 c 89 art 3 s 2*

PUNITIVE ARTICLES

192A.385 MS 2020 [Repealed, 2022 c 89 art 6 s 12]

192A.39 PRINCIPALS.

Any person subject to this code who:

(1) commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission; or

(2) causes an act to be done which if directly performed by that person would be punishable by this code;

is a principal and shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.39; 1986 c 444; 2002 c 308 s 37*

192A.395 ACCESSORY AFTER THE FACT.

Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent the offender's apprehension, trial, or punishment shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.395; 1986 c 444*

192A.40 CONVICTION OF LESSER INCLUDED OFFENSE.

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

History: *1963 c 661 s 192A.40*

192A.405 ATTEMPTS.

Subdivision 1. **Definition of attempt.** An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing to effect its commission, is an attempt to commit that offense.

Subd. 2. **Punishment.** Any person subject to this code who attempts to commit any offense punishable by this code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

Subd. 3. **Consummated offense.** Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

History: *1963 c 661 s 192A.405*

192A.41 CONSPIRACY.

Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

History: *1963 c 661 s 192A.41*

192A.415 SOLICITATION.

Subdivision 1. **Desertion or mutiny.** Any person subject to this code who solicits or advises another or others to desert in violation of section 192A.43 or mutiny in violation of section 192A.475 shall be punished as a court-martial may direct.

Subd. 2. **Misbehavior before the enemy; sedition.** Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of section 192A.50 or sedition in violation of section 192A.475 shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.415; 1986 c 444; 2002 c 308 s 38*

192A.42 FRAUDULENT ENLISTMENT, APPOINTMENT, OR SEPARATION.

Any person who:

(1) procures that person's own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to that person's qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) procures that person's own separation from the state military forces by knowingly false representation or deliberate concealment as to that person's eligibility for that separation;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.42; 1986 c 444*

192A.425 UNLAWFUL ENLISTMENT, APPOINTMENT, OR SEPARATION.

Any person subject to this code who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to that person to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, rule, or order shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.425; 1985 c 248 s 70; 1986 c 444*

192A.43 DESERTION.

Subdivision 1. **General rule.** Any person subject to this code who:

(1) without authority goes or remains absent from that member's unit, organization, or place of duty with intent to remain away therefrom permanently;

(2) quits that member's unit, organization, or place of duty with intent to avoid hazardous duty or to shirk service; or

(3) without being regularly separated from one of the state military forces enlists or accepts an appointment in the same or another one of the state military forces, or in one of the armed forces of the United States, without fully disclosing the fact that that member has not been regularly separated;

shall be punished as a court-martial may direct.

Subd. 2. **Officers after resignation.** Any commissioned officer of the state military forces who, after tender of the officer's resignation and before notice of its acceptance, quits the post or proper duties without leave and with intent to remain away therefrom permanently shall be punished as a court-martial may direct.

Subd. 3. MS 2001 Supp [Repealed, 2002 c 308 s 71]

History: *1963 c 661 s 192A.43; 1986 c 444; 2002 c 308 s 39,40*

192A.435 ABSENCE WITHOUT LEAVE.

Any person subject to this code who, without authority:

(1) fails to go to that person's appointed place of duty at the time prescribed;

(2) goes from that place; or

(3) is absent or remains absent from an assigned unit, organization, or place of duty at which the person is required to be at the time prescribed;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.435; 1986 c 444*

192A.44 MISSING MOVEMENT.

Any person subject to this code who through neglect or design misses the movement of a ship, aircraft, or unit with which the person is required in the course of duty to move shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.44; 1986 c 444*

192A.445 CONTEMPT TOWARDS OFFICIALS.

Any person subject to this code who uses contemptuous words against the president, the governor, or the governor of any other state, territory, commonwealth, or possession in which that person may be serving shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.445*

192A.45 DISRESPECT TOWARDS SUPERIOR COMMISSIONED OFFICER.

Any person subject to this code who behaves with disrespect towards that person's superior commissioned officer shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.45; 1986 c 444*

192A.455 ASSAULTING OR WILLFULLY DISOBEYING SUPERIOR COMMISSIONED OFFICER.

Any person subject to this code who:

(1) strikes that person's superior commissioned officer or draws or lifts up any weapon or offers any violence against that superior commissioned officer while that officer is in the execution of official duties; or

(2) willfully disobeys a lawful command of that person's superior commissioned officer;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.455; 1986 c 444*

192A.46 INSUBORDINATE CONDUCT TOWARD WARRANT OFFICER OR NONCOMMISSIONED OFFICER.

Any warrant officer or enlisted member who:

(1) strikes or assaults a warrant officer or noncommissioned officer while that officer is in the execution of official duties;

(2) willfully disobeys the lawful order of a warrant officer or noncommissioned officer; or

(3) treats with contempt or is disrespectful in language or deportment toward a warrant officer or noncommissioned officer while that officer is in the execution of official duties;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.46; 1986 c 444; 2002 c 308 s 41*

192A.465 FAILURE TO OBEY ORDER OR RULE.

Any person subject to this code who:

(1) violates or fails to obey any lawful general order or rule;

(2) having knowledge of any other lawful order issued by a member of the state military forces which it is the person's duty to obey, fails to obey the order; or

(3) is derelict in the performance of duties;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.465; 1985 c 248 s 70; 1986 c 444*

192A.47 CRUELTY AND MALTREATMENT.

Any person subject to this code who acts cruelly, oppressively or maltreats any individual subject to the person's orders or control shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.47; 1978 c 552 s 39; 1986 c 444; 2002 c 308 s 42*

192A.475 MUTINY OR SEDITION.

Subdivision 1. **Crimes defined.** Any person subject to this code who:

(1) with intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do that person's duty or creates any violence or disturbance is guilty of mutiny;

(2) with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(3) fails to do the utmost to prevent and suppress a mutiny or sedition being committed in that person's presence, or fails to take all reasonable means to inform a superior commissioned officer or commanding officer of a mutiny or sedition which that person knows or has reason to believe is taking place is guilty of a failure to suppress or report a mutiny or sedition.

Subd. 2. **Punishment.** A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.475; 1986 c 444*

192A.48 RESISTANCE, BREACH OF ARREST, AND ESCAPE.

Any person subject to this code who resists apprehension or breaks arrest or who escapes from physical restraint lawfully imposed by a member of the state military forces not in federal active service shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.48; 2002 c 308 s 43*

192A.485 RELEASING PRISONER WITHOUT PROPER AUTHORITY.

Any person subject to this code who, without proper authority, releases any prisoner committed to that person's charge, or who through neglect or design allows any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law.

History: *1963 c 661 s 192A.485; 1986 c 444; 2002 c 308 s 44*

192A.49 UNLAWFUL DETENTION OF ANOTHER.

Any person subject to this code who, except as provided by law or rule, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.49; 1985 c 248 s 70*

192A.495 NONCOMPLIANCE WITH PROCEDURAL RULES.

Any person subject to this code who:

(1) is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

(2) knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.495*

192A.50 MISBEHAVIOR BEFORE THE ENEMY.

Any person subject to this code who before or in the presence of the enemy:

(1) runs away;

(2) shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is the person's duty to defend;

(3) through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) casts away the person's arms or ammunition;

(5) engages in cowardly conduct;

(6) quits a place of duty to plunder or pillage;

(7) causes false alarms in any command, unit, or place under control of the armed forces of the United States or the state military forces;

(8) willfully fails to do the utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing which it is that person's duty so to encounter, engage, capture, or destroy; or

(9) does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the state, or to any other state, when engaged in a hostile encounter;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.50; 1986 c 444; 2002 c 308 s 45*

192A.505 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.51 IMPROPER USE OF COUNTERSIGN.

Any person subject to this code who, during a time when the state military forces are engaged with the enemy, discloses the parole or countersign or code word to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from

that which, to that person's knowledge, the person was authorized and required to give, shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.51; 1986 c 444; 2002 c 308 s 46*

192A.515 FORCING A SAFEGUARD.

Any person subject to this code who forces a safeguard shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.515*

192A.52 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.525 AIDING THE ENEMY.

Any person subject to this code who:

(1) aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with the enemy, either directly or indirectly;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.525; 2002 c 308 s 47*

192A.53 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.535 FALSE OFFICIAL STATEMENTS.

Any person subject to this code who, with intent to deceive, signs any false record, return, rule, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.535; 1985 c 248 s 70*

192A.54 MILITARY PROPERTY; LOSS, DAMAGE, DESTRUCTION, OR WRONGFUL DISPOSITION.

Any person subject to this code who, without proper authority:

(1) sells or otherwise disposes of;

(2) willfully or through gross negligence damages, destroys, or loses; or

(3) willfully or through gross negligence allows to be damaged, destroyed, sold, or wrongfully disposed of;

any military property of the United States or of the state shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.54; 2002 c 308 s 48*

192A.545 PROPERTY OTHER THAN MILITARY PROPERTY; WASTE, SPOILAGE, OR DESTRUCTION.

Any person subject to this code who, while in a duty status, willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States or of the state shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.545*

192A.55 IMPROPER HAZARDING OF VESSEL OR AIRCRAFT.

Subdivision 1. **Violation; penalty.** Any person subject to this code who willfully, wrongfully, or through gross negligence hazards or allows to be hazarded any vessel or aircraft of the armed forces of the United States or of the state military forces shall be punished as a court-martial may direct.

Subd. 2. MS 2001 Supp [Repealed by amendment, 2002 c 308 s 49]

History: *1963 c 661 s 192A.55; 2002 c 308 s 49*

192A.555 DRIVING WHILE UNDER THE INFLUENCE OR RECKLESS DRIVING.

Any person subject to this code who drives, operates or is in physical control of any motor vehicle or aircraft while under the influence of an alcoholic beverage; controlled substance; cannabis flower, cannabis product, lower-potency hemp edible, hemp-derived consumer product, artificially derived cannabinoid, or tetrahydrocannabinols, as those terms are defined in section 342.01, or a combination thereof or whose blood contains 0.08 percent or more by weight of alcohol or who operates said motor vehicle or aircraft in a reckless or wanton manner, shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.555; 1978 c 552 s 40; 1979 c 50 s 22; 1985 c 248 s 70; 2002 c 308 s 50; 2004 c 283 s 12; 2023 c 63 art 4 s 35*

192A.56 UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE WHILE ON DUTY; SLEEPING ON POST; LEAVING POST BEFORE RELIEF.

Any person subject to this code who is found to be under the influence of alcohol or a controlled substance as defined in section 192A.566 without a valid medical prescription while on duty or sleeping upon an assigned post, or who leaves that post before being regularly relieved, shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.56; 1986 c 444; 2002 c 308 s 51; 2022 c 89 art 6 s 3*

192A.565 MS 1976 [Repealed, 1978 c 552 s 48]

192A.566 ILLEGAL PRESENCE OF CONTROLLED SUBSTANCE WHILE IN DUTY STATUS.

(a) A person subject to this code who, while in any duty status defined in section 190.05, subdivision 5, submits to a urinalysis test, the result of which is positive for a controlled substance described in paragraph (b), shall be punished as a court-martial may direct.

(b) For purposes of this section, "controlled substance" includes the following:

(1) opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and marijuana and any compound or derivative of any such substance;

(2) any substance not specified in clause (1) that is listed on a schedule of controlled substances prescribed by the president of the United States for the purposes of the Uniform Code of Military Justice of the armed forces of the United States, United States Code, title 10, section 801 et seq.;

(3) any other substance not specified in clause (1) or contained on a list prescribed by the president of the United States under clause (2) that is listed in schedules I through V of article 202 of the Controlled Substances Act, United States Code, title 21, section 812; and

(4) any substance defined in sections 152.01 and 152.027, subdivision 6.

(c) It is an affirmative defense which may be proved by a preponderance of the evidence that the person had a valid prescription for that controlled substance and was using the controlled substance in the manner for which it was prescribed.

History: *2013 c 78 s 21*

192A.57 MALINGERING.

Any person subject to this code who for the purpose of avoiding work, duty, or service in the state military forces not in federal active service:

(1) feigns illness, physical disablement, mental lapse, or derangement; or

(2) intentionally inflicts self injury;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.57; 2002 c 308 s 52*

192A.575 RIOT OR BREACH OF PEACE.

Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.575*

192A.58 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.582 ASSAULT.

Any person subject to this code who:

(1) commits an act with intent to cause fear in another of immediate bodily harm or death; or

(2) intentionally inflicts or attempts to inflict bodily harm upon another;

shall be punished as a court-martial may direct.

History: *2002 c 308 s 53*

192A.585 PERJURY.

Any person subject to this code who willfully gives false testimony under oath in the course of a judicial proceeding material to the issue or matter of inquiry shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.585; 1978 c 552 s 41; 2002 c 308 s 54*

192A.59 FRAUDS AGAINST THE GOVERNMENT.

Any person subject to this code:

(1) who, knowing it to be false or fraudulent:

(a) makes any claim against the United States, the state, or any officer thereof; or

(b) presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the state, or any officer thereof;

(2) who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof:

(a) makes or uses any writing, paper, or electronic submission knowing it to contain any false or fraudulent statements;

(b) makes any oath to any fact or to any writing, paper, or electronic submission knowing the oath to be false; or

(c) forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

(3) who, having charge, possession, custody, or control of any money or other property of the United States or the state furnished or intended for the armed forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it any amount thereof less than that for which that person receives a certificate or receipt; or

(4) who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state furnished or intended for the armed forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state;

shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.59; 1986 c 444; 2002 c 308 s 55*

192A.595 LARCENY AND WRONGFUL APPROPRIATION.

Subdivision 1. **Crimes defined.** Any person subject to this code who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person or from the state or United States any money, personal property, or article of value of any kind:

(1) with intent permanently to deprive or defraud another person or the state or United States of the use and benefit of property or to appropriate it to personal use or the use of any person other than the owner, steals that property and is guilty of larceny; or

(2) with intent temporarily to deprive or defraud another person or the state or United States of the use and benefit of property or to appropriate it to personal use or the use of any person other than the owner, is guilty of wrongful appropriation.

Subd. 2. **Punishment.** Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.595; 1978 c 552 s 42; 1986 c 444*

192A.60 CONDUCT UNBECOMING AN OFFICER.

Any commissioned officer who does or omits to do certain acts that, under the circumstances, constitute conduct unbecoming an officer shall be punished as a court-martial may direct.

History: *1963 c 661 s 192A.60; 1986 c 444; 2002 c 308 s 56*

192A.6011 PROHIBITED ACTIVITIES WITH MILITARY RECRUIT OR TRAINEE BY PERSON IN POSITION OF SPECIAL TRUST.

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(1) "Applicant for military service" means a person who, under regulations prescribed by the secretary concerned, the Minnesota National Guard authority, or designee concerned, is an applicant for original enlistment or appointment in the armed forces.

(2) "Military recruiter" means a person who, under regulations prescribed by the secretary concerned, has the primary duty to recruit persons for military service.

(3) "Prohibited sexual activity" means, as specified in regulations prescribed by the secretary concerned, the Minnesota National Guard authority, or designee concerned, inappropriate physical intimacy under circumstances described in such regulations.

(4) "Specially protected junior member of the armed forces" means:

(i) a member of the armed forces who is assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program;

(ii) a member of the armed forces who is a cadet, an officer candidate, or a student in any other officer qualification program; and

(iii) a member of the armed forces in any program that, by regulation prescribed by the secretary concerned or a Minnesota National Guard authority, or designee concerned, is identified as a training program for initial career qualification.

(5) "Training leadership position" means, with respect to a specially protected junior member of the armed forces, any of the following:

(i) any drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers' training corps unit, a training program for entry into the armed forces, or any program that, by regulation prescribed by the secretary concerned, is identified as a training program for initial career qualification; and

(ii) faculty and staff of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, and the Minnesota National Guard Regional Training Institute.

Subd. 2. **Abuse of training leadership position.** Any person subject to this code:

(1) who is an officer or a noncommissioned officer;

(2) who is in a training leadership position with respect to a specially protected junior member of the armed forces; and

(3) who engages in prohibited sexual activity with the specially protected junior member of the armed forces;

shall be punished as a court-martial may direct.

Subd. 3. **Abuse of position as military recruiter.** Any person subject to this code:

(1) who is a military recruiter and engages in prohibited sexual activity with an applicant for military service; or

(2) who is a military recruiter and engages in prohibited sexual activity with a specially protected junior member of the armed forces who is enlisted under a delayed entry program;

shall be punished as a court-martial may direct.

Subd. 4. **Consent.** Consent is not a defense for any conduct at issue in a prosecution under this section.

History: *2022 c 89 art 6 s 6,11*

192A.6012 NONCONSENSUAL DISTRIBUTION OF INTIMATE IMAGES.

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(1) "Broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons.

(2) "Distribute" means to deliver to the actual or constructive possession of another person, including transmission by mail or electronic means.

(3) "Intimate visual image" means a visual image that depicts a private area of a person.

(4) "Private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

(5) "Reasonable expectation of privacy" means circumstances in which a reasonable person would believe that a private area of the person, or sexually explicit conduct involving the person, would not be visible to the public.

(6) "Sexually explicit conduct" means actual or simulated genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, bestiality, masturbation, or sadistic or masochistic abuse.

(7) "Visual image" means:

(i) any developed or undeveloped photograph, picture, film, or video;

(ii) any digital or computer image, picture, film, or video made by any means or transmitted by any means, including streaming media, even if not stored in a permanent format; or

(iii) any digital or electronic data capable of conversion into a visual image.

Subd. 2. **Crime defined.** Any person subject to this code:

(1) who knowingly and wrongfully broadcasts or distributes an intimate visual image of another person or a visual image of sexually explicit conduct involving a person who:

(i) is at least 18 years of age at the time the intimate visual image or visual image of sexually explicit conduct was created;

(ii) is identifiable from the intimate visual image or visual image of sexually explicit conduct itself, or from information displayed in connection with the intimate visual image or visual image of sexually explicit conduct; and

(iii) does not explicitly consent to the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

(2) who knows that the intimate visual image or visual image of sexually explicit conduct was made under circumstances in which the person depicted in the intimate visual image or visual image of sexually explicit conduct retained a reasonable expectation of privacy regarding any broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

(3) who possesses the intent to broadcast or distribute an intimate visual image or visual image of sexually explicit conduct:

(i) to cause harm, harassment, intimidation, emotional distress, or financial loss for the person depicted in the intimate visual image or visual image of sexually explicit conduct; or

(ii) to harm substantially the depicted person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships; and

(4) whose conduct, under the circumstances, had a reasonably direct and palpable connection to a military mission or military environment;

is guilty of wrongful distribution of intimate visual images or visual images of sexually explicit conduct and shall be punished as a court-martial may direct.

History: *2022 c 89 art 6 s 7,11*

192A.6013 FRAUDULENT USE OF CREDIT CARDS, DEBIT CARDS, AND OTHER ACCESS DEVICES.

Subdivision 1. **Crime defined.** Any person subject to this code who knowingly, with intent to defraud, uses:

(1) a stolen credit card, debit card, or other access device;

(2) a revoked, canceled, or otherwise invalid credit card, debit card, or other access device; or

(3) a credit card, debit card, or other access device without the authorization of a person whose authorization was required for use, including a government purchase card or government travel card without conforming to the published federal or Minnesota National Guard procedures at the time of use;

to obtain money, property, services, or anything else of value shall be punished as a court-martial may direct.

Subd. 2. **Access device defined.** As used in this section, "access device" has the meaning given in United States Code, title 18, section 1029.

History: *2022 c 89 art 6 s 8,11*

192A.6014 UNAUTHORIZED USE OF GOVERNMENT COMPUTER.

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(1) "Computer" has the meaning given in United States Code, title 18, section 1030.

(2) "Damage" has the meaning given in United States Code, title 18, section 1030.

(3) "Government computer" means a computer owned or operated by or on behalf of the United States government or the state of Minnesota.

Subd. 2. **Crime defined.** Any person subject to this code who:

(1) knowingly accesses a government computer with an unauthorized purpose and by doing so obtains classified information, with reason to believe the information could be used to the injury of the United States or the state of Minnesota or to the advantage of any foreign nation, and intentionally communicates, delivers, or transmits or causes to be communicated, delivered, or transmitted the information to any person not entitled to receive it;

(2) intentionally accesses a government computer with an unauthorized purpose and thereby obtains classified or other protected information from any government computer; or

(3) knowingly causes the transmission of a program, information, code, or command, and as a result intentionally causes damage without authorization to a government computer;

shall be punished as a court-martial may direct.

History: *2022 c 89 art 6 s 9,11*

192A.6015 RETALIATION.

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(1) "Covered individual or organization" means any recipient of a communication specified in United States Code, title 10, section 1034(b)(1)(B), clauses (i) to (v).

(2) "Inspector general" has the meaning given in United States Code, title 10, section 1034(j).

(3) "Protected communication" means:

(i) a lawful communication to a member of Congress, a state legislator, or an inspector general; and

(ii) a communication to a covered individual or organization, to include the Office of the Governor, in which a member of the armed forces complains of or discloses information that the member reasonably believes constitutes evidence of any of the following:

(A) a violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Subd. 2. **Crimes defined.** Any person subject to this code who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication:

(1) wrongfully takes or threatens to take an adverse personnel action against any person; or

(2) wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person;

shall be punished as a court-martial may direct.

History: *2022 c 89 art 6 s 10,11*

192A.605 GENERAL ARTICLE.

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the state military forces, all conduct of a nature to bring discredit upon the state military forces, any crime punishable by the law of this state other than those specifically enumerated in the punitive sections of this code, and any crime contained in the Uniform Code of Military Justice shall be punished as a court-martial may direct. However, where a crime constitutes an offense that violates both this code and the criminal laws of the state where the offense occurs or criminal laws of the United States, jurisdiction of the military court must be determined in accordance with section 192A.02, subdivision 3, paragraph (a).

History: *1963 c 661 s 192A.605; 2002 c 308 s 57; 2013 c 78 s 22*

MISCELLANEOUS PROVISIONS

192A.61 COURTS OF INQUIRY.

Subdivision 1. **Convening.** Courts of inquiry to investigate any matter may be convened by the governor or by any other person designated by the governor for that purpose, whether or not the persons involved have requested such an inquiry.

Subd. 2. **Members; counsel.** A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

Subd. 3. **Designated parties.** Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or employed by or for the state military forces who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by military counsel, or by civilian counsel at the person's own expense, to cross examine witnesses, and to introduce evidence.

Subd. 4. **Challenge of members.** Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

Subd. 5. **Oath or affirmation.** The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

Subd. 6. **Witnesses.** Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

Subd. 7. **Findings of fact.** Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

Subd. 8. **Record of proceedings.** Each court of inquiry shall keep a record of its proceedings which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

History: *1963 c 661 s 192A.61; 1978 c 552 s 43; 2002 c 308 s 58*

192A.611 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.612 SEARCH WARRANTS.

A military judge is authorized to issue search warrants, directed to a member of the military police of the state military forces or any peace officer defined under section 626.05, to search any person, place, item, or property when there is probable cause that a member of the state military forces has committed an offense subject to either concurrent or exclusive military jurisdiction during a period of active service as defined in section 190.05, subdivisions 5a and 5b, and seize items in accordance with law. No search warrant shall be issued except upon probable cause, supported by affidavit or sworn testimony naming and describing the person and particularly describing the property or thing to be seized and particularly describing the place to be searched.

History: *1978 c 552 s 47; 1984 c 642 s 7; 2002 c 308 s 59; 2022 c 89 art 6 s 4*

192A.615 AUTHORITY TO ADMINISTER OATHS.

Subdivision 1. **Authorized persons.** The following members of the state military forces may administer oaths for the purposes of military administration, including military justice, and affidavits may be taken for those purposes before persons having the general powers of a notary public:

(1) the state judge advocate and all assistant state judge advocates;

(2) staff judge advocates and acting or assistant staff judge advocates;

(3) all adjutants, assistant adjutants, acting adjutants, and personnel adjutants;

(4) the president, military judge, trial counsel, and assistant trial counsel for all general, special, and summary courts-martial;

(5) the president and the counsel for the court of any court of inquiry;

(6) all officers designated to take a deposition;

(7) all persons detailed to conduct an investigation; and

(8) all other persons designated by rules of the governor.

Subd. 2. **On-duty requirement.** Officers of the state military forces may not be authorized to administer oaths as provided in this section unless they are on duty in or with those forces as prescribed in this code.

Subd. 3. **Prima facie evidence.** The signature without seal of any such person together with the title of the person's office, is prima facie evidence of the authority to administer oaths.

History: *1963 c 661 s 192A.615; 1978 c 552 s 44; 1985 c 248 s 70; 1986 c 444; 2002 c 308 s 60,61*

192A.62 SECTIONS TO BE EXPLAINED.

Sections 192A.02, 192A.025, 192A.045, 192A.065, 192A.07, 192A.08, 192A.0851, 192A.155, 192A.205, 192A.39 to 192A.595, and 192A.62 to 192A.63 shall be carefully explained to every enlisted member at the time of the member's enlistment or transfer or induction into, or at the time of the member's order to duty in or with any of the state military forces or within 30 days thereafter. They shall also be explained annually to each unit of the state military forces. A complete text of this code and of the rules prescribed by the governor thereunder shall be made available to any member of the state military forces, upon the member's request, for personal examination. Failure to provide briefings to soldiers or otherwise explain this code to soldiers shall not be a defense to a court-martial proceeding, except as mitigation in sentencing.

History: *1963 c 661 s 192A.62; 1985 c 248 s 70; 1986 c 444; 2002 c 308 s 62; 2013 c 78 s 23; 2022 c 89 art 6 s 5*

192A.625 COMPLAINTS OF WRONGS.

Any member of the state military forces having a belief of being wronged by a commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the governor or adjutant general.

History: *1963 c 661 s 192A.625; 1986 c 444*

192A.63 REDRESS OF INJURIES TO PROPERTY.

Subdivision 1. **Investigating board; assessment of damages.** Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that property has been wrongfully taken by members of the state military forces, the commanding officer may, subject to such rules as the governor may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by the commanding officer shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive, except as provided in subdivision 3, on any disbursing officer for the payment by the commanding officer to the injured parties of the damages so assessed and approved.

Subd. 2. **Unascertainable offenders.** If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be paid to the injured parties from the military funds of the units of the state military forces to which the offenders belonged.

Subd. 3. **Rights of accused.** Any person subject to this code who is accused of causing willful damage to property has the right to be represented by counsel, to summon witnesses, to cross examine adverse witnesses, and to appeal to the next higher commander.

History: *1963 c 661 s 192A.63; 1985 c 248 s 70; 1986 c 444*

192A.635 EXECUTION OF PROCESS AND SENTENCE.

In the state military forces not in federal active service the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the state.

History: *1963 c 661 s 192A.635; 2002 c 308 s 63*

192A.64 PROCESS OF MILITARY COURTS.

Subdivision 1. **Kinds of process.** Military courts may issue any process or mandate, including writs and warrants necessary to carry into effect their powers. Such a court may issue subpoenas and subpoenas duces tecum and enforce by attachment attendance of witnesses and production of books and records, when it is sitting within the state and the witnesses, books, and records sought are also so located.

Subd. 2. **To whom directed.** Process and mandates may be directed to the provost marshal, the military police, or any licensed peace officer of the state and shall be in such form as may be prescribed by rules issued under this code.

Subd. 3. **Execution of process or mandates.** All officers to whom process or mandates may be so directed shall execute them and make return of their acts thereunder according to the requirements of those documents. Except as otherwise specifically provided in this code, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate or for any service in connection therewith.

History: *1963 c 661 s 192A.64; 1985 c 248 s 70; 2002 c 308 s 64,65*

192A.645 PAYMENT AND DISPOSITION OF FINES.

Fines imposed by a military court may be paid to it or to an officer executing its process. The amount of such a fine may be noted upon any state roll or account for pay of the military member and deducted from any pay or allowance due or thereafter to become due the military member, until the fine is liquidated. Any sum so deducted shall be turned in to the military court which imposed the fine. The proceeds of all such fines shall be disposed of in accordance with section 192.68. All moneys so deposited with the adjutant general are appropriated for the purposes stated.

History: *1963 c 661 s 192A.645; 1965 c 41 s 2; 1986 c 444; 2002 c 308 s 66*

192A.65 IMMUNITY FOR ACTION OF MILITARY COURTS.

No accused or convicted member of the state military forces may bring an action or proceeding against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

History: *1963 c 661 s 192A.65; 2002 c 308 s 67*

192A.655 MS 2001 Supp [Repealed, 2002 c 308 s 71]

192A.66 DELEGATION OF AUTHORITY BY GOVERNOR.

The authority vested in the governor under this code may be delegated or subdelegated.

History: *1963 c 661 s 192A.66; 1986 c 444; 2002 c 308 s 68; 2013 c 78 s 24*

192A.665 UNIFORMITY OF INTERPRETATION.

This chapter shall be so construed as to effectuate its general purpose and, so far as practical, to make these laws uniform with the law of the United States.

History: *1963 c 661 s 192A.665; 2002 c 308 s 69*