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MEMORANDUM

To: House Committee on Veterans and Military
From: Office of Revisor of Statutes
Date: February 16, 2023
Subject: HB 2392 – Updating the Kansas code of military justice relating to definitions, unlawful acts and punishment requirements.

House Bill 2392 updates the Kansas code of military justice (KCMJ) relating to definitions, unlawful acts and punishment requirements. HB 2392 provides new sections of law and updates existing statutes to conform with the Uniform Code of Military Justice (UCMJ) and modern drafting practices.

Section 1 requires that no member of state military forces be held in confinement with enemy prisoners or other foreign nationals who are not members of the armed forces.

Sections 2 and 3 address the appeal procedure when a member is punished under K.S.A. 48-2301 and when a civilian court may try a serious crime committed by a member subject to the KCMJ.

Sections 4 and 5 address prohibited sexual conduct, including conduct with a specially protected junior member of the armed forces and when submission to or rejection of such sexual advances impacts the victim's job, pay or career.

Sections 6 and 7 address the conduct required of a sentinel or lookout.

Sections 8, 9, 10, 11 and 12 address the creation of false writings, impersonation of superior officers, unauthorized use of insignias and tampering with mail.

Section 13 requires that a member subject to the KCMJ be punished at the direction of a commanding officer if such member leaves the scene of a car accident without providing assistance or personal identification.

Section 14 requires that a member subject to the KCMJ will be punished at the direction of a commanding officer if such member discharges or brandishes a firearm under circumstances that may endanger a human life.

Sections 15 and 16 address the crimes of simple assault, committing a violent offense or violating a protection order.

Section 17 requires that a member subject to the KCMJ will be punished at the direction of a commanding officer if the member either communicates a threat or maliciously communicates a false threat of injury by an explosive, a weapon of mass destruction, a biological agent or a hazardous material.

Section 18 requires that a member subject to the KCMJ will be punished at the direction of a commanding officer if such member wrongfully distributes intimate visual images or visual images of sexually explicit conduct.

Section 19 requires that a member subject to the KCMJ will be punished at the direction of a commanding officer if they falsely testify after taking an oath.

Sections 20, 21, 22, 23 and 24 and address conduct that intends to impede the due administration of justice, including the concealment of another person's crimes, wrongfully refusing to testify as a witness and impeding a proper search and seizure of property.

Sections 25 and 26 address the bribery of an official or a person with official duties.

Sections 27 and 28 address the crimes of fraud and extortion.

Section 29 requires that a member subject to the KCMJ be punished at the direction of a commanding officer if such person, without legal justification or authorization, knowingly and wrongfully views, records or broadcasts the private area of another person without such person's consent.

Section 30 requires that a member subject to the KCMJ will be punished at the direction of a commanding officer if such person takes or threatens to take an adverse personnel action with the intent to retaliate against any person planning to report a criminal or military offense or make a protected communication.

Section 31 allows army regulation 27-10, military justice, air force instruction 51-201, administration of military justice, and air force instruction 51-202, nonjudicial punishment, to be used to enforce the KCMJ to the extent that they are consistent with the KCMJ.

Section 32 requires that nothing in the KCMJ precludes administrative action against a person subject to the KCMJ for a military or non-military offense.

Section 33 states that the provisions of the KCMJ are severable and that if any part of the KCMJ is found to be unconstitutional or invalid, that finding does not affect applicability or enforcement of the rest of the KCMJ.

Additional changes in the provisions of HB 2392 update Chapter 48 of the Kansas Statutes Annotated to comply with the UCMJ and modern drafting practices.

HB 2392 would take effect upon publication in the statute book.